

To: All Members of the LICENSING SUB-COMMITTEE B
(Other Members for Information)

When calling please ask for:

Maureen Brown, Democratic Services officer
Policy and Governance

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Direct line: 01483 523325

Calls may be recorded for training or monitoring

Date: 30 March 2015

Membership of the Licensing Sub-Committee B

Cllr Elizabeth Cable
Cllr Patricia Ellis

~~Cllr Andrew Wilson~~

Cllr Andrew Wilson is unable to attend the meeting and under delegated authority the Head of Policy & Governance has agreed that Cllr Peter Isherwood attend in his place.

Dear Councillors

A meeting of the LICENSING SUB-COMMITTEE B will be held as follows:

DATE: MONDAY, 13 APRIL 2015
TIME: 10.00 AM
PLACE: COUNCIL CHAMBER, COUNCIL OFFICES, THE BURYS,
GODALMING

The Agenda for the meeting is set out below.

Yours sincerely

ROBIN TAYLOR

Head of Policy and Governance

Most of our publications can be provided in alternative formats. For an audio version, large print, text only or a translated copy of this publication, please contact committees@waverley.gov.uk or call 01483 523351

NOTE FOR MEMBERS

Members are reminded that contact officers are shown at the end of each report and members are welcome to raise questions etc in advance of the meeting with the appropriate officer.

AGENDA

1. **ELECTION OF CHAIRMAN**

To elect a Chairman for the Sub-Committee B meeting.

2. **MINUTES**

To agree the Minutes of the Meeting held on 19 January 2015 which had been laid on the table half an hour before the start of the meeting.

3. **DISCLOSURE OF INTERESTS**

To receive from Members declarations of interest in relation to any items included on the agenda for this meeting, in accordance with the Waverley Code of Local Government Conduct.

4. **LICENSING ACT 2003 - APPLICATION FOR A NEW PREMISES LICENCE - TESCO, MEADOW, GODALMING GU7 3HY (Pages 5 - 58)**

The purpose of the report is to enable the Sub-Committee to consider an application from Tesco Stores Limited for a new premises licence for Tesco, Meadow, Godalming, Surrey GU7 3HY, where 5 valid representations have been received.

Recommendation

The Sub-Committee is requested to consider the application for the grant of a premises licence on its merits.

Having regard to the representations made, the Sub-Committee must take such of the steps outlined below (if any) as it considers appropriate for the promotion of the Licensing Objectives. Those steps are:

- **To grant the licence subject to such conditions as are consistent with the operating schedule, modified to such extent as the Sub-Committee considers appropriate for the promotion of the licensing objectives, and any mandatory conditions;**
- **To exclude from the scope of the licence any of the licensable activities to which the application relates;**
- **To refuse to specify a person as the premises supervisor;**
- **To reject the application.**

5. **EXCLUSION OF PRESS AND PUBLIC**

To consider the following recommendation on the motion of the Chairman:-

Recommendation

That pursuant to Procedure Rule 20 and in accordance with Section 100A(4) of

the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following items on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during the items, there would be disclosure to them of exempt information (as defined by Section 100I of the Act) of the description specified in paragraph 3 or the appropriate paragraph(s) of the revised Part 1 of Schedule 12A to the Act as follows:-

Information relating to the financial or business affairs of any particular person (including the authority holding that information) (paragraph 3)

6. LEGAL ADVICE

To consider any legal advice relating to any applications in the agenda.

[Note: Reports relating to confidential or exempt information may be excluded from those copies of the agenda provided for inspection by members of the public if they relate to matters during which the meeting is likely not to be open to the public.]

**For further information or assistance, please telephone
Maureen Brown, Democratic Services officer, on 01483 523325 or by
email at maureen.brown@waverley.gov.uk**

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WAVERLEY BOROUGH COUNCIL
LICENSING SUB-COMMITTEE B
13 APRIL 2015

LICENSING ACT 2003 - APPLICATION FOR A NEW PREMISES LICENCE –
TESCO, MEADOW, GODALMING, SURREY. GU7 3HY

[Wards Affected: Godalming Wards]

Summary and Purpose

1. The purpose of the report is to enable the Sub-Committee to consider an application from Tesco Stores Limited for a new premises licence for Tesco, Meadow, Godalming, Surrey GU7 3HY, where 5 valid representations have been received.

Background

2. An application has been received for a new premises licence for this retail premises (supermarket) selling a range of goods and services. The building is two-storey, and was previously a licensed public house operating under the name of The Godalming Arms. The new application proposes that the licence will authorise the premises to sell alcohol for consumption off the premises from 0600 hours until 2300 hours, seven days a week,

Activities Sought under this Licence Application

3. The applicant seeks to license the premises as shown below. An extract of the relevant pages from the application form is attached at Annexe 1. Also attached to this document at Annexe 2 is a plan showing the area of the premises and surrounding properties.
4. In brief summary, the applicant seeks the following activities in the new licence, if granted. Please see application for activities in full.

☐ **Sale of Alcohol:**
0600 to 2300 Monday to Sunday

☐ **Opening hours:**
0600 to 2300 Monday to Sunday

Licensing Objectives

5. The four Licensing Objectives of the Licensing Act 2003 are set out below. Any representations for consideration must relate to one or more of these objectives, and representations must be from the responsible authorities under this legislation and/or any other persons.
 1. Prevention of Crime and Disorder
 2. Public Safety
 3. Prevention of Public Nuisance
 4. Protection of Children from Harm

Representations received

Responsible Authorities

6. There has been 1 representation from a Responsible Authority, Environmental Health, which is reproduced at Annexe 3.

Other Persons

7. Besides Responsible Authorities, “other persons” may make representations. There have been 4 valid representations from “other persons”. The representations are attached at Annexe 4.

Human Rights

8. Under Article 8 European Convention on Human Rights, everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. In Licensing Act 2003 cases this means that the Sub-Committee must have regard to the effect of its decisions on local residents, and balance their interests against those of the public at large (e.g. the customers of the premises under consideration) and the people operating the business from the premises.

What the Sub-Committee may do

9. The Sub-Committee, after hearing from the applicant and those making representations, must take one or more of the steps listed below (if any) as it considers appropriate for the promotion of the Licensing Objectives. Reasons must be given by the Sub-Committee for any decision made, since there is an opportunity for any applicant or any objector to appeal to the Magistrates’ Court against the Licensing Sub-Committee decision. The steps are:
 - Grant the application subject to such conditions as are consistent with the operating schedule, modified to such extent as the Sub-Committee considers appropriate for the promotion of the licensing objectives, and any mandatory conditions;
 - Exclude from the scope of the licence any of the licensable activities to which the application relates;
 - Refuse to specify a person as the premises supervisor;
 - Reject the application.
10. An extract from the Government Guidance to local authorities under Section 182 of the Licensing Act 2003, relating to hearings - paragraphs 9.30 to 9.43 - is attached as Annexe 5.

11. An extract from the Government Guidance to local authorities under Section 182 of the Licensing Act 2003, in relation to conditions - paragraphs 10.1 to 10.69 is attached as Annexe 6.

Recommendation

The Sub-Committee is requested to consider the application for the grant of a premises licence on its merits.

Having regard to the representations made, the Sub-Committee must take such of the steps outlined below (if any) as it considers appropriate for the promotion of the Licensing Objectives. Those steps are:

- To grant the licence subject to such conditions as are consistent with the operating schedule, modified to such extent as the Sub-Committee considers appropriate for the promotion of the licensing objectives, and any mandatory conditions;
- To exclude from the scope of the licence any of the licensable activities to which the application relates;
- To refuse to specify a person as the premises supervisor;
- To reject the application.

Background Papers

Application referred to above, representations referred to above.

CONTACT OFFICER:

Name: Paul Hughes

Telephone : 01483 523189

E-mail: paul.hughes@waverley.gov.uk

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WLC 2014/189
ANNEXE 1
24/3/15



Waverley
Application for a premises licence
Licensing Act 2003

For help contact
licensing@waverley.gov.uk
Telephone: 01483 523033

* required information

Section 1 of 19

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference

Not Currently In Use

This is the unique reference for this application generated by the system.

