

<b>REPORT TO:</b>	<b>LICENSING COMMITTEE</b> 9 December 2020
<b>AGENDA ITEM:</b>	7
<b>SUBJECT:</b>	London Local Authorities Act 1990 Application for Street Designation Order
<b>LEAD OFFICER:</b>	Executive Director, Place Department
<b>CABINET MEMBER:</b>	Cllr. David Wood, Cabinet Member for Communities, Safety & Resilience
<b>WARDS:</b>	Thornton Heath
<b>CORPORATE PRIORITY/POLICY CONTEXT:</b> This report is specific to this application and has no implications on the Council's Corporate Policies	
<b>FINANCIAL SUMMARY:</b> There are no direct financial implications arising from this report.	
<b>FORWARD PLAN KEY DECISION REFERENCE NO.:</b> N/A	

For general release

## 1. RECOMMENDATIONS

- 1.1 The Committee is asked to determine whether to designate the site detailed at Appendix A for the purposes of street trading and if designated to then determine whether to grant a street trading licence to the site.

## **2. EXECUTIVE SUMMARY**

- 2.1 The purpose of this report is to seek the Committee's decision on the proposal to designate a site in the Borough as a 'licence street for street trading and the granting of a street trading licence under the provisions of the London Local Authorities Act 1990 (as amended.)

## **3. DETAIL**

- 3.1 The London Local Authorities Act 1990 (as amended) (The Act) provides a legislative framework to control street trading in the Borough. Trading in respect of services as well as goods comes within the scope of the Act.
- 3.2 Licensed street trading may only take place in streets or parts of streets which have been formally designated as "licence streets".
- 3.3 Appendix A to this report provides details of the designation application. The applicant has been invited to attend the meeting.
- 3.4 If the site outlined in Appendix A is formally designated as a 'licence street' by the committee then the committee will decide whether to grant a street trading licence.
- 3.5 The measurements of the display area as outlined in Appendix A will allow (as applicable) for the required 2 metre clear distance between the edge of the display and the nearest item of street furniture which is the requirement for roads maintained by Croydon Council or the 2.8 metre clear distance which is the requirement for roads maintained by TfL

## **4. CONSULTATION**

- 4.1 The application was advertised in the Croydon Guardian and brought to the attention of the police, planning, Council highways, parking services and the food & safety team.

## **5. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS**

### **5.1 The effect of the decision**

There are no direct financial implications as a result of this report.

### **5.2 Risks**

If an applicant is refused a licence on any of the grounds mentioned in paragraph 7.2 (a) - (g) he/she will have the right of appeal to the Magistrates' Court against the decision. The decision of the Committee may also be subject to Judicial Review.

An appeal against a decision of the Committee or a Judicial Review of the application process may present financial risks to the Council with regard to any award of costs against it.

### **5.3 Options**

The options available are: to grant the application, to vary the application, with or without further conditions, or to refuse the application.

### **5.4 Future savings/efficiencies**

There are no savings or efficiencies arising directly from the recommendations in the report.

5.5 Approved by: Flora Osiyemi, Head of Finance, Place Department.

## **6. LEGAL CONSIDERATIONS**

### **LICENCE STREET**

6.1 If the borough council considers that street trading should be licensed in an area, they may pass a resolution designating any street within the borough as a "licence street" in accordance with Section 24 of the Act.

6.2 The first decision which has to be made is whether to designate the particular location as a "licence street", which in turn would permit the consideration of a licence application.

6.3 Under Section 24 of the Act, the designation of a location as a "licence street" is at the discretion of the Committee and this decision is not subject to any direct appeal.

6.4 Each application must be considered on its own merits.

### **6.5 STREET TRADING LICENCE**

If a site has been designated as a 'licence street', the committee must then decide whether to grant a licence to trade at that site – a 'street trading licence'.

