



# Licensing of Alcohol and Gambling Sub- Committee

TUESDAY 19 SEPTEMBER 2017 AT 2.00 PM

## Conference Room 2 - The Forum

The Councillors listed below are requested to attend the above meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

### Membership

Councillor Conway  
Councillor P Hearn

Councillor Howard

For further information, please contact Trudi Angel - 01442 228224

## AGENDA

1. **MINUTES** (Pages 2 - 5)  
To confirm the minutes of the meeting held on 29 March 2017.
2. **APOLOGIES FOR ABSENCE**  
To receive any apologies for absence.
3. **DECLARATIONS OF INTEREST**  
To receive any declarations of interest.
4. **PREMISES LICENCE APPLICATION UNDER THE LICENSING ACT 2003** (Pages 6 - 47)
5. **SMALL SOCIETY LOTTERY REGISTRATION APPLICATION UNDER THE GAMBLING ACT 2005** (Pages 48 - 54)
6. **PROCEDURE OF THE HEARING** (Pages 55 - 56)

# Agenda Item 1

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## DACORUM BOROUGH COUNCIL

### LICENSING OF ALCOHOL AND GAMBLING SUB-COMMITTEE

29 MARCH 2017

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Present –

#### MEMBERS:

Councillors Mrs P Hearn (Chairman), Conway and Fantham

#### OFFICERS:

Christopher Gaunt	Legal Governance Team Leader
Ross Hill	Licensing Team Leader
Trudi Angel	Member Support Officer
Rebecca Twidle	Member Support Officer

#### OTHER PERSONS PRESENT:

Ali Yazdi	Applicant and Proprietor of Tops Pizza
Anthony Baptiste	Applicant's Representative

The meeting began at 10:00am

#### 1. MINUTES

The minutes of the meeting held on 1 March 2017 were confirmed by the members present and then signed by the Chairman.

#### 2. APOLOGIES FOR ABSENCE

There were no apologies for absence.

#### 3. DECLARATIONS OF INTERESTS

There were no declarations of interests.

#### 4. PREMISES LICENCE APPLICATION

##### APPLICATION FOR GRANT OF A PREMISES LICENCE

The Sub-Committee were required to consider an application for grant of a premises licence for the following premises:

Tops Pizza

85 Waterhouse Street  
Hemel Hempstead  
Hertfordshire  
HP1 1ED

The Chairman introduced herself, the members on the Sub-Committee and the officers present.

The Chairman asked the members of the Sub-Committee to confirm that they had read the agenda and advise if they were aware of the premises. Councillors Conway and Fantham confirmed they had read the documents at hand and were aware of the premises.

The Chairman asked R Hill if the legal requirements had been complied with and if he had anything to add to the report.

R Hill confirmed that the application met all legal requirements. He said it was a new application, and that the premises was previously trading as Golden Star Chinese takeaway, which didn't require a licence as it closed before 11pm. Written objections had been submitted from one resident living near the premises, and they had been invited to the meeting but no response was received and no objectors were present.

A letter from Hildigar Cameron, the applicant's original representative, which had been sent to the objector prior to the hearing, offering to amend the application in response to the concerns expressed in the objection, was circulated and read by the committee; there were no questions.

The Chairman asked the applicant and his representative if they wished to add anything to the report.

A Baptiste began by apologising to the Sub-Committee on behalf of Ms Cameron who was absent as she was currently in Europe. A Baptiste said that in light of the concerns expressed within the representations, Mr Yazdi had amended the application. The application to serve food on site after 11pm had been withdrawn, and instead changed to delivery between 11pm – 1am. He said that Mr Yazdi accepted that Sunday was a sensitive day, and suggested the possibility of delivery only until Midnight on that day. A Baptiste referred to the written clarification of points; he highlighted that customers would not be on the premises after 11pm, and that after that time, opaque blinds would be drawn. A Baptiste accepted that this was a new application, but noted that no representations had been submitted by either the Police or Environmental Health Department. A Baptiste submitted that under these new conditions, Mr Yazdi would be able to manage his staff to ensure noise was kept to a minimum. A Baptiste said that the premises will have a comprehensive CCTV system, as per requirements of the Police. A Baptist said that measured against Dacorum's policy, the application met the requirements in respect of safety and light and noise pollution. He said that it was a new, bright shop, which would contribute to Dacorum's trading community. A Baptiste re-iterated that customers would be unable to enter the site after 11pm. A Baptiste concluded by saying that he had explained the review process to Mr Yazdi, and that the conditions of the licence were binding.

The Chairman thanked the applicants for providing a well prepared presentation and asked the members of the Sub-Committee if they had any questions for the applicant.

Councillor Fantham asked if any research had been conducted as to the impact on extra car journeys. A Baptiste said that no research had currently been undertaken; however this could be reviewed over the next three months. Mr Yazdi asked if he could provide some additional information; he said that he had 4 stores in the South East, and his experience, footfall tended to reduce after 11pm. He said that the shop would have two cars that would deliver the takeaways, and because customers would not be able to pick up from the shop after 11pm, there would be no noise or traffic after this time. He said that there was no need for scooters to navigate congestion, which were necessary in London.

Councillor Conway clarified if the shop would be open for deliveries 11pm – 1am every night – A Baptiste confirmed this.

R Hill noted that the local police force was actually Hertfordshire Constabulary and not the Metropolitan Police Service, as stated in the amending letter; therefore if the amendment was accepted it should reflect this. R Hill also said that there was no need for a Designated Premises Supervisor as alcohol was not being sold at the premises. A Baptiste thanked R Hill for highlighting these points. He also suggested that a condition could be added to the licence stating that drivers should not remain outside the premises past 11pm, talking or socialising.

