

REPORT TO:	LICENSING SUB COMMITTEE 15 July 2022
AGENDA ITEM:	
SUBJECT:	LICENSING ACT 2003 – APPLICATION FOR A PREMISES LICENCE
LEAD OFFICER:	Corporate Director, Sustainable Communities, Regeneration & Economic Recovery
CABINET MEMBER:	Cllr. Scott Roche Streets & Environment
WARDS:	Bensham Manor
CORPORATE PRIORITY/POLICY CONTEXT:	
This report is specific to this application and has no implications on the Council's Corporate Policies.	
FINANCIAL SUMMARY:	
This application is being processed as part of normal duties carried out by the Department with no additional costs involved.	
FORWARD PLAN KEY DECISION REFERENCE NO.: N/A	

For general release

1. RECOMMENDATIONS
1.1 The Sub-Committee is asked to determine whether to grant the application for a premises licence at 890 London Road, Thornton Heath, CR7 7PB.
2. EXECUTIVE SUMMARY
2.1 The purpose of this report is to advise the Sub-Committee that an application has been received for a premises licence under the Licensing Act 2003 ("the Act"). This application is the subject of representations, therefore a hearing is required.
3. DETAIL
3.1 A Protocol for Licensing Hearings and a Procedure for Licensing Sub-Committee Hearings has previously been agreed by the Licensing Committee (minute A/24/05 refers). The protocol has been subsequently amended by the licensing committee (minutes A/32/06, A/40/07 and A/07/12 refer and the Protocol was last amended by the licensing committee on 30 September 2020, minute 15/20 refers).

- 3.2 The applicant and the parties making representations have been notified of the hearing in accordance with the Licensing Act 2003 (Hearings) Regulations 2005 and Licensing Act 2003 (Hearings) (Amendment) Regulations 2005 “the Regulations”. Information to accompany the notice of hearing was provided to the applicant and the parties making representations in accordance with “the Regulations”.
- 3.3 Appendix A to this report provides details of this application.

4. FINANCIAL CONSIDERATIONS

1 Revenue and Capital consequences of report recommendations

There are no direct financial implications associated with this report, subject to the risks at 4.2 & 4.3. This application is being processed as part of normal duties and therefore the work associated with it is contained within the departmental budget.

2 The effect of the decision

The decision of the Sub-Committee may be subject to appeal and/or Judicial Review

3 Risks

An appeal against a decision of the Sub-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.

4 Options

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

5 Savings/ future efficiencies

None identified.

6 (Approved by: Flora Osiyemi, Head of Finance Place, Residents & Gateway)

5. COMMENTS OF THE SOLICITOR TO THE COUNCIL

- 5.1 The Head of Litigation and Corporate Law comments on behalf of the Director of Law and Governance that the sub-committee must determine the application, taking into account relevant representations, the Licensing Act 2003, the regulations made thereunder statutory guidance and the Council's own licensing policy.

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

6. HUMAN RESOURCES IMPACT

- 6.1 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.
- 6.2 (Approved for and on behalf of HR by Jennifer Sankar, Head of HR Sustainable Communities).

7. EQUALITIES IMPACT

7.1 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. In exercising licensing functions, the Council is required to comply with Section 149 of the Equality Act 2010 which requires public bodies to have due regard to the need to:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
- Foster good relations between people who share a protected characteristic and people who do not share it.

7.2 For these purposes the protected characteristics are

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

7.3 The Act explains that having due regard for advancing equality involves:

- Removing or minimising disadvantages suffered by people due to their protected characteristics.
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

8. ENVIRONMENTAL AND DESIGN IMPACT

8.1 The effective implementation of the Licensing Act 2003 will contribute to an improved environment for local residents and other stakeholders.

9. LICENSING OBJECTIVES IMPACT

9.1 The licensing objectives contained in the Act are:

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

9.2 Officers comments and relevant representations on the impact of the application on these objectives appear in Appendix A to the application.

10. HUMAN RIGHTS IMPACT

10.1 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*.

10.2 When hearing an application, the proceedings of a non-judicial body such as the Licensing Sub 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 Sub 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).

10.3 So, while it is good practice to make a hearing before the Licensing Sub 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 is subject to the principles of Natural Justice and the requirement for decisions to be 'Wednesbury reasonable'.

11. FREEDOM OF INFORMATION/DATA PROTECTION CONSIDERATIONS

11.1 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.

CONTACT OFFICER: Michael Goddard, Head of Environmental Health,
Trading Standards and Licensing, Place
Department ext. 61838

BACKGROUND DOCUMENTS: Application Forms
Licensing Hearings and Protocol and Procedure

APPENDIX A

1. The Application

1.1 This report concerns an application by Mahalakshmi Food Ltd. for a premises licence at 890 London Road, Thornton Heath, CR7 7PB.