## **7. GROUNDS FOR REFUSAL**

7.1 Under Section 25(4) of the Act, a street trading licence:

- (a) shall not be granted:
  - (i) to a person under the age of 17 years; or
  - (ii) except where the application is made by a company incorporated under the Companies Acts, or by a partnership, for a licence to carry on ice-cream trading to a person, on a corresponding day, days or time, who holds a street trading licence in any other licence street granted under this Part of the Act but nothing in this paragraph shall prevent the renewal of such a licence; or
  - (iii) except where the application is made by a company incorporated

under the Companies Acts, or by a partnership, for a licence to carry on ice-cream trading to a body corporate or to an unincorporated association;

- (iv) in respect of an application for a licence which is not a temporary licence to trade in a street which is not a licence street; or
  - (v) where the street to which the application relates is a street in respect of which the borough council have by resolution passed under Sub-Section 1) (b) of Section 24 of this Act, specified a class of articles or things, or services which they will not prescribe in any street trading licence and the grant of the licence would be contrary to any of the terms of that resolution;
- (b) shall not be granted unless the borough council are satisfied that there is enough space in the street for the applicant to engage in the trading in which he desires to trade without causing undue interference or inconvenience to persons or vehicular traffic using the street.

7.2 Under Section 25(6) of the Act, the Council may refuse an application on any of the following grounds:

- (a) that there are enough traders trading in the street or in any street adjoining the street in respect of which the application is made in the goods in which the applicant desires to trade;
- (b) that the applicant is on account of misconduct or for any other sufficient reason unsuitable to hold the licence;
- (c) that the applicant is an individual who has without reasonable excuse failed personally to avail himself of a previous street trading licence;
- (d) that the applicant has at any time been granted a street trading licence by the borough council which was revoked or could have been revoked on the grounds that he had refused or neglected to pay fees or other charges due to them in respect of the licence;
- (e) that the applicant has failed to provide or to identify suitable or adequate premises for the storage of any receptacles or perishable goods in which he proposed to trade when street trading is not taking place;
- (f) that the application is for the grant (but not the renewal) of a street trading licence; and
  - (i) the only available position is in that part of the street which is contiguous with the frontage of a shop; and
  - (ii) the articles, things or services mentioned in the application are sold or provided at the shop;



- (g) that
  - (i) the application is for the grant (but not the renewal) of a street trading licence; and
  - (ii) the only available position in the street is within the curtilage of a shop; and
  - (iii) the applicant is not the owner or occupier of the premises comprising the shop.

7.3 The Head of Litigation and Corporate Law comments on behalf of the Director of Law and Governance that there are no additional legal implications arising from the recommendations in the report other than those already set out within the body of the report.

(Approved by Sandra Herbert, Head of Litigation and Corporate law on behalf of the Director of Law and Governance and Deputy Monitoring Officer).

## **8. HUMAN RESOURCES IMPACT**

8.1 The Human Resources impact of supporting the Licensing Hearings will be contained within the budgeted establishments of the Democratic and Legal Services and Licensing Teams.

8.2 (Approved by: Jennifer Sankar, Head of Human Resources, Place Department)

## **9. CUSTOMER IMPACT**

9.1 There are no specific customer services issues relating to these applications.

## **10 EQUALITIES IMPACT ASSESSMENT (EIA)**

10.1 The arrangements for the Licensing Hearings seek to ensure that all applicants and other interested parties receive a fair hearing and that the process is accessible to all groups within the community.

## **11. ENVIRONMENTAL AND DESIGN IMPACT**

11.1 There are no perceived environmental and design impacts relating to these applications.

## **12. CRIME AND DISORDER REDUCTION IMPACT**

12.1 The Police Licensing Officer has been consulted on these applications.

### **13. HUMAN RIGHTS IMPACT**

13.1 The Human Rights 1998 (HRA) requires public bodies to ensure everything they do is compatible with Convention Rights and makes it unlawful for a public authority to act incompatibly with those Rights. **Article 6 (A6)** of the European Convention on Human Rights (ECHR) is the right to a fair trial. The key elements of this include

- The right to a *fair* hearing;
- The right to a *public* hearing;
- The right to a hearing before an *independent and impartial tribunal*;
- The right to a hearing *within a reasonable time*.

13.2 When hearing an application, the proceedings of a non-judicial body such as the Licensing Committee, as opposed to an actual Court, need not meet the full requirements of A6 where there is a right of appeal from the Licensing Committee to a Court that does meet the full A6 standards and can consider all aspects of the case (even if that does not include a full re-hearing of the facts).

13.3 So, while it is good practice to make a hearing before the Licensing Committee as A6 compliant as possible, it will not be a breach of the HRA if it is not. Further, the hearing of all applications are subject to the principles of Natural Justice and the requirement for decisions to be 'Wednesbury reasonable'.

### **14. FREEDOM OF INFORMATION/DATA PROTECTION CONSIDERATIONS**

14.1 Protocols agreed in relation to Licensing Hearings are within the Council's Constitution and will be accessible as part of the Council's Publication Scheme maintained under the Freedom of Information Act.