The meeting was adjourned at 10:16 AM

The meeting reconvened at 10:20 AM.

Resolved:

The Sub-Committee carefully considered the application, the written representation, and verbal submissions made at the meeting, as well as the further written submission made by the applicant's agent containing additional proposals and control measures intended to mitigate against detrimental effects to the licensing objectives. These included a commitment that customers would only be able to collect food from the premises until 23.00 hours daily, from which time all sales of late night refreshment would be made by way of delivery to a bona fide address.

The Sub-Committee considered that these measures should be sufficient to prevent public nuisance of types described in the representation, and that it would therefore be appropriate to **grant** the application for the premises licence, subject to conditions consistent with measures set out in the application's operating schedule, and additional conditions consistent with the measures set out in the letter submitted by Hildigar Cameron of LQAA Ltd on the applicant's behalf, dated 21/03/2017, as follows:

- No customers shall be permitted to access nor remain on the licensed premises after 23.00 hours. All sales after that time shall be made by way of delivery to a bona fide address only.
- Vehicles used for delivery must switch off their engines when waiting outside of the licensed premises for the collection of food for delivery.
- A notice shall be displayed at the front of premises so as to be visible from outside stating the hours that the premises are open and accessible to the public, and that all orders after 23:00 must be phoned through and for delivery only.
- Home deliveries shall only be carried out by employees of the licence-holder.
- From 23.00 hours until close, an opaque blind (or similar covering) covering the length and width of both shop windows and door shall be drawn and kept closed.
- The premises shall maintain a comprehensive CCTV system as per the minimum requirements of a Hertfordshire Constabulary Crime Prevention Officer. The CCTV system shall continually record whilst the premises is open for licensable activities and recordings shall be stored for a minimum period of 31 days and shall be made available immediately upon the request of Police or authorised officer.

- Appropriate staff training shall be completed, and training records shall be made available for inspection upon request by a relevant officer of a responsible authority.

The meeting ended at 10:22 AM

# Agenda Item 4



## AGENDA ITEM: 4

Report for:	Licensing of Alcohol and Gambling Sub-Committee
Date of meeting:	19 September 2017
PART:	I
If Part II, reason:	

Title of report:	<b>Premises Licence application under the Licensing Act 2003</b>
Contact:	Sally McDonald – Lead Officer, Licensing, Legal Governance
Purpose of report:	This report sets out details of an application in respect of a premises licence, which requires consideration and determination by the Sub-Committee in accordance with the adopted scheme of delegation.
Recommendations	That the Sub-Committee consider the contents of the report, and representations made in respect of the application, and determines the application in accordance with the options set out below.
Corporate objectives:	<p>Safe and Clean Environment</p> <ul style="list-style-type: none"> <li>Applications are required to be considered with regard to the promotion of four licensing objectives, comprising the prevention of crime and disorder, public safety, prevention of public nuisance, and protection of children from harm.</li> </ul> <p>Dacorum Delivers</p> <ul style="list-style-type: none"> <li>Consideration of applications for premises licences and club premises certificates is a statutory function, with a risk of judicial proceedings and reputational damage should the authority fail to properly exercise its functions.</li> </ul>
Implications:	Applications are to be determined under existing policies. No new policy implications arise.
Consultees:	Consultation requirements are prescribed by legislation, and differ depending upon the type of application. Details of representations made by consultees are set out below.

Background papers:	Licensing Act 2003, and associated regulations <a href="#">DBC Statement of Licensing Policy 2016-2021</a> <a href="#">Guidance to Licensing Authorities under section 182 of the Licensing Act 2003</a> (Home Office, March 2015)
Glossary of acronyms and any other abbreviations used in this report:	

## 1. Background

- 1.1. The supply of alcohol, provision of regulated entertainment, and sale of late night refreshment are licensable activities under the Licensing Act 2003. Authorisation from the Council, in its role as the licensing authority, is required in order to carry on any of these activities at premises within the borough.
- 1.2. The Act provides several forms of authorisation for different scenarios. Persons or organisations wishing to carry on activities at premises on a regular basis, or at larger one-off events, will require a premises licence to authorise those activities. Members' clubs, satisfying a number of statutory criteria, may alternatively hold a club premises certificate.
- 1.3. Under the scheme of delegation adopted by the Council, the Licensing of Alcohol & Gambling Sub-Committee ("the Sub-Committee") is responsible for the exercise of many of the functions of the licensing authority, including determination of applications where representations have been received.

## 2. Applications

- 2.1. The application detailed in part 5 of this report has been made to the licensing authority and requires consideration and determination by the Sub-Committee.
- 2.2. Notice of application was given by the applicant in each case, through service of a copy of the application on specified 'responsible authorities' (this obligation is fulfilled by officers where the application was given electronically). The applicant was also required to give public notice of the application, by way of publication of details in a local newspaper, and by displaying a statutory notice at or near the premises. Failure to comply with these requirements would render an application invalid. Officers have undertaken checks to ensure that these requirements were satisfied.
- 2.3. The applicant and persons making representations have been given notice of the hearing in accordance with statutory requirements.