Your reference

4344

You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

- Yes No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

Applicant Details

* First name

Tesco Stores Ltd

* Family name

Tesco StoresLtd

* E-mail

licensing.team@uk.tesco.com

Main telephone number

Include country code.

Other telephone number

Indicate here if you would prefer not to be contacted by telephone

Are you:

- Applying as a business or organisation, including as a sole trader
 Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means you are applying so you can be employed, or for some other personal reason, such as following a hobby.

Applicant Business

* Is your business registered in the UK with Companies House?

- Yes No

* Registration number

519500

* Business name

Tesco Stores Ltd

If your business is registered, use its registered name.

* VAT number

GB 2204302 31

Put "none" if you are not registered for VAT.

* Legal status

Public Limited Company

Continued from previous page...

* Your position in the business

Home country

The country where the headquarters of your business is located.

Registered Address

Address registered with Companies House.

* Building number or name

* Street

District

* City or town

County or administrative area

* Postcode

* Country

Section 2 of 19

PREMISES DETAILS

I/we, as named in section 1, apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in section 2 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.

Premises Address

Are you able to provide a postal address, OS map reference or description of the premises?

Address OS map reference Description

Postal Address Of Premises

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Further Details

Telephone number

Non-domestic rateable value of premises (£)

Section 3 of 19

APPLICATION DETAILS

In what capacity are you applying for the premises licence?

- An individual or individuals
- A limited company
- A partnership
- An unincorporated association
- A recognised club
- A charity
- The proprietor of an educational establishment
- A health service body
- A person who is registered under part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales
- A person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the carrying on of a regulated activity (within the meaning of that Part) in an independent hospital in England
- The chief officer of police of a police force in England and Wales
- Other (for example a statutory corporation)

Confirm The Following

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities
- I am making the application pursuant to a statutory function
- I am making the application pursuant to a function discharged by virtue of Her Majesty's prerogative

Section 4 of 19

NON INDIVIDUAL APPLICANTS

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

Non Individual Applicant's Name

Name

Details

Registered number (where applicable)

Description of applicant (for example partnership, company, unincorporated association etc)

Continued from previous page...

Public Ltd Company

Address

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Contact Details

E-mail

Telephone number

Other telephone number

Section 5 of 19

OPERATING SCHEDULE

When do you want the premises licence to start? / /
dd mm yyyy

If you wish the licence to be valid only for a limited period, when do you want it to end / /
dd mm yyyy

Provide a general description of 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.

Retail Premises (supermarket) selling a range of goods and services. This includes the sale of alcohol for consumption off the premises. Sales of alcohol for consumption off the premises are made from the supermarket sales floor as shown on the enclosed plan.

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

Continued from previous page...

Section 6 of 19

PROVISION OF PLAYS

Will you be providing plays?

- Yes No

Section 7 of 19

PROVISION OF FILMS

Will you be providing films?

- Yes No

Section 8 of 19

PROVISION OF INDOOR SPORTING EVENTS

Will you be providing indoor sporting events?

- Yes No

Section 9 of 19

PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

Will you be providing boxing or wrestling entertainments?

- Yes No

Section 10 of 19

PROVISION OF LIVE MUSIC

Will you be providing live music?

- Yes No

Section 11 of 19

PROVISION OF RECORDED MUSIC

Will you be providing recorded music?

- Yes No

Section 12 of 19

PROVISION OF PERFORMANCES OF DANCE

Will you be providing performances of dance?

- Yes No

Section 13 of 19

PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE

Will you be providing anything similar to live music, recorded music or performances of dance?

- Yes No

Section 14 of 19

LATE NIGHT REFRESHMENT

Will you be providing late night refreshment?

Section 15 of 19

SUPPLY OF ALCOHOL

Will you be selling or supplying alcohol?

Yes

No

Standard Days And Timings

MONDAY

Start

End

Start

End

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.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

Will the sale of alcohol be for consumption:

On the premises

Off the premises

Both

If the sale of alcohol is for consumption on
the premises select on, if the sale of alcohol
is for consumption away from the premises
select off. If the sale of alcohol is for
consumption on the premises and away
from the premises select both.

State any seasonal variations

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Continued from previous page...

Non-standard timings. Where the premises will be used for the supply of alcohol at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

State the name and details of the individual whom you wish to specify on the licence as premises supervisor

Name

First name

Family name

Enter the contact's address

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Personal Licence number (if known)

Issuing licensing authority (if known)

PROPOSED DESIGNATED PREMISES SUPERVISOR CONSENT

How will the consent form of the proposed designated premises supervisor be supplied to the authority?

- Electronically, by the proposed designated premises supervisor
- As an attachment to this application

Reference number for consent form (if known)

If the consent form is already submitted, ask the proposed designated premises supervisor for its 'system reference' or 'your reference'.

Continued from previous page...

Section 16 of 19

ADULT ENTERTAINMENT

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children

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 etc gambling machines etc.

Section 17 of 19

HOURS PREMISES ARE OPEN TO THE PUBLIC

Standard Days And Timings

MONDAY

Start

End

Start

End

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.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

State any seasonal variations

Continued from previous page...

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

Section 18 of 19

LICENSING OBJECTIVES

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

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

We are a national retailer that sells alcohol as part of a broad offering of goods and services. We have held off-licences in our stores for many years and are an approved British Institute of Inn-keeping examination centre. We have written training policies and formal training programmes are in place, which ensure our people are equipped to meet all licensing objectives. All training and revision/refresher materials are reviewed regularly. All stores currently comply with our 'Think 25' policy, this is brought to customer's attention through point of sale material within the store. We take legal compliance very seriously and in addition to local training we employ a central alcohol licensing compliance manager and have a compliance committee.

b) The prevention of crime and disorder

The premises will have digital CCTV system that covers many areas of the shop floor, including the proposed area which will be used for beer and wine, should we be successful with our application.

Images will be retained for a minimum of 21 days and made available on enforcement request.

Ordinarily, a member of the Management team will be on the premises all the time the store is open. A person will have responsibility for the premises whilst the premises are open.

c) Public safety

The premises will have digital CCTV system that covers many areas of the shop floor, including the proposed area which will be used for beer and wine, should we be successful with our application.

Images will be retained for a minimum of 21 days and made available on enforcement request.

Ordinarily, a member of the Management team will be on the premises all the time the store is open. A person will have responsibility for the premises whilst the premises are open.

d) The prevention of public nuisance

We intend to be an active member of the community.

We welcome the opportunity to liaise with Police and enforcement authorities should the need arise

e) The protection of children from harm

Continued from previous page...

All staff will be trained and regularly refreshed in the corporate 'Think 25' Policy. Staff will be trained to look at the customer and 'Think 25' when selling alcohol.

A till prompt will appear on the initial sale of alcohol that will remind the seller of their responsibilities including not to sell alcohol to anyone under the age of 18.

The store will display signage around the premises informing both staff and customers of our 'Think 25' policy on alcohol.

Section 19 of 19

PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

Premises Licence Fees are determined by the non domestic rateable value of the premises.

To find out a premises non domestic rateable value go to the Valuation Office Agency site at http://www.voa.gov.uk/business_rates/index.htm

Band A - No RV to £4300	£100.00
Band B - £4301 to £33000	£190.00
Band C - £33001 to £8700	£315.00
Band D - £87001 to £12500	£450.00*
Band E - £125001 and over	£635.00*

*If the premises rateable value is in Bands D or E and the premises is primarily used for the consumption of alcohol on the premises then your are required to pay a higher fee

Band D - £87001 to £12500	£900.00
Band E - £125001 and over	£1,905.00

There is an exemption from the payment of fees in relation to the provision of regulated entertainment at church halls, chapel halls or premises of a similar nature, village halls, parish or community halls, or other premises of a similar nature. The costs associated with these licences will be met by central Government. If, however, the licence also authorises the use of the premises for the supply of alcohol or the provision of late night refreshment, a fee will be required.

Schools and sixth form colleges are exempt from the fees associated with the authorisation of regulated entertainment where the entertainment is provided by and at the school or college and for the purposes of the school or college.

