

REPORT TO:	LICENSING SUB COMMITTEE 7 July 2022
AGENDA ITEM:	
SUBJECT:	LICENSING ACT 2003 – HEARING OF REPRESENTATIONS FROM PREMISES LICENCE HOLDER FOLLOWING APPLICATION FOR SUMMARY REVIEW AND SUBSEQUENT SUSPENSION OF PREMISES LICENCE
LEAD OFFICER:	Corporate Director, Sustainable Communities, Regeneration & Economic Recovery
CABINET MEMBER:	Cllr. Scott Roche Streets & Environment
WARDS:	South Croydon
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 consider the representations from the premises licence holder against the interim step taken to suspend the premises licence at 3 Brighton Road, South Croydon, CR2 6EA.
- 1.2 The sub-committee must determine whether the interim steps are appropriate for the promotion of the licensing objectives and determine whether to withdraw or modify the steps taken.

2. EXECUTIVE SUMMARY

- 2.1 The purpose of this report is to advise the Sub-Committee that the premises licence holder wishes to make representations against the interim step taken by the licensing sub committee to suspend the premises licence pending a full

review hearing, under the Licensing Act 2003 ("the Act"), 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 premises licence holder and the applicant have been notified of the hearing in accordance with the Licensing Act 2003 (Hearings) Regulations 2005 (as amended) and the Licensing Act 2003 (Summary Review of Premises Licences) Regulations 2007 (the Regulations).
- 3.3 Appendix A to this report provides details of the Review.

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 as detailed in the recommendations at paragraph 1 above.

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 this matter, taking into account relevant representations, the Licensing Act 2003, 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 Place).

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, made by the Police as a responsible authority under the Licensing Act 2003, for a summary review of the premises licence at 3 Brighton Road, South Croydon, CR2 6EA. The application was received by the Council, as licensing authority on 4 July 2022.
- 1.2 The Licensing Sub-Committee took the interim step, on 5 July 2022 of suspending the premises licence, pending a full review hearing to be held within 28 days. The premises licence holder wishes to make representations against that interim step and the Licensing Sub-Committee are therefore required to convene to hear those representations and consider whether it is appropriate to withdraw or modify the interim step taken.
- 1.3 Attached at Appendix A1 is a copy of the summary review application and an accompanying certificate signed by a Police superintendent certifying that, in their opinion, the premises in question are associated with both serious crime and serious disorder. The premises licence holder has been provided with a copy of the application and certificate.
- 1.4 Attached at Appendix A2 is a copy of the determination of the licensing sub committee on 5 July 2022 setting out the interim step that was conveyed to the premises licence holder.
- 1.5 Attached at Appendix A3 is an extract pertaining to summary reviews from the Home Office guidance to the Licensing Act 2003. A copy of this document has also been given to the premises licence holder.
- 1.6 Attached at Appendix A4 is a copy of the premises licence.
- 1.7 Attached at Appendix A5 is a letter from one of the named licence holders raising concerns about the Police evidence and requesting the re instatement of the premises licence. A copy of this letter was also sent to the Police by the premises licence holder.
- 1.8 An ordnance survey extract map of the area with the licensed premises shown at the centre is attached at Appendix A6.


**METROPOLITAN
POLICE**
TOTAL POLICING

Form for Applying for a Summary Licence Review
Application for the review of a premises licence under section 53A of the Licensing Act 2003
 (premises associated with serious crime, serious disorder or both)

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing the form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink.

Use additional sheets if necessary.

Insert name and address of relevant licensing authority and its reference number:

Name: METROPOLITAN POLICE SERVICE

Address:

ADDINGTON POLICE STATION, ADDINGTON VILLAGE ROAD

Post town: CROYDON

Post code: CR0 5AQ

Ref. No.:

I PC ZOE GARROD

on behalf of the chief officer of police for the Metropolitan Police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

1. Premises details

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

AACHIS MASALA CHENNAI, 3 BRIGHTON ROAD

Post town: CROYDON

Post code:
(if known)

CR2 6EA

2. Premises licence details

Name of premises licence holder or club holding club premises certificate (if known):

MR RAVICHANDRAN NATTUSELVAM and MR ARAVINDAIAH PRIYADHARSHAN RAJARAJAN

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

05/02425/LIPREM

3. Certificate under section 53A(1)(b) of the Licensing Act 2003 (Please read guidance note 1)

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or serious disorder or both, and the certificate accompanies this application.

Please tick the box to confirm:



PROTECTIVE MARKING

4. Details of association of the above premises with serious crime, serious disorder or both

(Please read guidance note 2)

On Sunday 4th July 2022 at 0245 hours Police were called made by the premises stating a fight was in progress at the location. Police attended and found three males with stab wound injuries. One of the victims had been stabbed seven times, the other two males both received multiple stab wounds. Two of the males required urgent medical assistance.

Police have established that an altercation has started within the premises, with the music being turned off and patrons asked to leave. Whilst leaving the premises and walking down the stairs a further incident has started. One of the male victims is seen to fall down the stairs, this is the male that had been stabbed seven times. This is currently an ongoing Police investigation.

Police have established that this is a weekly promoted event, in which the event organiser gives the venue £1,000 for use of the venue, they bring their own alcohol and security. The Premises licence holder has no control over these events.

It is clearly this premises is linked to both serious crime and disorder, with outstanding suspects there is a high probability of reprisals leading to more serious crime and disorder.

Police therefore respectfully ask the committee as an interim step, to suspend this premises licence to ensure no further incident of serious crime and disorder are committed.

