



### **Licensing Sub-Committee Tuesday, 7th September, 2010**

**Place:** Council Chamber, Civic Offices, High Street, Epping

**Time:** 10.30 am

**Democratic Services Officer:** A Hendry (Direct Line 01992 564246)  
Email: ahendry@eppingforestdc.gov.uk

**Members:**

Councillors B Rolfe (Chairman), Mrs P Brooks, Mrs R Gadsby, Mrs M McEwen (Chairman) and J Knapman

**PLEASE NOTE THE START TIME OF THE MEETING**  
**THERE WILL BE A BRIEFING FOR THE SUB COMMITTEE AT 10.00 A.M. IN THE MEMBERS' ROOM**

**1. APOLOGIES FOR ABSENCE**

**2. DECLARATIONS OF INTEREST**

(Assistant to the Chief Executive) To declare interests in any item on this agenda.

**3. PROCEDURE FOR THE CONDUCT OF BUSINESS (Pages 5 - 10)**

**4. EXCLUSION OF PUBLIC AND PRESS**

**Exclusion:** To consider whether, under Section 100(A)(4) of the Local Government Act 1972, the public and press should be excluded from the meeting for the items of business set out below on grounds that they will involve the likely disclosure of exempt information as defined in the following paragraph(s) of Part 1 of Schedule 12A of the Act (as amended) or are confidential under Section 100(A)(2):

<b>Agenda Item No</b>	<b>Subject</b>	<b>Exempt Paragraph Number</b>	<b>Information</b>
5	Hackney Carriage Driver's Licence	1	

The Local Government (Access to Information) (Variation) Order 2006, which came into effect on 1 March 2006, requires the Council to consider whether maintaining the exemption listed above outweighs the potential public interest in disclosing the information. Any member who considers that this test should be applied to any currently exempted matter on this agenda should contact the proper officer at least 24 hours prior to the meeting.

**Confidential Items Commencement:** Paragraph 9 of the Council Procedure Rules contained in the Constitution require:

- (1) All business of the Council requiring to be transacted in the presence of the press and public to be completed by 10.00 p.m. at the latest.
- (2) At the time appointed under (1) above, the Chairman shall permit the completion of debate on any item still under consideration, and at his or her discretion, any other remaining business whereupon the Council shall proceed to exclude the public and press.
- (3) Any public business remaining to be dealt with shall be deferred until after the completion of the private part of the meeting, including items submitted for report rather than decision.

**Background Papers:** Paragraph 8 of the Access to Information Procedure Rules of the Constitution define background papers as being documents relating to the subject matter of the report which in the Proper Officer's opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report and does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of executive reports, the advice of any political advisor.

Inspection of background papers may be arranged by contacting the officer responsible for the item.

**5. HACKNEY CARRIAGE DRIVER'S LICENCE (Pages 11 - 12)**

(Director of Corporate Support Services) To consider the attached report.

**6. INCLUSION OF PUBLIC AND PRESS**

To invite the public & press back into the meeting for the remaining items of business.

**7. BREACH OF TAXI INTERIM TESTS (Pages 13 - 20)**

To consider, under the Local Government (Miscellaneous Provisions) Act 1976 and the Town & Police Clauses Act 1847, breaches of the Taxi Interim Test by the following individuals:

- a) Mr Firth
- b) Mr Khan

**8. REVIEW OF PREMISES LICENCE - THE METRO SUPERSTORE, 785 CHIGWELL ROAD (Pages 21 - 74)**

(Director of Corporate Support Services) To consider the attached report.

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# Agenda Item 3

## PART 3(2) - RESPONSIBILITY FOR COUNCIL FUNCTIONS

### LICENSING COMMITTEE – TERMS OF REFERENCE

(1) The full Committee shall comprise 11 Councillors appointed by the Council at its annual meeting, including a Chairman and Vice-Chairman.

... (2) For the functions set out in Annex 1, and the legislation listed in Annex 2, a Sub-Committee consisting of no more than any three Councillors drawn, in alphabetical order, from the members of the full Committee shall be formed. Any such Sub-Committee shall elect a Chairman on an ad-hoc basis.