If you operate a large event you are subject to ADDITIONAL fees based upon the number in attendance at any one time

Capacity 5000-9999	£1,000.00
Capacity 10000 -14999	£2,000.00
Capacity 15000-19999	£4,000.00
Capacity 20000-29999	£8,000.00
Capacity 30000-39000	£16,000.00
Capacity 40000-49999	£24,000.00
Capacity 50000-59999	£32,000.00
Capacity 60000-69999	£40,000.00
Capacity 70000-79999	£48,000.00
Capacity 80000-89999	£56,000.00
Capacity 90000 and over	£64,000.00

* Fee amount (£)

DECLARATION

* I/we understand it is an offence, liable on conviction to a fine up to level 5 on the standard scale, under section 158 of the licensing act 2003, to make a false statement in or in connection with this application.

Continued from previous page...



Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

* Full name

* Capacity

* Date / /
dd mm yyyy

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/waverley/apply-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

OFFICE USE ONLY

Applicant reference number

Fee paid

Payment provider reference

ELMS Payment Reference

Payment status

Payment authorisation code

Payment authorisation date

Date and time submitted

Approval deadline

Error message

Is Digitally signed

< Previous 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 Next >

Consent of individual to being specified as designated premises supervisor

I

<i>Full Name</i>	<i>Date of Birth</i>	<i>Place of Birth</i>
Greg Bartley	14/7/76	Dover

of

Home Address:
39 Offley Rd, Hitchin, SG5 23B.

hereby confirm that I give my consent to be specified as the designated premises supervisor in relation to the application for varying a premises licence to specify an individual as designated premises supervisor under section 37 of the Licensing Act 2003 by Tesco Stores Ltd relating to a premises licence:

Tesco Stores Ltd

for

Store Number: 4344
Store Address: Tesco Meadow, Godalming GU7 3HT

and any premises licence to be granted or varied in respect of the application made by Tesco Stores Ltd concerning the supply of alcohol at the above premises.

I also confirm that I am applying for, intend to apply for or currently hold a personal licence, details of which I set out below.

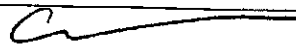
Personal licence number

HARLOW / PERS / 0094.

Personal Licence issuing authority

HARLOW

Signed



Name (Please Print)

Greg Bartley

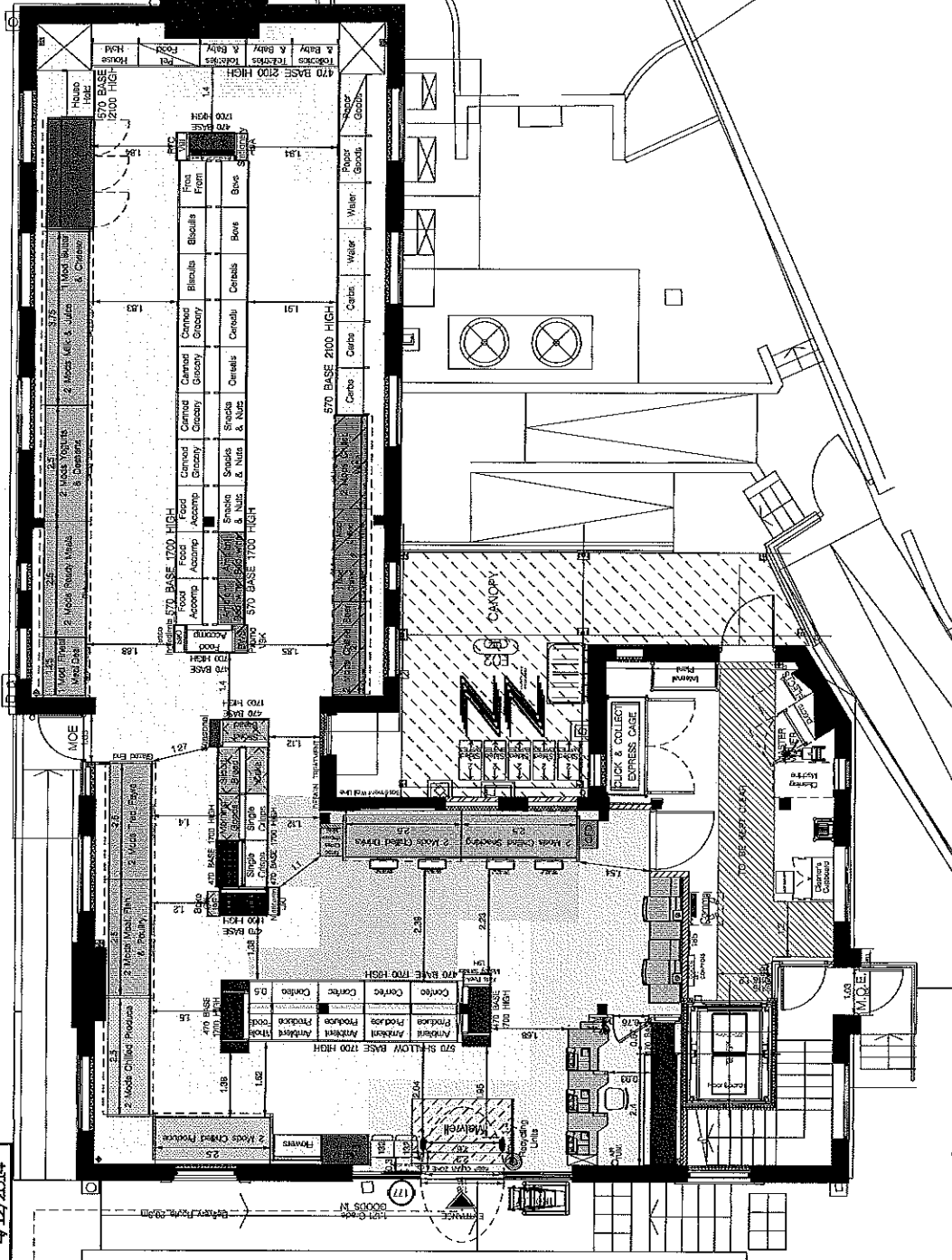
Date

24/2/15.

SECURITY - LOW

Retail Director Sign Off	
Name	Date
RD Gav Mills	
SD TBC	
SOM Dennis Byrne	4/12/2014

RDG APPROVED PLAN
PHASE 3 & 4 APPROVED ON 04.02.2015



Storey	Required Space	Actual Space
1st	4	2
2nd	2	2
3rd	2	2
4th	2	2
5th	2	2
6th	2	2
7th	2	2
8th	2	2
9th	2	2
10th	2	2
11th	2	2
12th	2	2
13th	2	2
14th	2	2
15th	2	2
16th	2	2
17th	2	2
18th	2	2
19th	2	2
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21st	2	2
22nd	2	2
23rd	2	2
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26th	2	2
27th	2	2
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30th	2	2
31st	2	2
32nd	2	2
33rd	2	2
34th	2	2
35th	2	2
36th	2	2
37th	2	2
38th	2	2
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40th	2	2
41st	2	2
42nd	2	2
43rd	2	2
44th	2	2
45th	2	2
46th	2	2
47th	2	2
48th	2	2
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87th	2	2
88th	2	2
89th	2	2
90th	2	2
91st	2	2
92nd	2	2
93rd	2	2
94th	2	2
95th	2	2
96th	2	2
97th	2	2
98th	2	2
99th	2	2
100th	2	2

Up/Down	6/10/15
Area	13225
Volume	8636
Weight	9805
Energy	10000
Water	10000
Gas	10000
Electricity	10000
Other	10000
Total	10000

Project	4344
Phase	3
Issue	A
System ID No.	4344AGARDGAPPROVED.dgn
Date	06.02.2015
Scale	1:100 @A3
Planner	SIMON DOWLER
Manager	VANITHA