1.2 The application seeks the following licensable activity, between the hours shown –

The Sale by Retail of Alcohol (for consumption 'Off' the premises) –
Monday to Sunday 0900 hours until 2200 hours

1.3 The relevant pages of the application are attached at Appendix A1.

1.4 Subsequent to making the application, the applicant submitted further information in support of their application. This was in the form of a petition with a covering email and a copy of the conditions offered by the applicant in their application at Part M (operating schedule). Because the petition contains the names and addresses of individuals but the Council does not have the consent from each individual to their name and address being published, personal details have been redacted. This petition contains 185 signatories. A copy of this further information is attached at Appendix A2.

2 Promotion of Licensing Objectives

2.1 The applicant provides details in Section M of their application of the steps they intend to take to meet the four licensing objectives. These steps would in turn, where applicable, be made into conditions to be attached to the premises licence, if the application is granted.

3 Relevant representations

3.1 Representations have been received on this application. Copies are attached at Appendix A3. The sub committee will note that the last document at Appendix A3 is representations in the form of a petition. On receipt, there were 18 names on this. Each person who signed this document was written to to acknowledge receipt and they were also asked if they consented to their name and address being disclosed to the applicant. Only one person responded and so the remaining names have been redacted. The sub committee should therefore only consider this document as valid representations from the one person who responded and consented to their name and address being disclosed to the applicant.

3.2 The applicant has been provided with a written copy of the representations made.

4. Policy Considerations

4.1 Under the terms of the Act, the Council has published a Statement of Licensing Policy. This is available on the Council website at www.croydon.gov.uk . Hard copies

are also available from the Council's Place Department and copies of the policy will also be available at the licensing sub committee hearing. The following paragraphs from the Statement are considered particularly relevant with regard to this application.

4.8 The fundamental principles of the Act and its accompanying guidance are that nothing in this 'Statement of Policy' will:

undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have each application considered on its individual merits, or,

override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.

4.9 Parties should be aware that, for a representation to be considered relevant, it must be one that is about the likely effect of the grant of a new licence/certificate or variation of an existing licence/certificate on the promotion of the four licensing objectives. Also, if the representation is made by an 'other person', it will not be relevant if the licensing authority considers it to be 'vexatious or frivolous', or in the case of a review, 'repetitious'.

4.10 Applicants and those making relevant representations in respect of applications or seeking a review of a licence or a certificate have the right of appeal to the Magistrates' Court against the decisions of the Council.

4.11 In considering all licence/certificate applications, the Council will take into account the character of the surrounding area, the impact of the licence/certificate on that area and the nature and character of the operation.

4.12 As part of any application for a premises licence/club premises certificate or a variation to an existing licence/certificate, applicants are required to submit an 'Operating Schedule', which must include the steps proposed to promote the Licensing Objectives set out in paragraph 2.2.

4.13 Part 5 of this Statement gives guidance to applicants on some of the matters they may wish to consider when preparing their Operating Schedules.

4.14 Licensing is about permitting activities but also ensuring the responsible management of licensed premises, qualifying clubs and temporary events within the terms of the 2003 Act, and conditions are likely to be attached to licences, certificates and permissions that will cover matters which are within the control of individual licensees.

4.15 However, the Council acknowledges that it can only impose conditions where relevant representations have been received on an application and that such conditions must be considered necessary for the promotion of the licensing objectives. Where no relevant representations have been made, the application will be granted by the licensing authority in terms consistent with the applicants operating schedule.

4.16 When considering these conditions, the Council will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

NEED and CUMULATIVE IMPACT

4.17 The Council will not take 'need' into account when considering an application, as this concerns 'commercial demand' and is a matter for the planning process and the market.

4.18 However, the Council recognises that a significant number and type of licensed premises in a particular area may lead to problems of crime, disorder and nuisance and notes that in accordance with the Statutory Guidance to the Act, their cumulative impact on the promotion of the licensing objectives is a proper matter for the Council to consider. For example, national analysis of alcohol sales data (sales in the on and off trade) has shown a positive association at local authority level between off-trade sales and alcohol-specific hospital admissions.

4.19 Where the Council recognises that there is such a cumulative effect it will consider adopting a specific Cumulative Impact Policy for that area, if this is shown to be necessary. Reducing availability, affordability and attractiveness are some of the most effective ways to reduce alcohol-harm and related crime.

4.20 In these circumstances, the Council may consider that the imposition of conditions is unlikely to address the apparent problems and may consider the adoption of a special policy whereby there will be a presumption that new premises licence or club premises certificate applications, or applications to materially vary a premises licence, will be refused. A material variation may be, for example, an increase in permitted hours or to add a licensable activity onto a premises licence.

4.21 Based on the Statutory Guidance to the Act, in deciding whether to adopt such a Policy in an area, the Council will consider the following:

- local crime and disorder statistics, including statistics on specific types of crime and crime hotspots
- statistics on local anti-social behaviour offences
- the density and number of current premises selling alcohol
- Alcohol use and misuse in Croydon's population
- Claimants of benefits due to alcoholism
- Alcohol specific hospital admissions for under 18's
- Ambulance incidents and dispatches
- Alcohol related road traffic accidents
- Statistics on alcohol related emergency attendances and hospital admissions
- Mortality
- Complaints recorded by the local authority
- Evidence from local councillors and

- Evidence obtained through local consultation.