## 3. General principles to be followed when determining applications

- 3.1. When considering applications, the licensing authority is required to carry out its functions with a view promoting the licensing objectives, which are:

- the prevention of crime and disorder;
  - public safety;
  - the prevention of public nuisance; and
  - the protection of children from harm.
- 3.2. The licensing authority must also have regard to its Statement of Licensing Policy, and to the statutory guidance issued by the Home Office under section 182 of the Act. Attention is drawn to specific, relevant provisions from these documents, with the details of the applications in the Appendices.
- 3.3. The Sub-Committee must ensure that all licensing decisions have a direct relationship to the promotion of one or more of the licensing objectives. Every application should be considered on its merits, and there must not be a 'blanket policy' to the extent that it is applied so rigidly that an exercise of discretion in each individual case is precluded. Applications must be considered with regard to the principles of fair process and the Human Rights Act.
- 3.4. The Statement of Licensing Policy makes clear to applicants and persons who have made representations the considerations that will be taken into account when determining applications. It is also intended to guide the Sub-Committee when considering licensing applications; however, the Sub-Committee may depart from either the Statement of Licensing Policy or the statutory guidance where the circumstances of the application justify it and if there are good reasons for doing so. Full reasons must be given and Sub-Committees should be aware that such departures could give rise to an appeal or judicial review.
- 3.5. The provisions of chapter 10 of the statutory guidance highlight that only precise, appropriate and proportionate conditions, which promote one or more of the licensing objectives, should be attached to the licence or certificate. The Sub-Committee should only impose such conditions as are necessary to promote the licensing objectives arising out of the consideration of the representations received , and should avoid straying into undisputed areas. Conditions duplicating other statutory provisions are not considered to be appropriate.
- 3.6. It is considered inappropriate for officers involved in the administration of applications to make recommendations. However officers from the Responsible Authorities may request conditions be imposed on a licence and make recommendations with regard to the licensing objectives.
- 3.7. Parties to a hearing, including the applicant and persons who made relevant representations, may have rights of appeal against any decision made by the Sub-Committee, dependent upon the nature of the decision. Appeals may be instituted by way of written notice to a Magistrates Court, within 21 days of being notified of the decision.

#### **4. Options available to the Sub-Committee**

- 4.1. When determining an application for the grant of a premises licence (under section 17 of the 2003 Act), the Sub-Committee must, having regard to relevant representations made in respect of that application, take such of the following steps as it considers appropriate for the promotion of the licensing objectives:



- (a) grant the licence subject to any applicable mandatory conditions, and conditions consistent with the operating schedule modified to such extent as the authority considers appropriate for the promotion of the licensing objectives;
- (b) exclude from the scope of the licence any of the licensable activities to which the application relates;
- (c) refuse to specify a person in the licence as the premises supervisor;
- (d) reject the application.

**5. Details of application**

5.1. The following applications require consideration and determination by the Sub-Committee. Further details on each application are contained in the indicated appendix:

Appendix	Premises name / address	Type of application
A	16-18 Lawn Lane, Hemel Hempstead, Herts HP3 9HL	Application for grant of premises licence (section 17 Licensing Act 2003)

## APPENDIX A

**Applicants names** Mr Shibak Ahmed and Mr Saifi Miah

**Name and address of premises** 16-18 Lawn Lane,  
Hemel Hempstead  
Herts  
HP3 9HL

**Ward** Apsley and Corner Hall

### 1. Current Licence

1.1 The premises is not currently subject to authorisation under the Licensing Act 2003.

### 2. Application

2.1 An application has been made for the grant of a new premises licence under section 17 of the Licensing Act 2003. This is set out at Annex A.

2.2 Authorisation is sought for the following licensable activities:

Live music (Indoors)

Sunday to Thursday 18:00 hours to 22:00 hours  
4 events per year

Recorded music (indoors)

Sunday to Thursday 12:00 hours to 23:00 hours  
Friday and Saturday 12:00 hours to 23:30 hours

Anything similar to live and recorded music and the performance of dance (Indoors)

Sunday to Thursday 18:00 hours to 22:00 hours

Supply of alcohol (for consumption both on and off the premises)

Sunday to Thursday 12:00 hours to 23:00 hours  
Friday and Saturday 12:00 hours to 23:30 hours

Hours the premises may open to the public

Monday to Sunday 12:00 hours to 00:00 hours

2.3 Following receipt of representations, the applicants submitted an amendment to the application as follows:

Live music, Recorded music; and Anything similar to live and recorded music and performance of dance

Removed from the application

The amendments to the application are set out at Annex A2.

2.3 A plan of the premises and map of the area are set out at Annexes B1-B2

**3. Details of Representations**

- 3.1 The consultation period for the application was between 2<sup>nd</sup> August 2017 and 30<sup>th</sup> August 2017.

During this period 9 representations were received, from persons living in the vicinity of the premises, citing concerns in respect of public nuisance and public safety. These representations are set out at Annex C1 to C9.

- 3.2 The following responses were received from responsible authority officers in respect of the application:

Police – no relevant representations

Fire Officer – no relevant representations

Public Health – no relevant representations

Environmental Health Pollution – no relevant representations

**4. Observations**

- 4.1 Relevant extracts from the Council's Statement of Licensing Policy and the statutory guidance are set out at Annex D.

## APPENDIX A APPLICATION FOR GRANT OF PREMISES LICENCE

Licensing, Dacorum Borough Council, The Forum, Marlowes, Hemel Hempstead, HP1 1DN

Revised April 2017



### Application for a premises licence to be granted under the Licensing Act 2003

#### 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 this 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. You may wish to keep a copy of the completed form for your records.

I/We SHIBAK AHMED + SAIFI MIAH  
(Insert name(s) of applicant)

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/We are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003.

#### Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description			
16-18 LAWN LANE, HP3 9HL			
Post town	HEMEL HEMPSTEAD.	Post code	HP3 9HL
Telephone number at premises (if any)		01442-257 786	
Non-domestic rateable value of premises		£13250.00	

#### Part 2 – Applicant Details

Please state whether you are applying for a premises licence as:

*Please tick ✓ as appropriate*

- |  |   |
|--|---|
| a) an individual or individuals *        | <input checked="" type="checkbox"/> please complete section (A) |
| b) a person other than an individual *   |   |
| i. as a limited company                  | <input type="checkbox"/> please complete section (B)            |
| ii. as a partnership                     | <input type="checkbox"/> please complete section (B)            |
| iii. as an unincorporated association or | <input type="checkbox"/> please complete section (B)            |



SECOND INDIVIDUAL APPLICANT (if applicable)

Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other title (for example, Rev.)			
Surname		MIAH	
First names		SAIFI	
Date of birth		[REDACTED] I am 18 years old or over : <input checked="" type="checkbox"/> Please tick ✓ yes	
Nationality		BRITISH	
Current residential address if different from premises address		[REDACTED]	
Post town		Post code	[REDACTED]
Daytime contact telephone number		[REDACTED]	
Email address (optional)			

(B) OTHER APPLICANTS

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

Name	
Address	
Registered number (where applicable)	
Description of applicant (for example, partnership, company, unincorporated association, etc.)	
Telephone number (if any)	
Email address (optional)	

**Part 3 – Operating Schedule**

When do you want the premises licence to start?

<sup>D</sup>  <sup>D</sup> /  <sup>M</sup>  <sup>M</sup> /     <sup>Y</sup> <sup>Y</sup> <sup>Y</sup> <sup>Y</sup>

If you wish the licence to be valid only for a limited period when do you want it to end?

<sup>D</sup>  <sup>D</sup> /  <sup>M</sup>  <sup>M</sup> /     <sup>Y</sup> <sup>Y</sup> <sup>Y</sup> <sup>Y</sup>

**Please give a general description of the premises (please read guidance note 1)**

THE PREMISES WILL BE AN INDIAN RESTAURANT  
ALCOHOL WILL BE SERVED FOR CONSUMPTION WITH  
FOOD ON THE PREMISES.

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

What licensable activities do you intend to carry on from the premises?  
(Please see sections 1 and 14 and Schedules 1 and 2 to the Licensing Act 2003)

Please tick ✓ all that apply

**Provision of regulated entertainment (please read guidance note 2)**

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

**Provision of late night refreshment (if ticking yes, fill in box I)**

**Supply of alcohol (if ticking yes, fill in box J)**

In all cases complete boxes K, L and M

**A**

Plays Standard days and timings (please read guidance note 7)			Will the performance of a play take place indoors or outdoors or both – please tick ✓ (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 4)	N/A	
Tue					
Wed			State any seasonal variations for performing plays (please read guidance note 5)	N/A	
Thur					
Fri			Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list (please read guidance note 6)	N/A	
Sat					
Sun					



**B**

Films Standard days and timings (please read guidance note 7)			Will the exhibition of films take place indoors or outdoors or both – please tick ✓ (please read guidance note 3)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 4)	N/A	
Tue					
Wed			State any seasonal variations for the exhibition of films (please read guidance note 5)	N/A	
Thur					
Fri			Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 6)	N/A	
Sat					
Sun					

**C**

Indoor sporting events Standard days and timings (please read guidance note 7)			Please give further details (please read guidance note 4)
Day	Start	Finish	
Mon			N/A
Tue			
Wed			State any seasonal variations for indoor sporting events (please read guidance note 5)
Thur			N/A
Fri			
Sat			Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list (please read guidance note 6)
Sun			

**D**

Boxing or wrestling entertainments Standard days and timings (please read guidance note 7)			Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick ✓ (please read guidance note 3)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 4)		
Tue					
Wed			State any seasonal variations for boxing or wrestling entertainment (please read guidance note 5)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list (please read guidance note 6)		
Sat					
Sun					

E

Live music Standard days and timings (please read guidance note 7)			Will the performance of live music take place indoors or outdoors or both – please tick ✓ (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	1800	2200	Please give further details here (please read guidance note 4) AMATEUR OR LOOK A LIKES POP IDOLS SUCH AS ELVIS, ABBA, ROBBIE WILLIAMS TRIBUTE NIGHTS ONLY FOR OVER 21'S.	Both	<input type="checkbox"/>
Tue	1800	2200			
Wed	1800	2200	State any seasonal variations for the performance of live music (please read guidance note 5) NO SEASONAL VARIATION JUST ONE PER EVERY THREE MONTHS. FOUR IN A YEAR.		
Thur	1800	2200			
Fri			Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list (please read guidance note 6) WE WILL NOT BE HOLDING ANY LIVE MUSIC ON NON STANDARD TIMINGS.		
Sat					
Sun	1800	2200			

**F**

Recorded music Standard days and timings (please read guidance note 7)			Will the playing of recorded music take place indoors or outdoors or both – please tick ✓ (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	12.00	23.00	Please give further details here (please read guidance note 4)	Both	<input type="checkbox"/>
Tue	12.00	23.00		N/A	
Wed	12.00	23.00	State any seasonal variations for the playing of recorded music (please read guidance note 5)	N/A	
Thur	12.00	23.00			
Fri	12.00	23.30	Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list (please read guidance note 6)	N/A	
Sat	12.00	23.30			
Sun	12.00	23.00			

**G**

Performances of dance Standard days and timings (please read guidance note 7)			Will the performance of dance take place indoors or outdoors or both – please tick ✓ (please read guidance note 3)	
Day	Start	Finish	Indoors	<input type="checkbox"/>
			Outdoors	<input type="checkbox"/>
			Both	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 4)  N/A	
Tue				
Wed			State any seasonal variations for the performance of dance (please read guidance note 5)  N/A	
Thur				
Fri			Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list (please read guidance note 6)  N/A	
Sat				
Sun				