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**CONTACT OFFICER:** Michael Goddard, Head of Public Protection and Licensing, Place Department, ext. 61838.

**BACKGROUND DOCUMENTS:** Application Forms

## **APPENDIX A**

**Applicant:** Mr. Mohammed Jaleel

**Location:** On the highway outside Jalal Butcher's & Grocer's Ltd., 123 High Street, Thornton Heath, CR7 8RZ.

**Measurements:** The application seeks a trading area of length 1.8 metres and width 1.2 metres both LHS & RHS. This would leave a clear pavement width of 3.6m tapering to 3.3m from the edge of the proposed display to the kerb and 3m to the post shown in the photograph. This area of highway is maintained by Croydon Council and the minimum required clear pavement width is 2.0 metres.

Appendix A1 shows photographs of the display and available pavement space. Appendix A2 is a diagram of the site with relevant measurements marked on it.

Would Members please note that this matter was originally considered by the Licensing Committee at their meeting on 30 September 2020 but Members resolved, on that day to defer consideration of the matter to a later meeting.

### **Proposed Times of Trading:**

Monday to Saturday 7am to 10pm  
Sunday 7am to 9pm

**To Display:** Fruit & Vegetables

#### **1. Detailed Considerations**

- 1.1 A copy of the application is attached at Appendix A3.
- 1.2 The application was advertised in the Croydon Guardian. No comments/objections have been received.
- 1.3 The Police Licensing Officer, Food Safety Team, Planning, Highways and Parking Services were invited to comment on this application. No comments have been received.
- 1.4 The measurements outlined above have been checked and agreed by an Enforcement Officer during a site visit.
- 1.5 A temporary licence was made available to the applicant which is valid until 30.12.2020. A copy is attached at Appendix A4.

- 1.6 There are three other premises on the same row (117, 119 and 121 High Street) that are already licensed for street trading. The relevant premises are marked on the map at Appendix A5.
- 1.7 Would the committee please note that these premises fall within the Council's saturation policy for street trading and the applicant has been made aware of this by letter. A copy of that letter is attached at Appendix A6.
- 1.8 If the application for a street designation order is granted the applicant will be invited to apply for a Street Trading Licence which will then be valid for a year



















A1











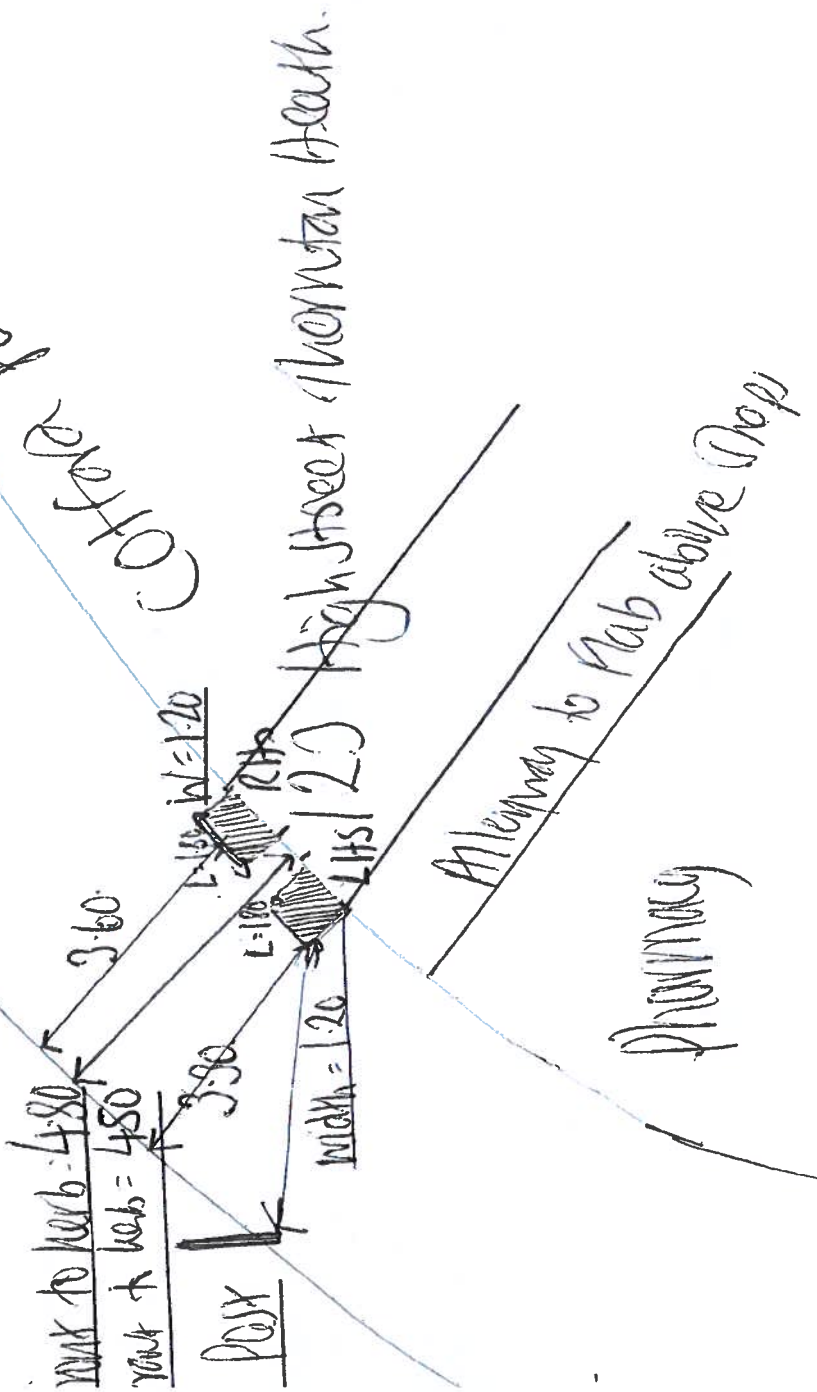
at pavement space between shop & kerb = 4.80.