(3) For the transaction of business at full Committee meetings, the quorum shall be a minimum of five Committee members save that no business shall be transacted unless either the Chairman or Vice-Chairman of the Committee is present.

(4) The Committee and Sub-Committees shall have full authority to hear and determine licensing applications.

(5) The Committee and Sub-Committees shall be further empowered to determine appeals made against the decisions of the Head of Environmental Services taken under delegated authority on licensing applications.

... (6) The Committee shall at all times carry out its duties solely within the policy from time to time determined by the Council and shall conduct its proceedings in accordance with the requirements set out in Annex 3 (Conduct of Business by Licensing Committee and Sub-Committees).

(7) The Licensing Committee shall take no part in the production or revision of the statement of licensing policy made under Section 5 of the Licensing Act 2003, however, they may determine policy under the legislation listed in Annex 3.

**PART 3(2) – RESPONSIBILITY  
FOR FUNCTIONS  
LICENSING COMMITTEE**

**Licensing Act 2003 – LIST OF FUNCTIONS AND DELEGATED AUTHORITY**

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim Authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a temporary event notice		All cases	
All policy matters except the formulation of the statement of licensing policy	All cases		

**PART 3(2) – RESPONSIBILITY  
FOR FUNCTIONS  
LICENSING COMMITTEE**

**LIST OF STATUTORY POWERS**

Those functions pertaining to licensing and registration and permits and consents contained in the following legislation and any regulations, orders, byelaws or other subsidiary legislation made under the above Acts:

Animal Boarding Establishments Act 1963  
Breeding & Sale of Dogs (Welfare) Act 1999  
Breeding of Dogs Act 1973  
Breeding of Dogs Act 1991  
Caravan Sites & Control of Development Act 1960  
Caravan Sites Act 1968  
Dangerous Wild Animals Act 1976  
Game Licences Act 1860  
Gaming Act 1968  
Guard Dogs Act 1975  
House to House Collections Act 1939  
Licensing Act 2003  
Local Government (Miscellaneous Provisions) Act 1976  
Local Government (Miscellaneous Provisions) Act 1982  
Lotteries & Amusements Act 1976  
Pet Animals Acts 1951 & 1981  
Riding Establishments Acts 1964 & 1970  
Scrap Metal Dealers Act 1964  
The Game Act 1831  
Town Police Clauses Act 1847  
Town Police Clauses Act 1889  
Zoo Licensing Act 1981

## **Part 3(2) – Responsibility for Functions**

### **PART A – CONDUCT OF BUSINESS BY LICENSING COMMITTEE AND SUB-COMMITTEES**

**All references to committee in this annex shall be taken to infer a reference to the associated sub-committees.**

#### **1. General Conduct**

- 1.1 All hearings of the Licensing Committee under the Licensing Act 2003, are to be held in accordance with the Personal Licences, Hearings, Premises Licences and Club Premises Certificates, and Licensing Register Regulations, made under the Licensing Act 2003.
- 1.2 The Council's Constitution shall regulate the conduct of and debate at meetings.
- 1.3 In the case of hearings under the Licensing Act 2003, the Committee shall only consider those matters relevant to the licensing objectives as set out in the Licensing Act 2003 and the statement of licensing policy adopted by the Council.

#### **2. Declarations of Interest**

- 2.1 Members of the Committee are subject to the Council's Code of Conduct and to advice from the Standard Board for England, details of which will be provided to those members.

#### **3. Participation in the Hearing**

- 3.1 Debate shall be restricted to members of the Licensing Committee. Where a local ward member, not being a member of the Committee, wishes to participate in the hearing, they may do so only with the permission of the Chairman and their participation shall be subject to the same rules as are applied to any other witnesses to the application.
- 3.2 In hearings other than those under the Licensing Act 2003, where a ward member is a member of the Committee, and wishes to object to the application, the member shall give 14 days' notice of their intention, and shall play no part in the decision-making process of the Committee. In hearings under the Licensing Act 2003, those named as responsible authorities and interested parties in the Act may only make representations within the time limits set out in the relevant statutory provisions.
- 3.3 All persons participating in the hearing shall be made aware of the limitations or scope of statements that will be acceptable and, in particular, that statements should be factual or a fair statement on a matter of public interest.