Further supporting documents will be submitted in due course.

Signature of applicant**Signature:***Zoe P Garrod PC28015N***Date:**

04/07/2022

Capacity:

CROYDON POLICE LICENSING OFFICER

Contact details for matters concerning this application**Surname:**

GARROD

First Names:

ZOE

Address:

ADDINGTON POLICE STATION, ADDINGTON VILLAGE ROAD,

Post town:

CROYDON

Post code:

CR0 5AQ

Tel. No.:

0208 649 0172

Email:

zoe.p.garrod@met.police.uk

Notes for guidance

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both. Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:
 - conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
 - conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.
 Serious disorder is not defined in legislation, and so bears its ordinary English meaning.
2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.

PROTECTIVE MARKING


**METROPOLITAN
POLICE**
TOTAL POLICING

Form 693A

Certificate under Section 53A(1)(b) of the Licensing Act 2003

Metropolitan Police Service | New Scotland | Yard 8-10 Broadway | London | SW1H 0BG

I hereby certify that in my opinion the premises described below are associated with:
both serious crime and serious disorder

Premises (Include business name and address and any other relevant identifying details):

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

AACHIS MASALA CHENNAI

Post town:

CROYDON

Post code:
(if known)

CR2 6EA

Premises licence number (if known):

05/02425/LIPREM

Name of premises supervisor (if known):

MR RAVICHANDRAN NATTUSELVAM

I am a Superintendent* in the Metropolitan Police Service.

*Insert rank of officer giving the certificate, which must be superintendent or above.

I am giving this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case because:

(Give a brief description of why other procedures such as a standard review process are thought to be inappropriate, e.g. the degree of seriousness of the crime and/or disorder, the past history of compliance in relation to the premises concerned)

I have considered the alternative options in this matter. However I am seriously concerned about the ongoing risk to public safety presented by this venue. A serious injury has occurred to three people at the venue. There is a lack of control and oversight. I am also concerned re the venue being the location of retaliation in the near future. Overall I believe that this is an appropriate course of action.

Signature
Signature:
Date:

04/07/2022

Tel/Typetalk: 020 8760 5466

Fax: 020 8633 9661

Minicom: 020 8760 5797

E-mail: licensing@croydon.gov.uk

Ravichandran Nattuselvam

~~020 8760 5466~~

~~020 8633 9661~~

~~020 8760 5797~~

Please ask for/reply to: ~~020 8760 5466~~

Your Ref:

Our Ref: 05/02425/LIPREM

Date: 5 July 2022

Dear Mr. Nattuselvam,

Re: Application for Summary Review of Premises Licence
Premises: 3 Brighton Road South Croydon CR2 6EA
Legislation: Licensing Act 2003

I refer to the application, made on 4 July 2022 by the Metropolitan Police for a summary review of the premises licence you hold for 3 Brighton Road, South Croydon, CR2 6EA.

This is a 'fast track' review and means that a review of the premises licence will need to be considered by the Council's Licensing Sub Committee at a hearing within 28 days.

Further to my emails to you of 4 and 5 July, I am writing to you now to confirm that the Council's Licensing Sub Committee have considered whether it is necessary to take any Interim Steps in respect of the application by the Police for a Summary Review of your premises licence.

The Licensing Sub Committee have determined that the premises licence should be **suspended**, pending the review hearing that will be held within 28 days, to ensure no further incidents of serious crime and disorder are committed.

Accordingly, **your premises licence is suspended forthwith** and no licensable activities are permitted to be provided at Aachis Masala Chennai, 3 Brighton Road, South Croydon, CR2 6EA pending the review hearing.

To assist, I enclose a copy of the application by the Police and a copy of the certificate signed by a Police Superintendent.

I also an extract from the statutory guidance to local authorities from the Home Office in respect of summary reviews.

The premises licence holder(s), the responsible authorities under the Licensing Act 2003 and other persons may make representations on the summary review application to the licensing authority between 5 July and 18 July 2022.

Representations (to be received by midnight on 18 July) must be made in writing and can be sent to licensing@croydon.gov.uk or by post to –

The Licensing Team
Croydon Council
Floor 6, Zone A
Bernard Weatherill House
8 Mint Walk
CR0 1EA

You will be notified of the time and date of the review hearing in due course.

Should you wish to discuss this matter or require clarification on any point, please do not hesitate to contact the Licensing Team in the first instance at licensing@croydon.gov.uk.

Yours faithfully,



Michael Goddard
Head of Environmental Health, Trading Standards and Licensing

Tel/Typetalk: 020 8760 5466

Fax: 020 8633 9661

Minicom: 020 8760 5797

E-mail: licensing@croydon.gov.uk

Aravindaiah Priyadharshan Rajarajan

~~020 8760 5466~~

~~020 8633 9661~~

~~020 8760 5797~~

Please ask for/reply to: ~~020 8760 5466~~

Your Ref:

Our Ref: 05/02425/LIPREM

Date: 5 July 2022

Dear Mr. Rajarajan,

Re: Application for Summary Review of Premises Licence

Premises: 3 Brighton Road South Croydon CR2 6EA

Legislation: Licensing Act 2003

I refer to the application, made on 4 July 2022 by the Metropolitan Police for a summary review of the premises licence you hold for 3 Brighton Road, South Croydon, CR2 6EA.

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To assist, I enclose a copy of the application by the Police and a copy of the certificate signed by a Police Superintendent.

I also an extract from the statutory guidance to local authorities from the Home Office in respect of summary reviews.