width of display LH door = 1.20m RH = 1.20m

width of display LH door = 1.80m RH = 1.80m

play to post = 9m

play to kerb LH = 3.20 RH = 3.60.





20166378/ST

A3



STREET TRADING LICENSING

APPLICATION FOR A STREET DESIGNATION ORDER

Return completed form to Place Department, Licensing Team, 6th Floor, Zone A, Bernard Weatherill House, 8 Mint Walk, Croydon. CR0 1EA Telephone: 020 8760 5466 Fax no: 0208 633 9410

PLEASE READ THE GUIDANCE NOTES ATTACHED BEFORE COMPLETING THIS FORM

1. APPLICANT (see note A)

- a) First Name ..... MOHAMMED
- b) Last/Family Name ..... JALEEL
- c) Full Home Address of Applicant ..... th
- d) Home Tel No ..... e) Mobile No .....
- f) E mail address: .....
- g) Date of Birth : .....

2. SITE TO BE DESIGNATED (see Note B) For Mobile Vehicles/Trailers go to section 4

- a) Trading Name of Premises: ..... Jalal Halal Butchers & Grocers Ltd
- b) Trading Address: ..... 123 HIGH STREET, THORNTON Heath
- ..... CR7 - 8RZ
- c) Business Tel No : ..... 02086659123

3. DISPLAY AREA (see note C)

a) Dimensions of display area (state whether measured in feet or metres )

Length ..... LH 1.80 ..... LH 1.80 ..... Width ..... 1.20 ..... Height ..... 1.5

Rh 1.20

Total perimeter shop to kerb = 4.80.

b) Hours that you would like to display the goods/services on the highway

Sunday from 7am to 9pm Thursday from 7am to 10pm  
Monday from 7am to 10pm Friday from 7am to 10pm  
Tuesday from 7am to 10pm Saturday from 7am to 10pm  
Wednesday from 7am to 10pm

c) Type of goods or services to be displayed FRUIT & VEG

**4. MOBILE VEHICLE/TRAILER (See note D)**

a) Address of proposed pitch

b) Approx dimensions of vehicle/trailer (state whether measured in feet or metres)

Length ..... Width ..... Height .....

c) Registration No .....

d) Proposed hours and days of trading

If you propose to sell hot food and drink after 2300 hours then you will require a premises licence under the Licensing Act 2003 ( see note D)

Office Use only Premises Licence No .....

I declare that all the information given on this form is accurate to the best of my knowledge.

I enclose a fee of £ 365.

Please make cheques payable to Croydon Council. Alternatively payment can be made by debit or credit card on 0208 760 5466. There is an additional surcharge of 1.65% for credit card payments. There is no additional charge for debit card payments.

