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To: MEMBERS OF THE LICENSING SUB COMMITTEE
Councillors Farr, Groves and Steeds

for any enquiries, please contact:
customerservices@tandridge.gov.uk
01883 722000

Dear Sir/Madam

**LICENSING SUB COMMITTEE
WEDNESDAY, 21ST JULY, 2021 AT 10.00 AM**

The agenda for this meeting of the Sub-Committee, to be hosted via Zoom from the Council Offices, Station Road East, Oxted, is set out below.

Yours faithfully,

David Ford
Chief Executive

AGENDA

1. **Apologies for absence (if any)**
2. **Election of Chair**
3. **Declarations of interest**

All Members present are required to declare, at this point in the meeting or as soon as possible thereafter:

- (i) any Disclosable Pecuniary Interests (DPIs) and / or
 - (ii) other interests arising under the Code of Conduct in respect of any item(s) of business being considered at the meeting. Anyone with a DPI must, unless a dispensation has been granted, withdraw from the meeting during consideration of the relevant item of business. If in doubt, advice should be sought from the Monitoring Officer or her staff prior to the meeting.
4. **Application for the grant of a premises licence at 36 Station Road West, Oxted which has attracted representations** (Pages 3 - 92)

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REPORT TO THE LICENSING SUB-COMMITTEE – 21ST JULY 2021	
APPLICATION FOR THE GRANT OF A PREMISES LICENCE AT 36 STATION ROAD WEST, OXTED WHICH HAS ATTRACTED REPRESENTATIONS	
Report of:	Ian Garrod, Licensing Officer - Tel: 01883 732794 licensing@tandridge.gov.uk
Purpose of Report:	To consider the application for a Premises Licence
Publication status:	Unrestricted.
Recommendations:	<p>That, in accordance with its delegated powers, the Sub-Committee either:</p> <ul style="list-style-type: none"> (a) grants the Premises Licence subject to the conditions as consistent with the operating schedule accompanying the application, and as modified by agreement with the applicant, and the objector, or modified to such extent as the authority considers appropriate for the promotion of the licensing objectives; (b) exclude from the scope of the Premises Licence any of the licensable activities to which the application relates; or (c) reject the application. <p>Members of the Licensing Sub-Committee are asked to make a decision at the end of the Hearing after all relevant parties have been given the opportunity to speak. Members must give full reasons for their decision.</p>
Appendices:	<p>'A' Application for a Premises Licence 36 Station Road West, Oxted (pages 9 to 34)</p> <p>'B' Proposed floor plan of premises (page 35)</p> <p>'C' Map of the area around 36 Station Road West, and shopfront photo (pages 37 and 39)</p> <p>'D' Representations and supporting documents from the objector (pages 41 to 65)</p> <p>'E' Supporting documentation from applicant (pages 67 to 80)</p> <p>'F' Relevant sections of Guidance issued under Section 182 of the Licensing Act 2003 (pages 81 to 87)</p> <p>'G' Relevant sections of Tandridge District Council Licensing Policy (pages 89 to 92)</p>

1. Purpose of Report

- 1.1 The supply of alcohol, provision of regulated entertainment, and sale of late night refreshment are licensable activities under the Licensing Act 2003. Authorisation from the Council, in its role as the licensing authority, is required in order to carry on any of these activities at premises within the District.
- 1.2 The Licensing Sub-Committee (“the Sub-Committee”) is responsible for the exercise of many of the functions of the licensing authority, including determination of applications where representations have been received.
- 1.3 In accordance with the provisions of Section 53C of the Licensing Act 2003 (‘the Act’) the Council as licensing authority must hold a hearing to determine an application for full review of a premises licence within 28 days commencing the day following the day on which the application was received.
- 1.4 The Council must consider any representations made; providing that the representations are relevant to the promotion of the licensing objectives and in the case of those made by other persons are not frivolous or vexatious.
- 1.5 In considering this application the Sub-Committee will sit in a quasi-judicial capacity and is thus obliged to consider applications in accordance with both the Licensing Act 2003 (Hearings) Regulations 2005, and amending secondary legislation and the rules of natural justice. The practical effect of this is that the Sub-Committee must make its decision based on evidence submitted in accordance with the legislation and give adequate reasons for reaching its decision.

2 Background Information

- 2.1 36 Station Road West, is currently a clothes shop as opposed to a food outlet in a parade of shops based beneath residential properties. The owners wish to turn the Premises into a licensed restaurant, although it has not been decided what cuisine will be available.
- 2.2 The application for a Premises Licence was made by Mr Masood Mahmood of 44 Hartley Hill, Purley, CR8 4EN and received on 27th May 2021.
- 2.3 The application is for:-
 - sales of alcohol between the hours of 1000 – 2230 Monday to Sunday
 - a copy of the application is attached at **Appendix ‘A’** and a copy of the proposed premises plan is attached as **Appendix ‘B’**
- 2.4 The position of the premises is shown at **Appendix ‘C’** on a map of the area.

3. Consultation

- 3.1 The application has been served on all the responsible authorities and it is confirmed that statutory notices were displayed on the premises. The application was available to view by members of the public on the Council’s website.
- 3.2 Under the Act objections can be received from responsible authorities or interested parties. Objections must be relevant and, in the case of an interested party must not be frivolous, vexatious or repetitious.

- 3.3 There were no objections from the responsible authorities.
- 3.4 One objection from a member of the public was received - see **Appendix 'D'** from Mr and Mrs (Geoff and Sam) Lewis (statement on page 55).
- 3.5 The objectors intend to call Mr Phil Barry as an expert witness. His "Statement on Fire Safety Matters" is contained within Appendix D (page 61).
- 3.6 The matter in the application being objected to is under public nuisance storage of refuse as well as noise and disturbance to the area by customers of the restaurant.
- 3.7 One letter of support for the application was received. The individual was e-mailed but it appears that they no longer wish to continue as no response has been received.
- 3.8 As a result of the objection, the applicant has sent in further documentation to answer the objectors. As a result of submitting a Freedom of Information Act request, the applicant has requested that an additional condition is added see **Appendix 'E'** (page 79).
- 3.9 Both the applicant and objector have spoken with each other but have been unable to reach an amicable resolution.

4. Policy & Guidance – Points for Consideration

4.1 **Section 182 Guidance**

The most relevant paragraphs of the Section 182 Guidance issued by the Secretary of State in relation the Sub-Committees decision are set out below and must be considered by the Sub-Committee:

1.2 - 1.5	Licensing objectives and aims
1.16	Licence conditions – general principles
9.37 - 9.38	Hearings
9.42 - 9.44	Determining actions appropriate for the promotion of the licensing objectives
13.10	Giving reasons for decisions

The relevant sections of Section 182 Guidance is provided at **Appendix 'F'** (page 81)

4.2 **Tandridge District Council – Licensing Policy**

The main sections of the Councils Licensing Policy which are particularly relevant to the Sub-Committees decision are set out below and should be considered when determining this application:

- 4 Fundamental principles
- 5 Decision making process
- 7 Premises licences
- 9 The prevention of crime and disorder
- 10 Public safety
- 11 Prevention of public nuisance
- 12 Prevention of harm to children

The relevant sections of Tandridge District Council Licensing Policy are provided at **Appendix 'G'** (page 89).

5. Determination

The Sub-Committee is requested to determine the application in line with Section 4 below, giving full reasons for the decision.

6. Legal Considerations

6.1 When considering licence applications, the Sub-Committee shall carry out its functions with a view to taking steps it considers appropriate for promoting the licensing objectives. The licensing objectives are:

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

6.2 The Sub-Committee must ensure that all licensing decisions:

- Have a direct relationship to the promotion of one or more of the four licensing objectives
- Have regard to the Council's statement of licensing policy
- Have regard to the Secretary of State 182 Guidance
- Must not be subject to a blanket policy to the extent that it is applied so rigidly that an exercise of discretion in each individual case is precluded

6.3 The Sub-Committee is advised that when considering and determining applications for the grant of a premises licence (or variations thereto) regard must be had to any relevant representations that are made before taking such steps (if any) as it considers necessary for the promotion of the licensing objectives.

6.4 There are three courses of action available to the Sub-Committee in relation to this application:

(a) to grant the licence. If the Sub-Committee consider that granting the application would not undermine any of the Licensing Objectives, it should be granted in full as submitted. This would be granted subject to the conditions consistent with the operating schedule accompanying the application, and as modified by agreement with the applicant, the Police and Environmental Health, or modified to such extent as the authority considers appropriate for the promotion of the licensing objectives; or

(b) grant the application as above, but the Sub-Committee could impose extra conditions as it thinks fit and exclude from the scope of the licence any of the licensable activities to which the application relates. This option may include adding any conditions suggested by other parties at the hearing, including the applicant. Any conditions to be attached to a licence must be appropriate to promote the Licensing Objectives; or

(c) if the Sub-Committee concludes that no additional conditions would ensure that the licensing objectives would be upheld, then the whole application should be rejected.

- 6.5 The Sub-Committee must provide full reasons for their decision, based on the promotion of the licensing objectives. However, this application should be considered on its own merits and all the circumstances taken into account before a
- 6.6 In accordance with the provisions of the Act, if the Sub-Committee rejects in whole or in part, an application to grant a Premises Licence the applicant may appeal against the decision, to a Magistrates' court within 21 days of being notified of the decision. Similarly, where a person who made relevant representations in relation to the application contends that the licence ought not to have been granted or that alternative or additional conditions should have been imposed on the licence, they may appeal against the decision, to a Magistrates' court within 21 days of being notified of the decision.

----- end of report -----

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**Application for a premises licence to be granted
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/We Mr Masood Mahmood

(Insert name(s) of applicant)

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description			
36 Station Road West			
Post town	Oxted	Postcode	RH8 9EU
Telephone number at premises (if any)		01883715262	
Non-domestic rateable value of premises		£13,250	

Part 2 - Applicant details

Please state whether you are applying for a premises licence as Please tick as appropriate

- a) an individual or individuals * please complete section (A)
- b) a person other than an individual *
 - i as a limited company/limited liability partnership please complete section (B)
 - ii as a partnership (other than limited liability) please complete section (B)
 - iii as an unincorporated association or please complete section (B)
 - iv other (for example a statutory corporation) please complete section (B)
- c) a recognised club please complete section (B)

- d) a charity please complete section (B)
- e) the proprietor of an educational establishment please complete section (B)
- f) a health service body please complete section (B)
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England please complete section (B)
- h) the chief officer of police of a police force in England and Wales please complete section (B)

* If you are applying as a person described in (a) or (b) please confirm (by ticking yes to one box below):

I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or

I am making the application pursuant to a statutory function or

a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr <input checked="" type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname: Mahmood			First names: Masood		
Date of birth I am 18 years old or over				<input checked="" type="checkbox"/>	Please tick yes
Nationality British					
Current residential address if different from premises address		44 Hartley Hill			
Post town	Purley			Postcode	CR8 4EN
Daytime contact telephone number					
E-mail address (optional)	rubenosie@mail.com				

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
Date of birth over		I am 18 years old or		<input type="checkbox"/>	Please tick yes
Nationality					
Current postal address if different from premises address					
Post town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name
Registered number (where applicable)
Description of applicant (for example, partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

Part 3 Operating Schedule

When do you want the premises licence to start?

DD	MM	YYYY
2	5	06
2	0	21

If you wish the licence to be valid only for a limited period, when do you want it to end?

DD	MM	YYYY

Please give a general description of the premises (please read guidance note 1)

Open plan seated family restaurant.

Between the hours of 07:30am and 10:00hrs no alcohol will be served to members of the public. This period will be used for food preparation and to provide a light breakfast service to members of the public.

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

What licensable activities do you intend to carry on from the premises?