A2
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Croydon Council
Floor 6, Zone A
Bernard Weatherill House
8 Mint Walk
CR0 1EA

You will be notified of the time and date of the review hearing in due course.

Should you wish to discuss this matter or require clarification on any point, please do not hesitate to contact the Licensing Team in the first instance at licensing@croydon.gov.uk.

Yours faithfully,



Michael Goddard
Head of Environmental Health, Trading Standards and Licensing

12. Summary reviews

- 12.1 Summary reviews can be undertaken when the police consider that the premises concerned are associated with serious crime or serious disorder (or both). The summary review process, set out under sections 53A-53D of the 2003 Act, allows interim conditions to be quickly attached to a licence and a fast track licence review. The provisions were inserted by section 21 of the Violent Crime Reduction Act 2006 and amended by sections 136-137 of the Policing and Crime Act 2017, including the addition of section 53D.
- 12.2 The powers apply only where a premises licence authorises the sale of alcohol. They do not apply in respect of other premises licences, or to premises operating under a club premises certificate. The powers are aimed at tackling serious crime and serious disorder, in particular (but not exclusively) the use of guns and knives. The powers complement the general procedures in the 2003 Act for tackling crime and disorder associated with licensed premises and should be reserved for the most serious matters which cannot be adequately or otherwise redressed unless urgent action is taken. Separate powers in the Anti-social Behaviour, Crime and Policing Act 2014 provide for the instant closure of premises by the police in some circumstances (in essence, disorder or nuisance). The consequent review of premises licences by the licensing authority is provided for by section 167 of the Licensing Act 2003.

Application for summary review

- 12.3 Section 53A of the 2003 Act sets out who may apply for an expedited review and the circumstances in which it can be used. The application is made by, or on behalf of, the chief officer of police and must be made in the form which is set out in Schedule 8A to the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 (SI 2005/42).
- 12.4 The completed application must be accompanied by a certificate issued by a senior officer of the rank of superintendent or above. The certificate is a formal note which identifies the licensed premises and includes a signed statement by the senior officer that in his/her opinion the premises are associated with serious crime, serious disorder or both. This form is not prescribed in legislation. However, a sample form which forces may wish to adopt is published on gov.uk.
- 12.5 The tests to determine the kinds of conduct that amount to serious crime are set out in section 81(2) and (3) of the Regulation of Investigatory Powers Act 2000. Those tests are that the conduct:
- (a) constitutes an offence for which a person who is 21 years of age or over with no previous convictions could reasonably be expected to be sentenced to imprisonment for 3 years or more; or
 - (b) Involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.
- 12.6 There is no definitive list of behaviours that constitute serious disorder, and the matter is one for judgment by the local police. The phrase should be given its plain, ordinary meaning, as is the case under section 12 of the Public Order Act 1986 in which it is also used.

- 12.7 In deciding whether to sign a certificate, the senior officer should consider the following (as applicable):
- The track record of the licensed premises concerned and whether the police have previously had cause to give advice about serious criminal or disorderly conduct (or the likelihood of such conduct) attributable to activities taking place on the premises. It is not expected that this power will be used as a first response to a problem and summary reviews triggered by a single incident are likely to be the exception.
 - The nature of the likely crime and/or disorder – is the potential incident sufficiently serious to warrant using this power?
 - Should an alternative power be deployed? Is the incident sufficiently serious to warrant use of the powers in Part 4, Chapter 3 of the Anti-social Behaviour, Crime and Policing Act 2014, or section 38 of and Schedule 6 to the Immigration Act 2016, to close the premises? Or could the police trigger a standard licence review to address the problem? Alternatively, could expedited reviews be used in conjunction with other powers (for example, modifying licence conditions following the use of a closure power)?
 - What added value will use of the expedited process bring? How would any interim steps that the licensing authority might take effectively address the problem?
- 12.8 It is recommended that these points are addressed in the chief officer's application to the licensing authority. In particular, it is important to explain why other powers or actions are not considered to be appropriate. It is up to the police to decide whether to include this information in the certificate or in section 4 of the application for summary review. The police will also have an opportunity later to make representations in relation to the full review. In appropriate circumstances the police might want to make representations to the licensing authority suggesting that they modify the conditions of the premises licence to require searches of customers for offensive weapons upon entry. Under the powers in sections 53A to 53D, this could be done on an interim basis pending a full hearing of the issues within the prescribed 28-day timeframe or for an appropriate period determined by the licensing authority.
- 12.9 Similarly, the power could, where appropriate, be used to reduce the risk of injury caused by glass by requiring the adoption of a safer alternative (but see paragraphs 12.15 and 12.16 below). However, it should always be borne in mind that the aim of the powers is to provide a selective tool, to be used proportionately.

The licensing authority and interim steps pending the review

- 12.10 Within 48 hours of receipt of the chief officer's application, the licensing authority must give the premises licence holder and responsible authorities a notice of the review and should include a copy of the application for review and a copy of the certificate, and must also consider whether it is necessary to take interim steps (place temporary conditions on the licence). When calculating the 48 hour period any non-working day can be disregarded¹¹.
- 12.11 The licensing authority may want to consult the police about the steps that it thinks are

¹¹ This means that, for example, if the application was received at 3pm on a Friday, the 48 hour period would cover the remaining 9 hours on that Friday and the remaining 39 hours starting on the Monday morning (provided it was not a bank holiday). In this case the licensing authority would have to decide on interim steps by 3pm on the Tuesday.

necessary, pending the determination of the review, to address the immediate problems with the premises, in particular the likelihood of serious crime and/or serious disorder. The licensing authority may consider the interim steps without the holder of the premises licence having been given an opportunity to make representations. This does not, of course, mean that the licensing authority *cannot* afford such an opportunity if it thinks it appropriate and feasible to do so in all the circumstances.