4.22 There are concerns about parts of the borough which experience high levels of alcohol related crime and alcohol related hospital admissions and where it is clear that the density of shops selling alcohol for consumption off the premises is significantly higher than in other parts of the borough.

4.23 As a result, the Council has considered it appropriate to designate, the following four areas within Croydon as being subject to a special Cumulative Impact Policy in respect of off licences and shops and supermarkets selling alcohol off the premises:

- i. Along the Brighton Road; South End; High Street, George Street corridor, from the Royal Oak Centre on Brighton Road, Purley to the junction of George Street and Cherry Orchard Road in Central Croydon
- ii Along the London Road/Streatham High Road corridor, in 3 sections; from the junction of London Road and Tamworth Road in West Croydon to the j/w Canterbury Road; from the j/w Broughton Road to the j/w Melrose Avenue and; from the j/w Northborough Road to the borough boundary with London Borough of Lambeth
- iii Along the Brigstock Road and High Street, Thornton Heath corridor, from the junction of Brigstock Road and London Road in Thornton Heath to the junction of High Street, Thornton Heath and Whitehorse Lane
- iv Along the length of Central Parade, New Addington

4.24 The effect of a Cumulative Impact Zone Policy for each of the areas listed above is that where relevant representations are received on any new applications for a premises licence to sell alcohol off the premises, or on a material variation to an existing such premises licence there will be a presumption under the special policy that the application will be refused. A material variation would be, for example, an increase in permitted hours for the sale of alcohol or to add the sale of alcohol off the premises as a licensable activity to the premises licence.

4.25 The Cumulative Impact Policy is intended to be strict, and will only be overridden in genuinely exceptional circumstances. However, the Licensing Authority will not apply these policies inflexibly. It will always consider the individual circumstances of each application; even where an application is made for a proposal that is apparently contrary to policy.

4.26 It is not possible to give a full list of examples of when the council may treat an application as an exception. However, in considering whether a particular case is exceptional, the Licensing Authority will consider the reasons underlying the policy.

4.27 The Licensing Authority will not consider a case to be exceptional merely on the grounds that the premises have been or will be operated within the terms

of the conditions on the licence, or that are or will be generally well managed because of the reputation or good character of the licence holder or operator. This is expected in the conduct of all licensed premises. Moreover, licences are for premises and can be easily transferred to others who intend to operate within the scope of the licence and its conditions.

4.28 The Council will review the special policies regularly to see whether they have had the effect intended and whether they are still needed or whether they need expanding.

4.29 The Council will not use these policies solely:

- As the grounds for removing a licence when representations are received about problems with existing licensed premises, or,
- To refuse modifications to a licence, except where the modifications are directly relevant to the policy, for example where the application is for an extension in permitted hours or to add a licensable activity.

4.30 The Council recognises though that where no relevant representations are made in relation to an application in a cumulative impact area, the application must be granted in terms consistent with the applicants operating schedule.

4.31 The Council recognises that the diversity of premises selling alcohol, serving food and providing entertainment covers a wide range of contrasting styles and characteristics and will have full regard to those differences and the differing impact these will have on the local community.

4.32 Where an application is made for a new or transfer and variation of a licence, in respect of premises that have closed and been unused and that closure was to a relevant extent as a consequence of crime and disorder and/or nuisance issues at the premises, the Council would expect the applicant to make clear in their operating schedule how they will ensure the crime and disorder and public nuisance objectives will be met, bearing in mind any previous crime and disorder/nuisance concerns there may have been.

4.33 It therefore also recognises that, within the Cumulative Impact Policy areas, it may be able to approve licences that are unlikely to add significantly to the existing problems, and will consider the circumstances of each individual application on its merits.

4.34 In addition to the cumulative impact zones listed above, the Council is aware of concerns amongst responsible authorities and residents about the number of shops licensed to sell alcohol for consumption off the premises in certain other areas of the borough and the impact they may be having on crime and disorder. It is not intended at this time to introduce cumulative impact zones in these areas, however, they will be monitored and assessed regularly and should concerns increase, consideration will be given to formally identifying them as cumulative impact zones. For the time being, those areas will be classed as special stress areas and they are as follows:

- High Street & Portland Road, South Norwood
- Lower Addiscombe Road

4.35 The Council acknowledges that the licensing function cannot be used for the general control of anti-social behaviour by individuals once they are beyond the direct control of the licensee of any premises concerned and that apart from the licensing function, there are a number of other measures available for addressing issues of unruly behaviour that can occur away from licensed premises.