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 7)			Please give a description of the type of entertainment you will be providing <b>LIVE TRIBUTE NIGHTS OR KARAOKE EVENINGS.</b>  N/A		
Day	Start	Finish	Will this entertainment take place indoors or outdoors or both – please tick ✓ (please read guidance note 3)	Indoors	
Mon	1800	2200			<input checked="" type="checkbox"/>
			Outdoors		<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue	1800	2200	Please give further details here (please read guidance note 4) <b>THESE WILL BE EITHER LIVE TRIBUTE NIGHTS OR KARAOKE EVENINGS WITH SING A LONG WITH BACKGROUND MUSIC.</b>		
Wed	1800	2200	State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 5) <b>NO SEASONAL</b>		
Thur	1800	2200	N/A		
Fri					
Sat			Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list (please read guidance note 6) <b>NO TO STANDARD TIMINGS.</b>		
Sun	1800	2200	N/A		

Late night refreshment Standard days and timings (please read guidance note 7)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick ✓ (please read guidance note 3)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 4)	Both	<input type="checkbox"/>
Tue					
Wed			State any seasonal variations for the provision of late night refreshment (please read guidance note 5)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list (please read guidance note 6)		
Sat					
Sun					



J

Supply of alcohol Standard days and timings: (please read guidance note 7)			Will the supply of alcohol be for consumption: (Please tick box ✓) (please read guidance note 8)	On the premises	<input checked="" type="checkbox"/>
Day	Start	Finish		Off the premises	<input type="checkbox"/>
Mon	12.00	23.00	State any seasonal variations for the supply of alcohol (please read guidance note 5)  NO SEASONAL VARIATIONS, ONLY TIMES STATED.	Both	<input checked="" type="checkbox"/>
Tue	12.00	23.00			
Wed	12.00	23.00			
Thur	12.00	23.00	Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 6)  NON STANDARD TIMINGS ONLY AS STATED.		
Fri	12.00	23.30			
Sat	12.00	23.30			
Sun	12.00	23.00			

State the name and details of the individual whom you wish to specify on the licence as premises supervisor:  
(Please see declaration about the entitlement to work in the checklist at the end of the form).

Name	MR SHIBAK AHMED
Date of birth	<del>REDACTED</del>
Address	<del>REDACTED</del> <del>REDACTED</del>
Postcode	<del>REDACTED</del>
Personal Licence number (if known)	<del>REDACTED</del>
Issuing licensing authority (if known)	<del>REDACTED</del>

**K**

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 9)

N/A

**L**

Hours premises are open to the public Standard days and timings (please read guidance note 7)			State any seasonal variations (please read guidance note 5)
Day	Start	Finish	
Mon	1200	<del>0000</del> 0000	N/A
Tue	1200	<del>0000</del> 2300	
Wed	1200	<del>0000</del> 2300	
Thur	1200	<del>0000</del> 2300	
Fri	1200	<del>0000</del> 2330	
Sat	1200	<del>0000</del> 2330	
Sun	1200	<del>0000</del> 2300	
			Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 6)
			N/A

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

a) General – all four licensing objectives (b,c,d,e) (please read guidance note 10)

- MONTHLY REVIEW OF DPS DUTIES AND RESPONSIBILITIES.
- MONTHLY REFRESHER STAFF TRAINING.
- NEW STAFF TRAINING.
- SELLING TO CONSUMERS THAT COMPLY WITH LAW.
- I WOULD WELCOME ANY SUGGESTION FROM LOCAL AUTHORITY AND PUTTING IN PREVENTIVE MEASURES IN PLACE.

b) The prevention of crime and disorder

I WOULD TRY TO DO WHATEVER WITHIN MY CONTROL SUCH AS;

- NOT SELLING TO DRUNKEN PEOPLE.
- NOT SELLING TO UNDERAGE.
- PROMOTE CHALLENGE 25.
- TRAIN STAFF ADEQUATELY.

c) Public safety

- NOT SELL TO UNDERAGE
- TO DRUNKENS
- NOT ALLOW TO DRINK ON THE WAY HOME/PUBLIC PLACE.
- MAINTAIN THE FOUR LICENSING OBJECTIVES.
- I WOULD ALSO WELCOME ANY SUGGESTIONS FROM THE LOCAL AUTHORITY.

d) The prevention of public nuisance

- ~~I WOULD NOT DO LATE NIGHT EVENTS SUCH AS IN HOUSE MUSIC EVENTS.~~
- NOT SERVE OR SELL ALCAHOL TO DRUNKENS CUSTOMERS
- ~~NOT ENCOURAGE CUSTOMERS TO DRINK AFTER CLOSING.~~
- TO PREVENT ANY NUISANCE TO PUBLIC.
- CCTV

e) The protection of children from harm

- I WOULD NOT SELL TO UNDERAGE CUSTOMERS.
- PROMOTE CHALLENGE 25. ASK FOR I.D. FOR ANYONE THAT LOOKS UNDER ~~AGE~~ THE AGE OF 25 AND ASK FOR PROOF OF AGE.
- I WOULD ALSO WELCOME ANY SUGGESTIONS FROM THE LOCAL AUTHORITY.

Please tick ✓ to indicate agreement

- I have made or enclosed payment of the fee.
- I have enclosed the plan of the premises.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable.
- I understand that I must now advertise my application.
- I understand that if I do not comply with the above requirements my application will be rejected.
- *[Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships]*  
I have included documents demonstrating my entitlement to work in the United Kingdom (please read note 15).

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

**Part 4 – Signatures** (please read guidance note 11)

**Signature of applicant or applicant's solicitor or other duly authorised agent** (See guidance note 12). If signing on behalf of the applicant please state in what capacity.