12.12 The determination of interim steps is not a matter that may be delegated to an officer of the licensing authority. The relevant decisions are likely to be taken by a licensing sub-committee rather than the full committee. It should also be noted that there is no requirement for a formal hearing in order to take interim steps. This means that the relevant sub committee members can communicate by telephone or other remote means in order to reach a decision. A written record should always be produced as soon as possible after a decision is reached.

12.13 The interim steps that the licensing authority must consider taking are:

- the modification of the conditions of the premises licence;
- the exclusion of the sale of alcohol by retail from the scope of the licence;
- the removal of the designated premises supervisor from the licence; and
- the suspension of the licence.

Modification of the conditions of the premises licence can include the alteration or modification of existing conditions or addition of any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place.

12.14 If the licensing authority decides to take steps at the initial interim stage:

- the decision takes effect immediately, or as soon after it as the licensing authority directs; but
- the licensing authority must give immediate notice of its decision and its reasons for doing so to the holder of the premises licence and the chief officer of police who made the application. The 2003 Act does not specify that the immediate notice has to be in writing. However, in an individual case the licensing authority may consider that the need for immediate communication at least initially requires a non-written approach, such as a telephone call. This may happen when, for example, the authority decides that the decision should have immediate effect. In such a case, the decision and the reasons for it should be explained clearly and in full to the licence-holder (or someone who may properly act for the licence-holder), and the call followed up as soon as possible with a written version of the decision and the reasons (for example, by email or fax) which is identical to, or not significantly different from, the version given by telephone.

12.15 The licensing authority, in deciding when its decision on interim steps should take effect, should consider the practical implications of compliance in relation to the premises. For example to comply with a modification of the conditions of a licence that requires employment of door supervisors, those running the premises may need some time to recruit appropriately qualified and accredited staff.

12.16 In addition, very careful consideration needs to be given to interim steps which would require significant cost or permanent or semi-permanent adjustments to premises which would be difficult to remove if the outcome of the subsequent full review was to withdraw

or modify those steps. For example, making structural changes, installing additional CCTV or replacing all glassware with safer alternatives may be valid steps, but might be disproportionate if they are not likely to be deemed necessary following the full review (or any subsequent appeal). The focus for interim steps should be on the immediate measures that are necessary to prevent serious crime or serious disorder occurring.

Making representations against the interim steps

- 12.17 The premises licence holder may make representations against the interim steps taken by the licensing authority. There is no time limit for the premises licence holder to make representations on the interim steps, although in practice this would at some point be superseded by the full review which would have to be completed within 28 days of the application being received by the licensing authority. On receipt of such representations, the licensing authority must (if the representations are not withdrawn) hold a hearing within 48 hours of their receipt. When calculating the 48 hour period, any non-working day can be disregarded. Where the licensing authority has already held a hearing to consider representations against the interim steps, the holder of the licence may only make further representations if there has been a material change in circumstances.
- 12.18 The licensing authority must give advance notice of the hearing to the premises licence holder and the chief officer of police. Given that these measures are designed to deal with serious crime and/or serious disorder on an interim basis only, the process is designed to avoid delay and, as such, significant portions of the Licensing Act 2003 (Hearings) Regulations 2005 (SI 2005/44) (which set out the usual processes governing the conduct of licensing authority hearings) do not apply in order to streamline the hearing process. One result of this is that the licensing authority cannot adjourn the hearing to a later date if the licence holder fails to attend at the scheduled time, as is the case under the normal review procedure. And as is the case with that procedure, the licence holder does not have to be present for the hearing to take place. In addition, there is no timescale for notifying the licence holder of the hearing under the modified process, providing the notification takes place before the hearing is held. However, it is imperative that the licence holder be given as much notice as is possible in the circumstances to afford the holder a maximum practicable opportunity to prepare for and attend the hearing. Licensing authorities should bear in mind that the usual principles of public law decision-making will apply to interim determinations, in a form that has regard to the statutory context of an expedited process.
- 12.19 At the hearing to consider representations against interim steps the licensing authority must:
- consider whether the interim steps are appropriate for the promotion of the licensing objectives; and
 - determine whether to withdraw or modify the steps taken.
- 12.20 When considering the case the licensing authority must take into account:
- the senior officer's certificate that accompanied the application;
 - the chief officer's representations (if any); and
 - any representations made by the premises licence holder.
- 12.21 There is no right of appeal to a magistrates' court against the licensing authority's

decision at this stage.