(please see sections 1 and 14 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment (please read guidance note 2)

Please tick all that apply

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

Provision of late night refreshment (if ticking yes, fill in box I)

Supply of alcohol (if ticking yes, fill in box J)

In all cases complete boxes K, L and M

A

Plays Standard days and timings (please read guidance note 7)			<u>Will the performance of a play take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<u>Please give further details here</u> (please read guidance note 4)		
Tue					
Wed			<u>State any seasonal variations for performing plays</u> (please read guidance note 5)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 7)			Will the exhibition of films take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			Please give further details here (please read guidance note 4)		
Tue					
Wed			State any seasonal variations for the exhibition of films (please read guidance note 5)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 6)		
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 7)			<u>Please give further details</u> (please read guidance note 4)
Day	Start	Finish	
Mon			
Tue			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 5)
Wed			<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 6)
Thur			
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 7)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<u>Please give further details here</u> (please read guidance note 4)		
Tue					
Wed			<u>State any seasonal variations for boxing or wrestling entertainment</u> (please read guidance note 5)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sat					
Sun					

E

Live music Standard days and timings (please read guidance note 7)			<u>Will the performance of live music take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<u>Please give further details here</u> (please read guidance note 4)		
Tue					
Wed			<u>State any seasonal variations for the performance of live music</u> (please read guidance note 5)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sat					
Sun					

F

Recorded music Standard days and timings (please read guidance note 7)			<u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 4)		
Mon					
			<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 5)		
Tue					
			<u>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Wed					
Thur					
Fri					
Sat					
Sun					

G

Performances of dance Standard days and timings (please read guidance note 7)			<u>Will the performance of dance take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Mon			<u>Please give further details here</u> (please read guidance note 4)		
Tue			<u>Please give further details here</u> (please read guidance note 4)		
Wed			<u>State any seasonal variations for the performance of dance</u> (please read guidance note 5)		
Thur			<u>State any seasonal variations for the performance of dance</u> (please read guidance note 5)		
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sat			<u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sun			<u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 7)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	<u>Will this entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<u>Please give further details here</u> (please read guidance note 4)		
Wed					
Thur			<u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u> (please read guidance note 5)		
Fri					
Sat			<u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sun					

I

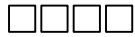
Late night refreshment Standard days and timings (please read guidance note 7)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Mon			<u>Please give further details here</u> (please read guidance note 4)		
Tue			<u>Please give further details here</u> (please read guidance note 4)		
Wed			<u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 5)		
Thur			<u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 5)		
Fri			<u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sat					
Sun					

J

Supply of alcohol Standard days and timings (please read guidance note 7)			Will the supply of alcohol be for consumption – please tick (please read guidance note 8)	On the premises	<input checked="" type="checkbox"/>			
				Off the premises	<input type="checkbox"/>			
				Both	<input type="checkbox"/>			
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 5) N/A					
Mon	10:00	22:30						
Tue	10:00	22:30						
Wed	10:00	22:30						
Thur	10:00	22:30						
Fri	10:00	22:30						
Sat	10:00	22:30						
Sun	10:00	22:30						
						Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 6) N/A		

State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor (Please see declaration about the entitlement to work in the checklist at the end of the form):

Name Mr Hassan Ghorbanzadeh	
Date of birth	
Postcode	
Personal licence number (if known)	
Issuing licensing authority (if known) L	



K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 9).

No adult entertainment or gambling will be permitted at the premises at any time.

L

Hours premises are open to the public Standard days and timings (please read guidance note 7)			State any seasonal variations (please read guidance note 5)
Day	Start	Finish	N/A
Mon	07:30		
		23:00	
Tue	07:30		
		23:00	
Wed	07:30		
		23:00	
Thur	07:30		
		23:00	
Fri	07:30		
		23:00	
Sat	07:30		
		23:00	
Sun	07:30		
		23:00	

Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 6)

N/A

M Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 10)

In preparation for this licensing application the applicant has had regard to the Tandridge District Council Statement of Licensing Policy, section 182 Guidance and the Licensing Act 2003.

The standard practices listed below will be maintained at all times. All reasonable steps will be taken to ensure that the premises will have a positive impact upon the local environment and its residents at all times.

b) The prevention of crime and disorder

A CCTV system will be installed at the premises and be maintained in good working order and be continually recording at all times the premises are in use under the licence.

CCTV cameras will cover key areas including headshots of persons entering the premises, the till and entrance and toilet entrance area.

All CCTV footage must be kept for a period of 31 days and shall on request be made immediately available to officers of the police and the council. There will be at least one person on duty at all times that is familiar with the operation of the CCTV and able to download the footage upon request by a police officer or an authorized officer of the council.

Digital recording CCTV comprising a multi camera system will be operational within the premises. The head unit (recorder) for storing the images will store such data on a hard drive or a similar quality medium. A CD or DVD burner will also form part of the system to facilitate making copies of the images.

An incident log book will be operated at all times the premises is in operation. This incident log book will record any incidents of crime and disorder and will be available immediately upon request by a police officer or an authorized officer of the council.

There will be a zero tolerance approach to drugs at the premises.

Highly intoxicated customers will be refused service at the premises. Any sales refusals will be recorded in an incident record log book and will be available immediately upon request by a police officer or an authorized officer of the council.

Ask Angela signage will be displayed at the premises.

A challenge 25 scheme shall be maintained at the premises requiring that staff selling alcohol request that any customer who looks under 25 years old, and who is attempting to purchase alcohol, provides valid photographic identification proving that the customer is at least 18 years old. Valid photographic identification is composed of a driving licence, passport, UK armed services ID card and any Proof of Age Standards Scheme (PASS) accredited card such as the Proof of Age London (PAL) card.

All staff involved in the sale of alcohol shall be trained in the prevention of sales of alcohol to underage persons, and the challenge 25 scheme in operation at the premises.

Clearly legible signs shall be prominently displayed where they can easily be seen and read by customers stating to the effect that a challenge 25 policy is in operation at the premises, that customers may be asked to provide proof of age and stating what the acceptable forms of proof of age are. Such signage shall be displayed at all entrances, points of sale and in all areas where alcohol is displayed for sale. The signage shall be kept free from obstructions at all times.

A register of refused sales of alcohol shall be maintained in order to demonstrate effective operation of the challenge 25 policy. The register shall be clearly and legibly marked on the front cover as a register of refused sales, with the address of the premises and with the name and address of the licence holder. The register shall be kept / be accessible at the premises at all times. The register shall be made immediately available for inspection at the premises to council or police officers on request.

An incident log book will be kept and maintained at the premises. All incidents of crime and disorder will be recorded in this book. The incident log book will be made immediately available for inspection at the premises to council or police officers on request.

Hooks will be placed under tables for ladies to place their handbags securely.

c) Public safety

A fire log book shall be kept at the premises. The details of any outbreak of fire at the premises and any subsequent action taken shall be recorded in the fire log book. The fire log book shall be made available to officers of the council, police or fire brigade on request.

All fire extinguishers at the premises will be checked annually.

Sufficient portable fire - fight equipment of a type suitable in respect of the operation of the premises shall be kept at the premises in unobstructed and easily accessible locations.

The fire alarm system at the premises shall be maintained and kept in full working order.

The Licensee / Duty Manager shall ensure that all necessary safety checks have been carried out before the admission of the public.

All escape routes and exits including external exits shall be maintained unobstructed, in good order with non- slippery and even surfaces, free of trip hazards and clearly identified in accordance with the approved arrangements.

d) The prevention of public nuisance

A duty managers mobile contact number will be visible and on display to members of the public / patrons to raise any complaints in relation to the operation of the premises.

The licensee shall take all reasonable steps and endeavours to ensure that no noise nuisance / statutory noise nuisance is caused which is likely to affect local resident(s).

Clearly legible signage will be prominently displayed at all patron exits, where it can easily be seen and read, requesting that patrons leave the premises in a quiet and orderly manner that is respectful to neighbours.

Suitably qualified or experienced persons shall be employed at all times, whilst licensable activity is being provided, and shall take all reasonable steps to ensure that patrons do not cause a nuisance in the vicinity of the premises.

All staff shall be trained to monitor that noise levels are kept to a minimum so as not to disturb local residents.

Waste bins will be provided at or near the exits, to enable the disposal of any generated waste of patrons before leaving the premises.

The duty manager or designated senior member of staff will manage booking taxis for patrons visiting the premises. Guest will be informed at their table that their taxi has arrived.

A zero tolerance approach to noise disturbance by patrons will be in operation at the premises which will be enforced strictly.

All staff shall receive training on the contents of the premises licence and their roles and responsibilities to uphold the premises licence conditions.

Excessive noise will not be tolerated at the premises. Customers who cause excessive noise will be asked to leave the premises.

Upon closing staff will pick up any discarded refuse at the front of the premises and sweep the front of the premises.

e) The protection of children from harm

Children will only be permitted into the premises after 19:00hrs accompanied with an adult.

Any Public Health initiatives will be incorporated within the operational business strategy delivery of the premises.

Checklist:

Please tick to indicate agreement

- I have made or enclosed payment of the fee.
- I have enclosed the plan of the premises.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable.
- I understand that I must now advertise my application.
- I understand that if I do not comply with the above requirements my application will be rejected.
-

[Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents demonstrating my entitlement to work in the United Kingdom (please read note 15).

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

Part 4 – Signatures (please read guidance note 11)

Signature of applicant or applicant’s solicitor or other duly authorised agent (see guidance note 12). **If signing on behalf of the applicant, please state in what capacity.**

Declaration	<ul style="list-style-type: none"> [Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15). The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, if appropriate (please see note 15)
Signature	<i>Ruben Osie</i>
Date	27/05/2021
Capacity	Licensing Agent

For joint applications, signature of 2nd applicant or 2nd applicant’s solicitor or other authorised agent (please read guidance note 13). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 14)			
Ruben Osie			
Post town	London	Postcode	
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			

Notes for Guidance

1. Describe the premises, for example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.
2. In terms of specific regulated entertainments please note that:
 - Plays: no licence is required for performances between 08:00 and 23.00 on any day, provided that the audience does not exceed 500.
 - Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
 - Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
 - Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
 - Live music: no licence permission is required for:
 - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar

- community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
- a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
 - Recorded Music: no licence permission is required for:
 - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
 - Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
 - Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.
3. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
 4. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
 5. For example (but not exclusively), where the activity will occur on additional days during the summer months.
 6. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
 7. Please give timings in 24 hour clock (e.g. 16.00) and only give details for the days of the week when you intend the premises to be used for the activity.

8. If you wish people to be able to consume alcohol on the premises, please tick 'on the premises'. If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off the premises'. If you wish people to be able to do both, please tick 'both'.
9. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or the presence of gaming machines.
10. Please list here steps you will take to promote all four licensing objectives together.
11. The application form must be signed.
12. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
13. Where there is more than one applicant, each of the applicants or their respective agent must sign the application form.
14. This is the address which we shall use to correspond with you about this application.

15. Entitlement to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:

A licence may not be held by an individual or an individual in a partnership who is resident in the UK who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.

Any premises licence issued in respect of an application made on or after 6 April 2017 will become invalid if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have an entitlement to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity. They do this by providing with this application copies or scanned copies of the following documents (which do not need to be certified).

Documents which demonstrate entitlement to work in the UK

- An expired or current passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK [please see note below about which sections of the passport to copy].
- An expired or current passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- A Registration Certificate or document certifying permanent residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.

- A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A **full** birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A certificate of registration or naturalisation as a British citizen, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A **current** passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to work relation to the carrying on of a licensable activity.
- A **current** Residence Card issued by the Home Office to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights or residence.
- A **current** Immigration Status Document containing a photograph issued by the Home Office to the holder with an endorsement indicating that the named person may stay in the UK, and is allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A Certificate of Application, **less than 6 months old**, issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (European Economic Area) Regulations 2006, to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence.
- Reasonable evidence that the person has an outstanding application to vary their permission to be in the UK with the Home Office such as the Home Office

acknowledgement letter or proof of postage evidence, or reasonable evidence that the person has an appeal or administrative review pending on an immigration decision, such as an appeal or administrative review reference number.

- Reasonable evidence that a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence in exercising treaty rights in the UK including:-
 - evidence of the applicant's own identity – such as a passport,
 - evidence of their relationship with the European Economic Area family member – e.g. a marriage certificate, civil partnership certificate or birth certificate, and
 - evidence that the European Economic Area national has a right of permanent residence in the UK or is one of the following if they have been in the UK for more than 3 months:
 - (i) working e.g. employment contract, wage slips, letter from the employer,
 - (ii) self-employed e.g. contracts, invoices, or audited accounts with a bank,
 - (iii) studying e.g. letter from the school, college or university and evidence of sufficient funds; or
 - (iv) self-sufficient e.g. bank statements.