Signature of applicant(s) or applicant's Solicitor or other duly authorised agent.

Date 14/01/20

I understand that by signing this application form I confirm that I have been made aware of the 'Council's Street Trading Policy' in relation to the saturation areas in London Road and High Street Thornton Heath (see Note E on the attached guidance notes)

If you require any assistance with the completion of this form please contact the Licensing Team on 0208 760 5466

Office Use Only Uniform No: .....





**TEMPORARY LICENCE –  
STREET TRADING**

The Council of the London Borough of Croydon being the Local Authority for the purposes of the London Local Authorities Act 1990

<b>HEREBY LICENCE</b>	<b>MR MOHAMMED JALEEL</b>
<b>TO USE SITE KNOWN AS</b>	<b>Jalal Halal Butchers &amp; Grocers Ltd.</b> 123 High Street Thornton Heath CR7 8RZ
<b>TO DISPLAY</b>	Fruit and Vegetable
<b>SIZE OF DESIGNATED DISPLAY</b>	<b>Length - Left Hand Side</b> 1.80 m, <b>Right Hand Side</b> 1.80 m <b>Width - Left Hand Side</b> 1.20 m, <b>Right Hand Side</b> 1.20 m, <b>Height</b> 1.5 m
<b>PERMITTED DAYS &amp; TIMES</b>	Monday - Saturday 7:00 am - 10:00 pm Sunday 7:00 am - 9:00 pm

**This licence is issued subject to compliance with the licence conditions attached**

**Please note that the person named on the licence and whose photograph appears on the licence is responsible for the premises at all times.  
This licence may not be transferred to any other person.**