The review of the premises licence under section 53C

- 12.22 The licensing authority must hold a full review of the premises licence and determine the review within 28 days after the day of receipt of the chief officer's application. There can be no adjournment of the hearing or delay in reaching a determination beyond the end of the 28 day period. This must take place even if the chief officer asks to withdraw his application or representations. At the review hearing, the licensing authority must consider what steps are appropriate for the promotion of the licensing objectives taking into account any change in circumstances since any interim steps were imposed, consider any relevant representations, and review the interim steps already taken (if any).
- 12.23 In making its final determination the steps the licensing authority can take are:
- the modification of the conditions of the premises licence;
 - the exclusion of a licensable activity from the scope of the licence;
 - the removal of the designated premises supervisor from the licence;
 - the suspension of the licence for a period not exceeding 3 months; and
 - the revocation of the licence.
- 12.24 Modification of the conditions of the premises licence can include the alteration or modification of existing conditions or addition of any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place.
- 12.25 The licensing authority must:
- advertise the review inviting representations from any persons for no less than seven consecutive days, by notice as described in regulation 38 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 (SI 2005/42) and, if applicable, on the licensing authority's website (see regulation 38(1)(b) of the above). The relevant notices should be published on the day after the day of receipt of the chief officer's application.
 - advertise that any representations which the premises licence holder, responsible authority or any other person want the licensing authority to consider at the review hearing, should be submitted to the licensing authority within 10 working days of the advertisement of the review appearing.
 - give formal notice of the hearing no later than five working days before the day or first day on which the hearing is to be held to the premises licence holder and to every responsible authority.
- 12.26 A party shall give to the licensing authority a notice no later than two working days before the day or the first day on which the hearing is to be held stating –
- whether he intends to attend or be represented at the hearing;
 - whether he considers a hearing to be unnecessary.
 - whether he would like permission for any other person (other than the person he intends to represent him at the hearing) to appear at the hearing and, if so, explain on which points that person will be able to contribute.

- 12.27 The regulations relating to hearings are set out in the Licensing Act 2003 (Hearings) Regulations 2005 (S.I. 2005/44). They apply to final hearings under the section 53A(2)(b) in a similar way to hearings following closure orders under section 167 of the 2003 Act (it should be emphasised that the truncated version of the hearings regulations described in paragraph 12.18 above applies to interim hearings only). The issues they address include who can make representations and what those representations can be about. It is therefore possible for responsible authorities or any other persons to make representations in relation to any of the licensing objectives, not just crime and disorder. Similarly, where it is in the public interest, the regulations relating to the exclusion of individuals from hearings, or conducting the hearing in private, will apply.
- 12.28 The licensing authority must notify its decision and the reasons for making it to:
- the holder of the premises licence;
 - any person who made relevant representations; and
 - the chief officer of police who made the original application.

Review of the interim steps under section 53D

- 12.29 The licensing authority's determination does not have effect until the end of the 21 day period given for appealing the decision, or until the disposal of any appeal that is lodged (see below information on right of appeal). To ensure that there are appropriate and proportionate safeguards in place at all times, the licensing authority is required to review any interim steps that it has taken that are in place on the date of the hearing and consider whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn. The review of the interim steps should take place immediately after the determination under section 53C has been reached. In making its decision, the licensing authority must consider any relevant representations made.
- 12.30 In conducting the review of the interim steps the licensing authority has the power to take any of the steps that were available to it at the initial stage (see paragraph 12.13). Any interim steps taken at the review hearing apply until—
- (a) the end of the period given for appealing against a decision made under section 53C (21 days),
 - (b) if the decision under section 53C is appealed against, the time the appeal is disposed of, or
 - (c) the end of a period determined by the relevant licensing authority (which may not be longer than the period of time for which such interim steps could apply under (a) or (b) above).

Right of appeal against review of interim steps decision

- 12.31 The licence holder or the chief officer of police may appeal against the decision made by the licensing authority concerning its review of the interim steps to a magistrates' court. The appeal must be made within 21 days of the appellant being notified of the licensing authority's decision and must be heard in full by the magistrates' court within 28 days beginning with the day on which the appellant lodged the appeal.

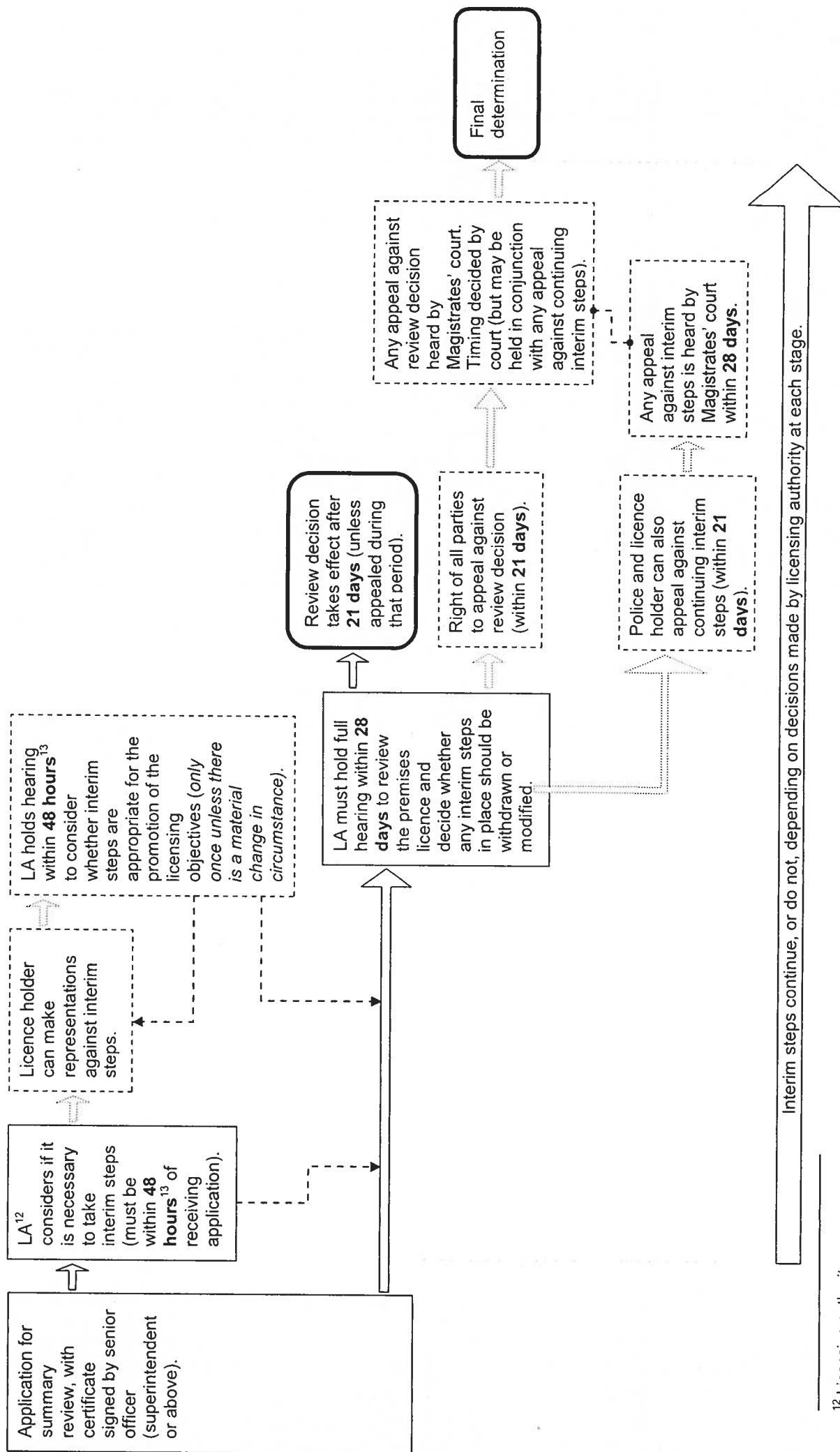
Right of appeal against final review decision