#### **4. Attendance of the Public**

- 4.1 The Council's Constitution and relevant statutory provisions relating to the admission or exclusion of the public shall apply to all meetings of the Licensing Committee.



## **5. Natural Justice**

5.1 There are two elements to natural justice:

### **(a) Fairness**

- (i) All persons affected by the decision or in the case of matters associated with the Licensing Act 2003, those named as responsible authorities and interested parties in the Act, will be allowed a hearing before a decision is made.
- (ii) Only objectors who can show clearly that they are affected by a decision shall be afforded the right to be heard or, in the case of hearings under the Licensing Act 2003, only those named in the Act as responsible authorities or interested parties.
- (iii) All information shall be made available, where possible in advance, to the applicant and the Committee.
- (iv) All members of the Committee shall be present throughout the hearing of a particular application. Where a member arrives late or leaves during a hearing of a particular application, that member shall play no part in the decision-making process. Where an application is adjourned it shall be continued by the same members only, and no others.
- (v) The Committee shall have discretion in respect of 'late' objections. Such objections shall be clearly marked on the agenda as such and the Committee shall decide on their acceptability. The applicant shall be advised of any late objections. In the case of representations made in relation to the Licensing Act 2003 applications, these shall only be accepted in accordance with the relevant statutory provisions.

### **(b) Prevention of Bias**

- (i) The rules on the declarations of interest shall be firmly applied.
- (ii) If the Committee moves into private session to consider its decision, it shall be accompanied only by its advising officers, none of whom shall have taken a substantive part in the hearing, and shall play no substantive part in the decision-making process.

## **6. General Procedures for Hearings**

6.1 The following procedural requirements shall be followed at all times:

- (a) There shall be no recommendation from officers on the agenda;
- (b) The Committee shall be supplied with copies of all relevant documentation and the process and order of procedure shall be as follows:
  - (i) The Chairman will open the meeting and introduce persons as appropriate asking applicants and representatives to identify themselves.
  - (ii) The Chairman will outline the procedure to be followed.

- (iii) The Lead Officer will outline the matter in hand.
- (iv) The applicant or representative will present his/her case, with or without witnesses, and be questioned by members or any objectors/persons making representations present.
- (v) Any objectors/persons making representations may then present their objections/representation, with or without witnesses, and be questioned by members or the applicant/s or their representative.
- (vi) The objectors/persons making representations may make a final statement (without introducing new issues).
- (vii) Finally, the applicant has the right to make a final statement (without introducing new issues).
- (viii) All evidence/disclosures are to be made in the presence of all persons, unless someone voluntarily excuses themselves from the proceedings.
- (ix) Committee members shall restrict themselves to questions and not discussion or comment.
- (x) The applicant, objectors/persons making representations shall be allowed to ask officers questions of a technical/factual nature at any time during the proceedings.
- (xi) An adjournment should be granted where to do otherwise would deny a fair hearing.
- (xii) The Committee may resolve to decide upon the application in private session, however, if it becomes necessary to recall anyone for additional information, everyone shall be invited to return to the Hearing.
- (xiii) The decision shall be given in the presence of all parties that wish to be present and confirmed in writing as soon as possible thereafter. If legal advice is given to members this advice will be repeated in summary form.

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

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**Report to Licensing Subcommittee**  
**Date of meeting: 7<sup>th</sup> September 2010**

**Subject: Local Government (Miscellaneous Provision) Act 1976 & Town & Police Clauses Act 1847 – Hackney Carriage Licence – Mr Firth**

**Officer contact for further information: Kim Tuckey**

**Committee Secretary: Adrian Hendry**



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**Decision Required:** To consider the breach of the authority's vehicle licensing conditions

**Report:**

The above-mentioned holder of a vehicle licence has failed to comply with this authority's licence conditions by failing to submit the vehicle for an interim examination in accordance with the conditions of the vehicle licence. This constitutes a breach of the licence conditions; therefore officers are referring this matter to licensing sub-committee for consideration. Reminder letters were sent to all drivers.