4.36 In recognising the importance of such measures, the Council will continue to seek further improvements to those already achieved in respect of planning controls and working in partnership with local businesses and transport operators on a number of measures to create a safe and clean environment in the following areas:

- Provision of extensive CCTV and radio communication systems
- Improvements to street lighting
- Rubbish collection and street cleaning
- Provision of better late night bus, tram, rail and taxi/minicab services
- Provision of Police Officers/street and litter wardens
- Designation of areas within the borough, as part of a Public Space Protection Order, where alcohol may not be consumed publicly and monitoring the possible need for future designations in other parts of the borough*
- Working in partnership with Croydon Borough Police on law enforcement issues relating to disorder and anti-social behaviour. These include the use of powers to issue fixed penalty notices, prosecuting those selling alcohol to people who are underage and/or drunk, confiscating alcohol from adults and children in designated areas and instant closure of licensed premises or temporary events on the grounds of disorder, or likelihood of disorder or excessive noise from the premises
- Working in partnership with Licensees and expecting them to support existing and future agreed measures set up to promote the strategic objectives for crime and disorder reduction within the Borough
- Acknowledging the powers of the police or other responsible authorities, or a local resident or business under the 2003 Act, to seek a review of the licence or certificate

*Would existing licence/certificate holders and new applicants please note that a number of areas within the borough of Croydon are to lie within Public Space Protection Orders (PSPO's) that may control the consumption of alcohol in public areas. Please contact the Council's licensing team if you wish to discuss how such orders may affect licensed premises.

5. LICENSING OBJECTIVES and OPERATING SCHEDULES

5.1.1 The following sections set out the Council's Policy relating specifically to the four Licensing Objectives:

- the prevention of crime and disorder

- public safety
- the prevention of public nuisance
- the protection of children from harm

5.1.2 In each section the Council defines its intended outcome and lists the factors that may influence achieving that particular objective, but because of the wide variety of premises and activities to which this Policy applies, the lists provided are not exhaustive. Applicants will know their premises best and will be expected to address all aspects relevant to the individual style and characteristics of their premises and events.

5.1.3 Further, each section lists possible control measures to assist applicants, but again these lists are not exhaustive. Also, many of the control measures achieve more than one Objective but have not been listed under each Objective and applicants do not need to mention a control measure more than once in their Operating Schedule.

5.2 Crime and Disorder

5.2.1 Croydon Council is committed to reducing crime and disorder within the Borough and creating an environment where people feel safe.

5.2.2 In addition to the requirements under the 2003 Act for the Council to promote the licensing objective of preventing crime and disorder, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough.

5.2.3 Licensed premises, especially those offering late night/early morning entertainment, alcohol and/or refreshment, can be a source of crime and disorder problems.

5.2.4 The Council considers that the promotion of the Licensing Objective to prevent crime and disorder also places a responsibility on licence holders to work in partnership to achieve this Objective.

5.2.5 The Council will expect applicants to demonstrate in their Operating Schedule that suitable and sufficient measures have been identified and will be implemented and maintained so as to minimise or prevent crime and disorder in and around the vicinity of their premises and events.

5.2.6 The Licensing Authority recommends that for certain events, a comprehensive risk assessment is undertaken by premises licence applicants & holders to ensure that crime and disorder and public safety matters are identified and addressed. For larger public events, including those in open spaces and for premises that wish to stage promotions or events, the Licensing Authority

recommends that licence applicants and holders address Risk Assessment and post event debrief processes in their application operating schedule/event planning.

5.2.7 Applicants and premises licence holders may wish to engage the services of suitably trained individuals or companies to assist them in this risk assessment process. In addition, they may seek guidance and advice from the Licensing Authority or the Metropolitan Police regarding the process, although the responsibility for undertaking the risk assessment remains with the Applicant/Premises License holder as neither body is able to actually undertake such risk assessments for applicants/licence holders. Applicants and premises licence holders are also reminded that the Licensing Authority is not able to recommend the services of a particular individual or company for this purpose.

5.2.8 Drugs, violence, anti social behaviour and theft of customers property are examples of crime and disorder issues which may be addressed by the following examples of recommended management practice being included in operating schedules, having due regard to the type of premises and/or activities:

- effective and responsible management and supervision of the premises, including associated open areas, appropriate storage of alcohol, discouraging loitering/consuming alcohol outside the premises, ensuring opening hours are adhered to
- participation in responsible management schemes such as the 'Best Bar None' accreditation/award scheme
- appropriate instruction, training and supervision of those employed or engaged to prevent incidents of crime and disorder
- adoption of existing and future best practice guidance (e.g. Safer Clubbing, the National Alcohol Harm Reduction Toolkit and other recognised codes of practice including those relating to drinks' promotions, i.e. The Point of Sale Promotions published by the British Beer and Pub Association and cheap drinks deals/Happy Hours)
- acceptance of accredited 'proof of age' documentation, as recognised by the Council in consultation with the Police
- maintaining appropriate signage and a refusals log
- employment of sufficient SIA licensed door staff, i.e. within nationally accepted standards
- provision of toughened or plastic glasses
- provision of secure deposit boxes for confiscated items as recognised by the Council in conjunction with the Police
- provision of litter bins and security measures, such as lighting outside premises
- Other schemes including only purchasing alcohol from authorised wholesalers, not selling certain alcohol types/strengths (e.g. high strength beers/ciders or single cans above 6% ABV), restricting sales on

certain alcohol types (e.g. miniature spirits), allowing a 'track and trace' identifier on products so Police/Trading Standards can identify which off-licence seized alcohol is from, signing up to local responsible retailer schemes