- 12.32 An appeal against the final review decision may be made to a magistrates' court within 21 days of the appellant being notified of the licensing authority's determination on the review. An appeal may be made by the premises licence holder, the chief officer of police and/or any other person who made relevant representations.
- 12.33 The decision of the licensing authority, following the review hearing, will not have effect until the end of the period allowed for appeal, or until the disposal of the appeal.
- 12.34 Where appeals are lodged both against the decision following the review of the interim steps and against the final determination, the courts may decide to consider the appeal against the final determination within the 28 day period, allowing the interim steps appeal to be disposed of at the same time.

Flow diagram of the summary review process

- 12.35 The following flow diagram summarises the process.

Summary review flowchart



¹² Licensing authority

¹³ Only working days count

PREMISES LICENCE

Premises licence number

05/02425/LIPREM

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description including Post Town and Post Code

Aachis Masala Chennai
3 Brighton Road
South Croydon
CR2 6EA

**Telephone
number**

0208 680 8833

Where the licence is time limited the dates

N/A

Licensable activities and entertainment authorised by the licence

The provision of regulated entertainment namely:-

- Sale by Retail of Alcohol
- Live music
- Recorded music
- Performance of dance
- Anything of a similar description to live music, recorded music and the performance of dance
- provision of facilities for making music
- provision of facilities for dancing
- provision of facilities for entertainment of a similar description to making music and dancing.

The times the licence authorises the carrying out of licensable activities

Sale by Retail of Alcohol

Monday to Sunday 10:00 to 02:00

Provision of Regulated Entertainment

Monday to Sunday 10:00 to 02:00

Regulated entertainment, namely recorded music, may be provided throughout the premises without restriction on times

Regulated entertainment, namely music and dancing or any other entertainment of the like kind, may be offered at the premises for pre booked private events, for pre invited guests, without restriction on times.

Provision of Late Night Refreshment

Monday to Sunday 23:00 to 02:30

Non-Standard Timings – For all of the above

On the morning on which British Summer Time begins the terminal hour shall be 03:00 hours.

Christmas Eve and Boxing Day 10:00 hours until 04:00 hours on the following days
New Year's Eve, from the end of the permitted hours on New Year's Eve to the start of the permitted hours New Year's Day or, if there are no permitted hours on New Year's Day, until the end of the normal permitted hours for the day on which New Year's eve falls.

On 12 occasions during the year the applicant may extend the terminal hour for events held within the premises, with the police having an absolute veto on such events.

The opening hours of the premises

Monday to Sunday 10:00 to 02:30

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

Both

Part 2

Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence

Mr Ravichandran Nattuselvam

~~020 7123 4567~~
~~020 7123 4567~~
~~020 7123 4567~~

Aravindaiah Priyadharshan Rajarajan

~~020 7123 4567~~
~~020 7123 4567~~
~~020 7123 4567~~

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

N/A

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

Mr Ravichandran Nattuselvam

~~020 7123 4567~~
~~020 7123 4567~~
~~020 7123 4567~~

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

Personal Licence No:05/01946/LIPERS

Licensing Authority: London borough of Croydon

Date Original Licence Granted: 06.09.2005

Date This Licence Effective: 01.08.2019

Licensing Manager
Place Department

Annex 1 - Mandatory Conditions

The licence is granted subject to the Mandatory conditions for sale of alcohol as set out in the Licensing Act 2003 as amended by the Licensing Act 2003 (Mandatory Licensing *Conditions*) Order 2010 and Order 2014.

No supply of alcohol may be made under the premises licence -

(a) at a time where there is no designated premises supervisor in respect of the premises licence,

or

(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

2. - Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

3. (1) The responsible person must ensure the staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purposes of encouraging the sale or supply of alcohol for consumption on the premises -

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk to undermine a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamourise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonable available.

5. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either -

- (a) a holographic mark, or
- (b) an ultraviolet feature.