<b>Declaration</b>	<ul style="list-style-type: none"> <li>• [Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15).</li> <li>• The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, if appropriate (please see note 15).</li> </ul>
Signature ▼	<i>Shubek Ahmad</i>
Date ▼	02-08-2017
Capacity ▼	DIRECTOR

**For joint applications, signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> applicant's solicitor or other authorised agent** (please read guidance note 13). If signing on behalf of the applicant please state in what capacity.

Signature ▼	<i>[Signature]</i>
Date ▼	02-08-2017
Capacity ▼	MANAGER

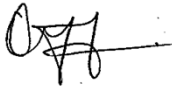
<b>Contact name (where not previously given) and address for correspondence associated with this application.</b> (please read guidance note 14)			
Post town		Postcode	
Telephone number (if any)			
If you would prefer us to correspond with you by email your email address (optional)			

**ANNEX A2**

**AMENDMENTS TO THE APPLICATION SUBMITTED BY THE APPLICANTS**

E

Live music Standard days and timings (please read guidance note 7)			Will the performance of live music take place indoors or outdoors or both - please tick ✓ (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	1800	2200	Please give further details here (please read guidance note 4) AMATEUR OR LOOK A LIKES POP IDOLS SUCH AS ELVIS, ABBA, ROBBIE WILLIAMS TRIBUTE NIGHTS ONLY FOR OVER 21'S.	Both	<input type="checkbox"/>
Tue	1800	2200			
Wed	1800	2200	State any seasonal variations for the performance of live music (please read guidance note 5) NO SEASONAL VARIATION JUST ONE PER EVERY THREE MONTHS. FOUR IN A YEAR.		
Thur	1800	2200			
Fri			Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list (please read guidance note 6) WE WILL NOT BE HOLDING ANY LIVE MUSIC ON NON STANDARD TIMINGS.		
Sat					
Sun	1800	2200			

not now required  
SAIFI MIAH  


F

Recorded music Standard days and timings (please read guidance note 7)			Will the playing of recorded music take place indoors or outdoors or both – please tick ✓ (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	12 00	23 00	Please give further details here (please read guidance note 4)  N/A		
Tue	12 00	23 00			
Wed	12 00	23 00	State any seasonal variations for the playing of recorded music (please read guidance note 5)  N/A		
Thur	12 00	23 00			
Fri	12 00	23 30	Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list (please read guidance note 6)  N/A		
Sat	12 00	23 30			
Sun	12 00	23 00			

Not now Required  
SAIFI MIAH  
0978

H

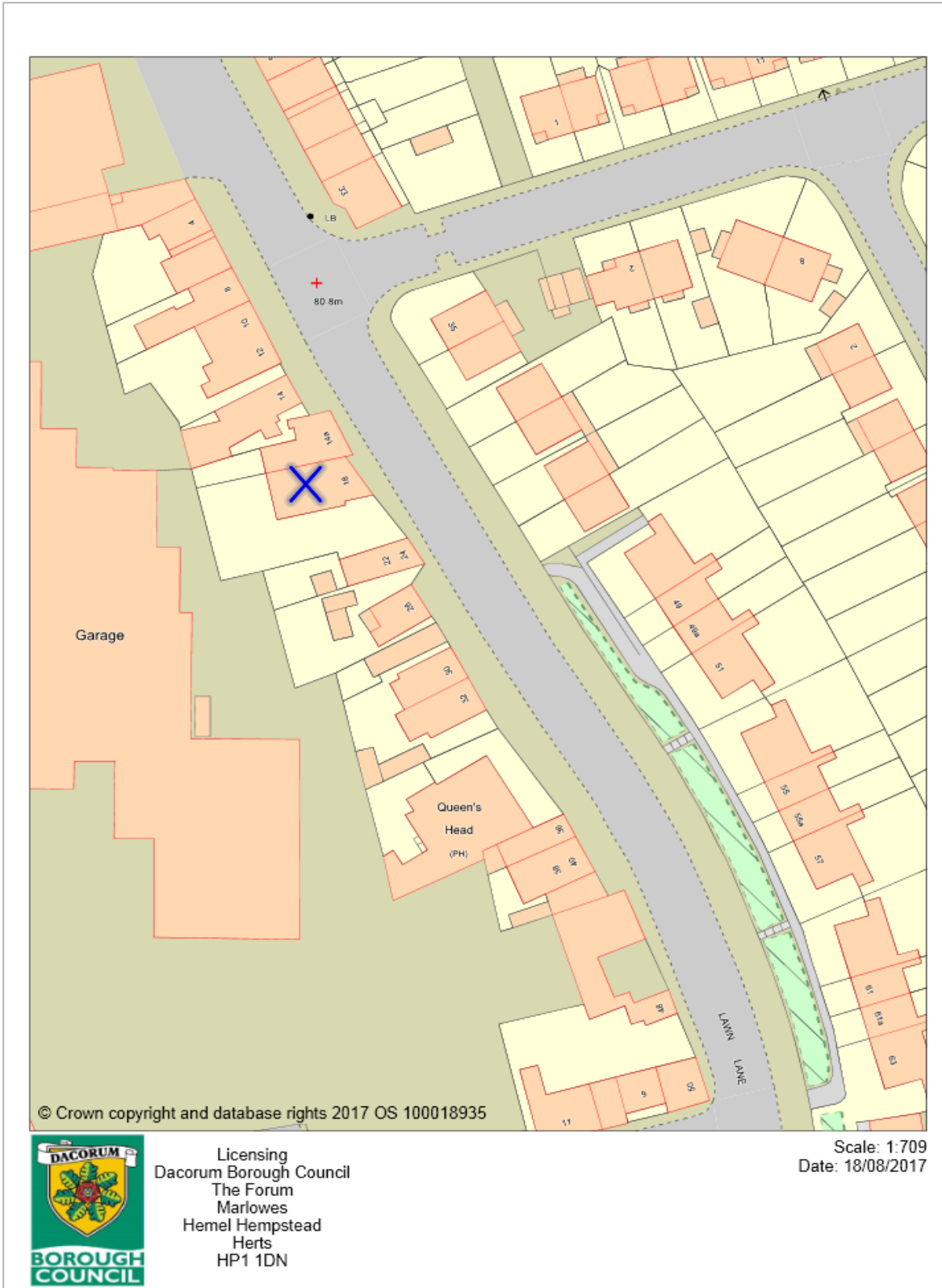
Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 7)			Please give a description of the type of entertainment you will be providing <u>LIVE TRIBUTE NIGHTS OR KARAOKE EVENINGS</u>		
Day	Start	Finish	Will this entertainment take place indoors or outdoors or both – please tick ✓ (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Mon	<del>1800</del>	<del>2200</del>		Both	<input type="checkbox"/>
Tue	<del>1800</del>	<del>2200</del>	Please give further details here (please read guidance note 4) <u>THESE WILL BE EITHER LIVE TRIBUTE NIGHTS OR KARAOKE <del>N/A</del> EVENINGS WITH SING A LONG WITH BACKGROUND MUSIC.</u>		
Wed	<del>1800</del>	<del>2200</del>	State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 5) <u>NO SEASONAL</u>		
Thur	<del>1800</del>	<del>2200</del>	<u>N/A</u>		
Fri			Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list (please read guidance note 6) <u>NO TO STANDARD TIMINGS</u>		
Sat			<u>N/A</u>		
Sun	<del>1800</del>	<del>2200</del>	<u>N/A</u>		