- Provision of closed circuit television, with cameras covering relevant internal and external areas (including beer gardens) and entrances/exits to premises

Note: As this Policy applies to a wide range of premises and activities, the above list will not be applicable in all cases and in some cases additional matters may need addressing.

5.2.9 Additionally, when preparing their Operating Schedules, applicants are recommended to seek advice from the Council Licensing Team and Croydon Police Licensing and/or Crime Prevention Officers, as well as taking into account, as appropriate, local planning and transport policies, and, tourism, cultural and crime prevention strategies.

5.2.10 Where relevant representations have been made, the Council will consider attaching conditions to licences and permissions to deter and prevent crime and disorder both inside and immediately outside the premises.

5.3 Public Safety

5.3.1 The Council is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. To this end, applicants will be expected to demonstrate in their Operating Schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and events.

5.3.2 The 2003 Act covers a wide range of premises that require licensing, including, cinemas, concert halls, theatres, nightclubs, public houses, off licences, cafés/restaurants, fast food outlets/takeaways and sometimes open spaces.

5.3.3 Each of these types of premises present a mixture of different risks, with many common to most premises and others unique to specific operations. These will range from fire safety, including fire precautions and means of escape arrangements in all types of premises, to the use of scenery and pyrotechnics in theatres and special lighting effects in night clubs.

5.3.4 It is essential that premises are constructed or adapted and operated so as to acknowledge and safeguard occupants against these risks.

5.3.5 The following examples of influencing factors are given to assist applicants when addressing the issue of public safety during the preparation of their Operating Schedule:

- the number of people attending the premises

- the condition, design and layout of the premises, including the means of escape in case of fire
- the nature of the activities to be provided, in particular the sale of alcohol and including whether those activities are of a temporary or permanent nature
- the hours of operation and hours of opening if different
- customer profile (i.e. age, mobility)
- the use of special effects such as strobe lighting, lasers, pyrotechnics, smoke machines, foam machines etc.

5.3.6 Public safety issues may be addressed by the following examples of recommended management practice being included in operating schedules, having due regard to the type of premises and/or activities:

- effective and responsible management of premises
- provision of a sufficient number of people employed or engaged to secure the safety of everyone attending the premises or event, i.e. number of door supervisors within nationally accepted standards (and having SIA accreditation where necessary)
- appropriate instruction, training and supervision of those employed or engaged to secure the safety of everyone attending the premises or event
- suitable customer-care policies for assisting lone customers taken ill or injured etc. at the premises
- provision of effective CCTV in and around premises
- provision of toughened or plastic glasses
- implementation of crowd management measures
- regular testing (and certification where appropriate) of procedures, appliances, systems etc. pertinent to safety codes and standards

Note: As this Policy applies to a wide range of premises and activities, the above list will not be applicable in all cases and in some cases additional matters may need addressing.

5.3.8 Additionally, when preparing their Operating Schedules, applicants are recommended to seek advice from the Council's Health and Safety Officers and the London Fire Brigade.

5.3.9 The Council will consider attaching Conditions to licences and permissions to promote public safety.

5.4 Prevention of Public Nuisance

5.4.1 The Council recognises the need to protect the amenities of people living, visiting and working in the vicinity of licensed premises, whilst balancing the rights of businesses to develop.

- 5.4.2 Licensed premises, especially those operating late at night and in the early hours of the morning, can give rise to a range of public nuisances which may impact adversely on local communities.
- 5.4.3 These concerns mainly relate to noise and disturbance, light pollution, noxious smells, litter and anti-social behaviour and due regard will be taken on the impact these may have.

LICENSING HOURS

- 5.4.4 The Council will generally deal with the issue of licensing hours having due regard to the individual merits of each application, considering the potential for nuisance associated with the style, characteristics and activities of the business and examining any steps that might reduce the risk of nuisance.
- 5.4.5 The Council recognises that longer licensing hours for the sale of alcohol will avoid concentrations of people leaving premises at the same time, which is necessary to reduce the potential for friction at late night fast food outlets, taxi ranks/minicab offices and other sources of transport that can lead to disorder and disturbance.
- 5.4.6 The Council will not set fixed trading hours within designated areas ("zoning") as it recognises this could lead to significant movements of people across boundaries at particular times seeking premises opening later and would lead to the peaks of disorder and disturbance the Council is trying to avoid. Additionally, this would seemingly treat residents in one area less favourably than those in another.
- 5.4.7 However, although the Council will treat each case on its individual merits, generally it will not grant permission for licensable activities beyond 2330 hours on Sundays to Thursdays and Midnight on Fridays and Saturdays in respect of public houses situated in areas having denser residential accommodation. The Council would expect good reasons to be given to support any application for extensions beyond these hours, including addressing possible disturbance to residents and local parking. Additionally, in these areas, consideration will be given to imposing stricter conditions in respect of noise control.