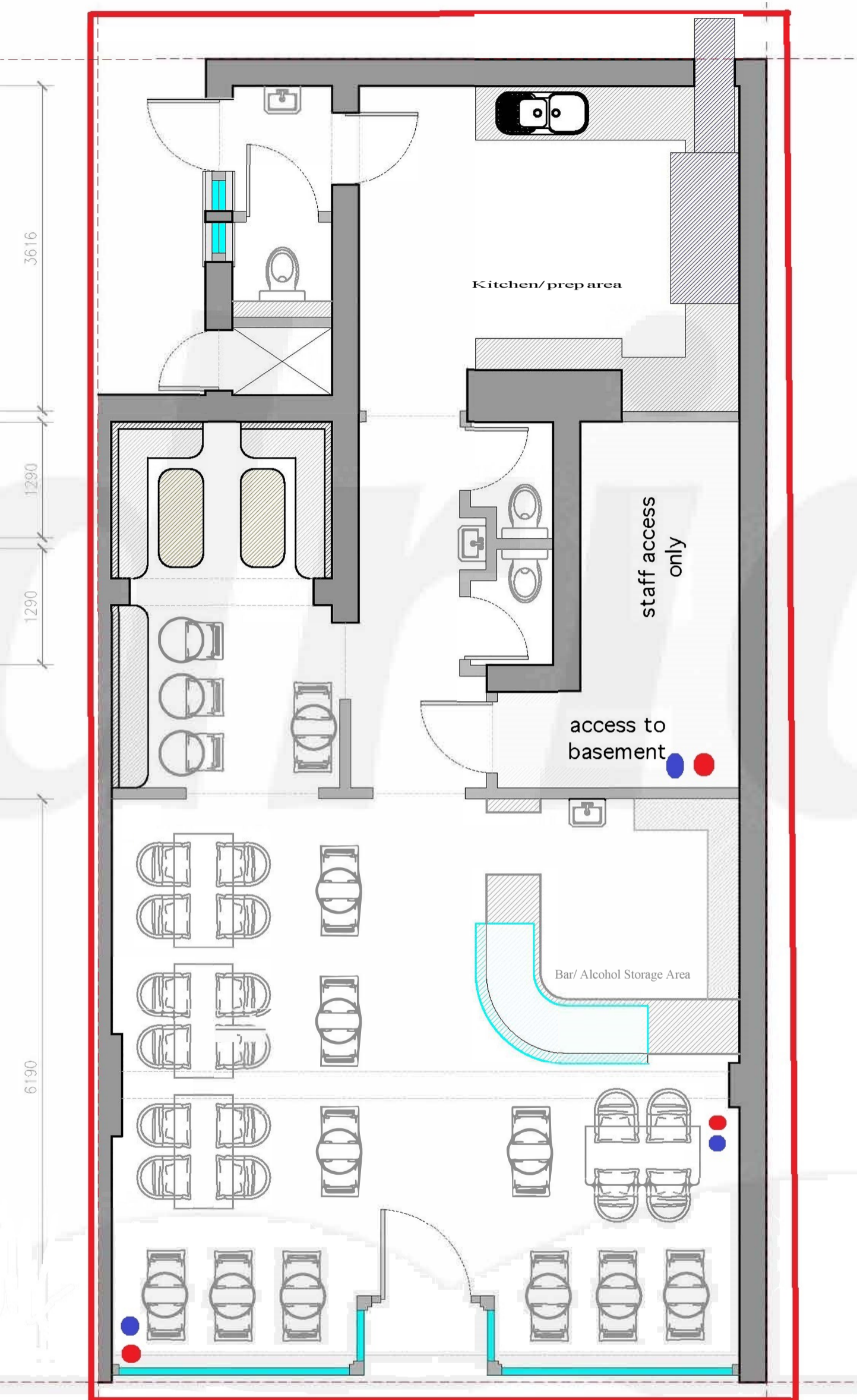
Family members of European Economic Area nationals who are studying or financially independent must also provide evidence that the European Economic Area national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical insurance policy, an EHIC card or an S1, S2 or S3 form.

Original documents must not be sent to licensing authorities. If the document copied is a passport, a copy of the following pages should be provided:-

- (i) any page containing the holder's personal details including nationality;
- (ii) any page containing the holder's photograph;
- (iii) any page containing the holder's signature;
- (iv) any page containing the date of expiry; and
- (v) any page containing information indicating the holder has permission to enter or remain in the UK and is permitted to work.

If the document is not a passport, a copy of the whole document should be provided.

Your right to work will be checked as part of your licensing application and this could involve us checking your immigration status with the Home Office. We may otherwise share information with the Home Office. Your licence application will not be determined until you have complied with this guidance.

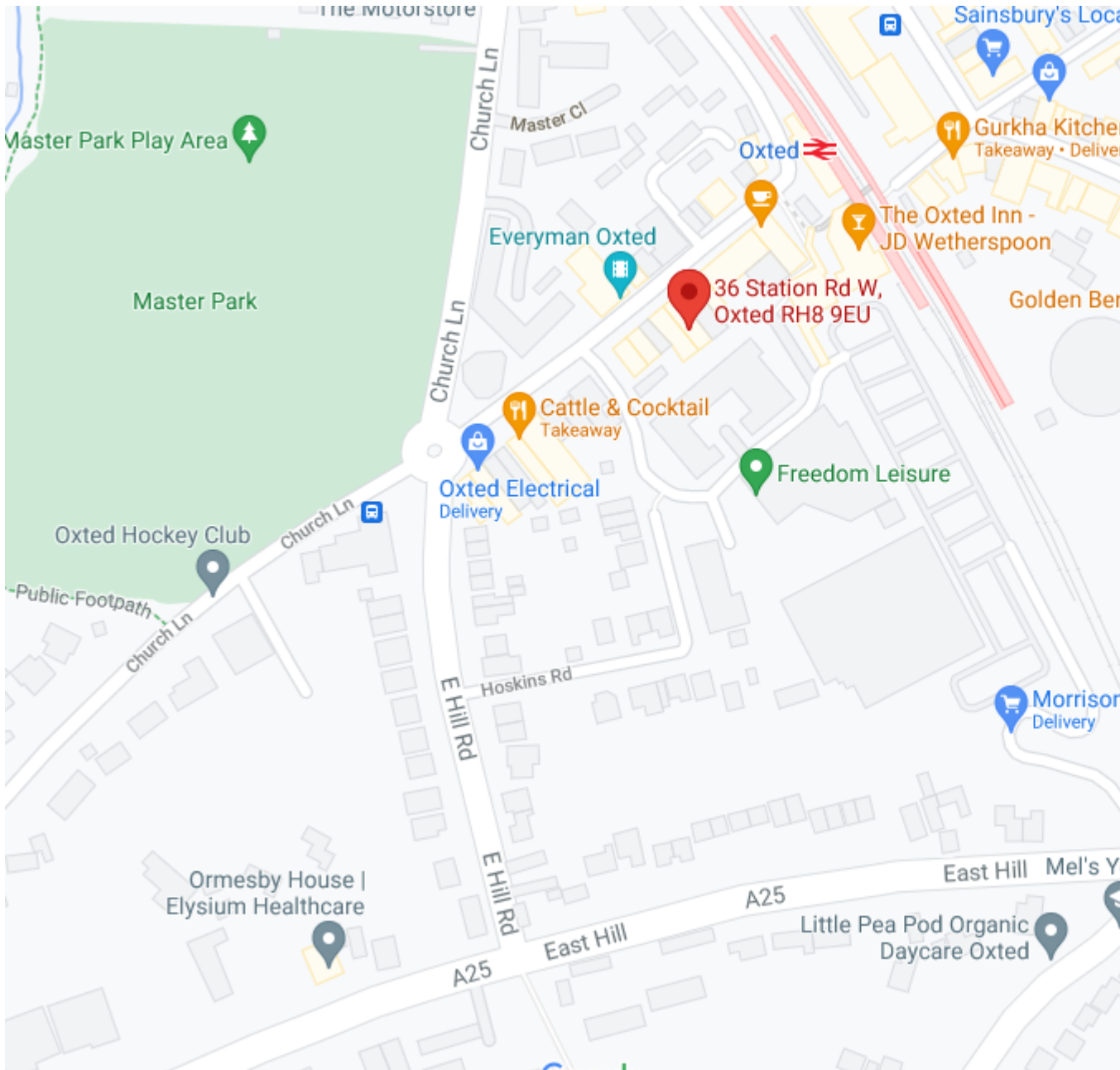


Key:

- Class E - Fires involving ELECTRICAL APPARATUS
- Class A - SOLIDS such as paper, wood, plastic etc

The above fire extinguishers conform to BS EN 3.

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Appeal Decision

Site visit made on 30 October 2020

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 20th November 2020.

Appeal Ref: APP/M3645/W/20/3255818 36 Station Road West, Oxted RH8 9EU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Kenan Tezgel against the decision of Tandridge District Council.
 - The application Ref TA/2020/565, dated 17 March 2020, was refused by notice dated 19 June 2020.
 - The development proposed is change of use from A1 (retail) to mixed use A3/A5 (restaurants and cafes/takeaways) and installation of extractor to rear elevation.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use from A1 (retail) to mixed use A3/A5 (restaurants and cafes/takeaways) and installation of extractor to rear elevation at 36 Station Road West, Oxted RH8 9EU in accordance with the terms of the application, Ref TA/2020/565, dated 17 March 2020, subject to the conditions in the following Schedule.

Procedural Matters

2. The description in the header above is taken from the Council's decision notice. I consider it more accurately describes the proposal, which includes installation of an extractor flue, than the description given on the application form.
3. Since the Council made its decision, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (as amended) have come into force. Amongst other changes, these remove Class A from the Use Classes Order (UCO) and include restaurants and cafes into a new Class E. Article 3(6) sets out a list of uses that now fall outside of any class, which includes uses which previously fell under Class A5. However, transitional provisions in Regulation 4 set out that applications made prior to 1 September 2020 which referred to the previous use classes must be determined by reference to those use classes. I have therefore considered the appeal on that basis.

Main Issue

4. The main issue is the effect of the proposed development on the vitality and viability of the town centre.

Reasons

5. Policy DP2 of the Tandridge District Local Plan Part 2 (LP) only permits changes of use of ground floor premises from Class A1 to Class A2, A3, A4 or A5 within

a primary frontage where certain criteria apply. The Council's evidence, which the appellant does not dispute, is that the proposal would result in 68% of the town centre's total primary frontage remaining in retail use, which is less than the 70% required by Policy DP2. Furthermore, the unit is currently trading as a retail unit and there is no evidence before me that it has been marketed. As such, although the proposal would meet criterion C.2. of Policy DP2, it would not meet criteria C.1. or C.3. and would therefore conflict with that Policy.

6. The use sought is proposed to operate during the day only, in contrast to other restaurant uses nearby, and there are few other similar uses in this shopping area to the west of the railway. A daytime food offer may also encourage people to stay in the area for longer, and could therefore contribute to other local businesses. Therefore, the proposal would add to the mix of uses locally and complement the existing commercial offer in this parade and the wider shopping frontage. It would therefore be consistent with Government policy to encourage greater flexibility in the range of uses in town centres, and the ability for businesses to adapt and diversify to meet changing demands, particularly as town centres seek to recover from the economic impact of Coronavirus.
7. Accordingly, despite the loss of one retail unit, the proposal would not harm the vitality or viability of the town centre as a whole. I therefore find no conflict with Policy CSP22 of the Tandridge District Core Strategy (CS), which seeks to develop a sustainable economy, including by seeking to make best use of existing commercial sites, especially those suitable for occupation by small businesses. Nor do I find any conflict with the National Planning Policy Framework (the Framework), which requires that planning decisions take a positive approach to the growth, management and adaptation of town centres.
8. The recent changes to the UCO mean that changes of use from retail to numerous non-retail uses are no longer development, and as such do not require planning permission. Consequently, the Council's ability to control the range of uses in primary shopping frontage through local policy has been significantly constrained. I therefore afford only modest weight to the conflict with LP Policy DP2.
9. This proposal includes Class A5 takeaway use, which is specifically excluded from any of the new use classes, and therefore the proposed use would not fall within the new Class E, as the main parties have suggested. However, the unit could be changed to another non-retail use irrespective of the outcome of this appeal. I consider that there is a realistic prospect that this would occur if this appeal were dismissed and therefore attach significant weight to this fallback position. I conclude that this is a material consideration which outweighs the conflict with Policy DP2.

Other Matters

10. The site falls within the Station Road West Conservation Area (CA), which derives considerable significance from its high quality 'mock Tudor' buildings and relationship with the railway. The proposed extractor would be on the rear of the building, where it would be seen along with various modern extensions, air conditioning units and another large flue on the rear of the same row of buildings. The storage of waste would also be contained within the site, and there are numerous other large bins and storage areas in the access road at the rear. In this context, the proposal would preserve the character and

appearance of the CA and would not adversely affect any features that contribute to its significance. As such, I find no conflict with local or national policies which seek to conserve designated heritage assets.

11. The appellant has provided a technical report including details of measures to mitigate noise and odour from the proposed extraction system. I am mindful that, on the basis of this report, the Council's Environmental Health officer raised no objection to the proposed extractor in terms of the living conditions of neighbouring occupiers. However, the design of the upper part of the extractor shown in that report differs from the submitted elevation drawings. In particular, the plans in the report do not show the extract outlet facing towards the windows of neighbouring flats. It is therefore unclear whether the report assesses the impacts of the extract system now proposed.
12. Nonetheless, the report demonstrates that an appropriate technical solution exists which would safeguard the living conditions of neighbours from odour and noise and protect air quality, without significantly changing the appearance of the external extract. The final detailed design can therefore be secured by planning condition.
13. If unrestricted, there is potential for the operation of the proposed café/takeaway to cause noise and disturbance during unsociable hours, to the detriment of the living conditions of neighbours. This could however be mitigated by a condition limiting the hours of operation, collections and deliveries to those proposed on the application form.
14. Limited details have been provided regarding waste and recycling storage and collection. Therefore, further information is needed to secure appropriate provision without obstructing access to the hairdresser's business and parking space at the rear of the property, or access along the rear service road, including for emergency vehicles. These details can be secured by condition.
15. Any new or replacement external ventilation or air-conditioning units would require separate planning permission, and as such there is no need to control such potential future development through this decision. The proposed use is unlikely to generate greater demand for car parking than the existing shop and would not be open during the evening, and therefore would not contribute to parking stress locally. Any requirement for the appellant to obtain consent from another landowner, including in relation to rights of access, is a civil matter dealt with under separate legislation and therefore does not fall within my remit in determining this appeal.