**Background Papers:**

Sample two letters that each driver received

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**Report to Licensing Subcommittee**  
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**Subject: Local Government (Miscellaneous Provision) Act 1976 & Town & Police Clauses Act 1847 – Hackney Carriage Licence – Mr Khan**

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9th April 2010

Our Ref:

**Corporate Support Services**

Civic Offices High Street  
Epping Essex CM16 4BZ

Telephone: 01992 564000

Facsimile: 01992 578018

DX: 40409 Epping

Director of Corporate Support  
Services Colleen O'Boyle  
Solicitor to the Council

Enquiries to:

Dear Mr

**Re: Interim Reminder for**

Taxi inspections- Langston Road Depot – telephone 0208 532 0357

Your taxi inspection test is due in May 2010. Failure to complete the Taxi Inspections would result in a breach of conditions as set out in this Council's Hackney Carriage/Private Hire Vehicle Licence Conditions.

Breaches of this condition will result in your licence being referred to licensing panel for possible suspension or revocation of your licence.

**If you have already visited Langston Road for your Taxi inspection in the last 14 days, then please disregard this letter.**

If you require any further help or information please do not hesitate to contact us on the numbers below.

Yours Sincerely,

Licensing Office  
01992 564461 & 564340



Date: 22nd June 2010

Our ref: Panel Meeting

Your ref:

Civic Offices High Street  
Epping Essex CM16 4BZ

Telephone: 01992 564000

Facsimile: 01992 578018

DX: 40489 Epping

Mrs K Tuckey (01992) 564270  
email: ktuckey@eppingforest.gov.uk  
Corporate Support  
Services Colleen O'Boyle  
Solicitor to the Council

Enquiries to:

Dear Mr

**Meeting of the Licensing Panel on 7<sup>th</sup> July 2010  
Re: Hackney vehicle licence**

Further to my previous two letters requesting that you attend Langston Road to have your interim tests.

I can now advise you that a meeting to determine your licence will be held on 7<sup>th</sup> July 2010 in the Council Chamber, Civic Offices, High Street, Epping, Essex, CM16 4BZ at 10 a.m. **Please note that there is not set time for hearings and therefore we cannot guarantee the time at which you will be required.**

As an applicant you are entitled to attend the meeting and make comment. You may be represented either legally or otherwise.

On arrival please go to the 1<sup>st</sup> floor and wait in the seated area until you are called for.

**If you have already booked your vehicle in Langston Road for your interim test or if you have had the test done, please can you provide this office with the interim test asap. If you have not had the test done you are required to bring your plate with you on the day of the meeting, where you will be given the opportunity to explain why you are in breach of the councils licence conditions.**

Please contact me on 01992 564034 if you are unable to attend the meeting or if you wish to discuss this item further.

Yours sincerely

K Tuckey  
**Senior Licensing Officer**



Date: 7th June 2010

Our ref: t

Your ref:



**Corporate Support Services**

Civic Offices High Street  
Epping Essex CM16 4BZ

Telephone: 01992 564000  
Facsimile: 01992 578018  
DX: 40409 Epping

Director of Corporate Support  
Services Colleen O'Boyle  
Solicitor to the Council

Enquiries to:

Licensing Unit (01992) 564 340  
email: [licensing@eppingforestdc.gov.uk](mailto:licensing@eppingforestdc.gov.uk)

Dear Sir/Madam

**Licence in respect of Vehicle Registration No:  
Interim test check – May 2010  
Local Government (Miscellaneous Provisions) Act 1976**

The conditions of the licence for the above vehicle require that interim tests be carried out on the vehicle at the time intervals mentioned in the licence. These tests must take place at the Langston Road Depot, Langston Road, Loughton. When the licence was issued you were provided with details of the dates when the inspections should take place. An interim test on your vehicle is now overdue.

This is a breach in this Vehicle Licence conditions. The Council may suspend or revoke, or refuse to renew the licence if you are in breach of the conditions

I am referring this breach of condition to the Licensing Sub-committee which will take place on Wednesday 7<sup>th</sup> July 2010 ( 10 o'clock, Civic Offices, High Street, Epping) so that it can decide what action the Council will take in this matter.