SHOPS, STORES AND SUPERMARKETS

- 5.4.8 The Council acknowledges that the Guidance issued under section 182 of the Licensing Act 2003 states that 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.
- 5.4.9 However, there is local concern about crime and disorder associated with shops licensed to sell alcohol off the premises. Accordingly, while the Council will treat each case on its individual merits there will be a presumption that permitted hours for the sale of alcohol will be restricted to between 8am and

11.30pm on Sunday to Thursday and 8am to midnight on Friday and Saturday in respect of shops in residential areas or within one of the four relevant Cumulative Impact Zones where representations are made by the police and/or local residents and where premises are shown to be a focus of crime, disorder or nuisance. Applications to vary the permitted hours for the sale of alcohol off the premises within the above hours shall similarly be treated on their merits

PREVENTION OF PUBLIC NUISANCE - GENERALLY

5.4.10 The Council will expect applicants to demonstrate in their Operating Schedule that they have identified satisfactory measures and will implement and maintain these so as to prevent public nuisance, having due regard to the style, characteristics and activities of their particular premises and events and of the locality.

5.4.11 The following examples of influencing factors are given to assist applicants when addressing the issue of the prevention of public nuisance during the preparation of their Operating Schedule:

- the location of the premises and proximity to residential or other noise sensitive premises
- effective and responsible management and supervision of the premises and associated open areas
- the hours of opening
- the nature of the activities to be provided and their location within the premises, the customer profile, whether the activities are temporary or permanent and whether they are to be held inside or outside
- the design and layout of the premises and in particular the presence of noise limiting features
- the number of people attending the premises
- the availability of public transport
- a 'wind down' period between the end of the licensable activities and the closure of the premises
- a 'last admission time' policy

5.4.12 Public nuisance issues may be addressed by the following examples of recommended management practice being included in operating schedules, having due regard to the type of premises and/or activities:

- effective and responsible management and supervision of the premises, including any outside areas
- appropriate instruction, training and supervision of staff to prevent public nuisance
- adoption of current best practice guidance (i.e. Good Practice Guide on the Control of Noise from Pubs and Clubs produced by the Institute of Acoustics), including designing shop fronts so as to limit noise nuisance from premises, i.e. from opening windows or continental-style concertina doors

- control of opening hours for all or part (i.e. garden areas) of the premises – including other times when deliveries take place/rubbish and bottles are binned – and the operation of generating plant and equipment
- installation of acoustic insulation, suitably controlled, sited and silenced ventilation or air conditioning systems and sound insulation and limiting devices
- managing people, including staff and traffic, arriving and leaving the premises, including patrolling entrance queues
- managing the departure of customers
- liaising with transport providers
- siting and operation of necessary external lighting, including security lighting, with the possible nuisance to nearby properties
- suitable arrangements for collection and disposal of litter, including bottles, so as to minimise disturbance to nearby properties
- no flyposting of events/careful distribution of flyers, including by promoters
- effective ventilation systems to prevent nuisance from odour

Note: As this Policy applies to a wide range of premises and activities, the above list will not be applicable in all cases, and in some cases additional matters may need addressing.

5.4.13 Additionally, when preparing their Operating Schedules applicants are recommended to seek advice from Council Pollution Enforcement Officers.

5.4.14 The Council will consider attaching Conditions to licences and permissions to prevent public nuisance.

5.5 Protection of Children from Harm

ACCESS TO LICENSED PREMISES

5.5.1 The wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, to buy food and/or for entertainment.

5.5.2 Although the 2003 Act details certain age and/or time limitations on the admission of accompanied or unaccompanied children to certain types of licensed premises, the Council recognises that additional limitations may have to be considered where it appears necessary to protect them from physical, moral or psychological harm.

5.5.3 The Council will consider the merits of each application before deciding whether to impose conditions limiting the access of children to individual premises.

5.5.4 While no policy can anticipate every situation, the following are examples of premises that will raise concern:

- where entertainment or services of an adult or sexual nature is commonly provided;
- where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
- with a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines); and
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

5.5.5 When dealing with a licence application where limiting the access of children is considered necessary, the Council may consider any of the following options, in combination where appropriate:

- limitations on the hours when children may be present;
- limitations on the exclusion of the presence of children under certain ages when particular specified activities are taking place;
- limitations on the parts of premises to which children might be given access;
- age limitations (below 18);
- requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
- full exclusion of people under 18 from the premises when any licensable activities are taking place.