Conclusion

16. For the reasons given above, the appeal is allowed subject to conditions.
17. In addition to those set out above, a condition is necessary to require compliance with the approved plans, other than in relation to the details of waste storage and the extraction system, which would be secured by those other conditions.

L McKay

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 0102/36STAT-01, except in respect of the design of the extractor and waste storage details shown on that plan.
- 3) The premises shall only be open for customers between 0800 hours and 1700 hours on any day. All deliveries and collections to and from the premises shall take place within these hours.
- 4) No extraction equipment shall be installed unless in accordance with details that have first been submitted to and approved in writing by the local planning authority. Such details shall include the noise performance of the extraction system and measures to control the emission of fumes and smell from the premises. All equipment installed as part of the approved scheme shall thereafter be operated and maintained in accordance with that approval and retained for so long as the use continues.
- 5) The use hereby approved shall not commence until provision for waste and recycling storage and collection have been made in accordance with details that have been submitted to and approved in writing by the local planning authority. Thereafter, no waste or recycling shall be stored anywhere on the site other than in the approved location(s).









From: Ian Stoneham
Sent: 01 July 2021 11:45
To: Ian Garrod <IGarrod@tandridge.gov.uk>
Cc: Eleanor Stoneham
Subject: Re: Licence application

Attention Ian Garrod - Licence officer

Thank you for your email of 30th June in which you set out the comments of the Applicant's Agents setting out their position to you that the "service road is a shared service road for the commercial premises on the parade" and that they, as agents, confirm that they have right of way of access as well as the authority to place refuse bin/recycling bins at the rear of our property from the Freeholder.

Below are the facts in relation to the access road and siting of the refuse and recycling bins.

Right of Way - The access road (and adjacent bank)

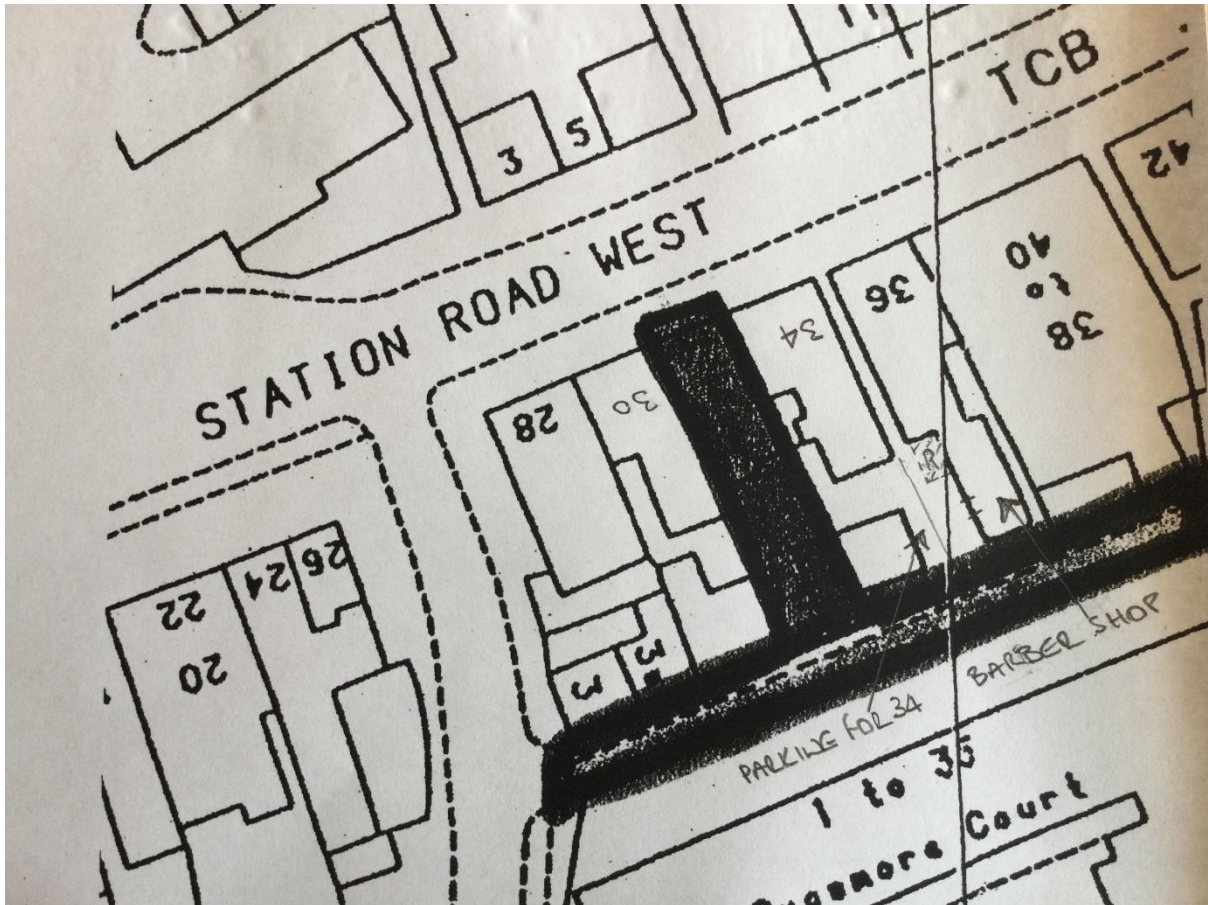
The authoritative Land Registration document SY693290 which we submitted to you sets out the demise of 32 Station Road West to which Dr. E M Stoneham is the Freeholder. This demise, including the access road and adjacent bank to the South of the road allows access for 38 to 40; 36, 34, 32 Station Road West and 3b Hoskins Road (which opens out onto the access road). Parking and the placing of other obstructions in the road are not allowed (minded to maintaining access for emergency/utility vehicles as discussed with the Local Fire Officer). No rights of way have been granted over the bank between the Southern edge of the road and the boundary fence with Sycamore Court.

The positioning of bins on the road and the bank proposed by the Applicant's Agent is denied. The siting of bins on the road and bank has grown into a problem for us and our tenants especially the storage of food waste which attracts vermin. Existing users are being asked to move bins onto their own demise. All prospective users in the recent past have been warned about our restrictions at the time of them making planning applications that we receive from the Council.

Siting of waste bins

As marked up in the Land Registry Plan SY693290 the demise for 32 Station Road West (SRW) including the access road and the adjacent bank is bounded to the North by a line defined by the side walls of 3a Hoskins Road and front of 3b Hoskins Road and to the South by a fence with Sycamore Court. The demise of 36 Station Road West can be seen on SY693290.

Attached below is an enlargement of SY693290 that shows more clearly the Freehold demise of 36 SRW to which the applicant's agents are seemingly referring.



There is a small area which is probably within the demise 36 SRW at the back of the main building between it and a barber's shop.

Our observation made in the response to the Applicant's Planning application was that this area was seemingly small to handle waste from the Applicant's business

From the comments made to you by the Applicants Agent one could speculate that this is the area being referred to where the new tenant could "place refuse and recycling bins at the rear of our property with the authority of the Freeholder" This is cross-hatched and marked up with the letter "R" on the copy of the marked-up plan.

No permissions, rights-of-way, licences etc. are reflected in the deeds of 32 SRW and none have been granted by me during my ownership for anyone to use any part of my access road or its adjacent bank to be used for parking or to store bins.

It is my observation, made previously to the Council, that the problem of the safe and hygienic storage of waste has and continues to be exacerbated by freeholders and tenants utilising what were their storage and parking space for development without due regard for the disposal and storage of waste they create.

Yours faithfully

Dr. E. M Stoneham

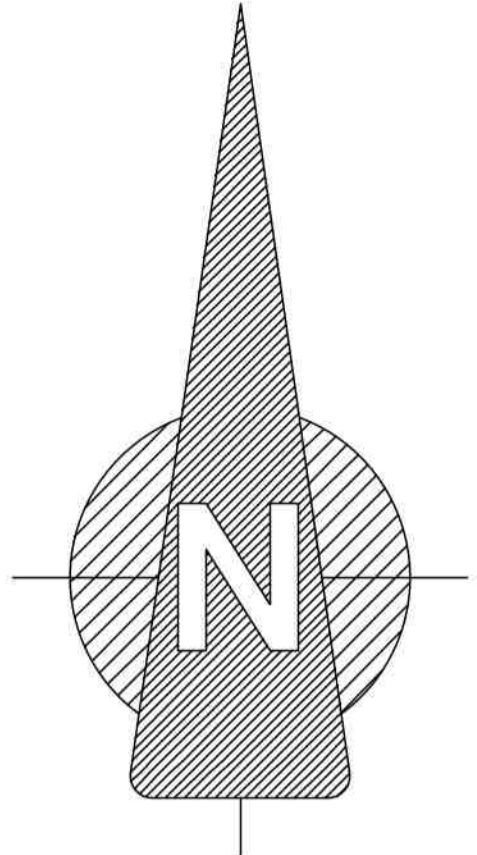
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Ian Stoneham
Commercial Director

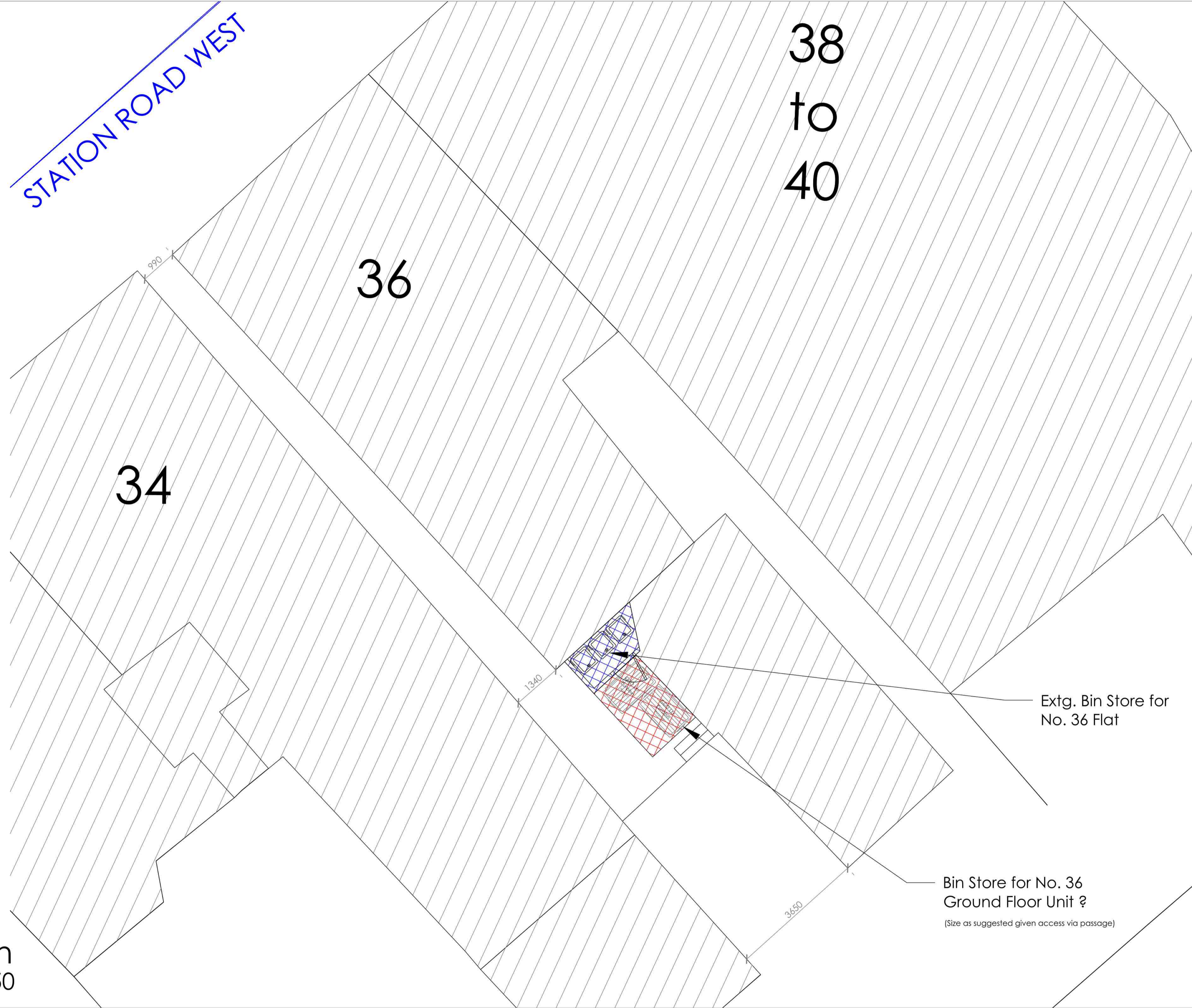
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Ian Stoneham
Commercial Director

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STATION ROAD WEST



Site Plan
- Scale 1:50

NOTES:

Figured Dimensions only to be taken from this drawing. Do not scale.