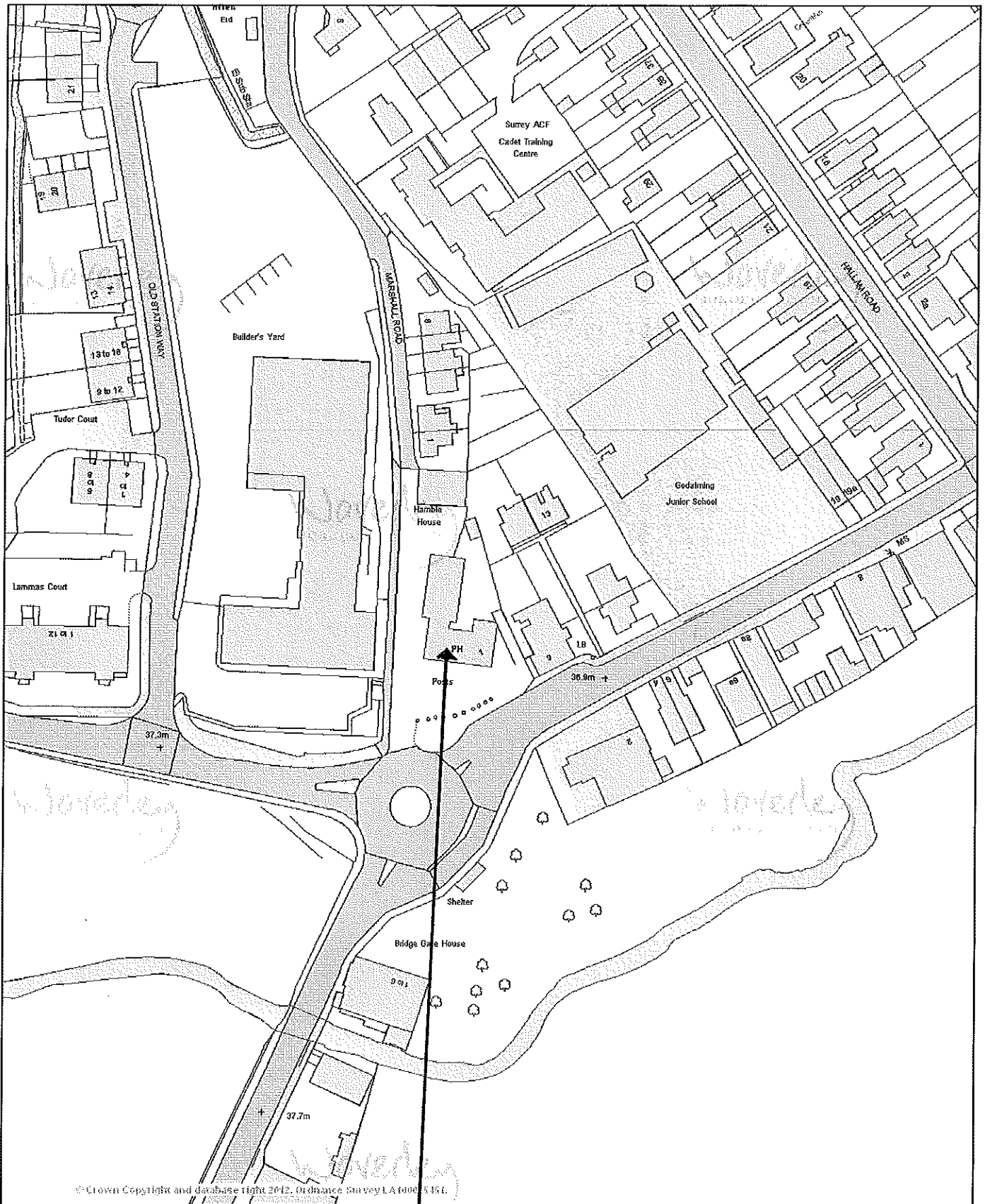
TESCO express

TESCO STORES LIMITED
EXPRESS GROUP
P.O. BOX 400, ORBITON BUILDING, SHIRE PARK
WELWYN GARDEN CITY, HERTS, AL7 1GA
TELEPHONE: 01707 395150
The services to which this contract applies are those provided by TESCO STORES LIMITED
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PROJECT
4344
GODALMING MEADOW EXP

DESCRIPTION
STANDALONE
PROPOSED RETAIL LAYOUT

REV.	AMENDMENTS	DATE	REV.	DATE	REV.
A	PHASE 3 & 4 APPROVED ON 04.02.2015				



Waverley Borough Council
 The Burs, Godalming, Surrey
 GU7 1HR
 Telephone: 01483 523333
 Fax No: 01483 523118

Waverley
 BOROUGH COUNCIL

Tesco Express, Meadow, Godalming

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Scale 1/1250 Date 30/3/2015
 Centre = 497470 E 144381 N

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Memorandum

Licensing Act 2003

(2)

DATE: 19 MARCH 2015

TO: Paul Hughes Licensing Authority

FROM: Ann-Marie Wade Environmental Health Officer

TELEPHONE NUMBER: 01483 523393

Location: Tesco Store Godalming, Meadow, Godalming, GU7 3HJ

This department wishes to make a representation with regards to the above application and comment as follows;

There is insufficient information provided with the application with regard to preventing public nuisance from the proposed activities. The application provides for alcohol sales 06:00 – 23:00, 7 days per week. Alcohol sales at such early and late times at this location have the potential to cause disturbance to local residents from noise nuisance. All other stores within the vicinity, including Tesco Milford, stop sales of alcohol at 22:00, therefore opening the possibility of noise disturbance at this location at times which would otherwise be a quiet neighbourhood area.

Suitable controls need to be in place to protect local residents from excessive noise from such licensable activities. The applicant does not indicate any proposals and there are no direct actions outlined by the applicant to promote the licensing objective with regards to nuisance. If statutory nuisance was to occur at this location as a direct result of the stores opening or operating procedures it may require controls under other legislation, however, it is recognised that the licensing approach is one of prevention.

Suitable controls may be agreed and I would be interested to know how the applicant proposes to control nuisance issues at this location. However, at present, I am concerned that granting of the requested hours may lead to public nuisance being caused, and therefore, I wish to make a representation to this effect.

Please do not hesitate to contact me if you require further information or would like to discuss the above comments.

Regards

Ann-Marie Wade
Environmental Health Officer

Kate Halsall

From: Paul Hughes

row, Godalming

Sent: Monday 16 March 2015 12:01
To: Paul Hughes
Subject: Licensing Application for Tesco - Meadrow, Godalming

①

Paul,

I am writing to you to object to the submission of the licensing application by Tesco on Meadrow, Godalming.

My objections are that the store opening hours are advertised as 6am to 11pm and thus the sale of alcohol would I presume be allowed up to 11pm

The Sainsburys, Waitrose and Co-op all within a 1 mile vicinity all close at the very latest at 10pm making this the only shop to open for the sale of alcoholic beverages late into the evening. As a residential area this would be a magnet for young people to gather at Tesco at what can only be considered anti-social hours long after it would be considered reasonable to enjoy a quiet undisturbed evening.

The Co-op in Farncombe has a long standing problem with young people hanging around outside dropping litter, asking passing customers to go and buy them alcohol, smoking and making a nuisance of themselves, the application by Tesco to sell alcohol late into the evening long after all other shops have closed will merely displace that activity to Meadrow, right next to my house.

I therefore object to both their request for a licence to sell alcohol but the hours of opening they have requested which are above and beyond other local retailers, would attract anti-social behaviour and ruin the quiet enjoyment of my home.

Regards

Kate

From:
Sent:
To:
Subje

ense and Opening Hours

Paul F
Licen:
01483

From
Sent: Saturday 21 March 2015 19:24
To: Paul Hughes
Subject: Objection to Tesco's Application for Alcohol License and Opening Hours

3

Dear Sir

We wish to object to the Tesco application for an alcohol license and opening hours.

We live in one of the houses right beside this forthcoming supermarket and would not want to have opening hours from 6.30am to 11.00pm every day of the week.

Our objection would be the noise factor early mornings and late at night that we will clearly hear from our homes.

We also object to the alcohol license as this could well attract anti-social behaviour late at night due to long opening hours.

As far as we know there are no other supermarkets in town that have these long hours and trust these would limited to the same.