5.5.6 The Council will not impose conditions on licences or certificates requiring that children be admitted to any premises and, where no limitation is imposed, this will be left to the discretion of the individual licensee. However, where applicants volunteer prohibitions and limitations in their operating schedules and no relevant representations have been made to the Council, these will become conditions attached to the licence/certificate conditions and will be enforceable as such.

RESPONSIBLE AUTHORITY

5.5.8 The Council recognises the Croydon Children's Safeguarding Board and any successor groups to be the 'responsible authority' competent to advise on matters relating to the 'protection of children from harm', and to whom copies of applications should be sent.

CHILDREN IN LICENSED PREMISES – GENERALLY

5.5.13 The Council will expect applicants to demonstrate in their Operating Schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, having due regard to the style, characteristics and activities of their particular premises and/or events.

5.5.14 Whilst children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. Applicants should consider the following influencing factors, for which there is the potential for children to be exposed, when addressing the issue of protecting children from harm during the preparation of their Operating Schedule:

- drugs, drug taking or drug dealing
- gambling
- activities of an adult or sexual nature
- incidents of violence or disorder
- environmental pollution such as noise or smoke
- special hazards such as falls from heights
- opportunities to purchase, acquire or consume alcohol

Note: A number of these factors are listed in more details in paragraph 5.5.6, but as this Policy applies to a wide range of premises and activities, the above list will not be applicable in all cases, and in some cases additional matters may need addressing.

5.5.15 Protection of children from harm issues may be addressed by the following examples of recommended management practice being included in operating schedules, having due regard to the type of premises and/or activities:

- effective and responsible management of premises
- provision of a sufficient number of people employed or engaged to secure the protection of children, including child performers, from harm
- appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm
- adoption of best practice guidance (Public Places Charter)
- limitations on the hours when children may be present in all or parts of the premises
- limitations or exclusions by age when certain activities are taking place
- imposition of requirement for children to be accompanied by an adult
- appropriate instruction and training for counter staff in the prevention of underage sales, including acceptance of accredited 'proof of age' identification, such as a photo card driving licence, a passport, a citizens card, a validate card or a scheme which carries the PASS hologram logo and keeping a 'refusal' book.

5.5.16 Additionally, when preparing their Operating Schedules, applicants are recommended to seek advice from Council Licensing and Child Protection Officers.

5.5.17 The Council will consider attaching Conditions to licences and certificates to protect children from harm.

5.5.18 While the Council expects Licence holders to comply with the law, the 2003 Act details a number of specific offences designed to protect children in

licensed premises and the Council will work closely with the police to ensure the appropriate enforcement of the law, especially relating to the underage sale and supply of alcohol to children.

6. INTEGRATING STRATEGIES and AVOIDING DUPLICATION

6.1 There are many stakeholders in the leisure industry covering a wide range of disciplines and although their strategies are not always directly related to the promotion of the licensing objectives, they often indirectly impact upon them.

6.2 The Council therefore acknowledges the importance of co-ordinating and integrating these policies, strategies and initiatives and will maintain multi-disciplinary working groups to ensure its licensing policy integrates with local crime prevention, planning, transport, tourism, race equality schemes and cultural strategies, as well as any other plans relating to the management of the town centre and the night-time economy.

CRIME PREVENTION

6.3 Conditions attached to Licences and Certificates will, so far as possible, reflect local crime prevention strategies. Examples of such conditions can be found in the Pool of Conditions relating to prevention of crime and disorder contained in the Statutory Guidance to the Act.

CULTURAL STRATEGIES

6.4 The Council will make arrangements to monitor the impact of licensing on regulated entertainment, particularly live music, ensuring that only necessary, proportionate and reasonable licensing conditions impose any restrictions on such events.

6.5 Where there is any indication that such events are being deterred by licensing requirements, the statement of licensing policy will be examined to see if the situation might be reversed.

PLANNING AND BUILDING CONTROL

6.8 The Council recognises that there should be a clear separation of the planning, building control and licensing regimes in order to avoid duplication and inefficiency.

6.9 Licensing applications will not be a re-run of the planning application and will not cut across decisions made by the planning committee or permissions granted on appeal.

6.10 The Council will however expect applications for premises licences or for a variation to an existing premises licence at permanent commercial premises to be from businesses having the relevant planning consent for the property concerned. In addition, persons submitting temporary event notices should ensure the premises in question has the requisite planning consent for the

proposed activities and hours of operation. Where this is not the case, applicants will be expected to show good reason why the premises do not have planning permission.