Clients must take their own assurances on:

- a) soil conditions including gradient of land.
- b) suitability of storm water drainage.
- c) Trees & their affect on foundation design.
- d) position of main sewer / septic tanks.

This drawing is to be read in conjunction with Engineers structural details & other specialist contractors' drawings.

All workmanship to comply with relevant British Standards and / or Code of Practice. Refer to schedules / other drawings for finishes, fittings & services.

This drawing is for planning and Building Control purposes only. All items not requiring approval by the L.A. are to be agreed between the employer and the contractor before entering into a contract.

The contractor is responsible for checking all dimensions and levels prior to commencement of work and discrepancies reported for verification.

Date	Revisions

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Client
Audio Vision Ltd

Job Title
34 Station Road West
Oxted, Surrey,
RH8 9EU

Drawing Title
Bins to No. 36

Scale 1:50 & 1:200 Date 07/07/2021

Drawn by A.R.K. Checked by A.R.K.

11 CHATHILL COTTAGES, MILES LANE,
TANDRIDGE, SURREY, RH8 9NR
TEL: 07050124557
EMAIL: ARK_DESIGN@BTINTERNET.COM

Dwg. No.	Rev.
2015-001 / 04	-

Extg. Bin Store for
No. 36 Flat

Bin Store for No. 36
Ground Floor Unit ?
(Size as suggested given access via passage)

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Statement of Geoff Lewis

I am Geoff Lewis. I own and have run for over thirty years, Audio Vision, a company supplying smart technology, from the ground floor showroom of 34 Station Road West. I also live on the first floor of the premises with my wife Sam as well as having offices towards the rear of 34 . We are therefore both residents and business owners living and working next door to the proposed licensed premises at no.36 Station Road West.

I am not anti-business – quite the opposite, having worked to make my own business a success. However, 36 Station Road West has for the past 40 years been a retail outlet which has sold children clothes and shoes - in recent years they have introduced adult clothes and shoes.

We have traded (30+ years) and lived (11 years) at 34 Station Road West. A licensed premises is an entirely different proposal to a retail outlet. We are very happy with our set up and have no wish or plans to move. We do not want to live next door to a restaurant and we are not comfortable with conditions offered as we do not believe they will address the serious concerns we have regarding public nuisance that a new licensed premises raises.

There is a significant difference between noise from a retail outlet compared to a restaurant opening until 11pm where alcohol is being sold – and self-evidently a greater chance of litter and nuisance than a retail outlet.

We are particularly concerned about the following:

- Noise. During the daytime some noise is expected as we are living on a high street. However increased noise from a restaurant opening until 11pm is a different prospect entirely. The layout plans suggest approximately 50 covers and with different settings across the course of the day and evening this could mean significant numbers of customers arriving and leaving each day, mostly in the evening when at present the shop would be shut.
- With an alcohol licence the premises would be entitled to have live bands and DJs without additional permission until 11pm.
- Where will smokers go and how will discarded cigarette butts be managed?
- Parking for takeaway collections – noise of engines running, slamming doors.

- Deliveries to the restaurant – again, increased noise. When will these take place, and how often?
- If the premises offers a delivery service where will delivery cars/mopeds park up and will their engines keep running?
- Air conditioning units – will there be more? One condenser is already in place at the rear of the premises however if more are being installed the placement of these condenser units could cause a nuisance due to their noise.

Current Permission – 36 Station Road West

- Condition 3 of the planning permission restricts the use to 0800 to 1700 each day.
- Planning was granted on the condition of a plan being submitted where rubbish and bins will be located. The applicants have been refused (by the owner of the service road Ian Stoneham) an area of the service road at the rear to store their bins. The latest proposals by the Applicant's agent for storage of these bins therefore raises an additional number of serious Public Nuisance and Public Safety concerns:
 - - fire safety, due to the proximity of the bins to their commercial/residential building (there are tenants living above the ground floor at 36 Station Road West).
 - blocking access to a public right of way for the barbers
 - the Applicants have submitted there would be 2 bins – does this include the tenants of the flat above, as if it does this doesn't seem enough for recycling and rubbish.
 - the storage area of the bins is close to our kitchen window and a bedroom window.
 - Our kitchen window is often open as it is the primary ventilation for that area – we have metal bars on the window area so it is safe to leave open (and generally is) and has old secondary glazing. The windows are old fashioned lead light. In keeping. With the local. Conservation area.
 - The collection/movement of the bins is likely to cause noise down the alley way between the two buildings. The alleyway is currently made up of York stone/concrete which is uneven. The alley way is used currently by the tenants of the flat above 36 Station Road West and to access the barber shop at the rear of 36 SRW. Currently there is very little noise. If the bins are placed in the alleyway (a right of way) there is the potential

to create noise which would be heard in our kitchen/dining, sitting room, master bedroom and a further bedroom.

- The proposed extractor fan will be close to our kitchen and bedroom window.
- Paragraph 13 of the decision states that the time limiting condition was required to avoid noise and disturbance to neighbours. Therefore Condition 13 Operating outside of those hours would represent a breach of condition. Appeal was granted to 5pm due to risk of noise and disturbance. There was no mention of serving alcohol was noted in original planning application.

Geoff Lewis

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Although the objection is against the grant of the Premises Licence, should the Licensing Committee choose to grant the Licence, the following are the minimum additional conditions we proposed should be added to promote the prevention of public nuisance.

Opening Time of premises should be reduced to 08.00 to 17.00 Mondays to Sundays.

Sale of Alcohol reduced to 10.00 to 16.30 Mondays to Sundays

1. The premises shall prominently display signage at all entrances informing customers: -

All customers to leave quietly and respect the local residents when coming and going from the address
2. No more than 4 customers are permitted to smoke outside the premises at any one time, to reduce the risk of disturbance for local residents and pedestrians.
3. The Premises shall provide a phone number to neighbouring properties to enable any complaints to be registered in the incident book and for the management to actively engage in resolving complaints. If complaints are recorded then the DPS or Management team must engage in ways to resolve matters raised in complaints.
4. Any deliveries and restocking must take place between the hours of 0800 and 1700hrs. To reduce disturbance to the residential properties surrounding the Premises.
5. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 22.00 hours and 08.00 hours on the following day.
6. No collections of waste or recycling materials (including bottles) from the premises shall take place between 22.00 and 08.00 hours on the following day.
7. The number of persons permitted in the premises at any one-time (excluding staff) shall not exceed 40 persons
8. An incident log shall be kept at the premises, and made available on request to an authorised officer of the Council or the Police, which will record the following:
 - a. All crimes reported to the venue
 - b. All ejections of patrons

- c. Any complaints received, neighbours or customers.
 - d. Any incidents of disorder
 - e. Any faults in the CCTV system.
9. The Premises Licence Holder shall ensure all persons have provided satisfactory proof of identification and right to work in UK and have carried out checks on the home office website to verify identification, visa and the right to work documents. These staff records are to be retained for a period of 12 months post termination of employment and made available to Police, immigration and Local Authority Licensing officer upon request.
10. No beer, lagers, or ciders of 6.5% BV (alcohol by volume) or above shall be sold at the premises, unless stout, craft or specialist beers.
11. The premises shall only operate as a restaurant,
- a. in which customers are shown to their table or the customer will select a table themselves,
 - b. where the supply of alcohol is by waiter or waitress service only,
 - c. where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.
12. No fumes or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
13. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
14. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
15. The provision for waste and recycling storage and collection must be submitted to and approved in writing by the local planning authority. Thereafter, no waste or recycling shall be stored anywhere on the site other than in an approved location.

Policy: Para 1.9, Para 11, Para 14.3

**Expert Witness Statement on Fire Safety Matters at No. 36
Station Road West, Oxted.**



Compiled by:

Phil Barry B.Sc. M.I.Fire.E

Date: 13th July 2021

CWB Fire Safety Consultants Limited has been appointed by Sam & Geoff Lewis to produce a fire safety statement for the proposed building work at 36 Station Road West, Oxted.

The statement has been produced by our consultant Phil Barry B.Sc. M.I.Fire E.

Phil served for 30 years in the fire service and specialised in fire safety working in London, South Wales and Avon.

As part of his fire service career he spent over 10 years at The Fire Service College in Gloucestershire as a senior instructor in the fire engineering school.

He has a degree in Building Fire Safety Studies and is a Member of The Institute of Fire Engineers (IFE).

He is on the IFE approved register of fire risk assessors and is an expert advisor to Fire Safe Europe.

Phil Established CWB Fire Safety Consultants Ltd in 2006 and has provided fire safety consultancy services to a diverse range of clients across the UK, Europe and The Middle East.

Phil continues to lecture on all aspects of fire safety, fire engineering, fire safety law, housing law and Building Regulations as an associate tutor for The Fire Service College, The Fire Protection Association, and The Chartered Institute of Environmental Health.

The experience and expertise of our consultant gives him the status of "Competent Person" as described in The Management Regulations, and in The Regulatory Reform (Fire Safety) Order 2005, which supersedes all previous fire safety legislation.

The Statutory Duty.

The Regulatory Reform (Fire Safety) Order 2005 applies to the licensed premises at No.36.

The occupier of the licensed premises will be the responsible person as defined in Article 3 of the Order.

The responsible person has a duty to take general fire precautions to ensure the safety of all relevant persons.

Relevant persons is defined as anyone who may be on the premises or any person in the immediate vicinity who may be affected by fire on the premises.

Clearly the occupants of the Barber's shop and residents who live next to and above the premises are relevant persons.

The responsible person will need to carry out a fire risk assessment and needs to take general precautions which include inter alia measures to:

- reduce the risk of fire on the premises and the risk of the spread of fire on the premises; and
- mitigate the effects of the fire.

As a licence will be required the findings of the risk assessment must be recorded.

Guidance Documents.

There are two relevant guidance documents in this matter:

1. Approved Document B (Volume 2) 2019 edition (ADB). This document provides guidance on how to comply with the Building Regulations 2010.
2. The published government guide for fire risk assessments in small places of assembly.

Both of these documents make recommendations regarding the minimum width of escape routes and location of refuse.

ADB states that refuse storage should not be sited next to escape routes.

The FRA guidance states that any accumulation of waste or litter should be kept in a fire-resisting container or room, pending removal.

The FRA guidance also states that waste material should be kept in suitable containers prior to removal from the premises. If bins, particularly wheeled bins, are used outside, they should be secured in a compound to prevent them being moved to a position next to the building and set on fire. Skips should never be placed against a building and should normally be a minimum of 6m away from any part of the premises.

The Situation at Station Road West.

Due to the available ground floor area and the single inward opening door of the proposed layout of the premises the maximum occupancy should be restricted to 50 persons.

The alley between No 34 & 36 are the primary escape route for persons in the barber shop and has a clear width of 1.1m.

The guidance to the Building Regulations and the Government Guidance on fire risk assessments recommend that escape routes should have a minimum width of 750mm to 800mm.

To reduce the risk of injury by radiated heat both documents recommend a minimum distance of 1.8m is provided between any fire risk and the escape route.

The layout of the buildings and proposed location of the bin area is shown on Plan 1 in appendix A of this statement.

The alleyway only has a width of 1.1m. The proposed location of the refuse containers will restrict the width of the escape route to less than 750mm and the refuse will not be located at a distance of at least 1.8m away from the escape route.

The containers will not be secured in a compound and they will be located next to a building and beneath a window to residential accommodation.

There is glazing to residential accommodation located on the first floor of No 36 directly above the proposed location of the refuse containers. This poses an unacceptable risk of vertical fire spread unless the glazing was changed to be fire resisting glazing and kept locked shut.

Conclusion.

In my professional opinion the proposed location of the refuse containers would place relevant persons in the barber shop and in the residential premises on the first floor at risk of death or serious injury.