If you have had the test carried out in the past seven days, please disregard this letter.

In order to avoid the necessity of a hearing before the Licensing Sub-committee please contact Langston Road Depot on 020 8532 0357 to arrange for an appointment for the interim check to be carried out. If you have not had your vehicle interim done by the date of issue of the agenda for the meeting we will not have the opportunity to withdraw your item. You are reminded that you must attend the meeting.

Yours sincerely

Licensing Unit



INVESTOR IN PEOPLE

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**Report to Licensing Committee**  
**Date of meeting: 7<sup>th</sup> September 2010**

**Subject: The Metro Superstore, 785 Chigwell Road, Chigwell Essex**

**Officer contact for further information: Kim Tuckey**

**Committee Secretary: Adrian Hendry**



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**Decision Required:**

**To determine the application for a review of the Premises Licence.**

**Report:**

**1. Application for Review.**

1.1 An application has been made by Councillor John Knapman the ward member for the area where the premises are located to review the premises licence for The Metro Superstore, 785 Chigwell Road, Chigwell, on the grounds of:

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

**2. The Metro**

2.1 The premises licence was granted on 16/02/2010 to SA London Ltd, and a copy of the Premises Licence is attached to this report. Since the grant of the licence the premises now operates under the name of The Metro Superstore.

2.2 A review application has been made by Councillor John Knapman on behalf of local residents of Smeaton Road and Chigwell Road., which relates to the four licensing objectives set out above. A copy of the application for the review is attached to this report.

2.3 The premises are situated at 785 Chigwell Road, Chigwell Essex 4BE. A map of the area is attached to this report

**3. Consultation**

3.1 The application for review was advertised as required by the Licensing Act 2003 and email correspondences from Ms Wilkes to and from Cllr Knapman, The Crime and Disorder partnership, Essex Police and Trading Standards are included in the bundle.

## 4 Guidance

4.1 The government has issued Guidance pursuant to section 182 of the Licensing Act 2003 that deals with reviews in paragraphs 11.1 – 11.28. . A copy of that Guidance is attached to this report.

4.2 The sub-committee's powers are set out in paragraphs 11.15 to 11.21. Paragraph 11.18 states 'In deciding which of the powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action should generally be directed at these causes and should always be no more than a necessary and proportionate response. '

## 5. Options

5.1 Having considered the representations from all parties the Licensing Sub-committee has to determine the application for the review of the premises licence. The Licensing Sub-committee is required to take such of the steps listed below in paragraph 5.3 as it considers necessary for the promotion of the licensing objectives which are:

- Prevention of crime and disorder.
- Public safety.
- Prevention of public nuisance.
- Protection of children from

5.2 In coming to a view about whether such a step in paragraph 5.3 is necessary for the promotion of the licensing objectives, the Licensing Sub-committee would need to take into account the review application, any relevant representations, the evidence given at the hearing, the representations made by the premises licence holder, the Guidance issued by the Secretary of State and the Council's Licensing Policy.

5.3 Where it considers it necessary for the promotion of the licensing objectives, the options available to the Licensing Sub-committee are:

- 5.3.1 to modify the conditions of the Licence;
- 5.3.2 to exclude a licensable activity from the scope of the licence;
- 5.3.3. to remove the designated premises supervisor;
- 5.3.4 to suspend the licence for a period not exceeding three months;
- 5.3.5. to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new conditions added.

5.4 If the sub-committee decides to takes a step mentioned in paragraphs 5.3.1 or 5.3.2, it may provide that the modification or exclusion shall take effect for only such period (not exceeding three months) as it may specify.

5.5 Any modified conditions should be practical and enforceable.

## **6. Appeal**

6.1 If any party is aggrieved with the decision on one of the grounds set out in Schedule 5 to the Licensing Act 2003, they can appeal to a Magistrates' Court. Such appeals are by way of re-hearing. The Appeal period is 21 days from notification of the decision.