- 6.11 The Croydon Local Plan sets out the criteria that will be used to assess planning applications for any changes of use that require planning permission. Some changes of use do not require planning permission but an application for prior approval may be required to ascertain whether there are matters related to the change of use that do require planning permission. Applicants should contact the Council's Development Management service at development.management@croydon.gov.uk with any enquiries related to planning applications or the prior approval process.
- 6.12 Any application for planning permission will be expected to take into account the impact of noise and fumes (and other forms of potential nuisance) on neighbouring premises and to provide details of any mitigating measures, as applicable.
- 6.13 The Council will ensure that if requested, reports will be sent from the licensing committee to the planning committee advising them of the situation regarding licensed premises in Croydon, including the general impact of alcohol related crime and disorder, to assist them in their decision-making.

ADVANCING EQUALITY

- 6.14 The Council recognises its legal obligation under the Equality Act 2010 to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity and foster good relations between people who share a characteristic and those who don't.
- 6.15 The Council will assess and consult on the likely impact and monitor for any adverse impact on the advancement of equality which may arise as a result of this Policy Document and will publish the results.

DUPLICATION

- 6.16 The Council will, so far as possible, avoid duplication with other legislation and regulatory regimes that already place obligations on employees and operators, e.g. the Health and Safety at Work etc. Act 1974, the Environmental Protection Act 1990, the Regulatory Reform Fire Safety Order 2005 and the Equality Act 2010 in respect of accessibility for disabled people.
- 6.17 Conditions relating to public safety will only be attached to premises licences and club premises certificates where considered necessary for the promotion of that licensing objective and not covered by any other legislation and where regulations do not cover the unique circumstances of certain licensable activities in specific premises.
- 6.18 The Council acknowledges that bingo clubs are dealt with under the Gambling Act 2005 and will have due regard to the relevant advice regarding duplicating

licence conditions which has been given under both this legislation and the 2003 Act when dealing with applications relating to alcohol, regulated entertainment or late night refreshment under the 2003 Act.

9. STANDARDISED CONDITIONS

- 9.1 Where Conditions are properly attached to licences or certificates they will be tailored to the individual style and characteristics of the particular premises and events concerned.

10. ENFORCEMENT

- 10.1 It is essential that licensed premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the 2003 Act and it is the responsibility of premises licence holders and designated premises supervisors (where applicable) to ensure this happens and that regulatory compliance is maintained. The Council and its partners will make arrangements to monitor premises and take appropriate enforcement action to ensure this but enforcement action should be considered to be the last resort and such intervention should not be necessary where premises are operated & managed effectively.

- 10.2 Each of the Responsible Authorities under the Act may make representations on an application or seek a review of a premises licence/club premises certificate, based on concerns around any of the licensing objectives. That said, it is anticipated that specific responsible authorities will take a central advisory & enforcement role, as necessary, with regard to relevant licensing objectives, for example –

- Prevention of crime and disorder – Police
- Prevention of Public Nuisance – Council Environmental Health (Pollution) Team and the Planning Department
- Public Safety – Council Food & Safety Team or HSE (as applicable) and the LFB
- Protection of Children from Harm – Croydon Children's Safeguarding Board, Police and the Trading Standards Team

- 10.3 Under the London Borough of Croydon Licensing Act 2003 Enforcement Protocol, originally approved by the Council's substantive Licensing Committee on 21 June 2006, using the principles of risk assessment, the Council will work closely with the responsible authorities in enforcing licensing law and inspecting licensed premises. This should ensure that resources are more effectively concentrated on problem and high risk premises. This Protocol shall be reviewed, through a separate process to this policy review in the coming months and an updated version shall be available from the Council Licensing Team and posted on the Council's website.

10.4 The Council will carry out its regulatory functions in accordance with good enforcement practice and particular regard will be had to fundamental principles. In that regard, Enforcement shall be:

- Targeted
- Consistent
- Transparent
- Proportionate
- Necessary

Any enforcement activity shall be undertaken in a fair, open and consistent manner in conformity with the above principles.

The Home Office has produced Statutory Guidance under Section 182 of the Licensing Act 2003. The following paragraphs from the Guidance are reproduced below to assist the sub committee –

Disclosure of personal details of persons making representations

9.26 Where a notice of a hearing is given to an applicant, the licensing authority is required under the Licensing Act 2003 (Hearings) Regulations 2005 to provide the applicant with copies of the relevant representations that have been made.

9.27 In exceptional circumstances, persons making representations to the licensing authority may be reluctant to do so because of fears of intimidation or violence if their personal details, such as name and address, are divulged to the applicant.

9.28 Where licensing authorities consider that the person has a genuine and well-founded fear of intimidation and may be deterred from making a representation on this basis, they may wish to consider alternative approaches.

9.29 For instance, they could advise the persons to provide the relevant responsible authority with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations if appropriate and justified.

9.30 The licensing authority may also decide to withhold some or all of the person's personal details from the applicant, giving only minimal details (such as street name or general location within a street). However, withholding such details should only be considered where the circumstances justify such action.

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.

4.2 All relevant parties have been made aware of the date, time and location of the Sub Committee meeting.

4.3 An ordnance survey extract map of the area with the application premises at the centre is attached at Appendix A4.