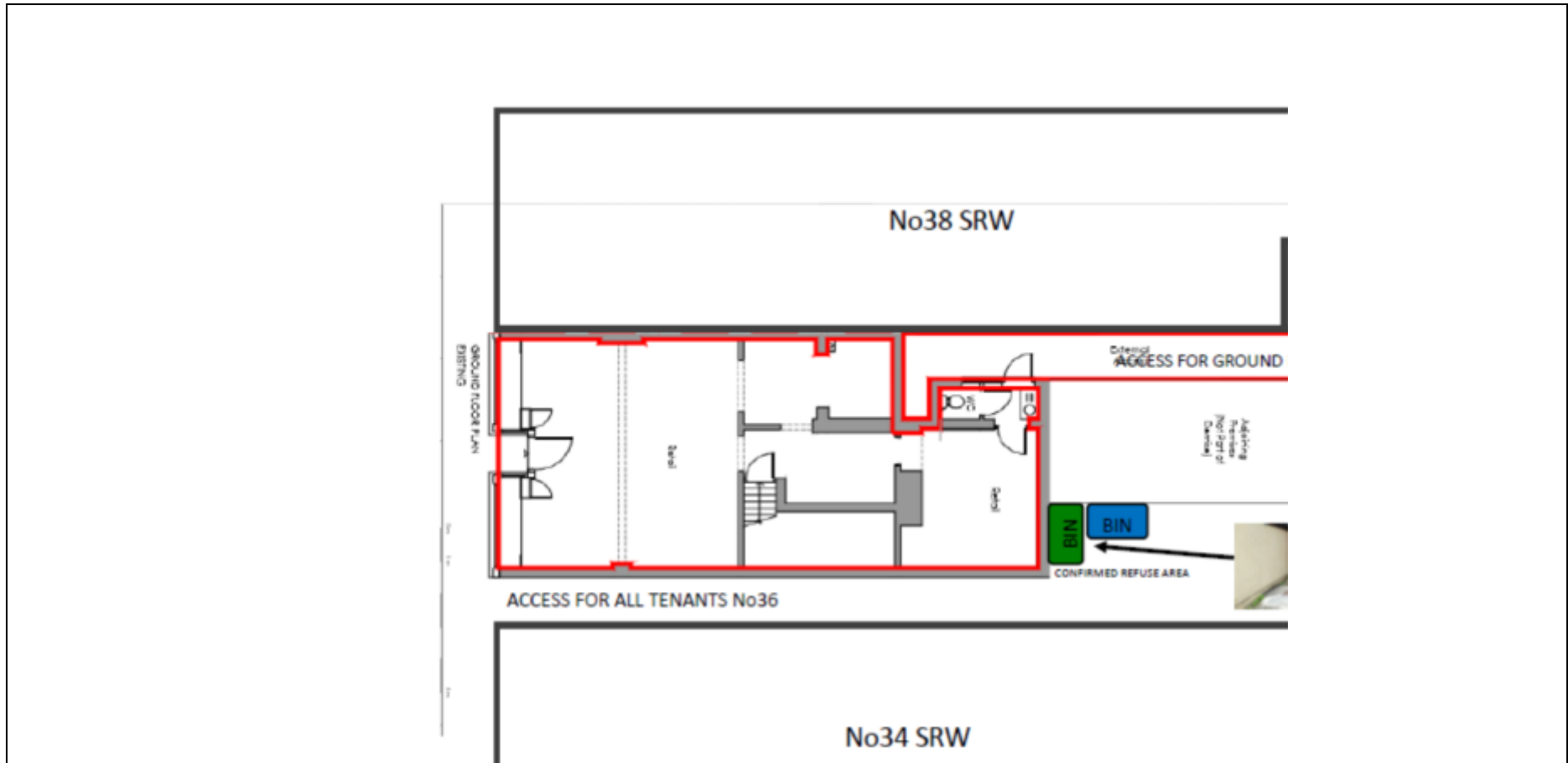
The proposals would result in the responsible person failing to comply with the requirements of The Regulatory Reform (Fire Safety) Order 2005.

The proposals do not meet the functional requirement of the Building Regulations 2010.

I have been appointed by Mr and Mrs Lewis but I am an independent fire safety consultant and I am aware of my duty to be accurate and truthful to the the Licensing Committee.

In accordance with the Civil Procedure Rules Practice Direction 35.3 and the Guidance for the instructions of experts in Civil Claims 2014 I confirm that the contents of this statement are true to the best of my knowledge and belief.

Phil Barry 13th July 2021



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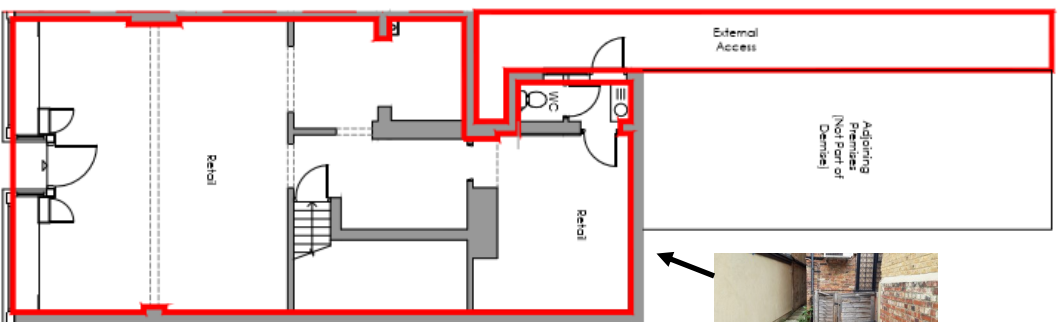




cutback and place refuse

cutback and place refuse





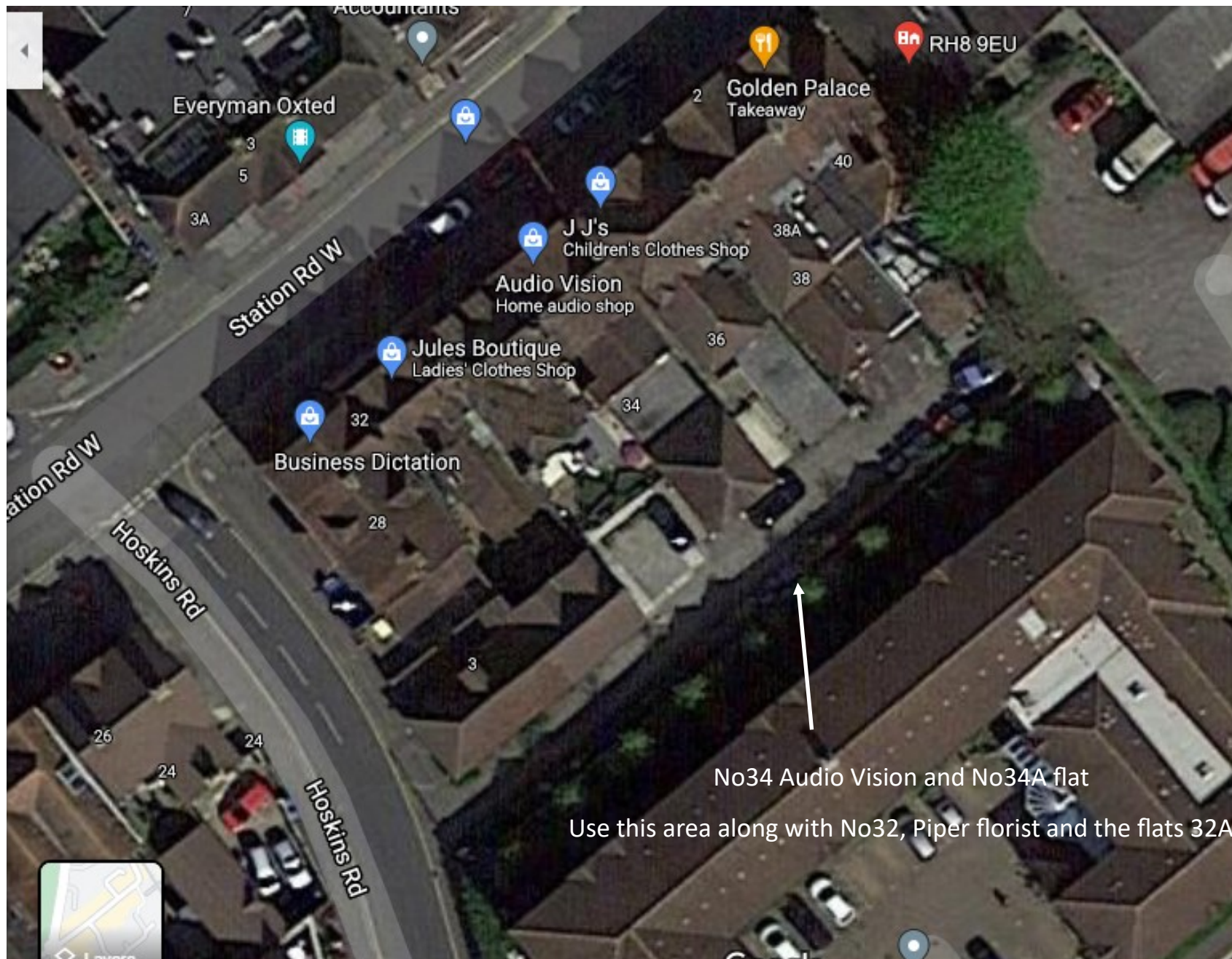


Refuse Bins
No 32, 32A, 34 & 34A



Refuse Bins
No 38 & 40 SRW





No34 Audio Vision and No34A flat

Use this area along with No32, Piper florist and the flats 32A

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-----Original Message-----

From: Ruben Osie

Sent: 29 June 2021 17:46

To: Ian Garrod <IGarrod@tandridge.gov.uk>

Subject: Fw: Re: RE: RE: RE: 36 Station Road, Oxted, RH8 9EU - Newspaper Advert

Ian

On a point of clarity...

It seems slightly odd that the objector who raises issue about refuse bins is the owner of Audio Vision located at No.34 and lives in Flat 34A above his commercial premises.

His commercial business uses the service road and places rubbish in refuse bins at the rear of the property.

If this matter does go to hearing can I respectfully ask that this email correspondence is placed in the hearing papers.

It is disappointing that the public purse is being exploited by the objector in this manner.

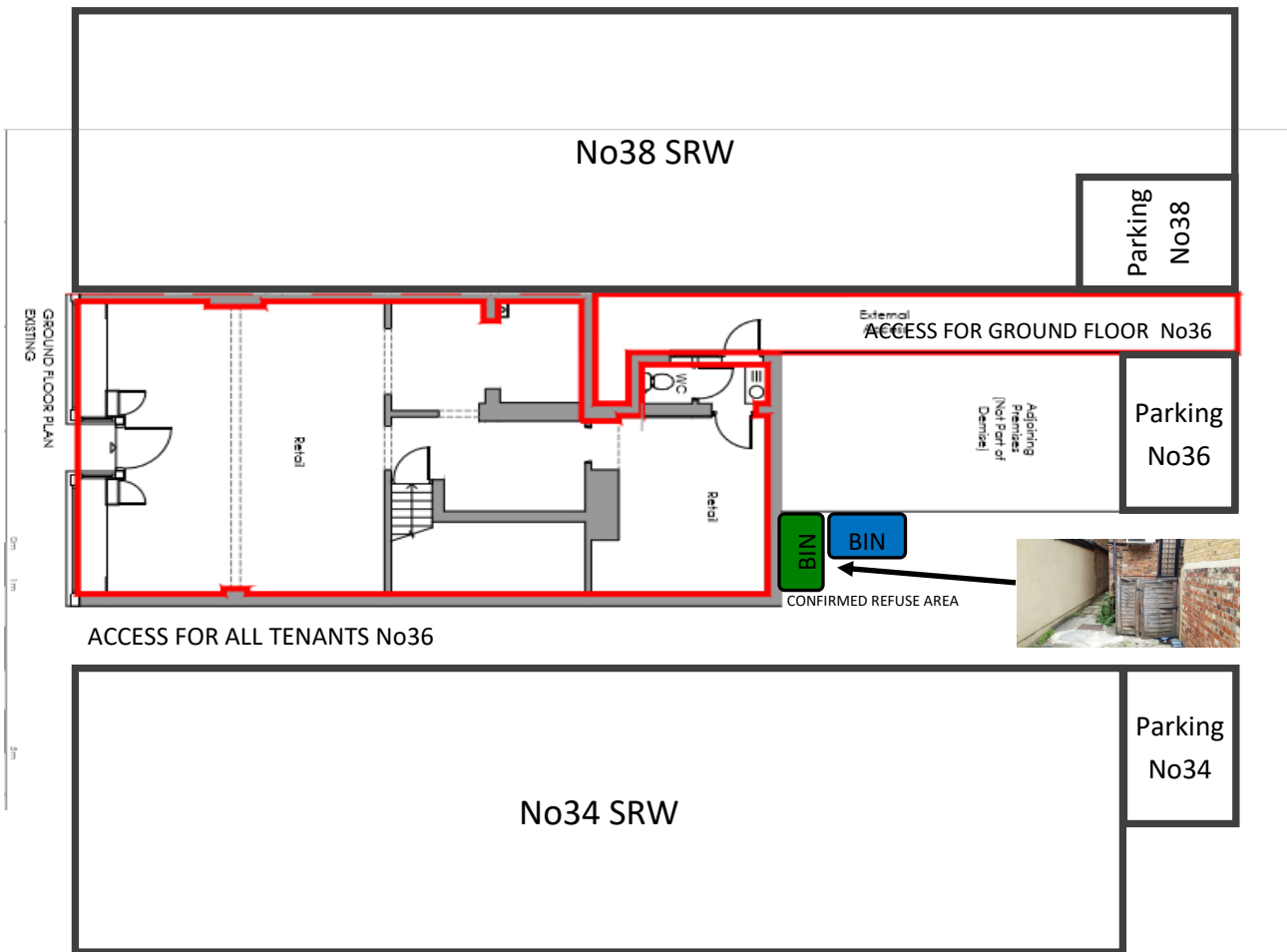
I apologise that your Officer time is being diverted to have to deal with this matter.