Not now Required  
SAFI MIAH  
Off





**ANNEX B2  
MAP OF AREA**



From: [mailto:  
Sent: 12 August 2017 20:20  
To: Licensing Mailbox  
Subject: Application ref M043725: Olive Indian Restaurant, 16-18 Lawn Lane

Dear Sir/ Madam

I am writing to express my concerns and object to the recently submitted application for licensing of the new Indian restaurant on 16-18 Lawn Lane.

I am a resident of Lawn Lane and I am seriously concerned if the premises is granted a license to sell alcohol and play live music we will be subject to noise from the live music and from diners and revelers leaving the venue late at night.

The premises does not have dedicated parking, all customers dining will park their cars on our road. As residents we already face daily problems where we cannot gain entry or exit our driveways, as they are blocked by motorists parking their vehicles illegally. I understand there are 40 seats available at the restaurant, and therefore at full capacity we could have an additional 20 cars parking on our road.

I have an elderly mother who lives with me, and it is imperative that I have exit access to my driveway at all times.

I look forward to hearing from you.

Yours Sincerely

Sent from my iPad

## ANNEX C2

**From:** [mailto:  
**Sent:** 14 August 2017 09:17  
**To:** Licensing Mailbox  
**Subject:** Objection to Licence at Olive Restaurant Lawn Lane

I would like to express my objection to the current licence application for the above mentioned premises. As a resident living directly across from the premises my main concerns are the noise - it is noisy enough on Lawn Lane without another premises with a closing time that may include people leaving the premises creating noise. Regarding live music I do not wish to hear this whilst relaxing in my living room. The other main objection is parking. All too often I cannot access my dedicated parking space as other have parked in front of it for no thought to the residents and their access. This is bad enough with the take away trade that is in the area but with a restaurant where people are likely to remain longer I believe the situation will only worsen. At least reinstate the no parking signage on the pavement in front of the properties 39 - 45 Lawn Lane and perhaps introduce parking permits for residents.

Regards

## ANNEX C3

**From:** [mailto:  
**Sent:** 14 August 2017 17:45  
**To:** Licensing Mailbox  
**Subject:** Re: application ref:MO43725

thank you for your reply i think i stated my case, surely we have enough in lawn lane so there will be noise with the music and banging of car doors, people coming out of the restaurant in groups etc what else do you want from us residents none of you live here and have to put up with noise etc unbelievable.

**From:** [mailto:  
**Sent:** 15 August 2017 09:34  
**To:** Licensing Mailbox  
**Subject:** RE: Licensing team

Dear Ms McDonald,

Thank you for responding to Mrs \*\*\*\*\* objection email. We will try to explain Mrs \*\*\*\*\* concerns a bit further.

On top of the parking issues already mentioned, Mrs \*\*\*\*\* feels that revellers leaving the restaurant late at night after closing time, which we believe will be midnight, may be under the influence of alcohol and may well be rowdy at that time of the night; disturbing herself as well as the other neighbours. There are young and old residents in this area and noisy night revellers will disturb them as well as possibly frightening them. There is enough entertainment in the area as it is. Enticing more alcoholic loud music lovers won't make the area any better. It'll take away our peace and security of being safely tucked up in our homes, safe and secure. It may also make the area a less desirable place for future residents to want to invest in.

Doubt will set in with present residents and the revellers that cannot hold their alcoholic intake will no doubt be depositing it back onto our roads near or outside our homes! Something our children do not need to see. We have clean streets, we'd like them to stay that way please!

I hope we have managed to express Mrs \*\*\*\*\* concerns over the granting of the licence a bit further.

Yours sincerely,

**From:**

**Sent:** 16 August 2017 22:13

**To:** Licensing Mailbox

**Subject:** Application Ref: M043725. Olive Indian Restaurant, 16-18 Lawn Lane, Hemel Hempstead

We are writing to object the application for a fully licensed restaurant, with live music in Lawn Lane.