Attached documents below

Application for the review and supporting documents from Councillor Knapman

E Mails from Ms L Wilkes to Councillor Knapman

Letter from Simon Fisher –Essex Police

Letter from West Hatch School

Premises Licence

Petition from local residents .

A Map showing the area

Paragraphs 11.16 to 11.28 of the Guidance issued under S182 of the Licensing Act 2009

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By virtue of paragraph(s) 1 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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# PREMISES LICENCE

## Part A



Premises licence number:

LN/210005022

### Part 1 – Premises details:

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

SA London Ltd  
785 Chigwell Road

Post Town: Chigwell

Post code: IG8 8AU

Telephone number: Unknown

Where the licence is time limited the dates: N/A

Licensable activities authorised by the licence:  
Supply of Alcohol

The times the licence authorises the carrying out of licensable activities:  
Monday – Saturday – 09:00am – 23:00pm  
Sunday – 10:00am – 22:00pm

The opening hours of the premises:  
Monday – Saturday – 07:00am – 23:00pm  
Sunday – 08:00am – 22:00pm

Where the licence authorises supplies of alcohol whether these are on and / or off supplies:  
Off sales only

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

SA London Ltd  
129 High Street  
Acton  
London  
W3 6LY  
0208 9932 784  
saltd@live.com

Registered number of holder, for example company number, charity number (where applicable):  
6734356

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

**Khawaja Awais Iqbal  
103 Crouch Avenue  
Barking  
Essex  
IG11 0QY**

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

**06/00886/LAPER  
London Borough of Newham Council**

## **Annex 1 – Mandatory conditions:**

1. No supply of alcohol may be made under the premises licence:-
  - a) at a time when 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 when the designated supervisor has a licence suspended
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence (see section 19 Licensing Act 2003)
3. Where a condition applies requiring a person to carry out a security activity at the premises, those individuals must be licensed by the Security Industry Authority (see section 21 Licensing Act 2003)
4. Where a premises licence authorises the exhibition of films, the admission of children to the exhibition of any film is to be restricted in accordance with section 20 Licensing Act 2003.

## **Annex 2 – Conditions consistent with the Operating Schedule:**

### **The Prevention of Crime and Disorder.**

CCTV system will be in operation  
Alcohol will not be sold to any intoxicated person

### **Public Safety**

Exterior areas of the premises will be illuminated

### **Prevention of Public nuisance**

Alcohol is not to be consumed on the premises

### **The Protection of children from harm**

The 'Challenge 21' scheme has been adopted to ensure that alcohol will not be sold on the premises to those under the age of 18 years. Only approved proof of age identification will be accepted, such as a passport, photo driving licence and a pass accredited card.