Regards

Paul Hughes
Licensing Applications
Waverley Borough Council
Council Offices
The Burys
Godalming
Surrey GU7 1HR

(4)

24 March 2015

Dear Sir,

**OBJECTIONS TO LICENSING APPLICATION MADE BY TESCO STORES – 1 MEADOW, GODALMING, SURREY
GU7 3HJ**

APPLICATION DATE: 24 FEBRUARY 2015

I am writing on behalf of the No Tesco at Meadow Working Party set up by the Godalming Chamber of Commerce, out of concern for the residents and businesses in Godalming.

I wish to place before you the Working Party's formal objections to Tesco's application for a Licence to sell alcohol for consumption off the premises at 1 Meadow from 6am until 11pm, 7 days a week. In summary, the objections are:

- We object to Tesco being granted a Premise Licence; Tesco fail to satisfy the four Licensing Objectives;
- The opening hours proposed by Tesco are excessive;
- The Licence conditions which Tesco have included in their application are generic and do not specifically address the four Licensing Objectives within the context of their location in Meadow.

The detailed grounds of our objections are as follows.

1 Prevention of Crime and Disorder

The most recent crime statistics for the postcode GU7 3HJ clearly state that anti-social behaviour represents 40.8% of all reported crimes. The presence of a further, highly visible premises with an off-sales licence will in our view exacerbate this problem, to the detriment of local residents and the wider community.

We believe that the ready availability of a wide range of low-priced alcoholic beverages, a matter of national as well as local concern, during the proposed, extended opening hours, will increase the risk of drinking in public places. We suggest that it will encourage those who indulge in such anti-social behaviour to congregate in the Tesco car park, the bus shelter opposite and other public spaces at this gateway to our beautiful and historic town. We understand that just such problems have arisen in Farncombe with regard to the availability there of alcohol from the local Co-operative store whose opening hours are 7am to

10pm. Alcohol has been sold to minors and the Get Surrey website refers to youth disturbances in Farncombe.

The local police force is unlikely to have the resources to monitor and take necessary action if this occurs and it is unlikely that Waverley Council will turn this particular area into a patrolled DPPO. Granting Tesco this licence would add another premises to those licensed premises in the town centre. The police force would potentially be obliged to extend their patrols, particularly so given the extensive licensing hours Tesco proposes for its store.

We would ask Waverley to note also that Tesco do not mention in the licence conditions that there will be external CCTV monitoring at the front, side and rear of their car park. Internal CCTV seems intended purely for loss prevention; furthermore, their application does not state that it will cover all shop floor areas. Waverley should impose strict conditions relating to CCTV, both internally and externally.

Our OBJECTION is therefore on the grounds that the Tesco's premise licence would increase crime and disorder in the immediate area around the store.

2 Public Safety

The location of the Tesco Express store is pivotal to this point. It is located on an extremely busy roundabout which, because of the unusual nature of the flow of traffic, is often very difficult to negotiate (both on foot and by car). We believe it is reasonable to suggest that people under the influence of alcohol will be using the store to purchase more alcohol and, as pedestrians, could meet with a road traffic accident. There is also the potential for people to go into the store to purchase alcohol, leave the store and consume it in the car park and other concealed areas around the store – in particular, in the adjoining car park which belongs to Hamble House

In both these scenarios, there is a distinct possibility that passers by and local residents returning to their homes late at night could be vulnerable to such people.

Tesco's application under this objective states that '*Ordinarily*, a member of the Management Team shall be on the premises all the time the store is open'. Given the concerns outlined above and below, this is not good enough. A member of the Tesco Management Team should be on site *throughout* their opening hours.

Our OBJECTION is therefore on the grounds that this location is dangerous for such a licensed premises with the proposed extended opening hours.

3 Prevention of Public Nuisance

Granting Tesco this licence will have a severe negative effect on passers-by, including in particular young children and their parents, and local residents and local businesses at the boundaries of the site. We can anticipate that there will be noise, bright lights and vehicles coming and going, potentially from 6 am up to 11 pm and, in particular, during the evenings, from 6 pm to 11 pm.

There will be litter (a cursory examination of the water-meadow adjoining Bridge Road is testimony to the fact that those who consume alcohol already regard this as a convenient place to discard empty beer cans and bottles) and anti-social behaviour, possibly damage to local domestic and business premises. Waverley must question the need for Tesco to serve alcohol beyond 8 pm, after which time it is reasonable for local residents to have quiet enjoyment of their homes.

R&V Convenience Stores, immediately next door, have a licence in place to sell alcohol from 8 am to 8 pm, Monday to Saturday and 7 am to 2 pm on Sunday, which we suggest is a perfectly adequate arrangement. If Tesco is to be granted a licence we suggest that they should be made subject to the same hours.

Our OBJECTION is therefore on the grounds that granting Tesco this licence will lead to further public nuisance and that the hours Tesco propose are excessive and out of alignment with those of the neighbouring licensed premises.

4 The Protection of Children from Harm

While we recognise that Tesco will administer the 'Think 25' Policy, this will not prevent completely someone who is over 18 buying alcohol and giving it to under-age drinkers, illegal though such an act may be. We have to question whether Tesco staff, conscious though they may be of the Policy, will be in a position to monitor such occurrences.

Our OBJECTION therefore is on the grounds that the store will be operating in the midst of a large concentration of school children who are vulnerable to the issues outlined above.

Yours faithfully

Kate Halsall

From:
Sent:
To:
Subject: FW: Licensing Application for Tesco - Meadrow, Godalming
Importance: High

5

Dear, Paul Hughes/Kate Halsall

I am writing to you to object to the submission of the licensing application by Tesco on Meadrow, Godalming. My objections are that the store opening hours are advertised as 6am to 11pm for the licenced sale of alcohol on this premises. There are numerous supermarkets within the vicinity which all stop trading any alcohol at 10pm.

This will encourage groups of younger people to aggregate around the tesco premises in the evenings. The Tesco store is in a residential area, and this behaviour would only be considered as anti-social. This problems is seen currently with the Co-op store in Farncombe, and with the planned longer alcohol selling hours, this problem will only spread.

I object to both their request for a licence to sell alcohol and secondaly to the hours of sale for alcohol. As the owner of a local newsagents next to the proposed tesco site, My own business only sells alcohol from 8 am - 8 pm and this is primarily to maintain respect with surrounding residents as we do not want the problem of groups of people aggregating around our premise and surrounding houses late at night drinking alcohol and causing a disturbance to the local community.

Regards,

Hearings

- 9.30 Regulations governing hearings may be found on the www.legislation.gov.uk website. If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, the applicant and all of the persons who made relevant representations. In cases where only 'positive' representations are received, without qualifications, the licensing authority should consider whether a hearing is required. To this end, it may wish to notify the persons who made representations and give them the opportunity to withdraw those representations. This would need to be done in sufficient time before the hearing to ensure that parties were not put to unnecessary inconvenience.
- 9.31 Responsible authorities should try to conclude any discussions with the applicant in good time before the hearing. If the application is amended at the last moment, the licensing committee should consider giving other persons time to address the revised application before the hearing commences.
- 9.32 Regulations made under the 2003 Act require that representations must be withdrawn 24 hours before the first day of any hearing. If they are withdrawn after this time, the hearing must proceed and the representations may be withdrawn orally at that hearing. However, where discussions between an applicant and those making representations are taking place and it is likely that all parties are on the point of reaching agreement, the licensing authority may wish to use the power given within the hearings regulations to extend time limits, if it considers this to be in the public interest.
- 9.33 Applicants should be encouraged to contact responsible authorities before formulating their applications so that the mediation process may begin before the statutory time limits come into effect after submission of an application. The hearing process must meet the requirements of regulations made under the 2003 Act. Where matters arise which are not covered by the regulations, licensing authorities may make arrangements as they see fit as long as they are lawful.
- 9.34 There is no requirement in the 2003 Act for responsible authorities that have made representations to attend, but it is generally good practice and assists committees in reaching more informed decisions. Where several responsible authorities within a local authority have made representations on an application, a single local authority officer may represent them at the hearing if the responsible authorities and the licensing authority agree. This local authority officer representing other responsible authorities may be a

licensing officer, but only if this licensing officer is acting as a responsible authority on behalf of the licensing authority and has had no role in the licensing determination process. This is to ensure that the responsible authorities are represented by an independent officer separate from the licensing determination process.