In respect of the condition governing age verification, there are specific duties relating respectively to the holder of the premises licence or club premises certificate and designated premises supervisor.

6. The responsible person must ensure that -

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measure -

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures and displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available."

*Responsible person is defined as:

(a) In relation to licensed premises:

- (i) The holder of a premises licence in respect of the premises,
- (ii) The designated premises supervisor (if any) under such a licence, or
- (iii) Any individual aged 18 or over who is authorised for the purposes of section (4)

of the Licensing Act 2003 by such a holder or supervisor,

(b) In relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables him to prevent the supply in question.

7.1) A relevant person 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.

2). For the purposes of the condition set out in paragraph 1 -

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979.

(b) "permitted price" is the price found by applying the formula - $P = D + (D \times V)$

where -

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

- (i) the holder of the premises licence
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3). Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4) - (1) Sub-paragraph (2) applies where the permitted price given by paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

8(1) . Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must:-

(a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or

(b) be entitled to carry out that activity by virtue of section 4 of the Act.

(2). But nothing in subsection (1) requires such a condition to be imposed:-

(a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c12) (premises with premises licences authorising plays or films); or

(b) in respect of premises in relation to:-

(i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or

(ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

(3. For the purposes of this section:-

(a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and, which is licensable conduct for the purposes of that Act, (see Section 3(2) of that Act) and

(b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

Annex 2 – Conditions consistent with the operational schedule

Prevention of Crime and Disorder

The premises licence holder shall:

1. Employ SIA registered door supervisors at the premises on Friday and Saturday nights when any event is booked for the first floor
2. Provide a closed circuit television system to cover the entrance and internal public areas, all to the satisfaction of the local police crime prevention officer, with recorded tapes kept by the DPS for not less than 28 days and made available in useable form to police and Council officers on request.
3. Comply with all reasonable requests of the Metropolitan Police crime prevention officer.
5. Promoted Events -
 - The Metropolitan Police Service must be given at least 14 days' notice of all forthcoming events and have received an MPS Promotion/Event Risk Assessment (Form 696) 14 days in advance of any event
 - The Metropolitan Police Service must receive an MPS Debrief Promotion/Even Risk Assessment (Form 696A) three days after any risk assessed event.
 - Sufficient SIA registered door supervisors, as agreed with the Metropolitan Police, shall be employed at the premises at any promoted event
6. No 18th birthday party bookings will be accepted.

Public Safety

None

Prevention of Public Nuisance

None

Protection of Children from Harm

None

Annex 3 – Conditions attached after a hearing by the licensing authority

Not Applicable

Annex 4 - Plans

Due to the size of the plans in respect of this premises, it has not been possible to reproduce them in this space. However, for the avoidance of doubt, the authorised layout of the premises is as shown on drawing as submitted to the licensing authority in support of the application. Original copies of the plan(s) are held on file by the licensing authority, and may be inspected at our offices on appointment.

Michael Goddard
Head of Environmental Health, Trading Standards & Licensing
6th Floor, Zone A
Bernard Weatherill House
8 Mint Walk
Croydon
CR0 1EA

05th July 2022

FOR YOUR VERY URGENT ATTENTION

By e-mail: michael.goddard@croydon.gov.uk

Dear Sirs

Re: AACHIS MASALA CHENNAI;

PREMISES LICENCE NUMBER: 05/02425/LIPREM;

PREMISES SUPERVISOR: MR RAVICHANDRAN NATTUSELVAM

I, RAVICHANDRAN NATTUSELVAM write this letter to bring to your urgent consideration the following, in the above matter in connection with an incident which took place on the early hours of 4th July 2022.

1. The business is a 70-seater restaurant with a party hall for around 200 guests. The Business operating hours are 7 days between 10 a.m. to 2.30 a.m. The business serves alcohol to its customers.
2. The party hall is booked for separate individuals and especially on weekends. For the parties, the customers are allowed to occupy the party hall on their own as private parties.
3. On 4th July 2022, I as the supervisor was at the premises and as usual switched off the lights and music and all activities at 2.30 a.m. We had our own security at the premises always.

4. After the operating hours, the customers vacated the premises. After they left the premises, the incident took place outside the premises, i.e., outside the door. The CCTV at the doorstep has evidence that nothing happened inside the premises.
5. No guests or customers had any weapons on them within the premises as the security checked each and every one.
6. Under the Data Protection Act and GDPR, it is wrong to take the ID details of the customers who come to the restaurant.
7. The Police are completely wrong in their account of events, as they are saying that *the 'altercation has started within the premises, with the music being turned off'*. There is simply no evidence for this. The incident clearly happened outside the door of the premises. Music was not turned off because of an altercation within the premises. I submit that there was no such altercation that happened within the premise.
8. The Police are wrong in concluding and assuming that the male who appeared to have fallen down the stairs, fell down as a result of the stabbing. There is no CCTV evidence to show the victim being stabbed. The Police are admitting there is an ongoing investigation on this and until it is completed no action should be levelled against us.
9. The Police did not take any fingerprints at the time of the incident but took them only at 5 p.m. in the evening yesterday. This was almost 14 hours after the incident took place at 2.45 a.m.
10. The Police are wrong to state that there was no security provided by the business as there is always security in place arranged and provided by the business. This was established by and to the Police who took the details.
11. The Police are wrong in saying it was established as a weekly promoted event. We completely deny this as after long covid years, the people are enjoying their freedom to party for different occasions which were long pending and postponed due to COVID. e.g. birthday party, anniversary party, business events etc.
12. The Police are wrong in saying and assuming that the licence holder has no control over this. This is strongly disputed as according to the CCTV recordings the licence holder is at the premises all the time. Even on that day of the incident, the licence holder was in control of switching off the lights, and music and asking people to leave in time. The Premises holder

i.e. I am in full control and there is no history of any previous incidents within the premises.