**Date Licence Valid From:** 14.01.2020  
**Date Licence Expires:** 30.12.2020  
**Licence Number:** 20/00378/STT

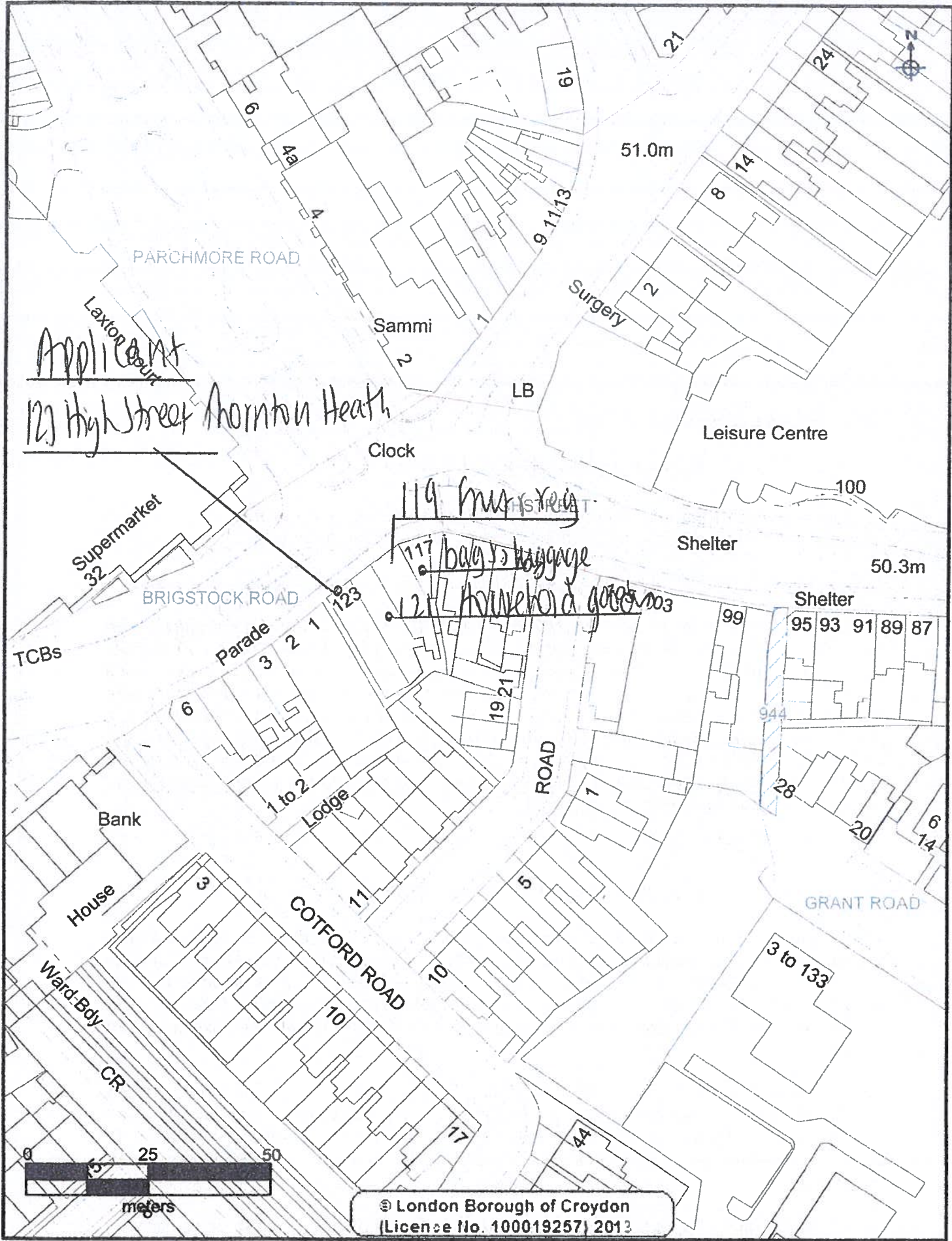


**Issued on Behalf of : Licensing Manager  
Place Department**

## Licence Conditions

### Non Transport for London Maintained Roads

1. The Licence shall ensure that there is a minimum clear passage of **2.0 metres** between the front edge of their display and the edge of the kerb or any item of street furniture (railings/lamp posts etc) – whichever is the nearer to the display
2. A clear copy of the licence shall be displayed in the front window of the premises at all times and should be visible to passers – by.
3. Please note that the person named on the licence and whose photograph appears on the licence is responsible for the premises at all times.  
This licence may not be transferred to any other person.
4. The right to trade from the designated site will be temporarily suspended when Utility Companies or the Highway Authority require access to the footway to carry out necessary works, until the completion of those works.
5. The limits of the designated area may be marked on the footway/roadway by the Council to enable verification by Council & Highway Officers.
6. If the application for a street designation order and the subsequent application for a full licence are granted then premises displaying tables and chairs must then enclose the display area with a suitable barrier material e.g. rope.
7. The licence holder is responsible for removing all litter from the licensed area and adjacent footway at regular intervals during the day and at the close of business each day.



Applicant  
 123 High Street Thornton Heath

119 Mrs. Yee  
 117 bags of baggage  
 121 household goods



Place Department  
Licensing Team  
6<sup>th</sup> Floor, Zone B  
Bernard Weatherill House  
8 Mint Walk  
Croydon  
CR0 1EA

AG

Tel/Typetalk: 0208 726 6000 x 62457  
Fax: 020 8760 5786  
Minicom: 020 8760 5797  
Please ask for/reply to:

Mohammed Jaleel

Your Ref:  
Our Ref:  
Date: 24 February 2020

Dear

**Subject: Street Designation Order**

**Address: 123 High Street Thornton Heath CR7 8RZ**

I acknowledge receipt of your recent application for a street designation order and temporary licence to display goods on the highway at the above premises.

Your attention is drawn to the Council's Street Trading Policy which states;-

***'In relation to the parts of the streets listed below the Council, having consulted with the officers responsible for food safety, planning, parking, street scene and district centre managers, the Highway Authority, Transport for London, Police and licence holders in those streets or trade bodies representing them, are of the view that there are enough existing designated sites. This is on the basis that any addition to the number of existing designated sites would have an overall detrimental impact on the safe and convenient passage of pedestrians in that part of the street. The Committee will therefore generally be minded to refuse any further requests for designation but will consider each request on its merits.***

**- Entire length of London Rd**

**-Entire length of High St Thornton Heath**

***Where the Licensing Committee considers that, in any other parts of streets in the borough, there are enough existing designated sites it may, subject to a similar process of consultation, decide to include these additional parts of streets with those listed above. Similarly the Licensing Committee may from time to time determine that due to a change in circumstances parts of streets may be removed from that list. '***

Your application will be heard by the Licensing Committee at a meeting to be arranged and as your application falls within the specified area outlined in the policy, the committee will be minded to refuse the application. You should therefore attend the meeting to explain to the committee the particular reasons why you consider that your application should be granted.

**Please note that all fees paid are non-refundable should the application be refused**

Yours sincerely

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Licensing Team