- 9.35 As noted in paragraphs 9.13 to 9.19 above, where the licensing officer is acting as a responsible authority the relevant steps should be followed to ensure that this individual has no role in the decision making process regarding the licensing determination.
- 9.36 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation.
- 9.37 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:
- the steps that are appropriate to promote the licensing objectives;
 - the representations (including supporting information) presented by all the parties;
 - this Guidance;
 - its own statement of licensing policy.
- 9.38 The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety.
- 9.39 Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities.

In the interests of transparency, the licensing authority should publish hearings procedures in full on its website to ensure that those involved have the most current information.

- 9.40 In the context of variations or minor variations, which may involve structural alteration to or change of use of a building, the decision of the licensing authority will not exempt an applicant from the need to apply for building control approval, planning permission or both of these where appropriate.

Determining actions that are appropriate for the promotion of the licensing objectives

- 9.41 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.
- 9.42 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 9.43 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

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10. Conditions attached to premises licences and club premises certificates

General

- 10.1 This chapter provides further guidance in relation to conditions attached to premises licences and club premises certificates. General principles on licence conditions are set out in Chapter 1 (see paragraph 1.16).
- 10.2 Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. Failure to comply with any condition attached to a licence or certificate is a criminal offence, which on conviction is punishable by a fine of up to £20,000 or up to six months' imprisonment. The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided.
- 10.3 There are three types of condition that may be attached to a licence or certificate: proposed, imposed and mandatory. Each of these categories is described in more detail below.

Proposed conditions

- 10.4 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.
- 10.5 It is not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention.

Consistency with steps described in operating schedule

- 10.6 The 2003 Act provides that where an operating schedule or club operating schedule has been submitted with an application and there have been no relevant representations made by responsible authorities or any other person, the licence or certificate must be granted subject only to such conditions as are consistent with the schedule accompanying the application and any mandatory conditions required under the 2003 Act.
- 10.7 Consistency means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule. If conditions are broken, this may lead to a criminal prosecution or an application for a review and it is extremely important therefore that they should be expressed on the licence or certificate in unequivocal and unambiguous terms. The duty imposed by conditions on the licence holder or club must be clear to the licence holder, club, enforcement officers and the courts.

Imposed conditions

- 10.8 The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.
- 10.9 It is possible that, in certain cases, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions are appropriate to promote the licensing objectives.

Proportionality

- 10.10 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

Naming, packing and promotion in retail premises

- 10.11 The Government acknowledges that the irresponsible naming, packing or promotion of alcoholic drinks may contribute to alcohol related harms. Where there is direct evidence of specific incidents of irresponsible naming, packing or promotion of alcoholic drinks linked to the undermining of one of the licensing objectives, licensing authorities should, in the exercise of their licensing functions (in particular, in relation to an application for the grant, variation or review of a premises licence), consider whether it is appropriate to impose conditions on licences that require the licence holder to comply with the Portman Group's Retailer Alert Bulletins. This condition should be considered on a case by case basis and in the context of the promotion of the licensing objectives.
- 10.12 The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until there has been compliance with the decision.

Hours of trading

- 10.13 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.
- 10.14 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.

- 10.15 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

The performance of plays

- 10.16 The 2003 Act provides that other than for the purposes of public safety, conditions must not be attached to premises licences or club premises certificates authorising the performance of a play which attempt to censor or modify the content of plays in any way. Any such condition would be ultra vires the 2003 Act.

Censorship

- 10.17 In general, other than in the context of film classification for film exhibitions, licensing authorities should not use their powers under the 2003 Act to seek to impose conditions which censor the content of any form of regulated entertainment. This is not a proper function of licensing law and cannot be properly related to the licensing objectives. The content of regulated entertainment is a matter which is addressed by existing laws governing indecency and obscenity. Where the concern is about protecting children, their access should be restricted where appropriate. But no other limitation should normally be imposed.

Major art and pop festivals, carnivals, fairs and circuses

- 10.18 Licensing authorities should publicise the need for the organisers of major festivals and carnivals to approach them at the earliest opportunity to discuss arrangements for licensing activities falling under the 2003 Act. For some events, the organisers may seek a single premises licence to cover a wide range of activities at varied locations within the premises. This would involve the preparation of a substantial operating schedule, and licensing authorities should offer advice and assistance about its preparation.
- 10.19 For other events, applications for many connected premises licences may be made which in combination will represent a single festival. It is important that licensing authorities should publicise the need for proper co-ordination of such arrangements and will need to ensure that responsible authorities are aware of the connected nature of the individual applications.
- 10.20 In the case of circuses and fairgrounds, much will depend on the content of any entertainment presented. For example, at fairgrounds, a good deal of the musical

entertainment may be incidental to the main attractions and rides at the fair that are not themselves regulated entertainment.

- 10.21 In addition, in the context of festivals and carnivals, local authorities should bear in mind their ability to seek premises licences from the licensing authority for land or buildings under public ownership within the community in their own name. This could include, for example, village greens, market squares, promenades, community halls, local authority owned art centres and similar public areas where festivals and carnivals might take place. Performers and entertainers would then have no need to obtain a licence or give a temporary event notice themselves to enable them to give performances in these places, although they would need the permission of the local authority to put on the event.

Fixed prices

- 10.22 Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club licences or club premises certificates in an area. This may be unlawful under current law. However, it is important to note that the mandatory conditions made under sections 19A and 73B of the 2003 Act prohibit a number of types of drinks promotions where they give rise to a significant risk to any one of the four licensing objectives; the mandatory conditions also prohibit the sales of alcohol below the permitted price, as defined in paragraph 10.58.
- 10.23 Where licensing authorities are asked by the police, other responsible authorities or other persons to impose restrictions on promotions in addition to those restricted by the mandatory conditions, they should consider each application on its individual merits, tailoring any conditions carefully to cover only irresponsible promotions in the particular and individual circumstances of any premises where these are appropriate for the promotion of the licensing objectives. In addition, when considering any relevant representations which demonstrate a clear causal link between sales promotions or price discounting and levels of crime and disorder on or near the premises, it would be appropriate for the licensing authority to consider the imposition of a new condition prohibiting irresponsible sales promotions or the discounting of prices of alcoholic beverages at those premises. However, before pursuing any form of restrictions at all, licensing authorities should take their own legal advice.

Large capacity venues used exclusively or primarily for the “vertical” consumption of alcohol (HVVDs)

- 10.24 Large capacity “vertical drinking” premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises with exceptionally high capacities, which are used primarily or exclusively for the sale and consumption of alcohol, and have little or no seating for patrons. Previous research has demonstrated that the environment within such establishments can have a significant bearing on the likelihood of crime and disorder.
- 10.25 Where appropriate, conditions can be attached to premises licences for the promotion of the prevention of crime and disorder at such premises that require the premises to observe:
- a prescribed capacity;
 - an appropriate ratio of tables and chairs to customers based on the capacity; and
 - a requirement that security staff holding the appropriate SIA licence or exemption are present to control entry for the purpose of compliance with the capacity limit and to deny entry to individuals who appear drunk or disorderly or both.