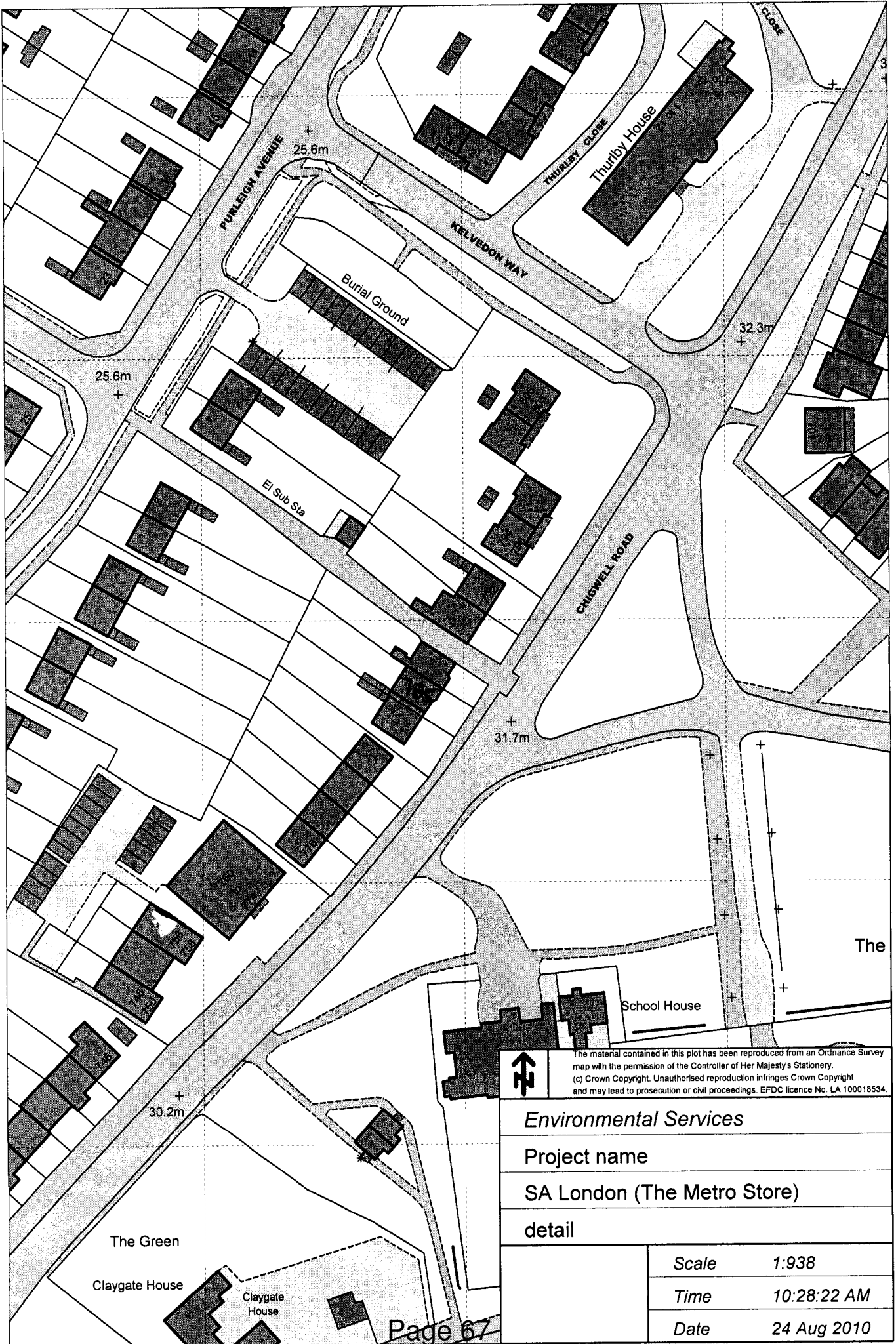
**Annexe 3 – Conditions attached after a hearing by the licensing authority:**

N/A

**Annexe 4 – Plans:**

Plans held at Epping Forest District Council





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Environmental Services	
Project name	
SA London (The Metro Store)	
detail	
Scale	1:938
Time	10:28:22 AM
Date	24 Aug 2010

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# 11. Reviews

## THE REVIEW PROCESS

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences represent a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a premises licence.
- 11.2 At any stage, following the grant of a premises licence, a responsible authority, or an interested party, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 The Regulations allow applications for reviews to be made electronically, as long as the licensing authority agrees and the applicant submits a subsequent written application. The licensing authority may also agree in advance that the application need not be given in writing. However, these applications are outside the formal electronic application process and may not be submitted via businesslink or the licensing authority's electronic facility.
- 11.4 In addition, a review of the licence will normally follow any action by the police to close down the premises for up to 24 hours on grounds of disorder or noise nuisance as a result of a notice of magistrates' court's determination sent to the licensing authority.
- 11.5 Licensing officers may not initiate their own reviews of premises licences, but elected members of the licensing authority may request reviews if they are concerned about licensed activities at a premises or such matters are brought to their attention (see paragraph 8.15 above). Officers of the local authority who are specified as responsible authorities under the 2003 Act, such as environmental health officers, may also request reviews on any matter which relates to the promotion of one or more of the licensing objectives.
- 11.6 Representations made by a department of the local authority which is a responsible authority should be treated by the licensing authority in precisely the same way that they would treat representations made by any other body or individual.
- 11.7 In every case, the representation must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of the licensing objectives. After a licence or certificate has been granted or varied, a complaint relating to a general (crime and disorder) situation in a town centre should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.8 Representations must be in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing.
- 11.9 It is important to recognise that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common

aims. It is therefore equally important that reviews are not used to drive a wedge between these groups in a way that would undermine the benefits of co-operation. It is good practice for authorised persons and responsible authorities to give licence holders early warning of their concerns about problems identified at the premises concerned and of the need for improvement. A failure to respond to such warnings is expected to lead to a decision to request a review.