If I can be of further assistance, please do not hesitate to contact me.

Regards

Ruben Osie

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From: Ruben Osie
Sent: 12 July 2021 12:55
To: Ian Garrod <IGarrod@tandridge.gov.uk>
Cc:
Subject: Fw: Freedom Of Information response -

Ian

Please find attached details of complaints for this specific location which could possibly affect the objector.

The only complaints received appear to be around placing bottles in refuse and collection.

If the committee were minded to grant this application, we are happy for a condition to be placed on the premises licence restricting hours of depositing bottles in refuse and collection.

Regards

Ruben Osie

Sent: Monday, July 12, 2021 at 12:08 PM
From: "Tandridge District Council"
To:
Subject: Freedom Of Information response -

Dear Ruben Osie,

Freedom of Information Request

The information you requested is as follows:

- Café Papillion 54 Station Road West RH8 9EU – **No noise complaints**
- Cattle & Cocktail 10 Station Road West RH8 9EP – **8/11/2019 noise complaint emptying and collecting bottles**
- EM10 Express 18 Station Road West RH8 9EP – **No noise complaints**
- EM10 Express 20 – 22 Station Road West RH8 9EP (Now closed) – **No noise complaints**
- Everyman Oxted 5 Station Road West RH8 9EE – **3/6/2019 noise from early morning refuse collection**
- Golden Palace Restaurant 40 Station Road West RH8 9EU – **No noise complaints**

I hope this information is of assistance. If you do have any queries about this response, please contact me.

Please remember to quote the reference number above in any future communications.

We have a complaints procedure. A complaint should be made in writing to the Council's Freedom of Information Officer, Lidia Harrison, or by e-mail to freedomofinformation@tandridge.gov.uk. More information about our complaints procedure can be found at www.tandridge.gov.uk/complaints.

If you are still not satisfied after your complaint has been dealt with, you can make a further complaint to the Office of the Information

Commissioner at FOI Compliance Team (complaints), Wycliffe House,
Water Lane, Wilmslow, Cheshire, SK9 5AF.

Further information is available on the Information Commissioner's website
at www.ico.org.uk.

Thank you

Tandridge District Council

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Facebook

We always try to provide excellent customer service. Please let us know
how we are doing by completing our survey at
www.tandridge.gov.uk/customersurvey



Please do not change the subject line when replying to this e-mail.

Tandridge District Council
The Council Offices
8 Station Road East
Oxted, Surrey
RH8 0BT

customerservices@tandridge.gov.uk

www.tandridge.gov.uk



Revised Guidance issued under section 182 of the Licensing Act 2003

Licensing objectives and aims

1.2 The legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.

1.3 The licensing objectives are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

1.4 Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.

1.5 However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:

- protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
- recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
- encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

Temporary Event Notices (TENs)

7.1 This Chapter covers the arrangements in Part 5 of the 2003 Act for the temporary carrying on of licensable activities which are not authorised by a premises licence or club premises certificate.

General

7.2 The system of permitted temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the “premises user”) gives notice to the licensing authority of the event (a “temporary event notice” or “TEN”).

7.3 The TEN must be given to the licensing authority in the form prescribed in regulations made under the 2003 Act. The form requires the user to describe key aspects of the proposed event, including the general nature of the premises and the

event, the licensable activities intended to be carried on at the proposed event, including whether they will include any relevant entertainment as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (i.e. displays of nudity designed to sexually stimulate any member of the audience including, but not limited to, lap dancing and pole dancing). Under the 2003 Act ‘premises’ can mean any place. Events authorised under a TEN will therefore not always be in a building with a formal address and can take place, for example, in public parks and plots within larger areas of land. In all cases, the premises user should provide a clear description of the area in which they propose to carry on licensable activities, including whether the premises are, for example, an open field or a beer tent. Local authorities and “relevant persons” (see below) may wish to make enquiries where appropriate to satisfy themselves of the exact location for where a TEN is being given.

7.4 Unless it is sent electronically, it must be sent to the relevant licensing authority, to the police and “local authority exercising environmental health functions” (“EHA”) at least ten working days before the event. A premises user may also give a limited number of “late TENs” to the licensing authority less than 10 working days before the event to which they relate, although certain restrictions apply (see paragraphs 7.12-7.14). “Working day” under the 2003 Act means any day other than a Saturday, Sunday, Christmas Day, Good Friday or Bank Holiday. For limited purposes in relation to a TEN, the 2003 Act defines a “day” as a period of 24 hours beginning at midnight.

7.5 If a TEN is sent electronically via GOV.UK or the licensing authority’s own facility, the licensing authority must notify the police and EHA as soon as possible and no later than the first working day after the TEN is given.

7.6 The police or EHA (“relevant persons” for the purposes of TENs) may intervene to prevent such an event taking place by sending an objection to the licensing authority, which the licensing authority must consider on the basis of the statutory licensing objectives and decide whether the event should go ahead. A relevant person may also intervene by agreeing a modification of the proposed arrangements directly with the TENs user (see paragraph 7.36). If a relevant person sends an objection, this may result in the licensing authority imposing conditions on a TEN but only where the venue at which the event is to be held has an existing premises licence or club premises certificate. When giving a TEN, the premises user should consider the promotion of the four licensing objectives. The licensing authority may only otherwise intervene if the statutory permitted limits on TENs would be exceeded (see paragraphs 7.15-7.22).

7.7 A TEN does not relieve the premises user from any requirements under planning law for appropriate planning permission where it is required.

Standard and late temporary event notices

7.8 There are two types of TEN: a standard TEN and a late TEN. These are subject to different processes: a standard notice is given no later than ten working days before the event to which it relates; and a late notice is given not before nine and not later than five working days before the event.

Standard temporary event notices

7.9 “Ten working days” (and other periods of days which apply to other requirements in relation to TENs) exclude the day the notice is received and the first day of the event.

7.10 The police and EHA have a period of three working days from when they are given the notice to object to it on the basis of any of the four licensing objectives.

7.11 Although ten clear working days is the minimum possible notice that may be given, licensing authorities should publicise their preferences in terms of advance notice and encourage premises users to provide the earliest possible notice of events planned by them. Licensing authorities should also consider publicising a preferred maximum time in advance of an event by when TENs should ideally be given to them.

Late temporary event notices

7.12 Late TENs are intended to assist premises users who are required for reasons outside their control to, for example, change the venue for an event at short notice. However, late TENs may, of course, be given in any circumstances providing the limits specified at paragraph 7.15 are not exceeded.

7.13 Late TENs can be given up to five working days but no earlier than nine working days before the event is due to take place and, unless given electronically to the licensing authority, must also be sent by the premises user to the police and EHA. A late TEN given less than five days before the event to which it relates will be returned as void and the activities to which it relates will not be authorised.

7.14 A key difference between standard and late TENs is the process following an objection notice from the police or EHA. Where an objection notice is received in relation to a standard TEN the licensing authority must hold a hearing to consider the objection, unless all parties agree that a hearing is unnecessary. If the police, EHA or both give an objection to a late TEN, the notice will not be valid and the event will not go ahead as there is no scope for a hearing or the application of any existing licence conditions.

Limitations

7.15 A number of limitations are imposed on the use of TENs by the 2003 Act:

- the number of times a premises user may give a TEN is 50 times in a calendar year for a personal licence holder and five times in a calendar year for other people;
- the number of times a premises user may give a late TEN is limited to 10 times in a calendar year for a personal licence holder and twice for other people. Late TENs count towards the total number of permitted TENs (i.e. the limit of five TENs a year for non-personal licence holders and 50 TENs for personal licence holders). A notice that is given less than ten working days before the event to which it relates, when the premises user has already given the permitted number of late TENs in that calendar year, will be returned as void and the activities described in it will not be authorised.
- the number of times a TEN may be given for any particular premises is 15 times in a calendar year;
- the maximum duration of an event authorised by a TEN is 168 hours (seven days);
- the maximum total duration of the events authorised by TENs in relation to individual premises is 21 days in a calendar year;
- the maximum number of people attending at any one time is 499; and
- the minimum period between events authorised under separate TENs in relation to the same premises (not including withdrawn TENs) by the same premises user is 24 hours.

7.16 Any associate, relative or business partner of the premises user is considered to be the same premises user in relation to these restrictions. The 2003 Act defines an associate, in relation to the premises user, as being:

- the spouse or civil partner of that person;
- a child, parent, grandchild, grandparent, brother or sister of that person;
- an agent or employee of that person; or
- the spouse or civil partner of a person listed in either of the two preceding bullet points.

7.17 A person living with another person as their husband or wife, is treated for these purposes as their spouse. 'Civil partner' has its meaning in the Civil Partnership Act 2004.

7.18 A TEN that is given may be subsequently withdrawn by the TEN user by giving the licensing authority a notice to that effect no later than 24 hours before the beginning of the event period specified in the TEN. Otherwise, the TEN will be included within the limits of TENs allowed in a given calendar year, even if the event does not go ahead.

7.19 Once these limits have been reached, the licensing authority should issue a counter notice (permitted limits) if any more are given. Proposed activities that exceed these limits will require a premises licence or club premises certificate.

7.20 TENs may be given in respect of premises which already have a premises licence or club premises certificate to cover licensable activities not permitted by the existing authorisation.

7.21 In determining whether the maximum total duration of the periods covered by TENs at any individual premises has exceeded 21 days, an event beginning before midnight and continuing into the next day would count as two days towards the 21-day limitation.

7.22 There is nothing in the 2003 Act to prevent notification of multiple events at the same time, provided the first event is at least ten working days away (or five working days away in the case of a late TEN). For example, an individual personal licence holder wishing to exhibit and sell beer at a series of farmers' markets may wish to give several notices simultaneously. However, this would only be possible where the limits are not exceeded in the case of each notice. Where the events are due to take place in different licensing authority (and police) areas, the respective licensing authorities and relevant persons would each need to be notified accordingly.

Who can give a temporary event notice?

Personal licence holders

7.23 A personal licence holder can give a TEN at any premises on up to 50 occasions in a calendar year. This limit is inclusive of any late TENs given in the same year. The use of each TEN must of course observe the limits described above, including the limit of 15 TENs in respect of each premises in a calendar year.

Non-personal licence holders

7.24 The 2003 Act provides that any individual aged 18 or over may give a TEN to authorise the carrying on of all licensable activities under the Licensing Act 2003, whether or not that individual holds a personal licence. Such an individual will not, therefore, have met the requirements that apply to a personal licence holder under Part 6 of the 2003 Act. Where alcohol is not intended to be sold, this should not matter. However, many events will involve a combination of licensable activities and the 2003 Act limits the number of notices that may be given by any non-personal licence holder to five occasions in a calendar year (inclusive of any late TENs in the same year). In every other respect, the Guidance and information set out in the paragraphs above applies.

Role of the licensing authority

7.25 The licensing authority must check that the limitations set down in Part 5 of the 2003 Act are being observed and intervene if they are not (see paragraph 7.15). For example, a TEN would be void unless there is a minimum of 24 hours between events notified by the same premises user, or an associate or someone who is in business with

the relevant premises user in respect of the same premises. This is to prevent evasion of the seven day (or 168 hour) limit on such events and the need to obtain a full premises licence or club premises certificate for more major or permanent events. In addition, for these purposes, a TEN is treated as being from the same premises user if it is given by an associate.

7.26 Where the application is not within the statutory parameters described earlier, the licensing authority will issue a counter notice to the premises user.

7.27 Where the TEN is in order, the relevant fee paid and the event falls within the prescribed limits, the licensing authority will record the notice in its register and send an acknowledgement to the premises user (which may be given electronically). The licensing authority must do so, no later than the end of the first working day following the day on which it was received (or by the end of the second working day if it was received on a non-working day), unless an objection notice is received beforehand from the police or EHA on the basis of any of the four licensing objectives (see paragraphs below).

7.28 If the licensing authority receives an objection notice from the police or EHA that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection unless all parties agree that this is unnecessary. The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice to the premises user which includes a statement of conditions (a “notice (statement of conditions)”) and provide a copy to each relevant party. Alternatively, it can decide that the event would undermine the licensing objectives and should not take place. In this case, the licensing authority must give a counter notice.

7.29 Premises users are not required to be on the premises during the event authorised by the TEN, but they will remain liable to prosecution for certain offences that may be committed at the premises during the period covered by it. These include, for example, the offences of the sale of alcohol to a person who is drunk; persistently selling alcohol to children and allowing disorderly conduct on licensed premises.

7.30 In the case of an event authorised by a TEN, failure to adhere to the requirements of the 2003 Act, such as the limitation of no more than 499 being present at any one time, would mean that the event was unauthorised. In such circumstances, the premises user would be liable to prosecution.