Sale and use of new psychoactive substances (NPS) at alcohol licensed premises such as off- licences

- 10.26 New psychoactive substances (NPS) mimic the effects of illegal drugs (like cocaine, cannabis and ecstasy) while being designed to evade controls. The sale of new psychoactive substances (NPS) – so called “legal highs” – is not regulated under the 2003 Act. However, licensing authorities may wish to consider whether conditions are appropriate to prevent the sale of such products alongside the sale of alcohol at a licensed premises, including at off-licences, or, for example, for on-trade premises to impose a door policy. Some NPS products may contain controlled drugs, and therefore be illegal, in which case the licensing authority should involve the police and consider applying for a review of the premises licence on crime and disorder grounds. But some NPS are not illegal. There is evidence that such NPS products can cause harms, particularly if taken in combination with alcohol. Further information about NPS is on the Government’s “FRANK” website: <http://www.talktofrank.com/>.
- 10.27 Licensing authorities will need to consider whether there is evidence that it would be appropriate to impose a condition of this kind specifically in order to promote one or more of the statutory licensing objectives, including public safety and protecting children from harm. Hospital admissions data or public order or nuisance data may assist or evidence

that NPS are being purchased at a premises used by those under 18. Conditions must of course be tailored to the individual type, location and characteristics of the premises and events concerned and should be proportionate, justifiable and be capable of being met. As explained, in Chapter 2 (paragraph 2.8), public safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective or nuisance objective. There will be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition.

Mandatory conditions in relation to the supply of alcohol

10.28 The 2003 Act provides for the following mandatory conditions to be included in every licence and/or club premises certificate in the circumstances specified.

Designated premises supervisor

- 10.29 The 2003 Act provides that, where a premises licence authorises the supply of alcohol, it must include a condition that no supply of alcohol may be made at a time when no designated premises supervisor has been specified in the licence or at a time when the designated premises supervisor does not hold a personal licence or the personal licence has been suspended.
- 10.30 The main purpose of the 'designated premises supervisor' as defined in the 2003 Act is to ensure that there is always one specified individual among these personal licence holders who can be readily identified for the premises where a premises licence is in force. That person will normally have been given day to day responsibility for running the premises by the premises licence holder. The requirements set out in relation to the designated premises supervisor and authorisation of alcohol sales by a personal licence holder do not apply to community premises in respect of which a successful application has been made to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act (see Chapter 4 of this Guidance).
- 10.31 The 2003 Act does not require a designated premises supervisor or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the designated premises supervisor and the premises licence holder remain responsible for the premises at all times including compliance with the terms of the 2003 Act and conditions attached to the premises licence to promote the licensing objectives.

Authorisation by personal licence holders

- 10.32 In addition, every premises licence that authorises the sale of alcohol must require that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence. This in most instances will be the designated premises supervisor who must hold a valid personal licence. Any premises at which alcohol is sold or supplied may employ one or more personal licence holders. This does not mean that the condition should require the presence of the designated premises supervisor or any other personal licence holder on the premises at all times.
- 10.33 Similarly, the fact that every supply of alcohol must be made under the authority of a personal licence holder does not mean that only personal licence holders can make sales or that they must be personally present at every transaction. A personal licence holder may authorise members of staff to make sales of alcohol but may be absent at times from the premises when a transaction takes place. However, the responsible personal licence holder may not be able to escape responsibility for the actions of anyone authorised to make sales.
- 10.34 "Authorisation" does not imply direct supervision by a personal licence holder of each sale of alcohol. The question arises as to how sales can be authorised. Ultimately, whether an authorisation has been given is a question of fact that would have to be decided by the courts on the evidence before it in the course of a criminal prosecution.
- 10.35 The following factors should be relevant in considering whether or not an authorisation has been given:
- the person(s) authorised to sell alcohol at any particular premises should be clearly identified;
 - the authorisation should have specified the acts which may be carried out by the person who is authorised to supply alcohol;
 - there should be an overt act of authorisation, for example, a specific written statement given to the individual who is authorised to supply alcohol; and
 - there should be in place sensible arrangements for the personal licence holder to monitor the activity that they have authorised on a reasonably regular basis.
- 10.36 It is strongly recommended that personal licence holders give specific written authorisations to individuals whom they are authorising to retail alcohol. A single written authorisation would be sufficient to cover multiple sales over an unlimited period. This

would assist personal licence holders in demonstrating due diligence should issues arise with enforcement authorities; and would protect employees if they themselves are challenged in respect of their authority to sell alcohol.

10.37 Written authorisation is not a requirement of the 2003 Act and its absence alone could not give rise to enforcement action.

10.38 It must be remembered that whilst the designated premises supervisor or a personal licence holder may authorise other individuals to sell alcohol in their absence, they are responsible for any sales that may be made. Similarly, the premises licence holder remains responsible for ensuring that licensing law and licence conditions are observed at the premises.

Arrangements for the mandatory licence conditions

10.39 The mandatory conditions made under sections 19A and 73B of the 2003 Act (the conditions governing irresponsible promotions, dispensing alcohol directly into the mouth, provision of free tap water, age verification, small measures and the prohibition on sales of alcohol below the permitted price) do not have to be physically included in the licence or certificate but nonetheless will apply to every licence and certificate authorising the sale and supply of alcohol for consumption on the premises. The mandatory conditions set out in section 19 of the 2003 Act (the requirement for a DPS and for all sales to be made or authorised by a personal licence holder) do, however, have to be physically included in the licence. The mandatory aspirational licence conditions do not apply to activities (including the supply of alcohol) authorised by a temporary event notice.

10.40 Whereas the initial mandatory conditions in section 19 of the 2003 Act are set out in Annex A of the licence, the additional mandatory conditions made under section 19A of the 2003 Act are treated as if they were included in existing licences and certificates on the date that those conditions came into force.

10.41 Following their commencement, the mandatory conditions overrode any pre-existing conditions already included in a licence or certificate insofar as the mandatory conditions were identical to, or inconsistent with or more onerous than, any pre-existing conditions. It is not necessary to record on the face of existing licences and certificates the impact that the introduction of the mandatory conditions has had on pre-existing conditions.

Irresponsible promotions

10.42 Under this condition, the “responsible person” (defined in the 2003 Act as the holder of a premises licence, designated premises supervisor, a person aged 18 or over who is authorised to allow the sale or supply of alcohol by an under 18 or a member or officer of a club present on the club premises who can oversee the supply of alcohol) should be able to demonstrate that they have ensured that staff do not carry out, arrange or participate in any irresponsible promotions. An irresponsible promotion is one that fits one of the descriptions below (or is substantially similar), is carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises. The aim of the condition is to prohibit or restrict promotions which encourage people to drink more than they might ordinarily do and in a manner which undermines the licensing objectives.

Drinking games

10.43 Irresponsible promotions can include activities, whether drinking games or not, which may require or encourage individuals to drink a quantity of alcohol within a time limit, or drink as much alcohol as possible within a time limit or otherwise. For example, this may include organised ‘drink downing’ competitions. This would not prevent the responsible person from requiring all drinks to be consumed or abandoned at, or before, the closing time of the premises. Nor does it necessarily prohibit ‘happy hours’ as long as these are not designed to encourage individuals to drink excessively or rapidly.

Large quantities of alcohol for free or a fixed price

10.44 Irresponsible promotions can include the provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted price, where there is a significant risk that such a promotion would undermine one or more of the licensing objectives. This includes alcohol provided to the public or to a group defined by a particular characteristic, for example, a promotion which offers women free drinks before a certain time or “all you can drink for £10”. Promotions can be designed with a particular group in mind (for example, over 65s). A common sense approach is encouraged, which may include specifying the quantity of alcohol included in it or not targeting a group which could become more vulnerable or present a greater risk of crime and disorder as a result of excessive alcohol consumption.

Prizes and rewards

10.45 The sale, supply or provision of free or discounted alcohol or any other item as a prize to encourage or reward the purchase and consumption of alcohol can be within the definition of an irresponsible promotion, where there is a significant risk that such a promotion would

undermine one or more of the licensing objectives. This may include promotions under which free or discounted alcohol is offered as a part of the sale of alcohol, for example, "Buy one and get two free" and "Buy one cocktail and get a second cocktail for 25p". This includes promotions which involve the provision of free or discounted alcohol within the same 24 hour period.

Posters and flyers

10.46 Irresponsible promotions can also include the sale or supply of alcohol in association with promotional materials on display in or around the premises, which can either be reasonably considered to condone, encourage or glamorise anti social behaviour or refer to the effects of drunkenness in any favourable manner.