11.10 Where the request originates with an interested party – e.g. a local resident, residents' association, local business or trade association – the licensing authority must first consider whether the complaint made is relevant, vexatious, frivolous or repetitious.

11.11 Further information for interested parties about the review process is available in "Guidance for interested parties: applying for a review" which can be found on the DCMS website.

## REPETITIOUS REPRESENTATIONS

11.12 Relevance, vexation and frivolousness were dealt with in paragraphs 9.8 – 9.13 above. A repetitious representation is one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in relation to the same premises licence which has already been determined; or
- representations considered by the licensing authority when the premises licence was first granted; or
- representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement;

and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or the grant of the licence.

11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a second bite of the cherry following the failure of representations to persuade the licensing authority on earlier occasions. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, the Secretary of State recommends that more than one review originating from an interested party should not be permitted within a period of twelve months on similar grounds save in compelling circumstances or where it arises following a closure order.

11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one request for a review of a premises within a 12 month period.

11.15 When a licensing authority receives a request for a review from a responsible authority or an interested party or in accordance with the closure procedures described in Part 8 of the 2003 Act, it must arrange a hearing. The arrangements for the hearing must follow the provisions set out by the Secretary of State in regulations. The details may be viewed on the DCMS website. The Secretary of State considers it particularly important that the premises licence holder is fully aware of the representations made in respect of the premises, any evidence supporting the representations and that they or their legal representatives have therefore been able to prepare a response.

## POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

11.16 The 2003 Act provides a range of powers for the licensing authority on determining a review that it may exercise where it considers them necessary for the promotion of the licensing objectives.

11.17 The licensing authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the holder of the licence. However, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach.

11.18 Where the licensing authority considers that action under its statutory powers are necessary, it may take any of the following steps:

- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;

- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence.

11.19 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than a necessary and proportionate response.

11.20 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.21 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems which impact upon the licensing objectives.

11.22 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as a necessary means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is necessary and proportionate to the promotion of the licensing objectives.

## REVIEWS ARISING IN CONNECTION WITH CRIME

11.23 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises or money laundering by criminal gangs or the sale of contraband or stolen goods there or the sale of firearms. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts of law. The role of the licensing authority when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted. Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. Some reviews will arise after the conviction in the criminal courts of certain individuals but not all. In any case, it is for the licensing authority

to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go behind any finding of the courts, which should be treated as a matter of undisputed evidence before them.

11.24 Where the licensing authority is conducting a review on the ground that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licensee and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any necessary steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual holder of the premises licence.

11.25 As explained above, it is not the role of a licensing authority to determine the guilt or innocence of individuals charged with licensing or other offences committed on licensed premises. There is therefore no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. As stated above, at the conclusion of a review, it will be for the licensing authority to determine on the basis of the application for the review and any relevant representations made, what action needs to be taken for the promotion of the

licensing objectives in respect of the licence in question, regardless of any subsequent judgment in the courts about the behaviour of individuals.

11.26 There is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for unlawful gaming and gambling; and
- for the sale of smuggled tobacco and alcohol.

11.27 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being

undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered. We would also encourage liaison with the local Crime and Disorder Reduction Partnership.

11.28 It should be noted that it is unlawful to discriminate or to refuse service on grounds of race or by displaying racially discriminatory signs on the premises. Representations made about such activity from responsible authorities or interested parties would be relevant to the promotion of the crime prevention objective and justifiably give rise to a review.

## REVIEW OF A PREMISES LICENCE FOLLOWING CLOSURE ORDER

11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review. The determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within 10 working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than 5 working days before the first hearing day. There must be five clear working days between the giving of the notice and the start of the hearing.

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