7.31 Section 8 of the 2003 Act requires licensing authorities to keep a register containing certain matters, including a record of TENs received. Under Schedule 3 of the 2003 Act, the licensing authority must also keep a record of such matters including any notice of withdrawal of a TEN, any counter notice to a TEN given following an objection by a relevant person and any TEN received following modification. If requested to do so, a licensing authority must supply a person with a copy of the information contained in any entry in its register. Each licensing authority must also provide facilities for making the information contained in the entries in its register available for inspection by any person during office hours and without payment. Licensing authorities may wish to consider bringing TENs to the attention of local councillors and residents by making their register available online or including relevant details of a TEN when it is received, along with

notice of licence applications on the authority's website. There is no requirement to record all the personal information given on a TEN.

Police and environmental health intervention

7.32 The system of permitted temporary activities gives police and EHAs the opportunity to consider whether they should object to a TEN on the basis of any of the licensing objectives.

7.33 If the police or EHA believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must give the premises user and the licensing authority an objection notice. The objection notice must be given within the period of three working days following the day on which they received the TEN.

7.34 Where a standard TEN was given, the licensing authority must consider the objection at a hearing before a counter notice can be issued. At the hearing, the police, EHA and the premises user may make representations to the licensing authority. Following the hearing, the licensing authority may decide to impose conditions which already apply to an existing premises licence or club premises certificate at the venue, or issue a counter notice to prevent the event going ahead. As noted above, there is no scope for hearings in respect of late TENs and if objections are raised by the police or EHA in relation to a late TEN, the notice will be invalid and the event will not go ahead.

7.35 Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance – even where the statutory limits on numbers are being observed. The premises user who signs the form is legally responsible for ensuring that the numbers present do not exceed the permitted limit at any one time. In cases where there is reason to doubt that the numbers will remain within the permitted limit the premises user should make clear what the nature of the event(s) is and how they will ensure that the permitted persons limit will not be exceeded. For example, where notices are being given for TENs simultaneously on adjacent plots of land it may be appropriate for door staff to be employed with counters. In each case it is important that licensing authorities and relevant persons can consider whether they believe that the premises user intends to exceed the 499 person limit, or will be unable to control or know whether the limit will be exceeded. Where the planned activities are likely to breach the statutory limits or undermine the licensing objectives, it is likely to be appropriate for the police or EHA to raise objections.

7.36 However, in most cases, where for example, alcohol is supplied away from licensed premises at a temporary bar under the control of a personal licence holder, (such as at weddings with a cash bar or small social or sporting events) this should not usually give rise to the use of these powers.

Modification

7.37 As noted above, the police or EHA (as “relevant persons”) may contact the premises user to discuss their objections and try to come to an agreement which will allow the proposed licensable activities to proceed. The TEN can be modified (for example, by changing the details of the parts of the premises that are to be used for the event, the description of the nature of the intended activities or their duration). The other relevant person has to agree for the modification to be made. There is no scope under the 2003 Act for the modification of a late TEN.

Applying conditions to a TEN

7.38 The 2003 Act provides that only the licensing authority can impose conditions to a TEN from the existing conditions on the premises licence or club premises certificate at the venue. The licensing authority can only do so:

- if the police or the EHA have objected to the TEN;
- if that objection has not been withdrawn;
- if there is a licence or certificate in relation to at least a part of the premises in respect of which the TEN is given;
- and if the licensing authority considers it appropriate for the promotion of the licensing objectives to impose one or more conditions.

7.39 This decision is one for the licensing authority alone, regardless of the premises user's views or willingness to accept conditions. The conditions must be notified to the premises user on the form prescribed by regulations.

Duty of premises users to keep and produce TENs

7.40 Where a TEN is not prominently displayed at the premises, the police and licensing officers have the right under sections 109(5) and (6) of the 2003 Act to request the premises user (or relevant nominated person who has the TEN in their custody) to produce the TEN for examination. If the police do not intervene when a TEN is given, they will still be able to rely on their powers of closure under the Anti-social Behaviour, Crime and Policing Act 2014.

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TANDRIDGE DISTRICT COUNCIL - STATEMENT OF LICENSING

POLICY 2015

4. FUNDAMENTAL PRINCIPLES

4.1 The Act requires that the Council carry out its various licensing functions so as to promote the following four licensing objectives:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

Each objective is of equal importance

4.2 Nothing in the 'Statement of Licensing Policy' will:

- undermine the rights of any individual to apply under the Act for a variety of permissions and have any such application considered on its individual merits, and/or
- override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so under the Act.

4.3 Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Act. Any conditions attached to various authorisations will be appropriate for the promotion of the licensing objectives and proportionate to what they are intended to achieve.

4.4 The Council will, as far as possible, avoid attaching conditions that replicate offences that are set out in the 2003 Act or other legislation.

4.5 The Council acknowledges that licensing law is not the primary mechanism for the general control of anti-social behaviour by individuals once they are away from the premises and beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.

4.6 Conditions attached to authorisations will be focused on matters which are within the control of individual licence holders and others with relevant authorisations, i.e. the premises and its vicinity.

4.7 The Council would prefer a personal licence holder to be on the premises when alcohol is supplied. If the personal licence holder is absent from the premise for a brief period of time, they will still be responsible for the actions of those they authorise to make such sales. It is recommended that authorisations to sell alcohol should be in writing.

5. THE DECISION MAKING PROCESS

5.1 The powers of the Council as the licensing authority under the Act may be carried out by the Licensing Committee, by a Licensing Sub-Committee or by one or more officers acting under delegated authority.

5.2 In the interests of speed, efficiency and cost-effectiveness to all parties involved in the licensing process, the Council has established a scheme of delegation to deal with applications received under the Act and the Table attached at Appendix 1 sets out the delegation of decisions and functions to the Licensing Committee, Licensing Sub-Committee and Officers. This is the scheme recommended by the Secretary of State in guidance to Licensing Authorities issued under section 182 of the Act.

5.3 This form of delegation is without prejudice to Officers referring an application to a Licensing Sub-Committee, or a Licensing Sub-Committee to the Licensing Committee, if considered appropriate in the circumstances of any particular case.

5.4 Officers will notify District Councillors of applications for new premises licences and club premises certificates and of standard variations to such licences and certificates in their Ward.

5.5 Applications for new premises licences and club premises certificates and of variations to such licences and certificates dealt with by Officers will be reported to the next meeting of the Committee for the purposes of information only, but there will be no opportunity to reverse delegated decisions.

5.6 In respect of each of the four licensing objectives:

- applicants will need to provide evidence to the Licensing Authority that suitable and sufficient measures, as detailed in their operating schedule, will be implemented and maintained, relevant to the individual style and characteristics of their premises and events;
- reference will need to be made as to whether additional measures will be taken on a permanent basis or a specific occasion such as when a special event or promotion is planned, which is intended to, or is likely to attract larger audiences.

5.7 When considering applications, the Licensing Authority will have regard to:

- this Policy;
- current guidance issued under Section 182 of the Licensing Act 2003;
- the Licensing Act 2003 generally;
- any supporting regulations;
- the licensing objectives more specifically;
- mandatory conditions specified by Order by the Secretary of State;
- the Council's *current* Community Safety Strategy;
- representations from the Responsible Authorities and other persons;
- and case law.

5.8 Where a notice of hearing is given to an applicant, the applicant will normally be given copies of all the representations made. Representations can be made in opposition to, or in support of, an application and must be directly relevant to one or more of the four licensing objectives.

5.9 Representations must be submitted on paper or by approved electronic means.

5.10 The Police as a responsible authority are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective. Due weight shall be given to what representations the Police make or do not make with regard to an application. A similar approach will be taken to representations made by the other responsible authorities for matters that fall within their remit.

5.11 The Licensing Authority acting in its capacity as a responsible authority will not normally act on behalf of other parties where those parties may make representations etc in their own right.

5.12 Where no representation has been made on an application, the proposals contained in the operating schedule to promote the licensing objectives, where appropriate, shall be replicated in the form of clear and enforceable licence conditions.

8. TEMPORARY EVENT NOTICES

8.1 If an activity will last not more than 168 hours and is for no more than 499 people, a full licence for a licensable activity is not required and a Temporary Event Notice (TEN) can be served on the Council, the Police and Environmental Health (EH). There are two types of TEN, a standard TEN and a late TEN.

8.2 A standard Temporary Event Notice TEN must be received by the Council, the Police and EH at least 10 clear working days before the function. The 10 working days does not include the day on which the notice is received or the day of the event. Bank Holidays, public holidays and weekends are not counted as working days. A late TEN must be received by the Council, the Police and EH at least five but no more than nine clear working days before the function.

8.3 There must be at least 24 hours before the next temporary event at the same premises if it is organised by the same person or his/her associate. So the same person(s) cannot run two consecutive temporary events at the same premises without a break. No premises may be used for temporary events on more than a total of 21 days in any calendar year, and no premises may have more than 12 temporary events in any calendar year.

8.4 A person who does not hold a Personal Licence may submit 5 standard TENs or 2 late TENs a year, whilst a Personal Licence holder may submit 50 standard TENs or 10 late TENs a year.

8.5 The Police and Environmental Health (EH) can object to the TEN and, if they do not object, the function can go ahead. In the event that the Police or EH object to a standard TEN, the application must be heard by the Licensing Authority. There will be no hearing if the Police or EH object to a late TEN and the event will not be permitted. District Councillors can inform the Police or EH should they have concerns about particular TENs.

8.6 Conditions may be applied to TENs if the authority consider it appropriate for the promotion of the licensing objectives, providing the conditions are already imposed on a premises licence or club premises certificate that has effect in respect of the same premises, or any part of the same premises, as the temporary event notice, and the conditions would not be inconsistent with the carrying out of the licensable activities under the temporary event notice.

8.7 Applicants should ensure that they have attached the correct postage, because if it is not correct, delivery of the application may be delayed or refused.

9. THE PREVENTION OF CRIME & DISORDER

9.1 The essential purpose of the licence or certificate in the context of this objective is to regulate the behaviour of persons whilst on licensed premises, or in the immediate vicinity of the premises as they seek to enter or leave.

9.2 The Licensing Authority will expect applicants to include in their operating schedules the steps they propose to take to reduce/deter crime and disorder, both inside and in the immediate vicinity of the premises. These steps will vary from premises to premises and according to the type of licensable activities that are to be carried on. When addressing crime and disorder the applicant should initially identify any particular issues (having regard to the particular type of premises and/or activities) which are likely to adversely affect the promotion of the crime and disorder objective. Such steps as are required to deal with these identified issues should be included within the applicant's operating schedule. In particular, the Licensing Authority will expect applicants to consider addressing, as appropriate, the following matters in their operating schedules-

- Physical security features e.g. use of toughened drinking glasses
- Procedures for the risk assessment of promotions such as 'happy hours' in order to
- minimise the potential for crime and disorder
- The use of licensed door supervisors
- Amount of seating to be provided
- Training given to staff in crime prevention measures
- Protocols agreed with the Police to reduce crime

Events offering alcohol and music and dancing to large numbers of patrons (over 5000) or events of a nature that may attract illegal drug users or suppliers will also be expected to include the following

- Search procedures
- Measures to prevent the use or supply of illegal drugs
- Details of CCTV video cameras and audio recording equipment (including the position and siting of each camera and the period of time for which recordings are to be retained)

Where alcohol is to be sold for consumption on the premises, the applicant is advised to be a member of the local Pubwatch scheme.

9.3 Applicants are recommended to seek advice from the Licensing Section and Surrey Police, as well as taking into account the current Tandridge Community Safety Strategy before preparing their operating schedules.

9.4 In addition to the requirement for the Licensing Authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect of the exercise of those functions on, and to do all it reasonably can to prevent, crime and disorder in the District.

9.5 The Licensing Authority recognises that public houses, nightclubs, restaurants, hotels, theatres, private members clubs, concert halls and cinemas all sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. In considering an application for a licence or certificate, due regard will be given to those differences and the differing impact these will have on the local community.

10. PUBLIC SAFETY

10.1 Licences may be sought for a wide range of premises, including, cinemas, concert halls, theatres, nightclubs, public houses, cafes/restaurants and fast food outlets/takeaways.

10.2 The physical safety both of performers and persons attending licensable activities on these premises is a primary objective for the Licensing Authority. The risk to public safety will vary according to the type of premises and the activities in respect of which the applicant seeks approval.

10.3 Conditions that may benefit a person's general health are currently outside the licensing authority's powers under the 2003 Act.

10.4 Where appropriate, the Licensing Authority will expect the applicants to consider including in their operating schedules the steps they propose to take to promote public safety e.g. the use of door supervisors. Applicants are advised to seek advice from the Licensing Unit and the Surrey Fire and Rescue Service before preparing their operating schedules.

10.5 The Department of Communities and Local Government (DCLG) makes available technical guidance on the range of fire safety measures which will need to be considered to deliver compliance via the gov.uk website: <https://www.gov.uk/workplace-fire-safety-your-responsibilities>