13. It is completely wrong for the Police to say that my premises are linked to 'serious crime and disorder'. This is a very serious allegation and we are making a complaint about the police conduct as we feel it is a racially motivated allegation against us and we are being discriminated against. This is a one-off incident that did not even take place within the premises. The Police have maliciously framed saying *'there is a high probability of reprisals leading to more serious crime and disorder'*.

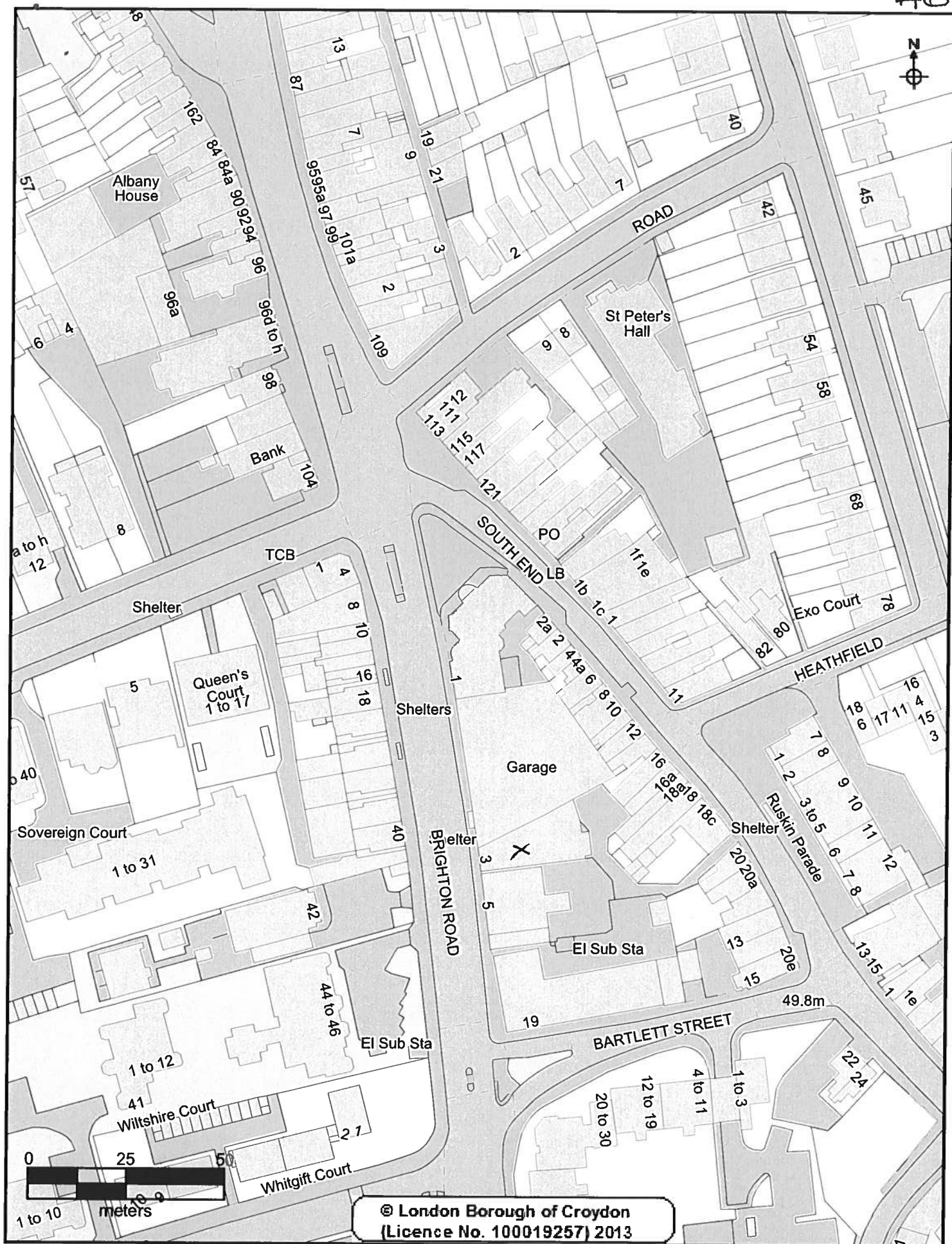
In the above, I would like to conclude by submitting that your actions will cause severe harsh consequences and damage to both my financial and emotional well-being. In the current economic crisis, it is very hard to establish a growing business, especially after COVID. It is unfair, unethical, and unlawful for the Police and Council to take action against me without any proper analysis. This is purely a racially motivated attack and I want this matter to be immediately passed to the relevant authorities as believe racism and discrimination are involved. I am not treated on an equal footing on par with others in society. There are several stabbing incidents in Croydon and in pubs run by Whites in which no action is taken like this. If that is the case, the entire restaurants and pubs in the Croydon area must be suspended and their licence confiscated.

We, therefore, submit that until the investigation is over and guilt or wrong is established with evidence our licence must be reinstated immediately. Failing which we will make a complaint against you further and we request you to outline the complaint procedure.

Also, as stated above, we are making a complaint against the Police for their wrongful malicious discriminatory, and racist actions and until such investigation is over you are strongly requested to lift the suspension and allow us to carry on with our trading activities.

Yours faithfully


Ravichandran Nattuselvam



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