Dispensing alcohol directly into the mouth

10.47 The responsible person (see paragraph 10.42) must ensure that no alcohol is dispensed directly into the mouth of a customer. For example, this may include drinking games such as the 'dentist's chair' where a drink is poured continuously into the mouth of another individual and may also prevent a premises from allowing another body to promote its products by employing someone to dispense alcohol directly into customers' mouths. An exception to this condition would be when an individual is unable to drink without assistance due to a disability.

Free potable water

10.48 The responsible person (see paragraph 10.42) must ensure that free potable water is provided on request to customers where it is reasonably available on the premises. What is meant by reasonably available is a question of fact; for example, it would not be reasonable to expect free tap water to be available in premises for which the water supply had temporarily been lost because of a broken mains water supply. However, it may be reasonable to expect bottled water to be provided in such circumstances.

Age verification

10.49 The premises licence holder or club premises certificate holder must ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. This must as a minimum require individuals who appear to the responsible person (see paragraph 10.42) to be under the age of 18 years of age to produce on request, before being served alcohol, identification bearing their photograph, date of birth, and either a holographic mark or ultraviolet feature.

- 10.50 The premises licence holder or club premises certificate holder must ensure that staff (in particular, staff who are involved in the supply of alcohol) are made aware of the existence and content of the age verification policy which applies by the premises.
- 10.51 The designated premises supervisor (where there is one) must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy. This means that the DPS has personal responsibility for ensuring that staff are not only aware of, but are also applying, the age verification policy.
- 10.52 It is acceptable, and indeed encouraged, for premises to have an age verification policy which requires individuals who appear to the responsible person to be under an age greater than 18 to produce such identification on request. For example, if premises have a policy that requires any individual that appears to be under the age of 21 to produce identification that meets the criteria listed above, this is perfectly acceptable under the mandatory code.
- 10.53 Licence holders should consider carefully what steps they are required to take to comply with the age verification requirements under the 2003 Act in relation to sales of alcohol made remotely. These include sales made online, by telephone and mail order sales, and alcohol delivery services. Each of these sales must comply with the requirements of the 2003 Act. The mandatory condition requires that age verification takes place before a person is served alcohol. Where alcohol is sold remotely (for example, online) or through a telephone transaction, the sale is made at this point but the alcohol is not actually served until it is delivered to the customer. Age verification measures (for example, online age verification) should be used to ensure that alcohol is not sold to any person under the age of 18. However, licence holders should also consider carefully what steps are appropriate to ensure that age verification takes place before the alcohol is served (i.e. physically delivered) to the customer to be satisfied that the customer is aged 18 or over. It is, therefore, the responsibility of the person serving or delivering the alcohol to ensure that age verification has taken place and that photo ID has been checked if the person appears to be less than 18 years of age.

Smaller measures

- 10.54 The responsible person (see paragraph 10.42) shall ensure that the following drinks, if sold or supplied on the premises, are available in the following measures:
- Beer or cider: ½ pint
 - Gin, rum, vodka or whisky: 25ml or 35ml
 - Still wine in a glass: 125ml

- 10.55 As well as making the drinks available in the above measures, the responsible person must also make customers aware of the availability of these measures by displaying them on printed materials available to customers on the premises. This can include making their availability clear on menus and price lists, and ensuring that these are displayed in a prominent and conspicuous place in the relevant premises (for example, at the bar). Moreover, staff must make customers aware of the availability of small measures when customers do not request that they be sold alcohol in a particular measure.
- 10.56 This condition does not apply if the drinks in question are sold or supplied having been made up in advance ready for sale or supply in a securely closed container. For example, if beer is only available in pre-sealed bottles the requirement to make it available in 1/2 pints does not apply.
- 10.57 The premises licence holder or club premises certificate holder must ensure that staff are made aware of the application of this condition.

Ban on sales of alcohol below the permitted price

- 10.58 The relevant person (the holder of the premises licence, the designated premises supervisor (if any) in respect of such a licence, the personal licence holder who makes or authorises a supply of alcohol under such a licence, or any member or officer of a club present on the premises in a capacity which enables the member or officer to prevent the supply in question) shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 10.59 The permitted price is defined as the aggregate of the duty chargeable in relation to the alcohol on the date of its sale or supply and the amount of that duty multiplied by a percentage which represents the rate of VAT chargeable in relation to the alcohol on the date of its sale or supply. Detailed guidance on how to make this calculation and a calculator to determine permitted prices for each product are available on the Home Office website.
- 10.60 Where there is a change to the rate of duty or VAT applying to alcohol (for instance, following a Budget), the relevant person should ensure that the permitted price reflects the new rates within fourteen days of the introduction of the new rate.
- 10.61 It is still permitted to sell alcohol using promotions (as long as they are compatible with any other licensing condition that may be in force), and the relevant person should ensure that the price of the alcohol is not less than the permitted price. Detailed guidance on the use of promotions is given in the guidance document available on the Home Office website.

Exhibition of films

- 10.62 The 2003 Act provides that where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (currently only the British Board of Film Classification – BBFC) or by the licensing authority itself.
- 10.63 The effect of paragraph 5 of Schedule 1 to the 2003 Act is to exempt adverts from the definition of regulated entertainment, but not exempt them from the definition of exhibition of a film. Since the above mandatory condition applies to ‘any film’, it is therefore applicable to the exhibition of adverts.

Door supervision

- 10.64 Under section 21 of the 2003 Act, when a condition is included in a premises licence that at specified times an individual must be present at the premises to carry out a security activity (as defined in section 21(3)(a) by reference to the Private Security Industry Act 2001 (“the 2001 Act”)), the licence must include a condition requiring that individual to be licensed by the Security Industry Authority (“the SIA”) under the 2001 Act, or be entitled to carry out that activity by virtue of section 4 of the 2001 Act.
- 10.65 A premises licence need not require a person to hold a licence granted by the SIA if that person benefits from an exemption under section 4 of the 2001 Act. For example, certain employees benefit from an exemption when carrying out conduct in connection with a certified sports ground (section 4(6) to (12)). Furthermore, in certain circumstances persons benefit from an exemption where they operate under the SIA’s Approved Contractor Scheme (section 15).
- 10.66 Conditions under section 21 of the 2003 Act should only relate to individuals carrying out security activities defined by section 21(3)(a) of the 2003 Act. Therefore, they should only relate to an activity to which paragraph 2(1)(a) of Schedule 2 to the 2001 Act applies (certain manned guarding activities) and which is licensable conduct within the meaning of section 3(2) of that Act. The requirement does not relate to individuals performing non-security related activities, and section 21 should not be used in relation to any such activities.

10.67 Section 21 of the 2003 Act continues to ensure that a premises licence need not impose such a requirement in relation to those licensed premises which the 2001 Act treats as unlicensed premises. Those are:

- premises in respect of which there is in force a premises licence authorising a performance of a play or an exhibition of a film;
- casinos or bingo halls licensed under the Gambling Act 2005;
- premises where a club certificate is in force when activities are being carried on under the authority of that certificate.

See paragraph 8(3) of Schedule 2 to the 2001 Act for full details.

10.68 It should be noted, however, that the 2001 Act will require contractors and a small number of employees (those managing/supervising and those supplied under contract) to be licensed as manned guards (rather than door supervisors) when undertaking licensable conduct on premises to which paragraph 8(3) of Schedule 2 to the 2001 Act applies.

10.69 It is therefore important that if a licensing authority intends that individuals must be present to carry out security activities (as defined by section 21(3)(a) of the 2003 Act) this should be explicit, as should the mandatory condition for those individuals to hold an SIA licence or be entitled to carry out that activity by virtue of section 4 of the 2001 Act. On the other hand, where a licensing authority intends that individuals must be present to carry out other activities (for example, activities related to safety or steward activities to organise, advise and direct members of the public), no mandatory condition should be imposed under section 21 of the 2003 Act. In all cases it is important when determining whether or not a condition is to be imposed under section 21 of the 2003 Act to consider whether the activities of any individual working in licensed premises fall within the definition of security activities in section 21(3)(a) of the 2003 Act. (Regardless of whether a condition is imposed under section 21 of the 2003 Act, under the 2001 Act the appropriate SIA licence must be held by any individual performing an activity for which they are licensable under that Act.)

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