Our main issue is parking. We are constantly being blocked in or out of our drive as it is with people that selfishly leave their cars and go to work in the town. The restaurant would only increase the number of cars parking in and around Cedar Walk. The restaurant would also create more noise late at night with their live music.

Another concern is that cars are constantly parked on both sides of the road at the junction with Lawn Lane onto Cedar Walk thus causing an accident waiting to happen. We don't understand why this isn't monitored more closely or at the very least have double yellow lines. Having a restaurant would only increase cars parking dangerously on this junction.

Kind regards

\*\*\*\*\*

Cedar Walk  
Hemel Hempstead  
Herts

**From:**  
**Sent:** 19 August 2017 10:04  
**To:** Licensing Mailbox  
**Subject:** Application M043725 - 16-18 Lawn Lane

Dear Sirs

I write in response to the application for a full restaurant license at 16-18 Lawn Lane, to which I strongly object.

Whilst I would have no difficulty with a takeaway restaurant in principle, a fully licensed restaurant with the ability to sell alcohol would be detrimental to the peace of the neighbourhood, disturbed as it is by noise from the pubs and restaurants already on Lawn Lane.

Furthermore the parking along the northern end of Lawn Lane is already extremely congested with numerous vehicles trying to find spaces on and around the main road. The granting of this license would add the need for a further 20 or so cars at full occupancy, exacerbating the parking issue and causing further disruption to residents in the areas around.

I urge the council to reject the application.

**From:** [mailto:  
**Sent:** 21 August 2017 10:45  
**To:** Licensing Mailbox  
**Subject:** Application Ref M043725

Dear team

I have seen the new licence application for the Olive Indian Restaurant on Lawn Lane. Whilst I am keen to encourage restaurants rather than more takeaways in this area, I do want to raise three issues that concern me as apart from the line of takeaway restaurants, Lawn Lane is a residential road with limited parking.

1. My concern is the volume of noise from the evening music, especially on a Sunday and school nights. It is not a problem to entertainment, karaoke, live or recorded music, but it is taking into consideration that families do not want to try and have an evening in or sleep whilst music is pumping. The restaurant should put a clear and transparent process in place for residents to let them know if there is a problem with noise and to immediately deal with the issue. This would save months of recording and involving the council teams.
2. The permit for supplying alcohol which can be consumed off the premises. Again no problem with the supply of alcohol for consumption within the restaurant, but there is already a problem with groups of people sitting on the grass banks opposite the takeaway drinking and shouting late at night. I would not want to limit customers for the behaviour of a few, so I would suggest that it is carefully monitored. For example if diners ordered a bottle of wine and hadn't finished it, they should be allowed to take that with them when they leave. Also if a takeaway order customer wished to add wine to their order, this would be allowed. However the sale of alcohol only should not be allowed.
3. Parking is an issue already on Lawn Lane, with driveways often blocked or partly blocked as people try and squeeze into bays because the parking here is free. To ensure parking continues to be permit free, I wonder if the restaurant could come to an agreement with a local business to share their car park and offer this to customers ensuring that they do not have any problems parking when coming to the restaurant.

Thanks

\*\*\*\*\*

\*\* Lawn Lane  
Hemel Hempstead  
Herts  
\*\*\*\*\*



**From:** [mailto:  
**Sent:** 22 August 2017 18:27  
**To:** Licensing Mailbox  
**Subject:** Application ref: MO43725

Licensing Team  
Dacorum Borough Council  
The Forum  
Marlowes  
Hemel Hempstead  
HP1 1DN

22nd August 2017

Dear Sir

**Objection to APPLICATION REF MO42725, Olive Indian Restaurant, 16-18 Lawn Lane**

As you can see, I am a resident of Lawn Lane which, like many parts of the Borough, has very serious parking problems. Some residents are lucky enough to have a car port, but the vast majority rely upon the permitted parking spaces on the wide pavement on one side of this busy road. Until very late at night there are many take away food establishments and other businesses operating in Lawn Lane that attract visitors whose cars exacerbate parking problems for residents. However, most of these visitors stay for a relatively short length of time by virtue of the type of businesses concerned.

The business proposed by the applicant is quite different and by its very nature will involve prolonged stays by its clients. As the premises of the proposed licensed restaurant has no parking of its own this will increase the pressure on parking on Lawn Lane and surrounding streets such as Cedar Walk and Corner Hall Avenue in the evening when residents are at or returning home. There have already been several accidents on Lawn Lane where double parking or other types of illegal parking have been a contributing factor and this business would increase the danger of such accidents.

As a local Councillor, I am usually very much in favour of encouraging new enterprises in the Borough and I have no problem with the many take-away eateries on Lawn Lane, which include other Indian food establishments and which provide a useful service for residents in the area as well as short stay visitors. However, the proposed eat-in restaurant will provide more problems for residents than the service offered is worth and is inappropriate in this location. I therefore respectfully request that you refuse this application.

Yours faithfully

**From:** [mailto:  
**Sent:** 28 August 2017 18:07  
**To:** Licensing Mailbox  
**Subject:** Ref: MO43725. OLIVE INDIAN RESTAURANT, 16-18 LAWN LANE

Dear Sir.

The Olive Indian Restaurant – Licensing Request.

As I live adjacent to the above, I object strongly to; late, noisy karaoke evenings, fuelled by alcohol.

Specifically, my concerns are:

- **Tribute bands or Karaoke:** I totally object to loud music on consecutive nights in a residential area. The Olive Indian restaurant is in extremely close proximity to a large residential area, in fact, just across the road! I would like to point out that there are residents in this area whose jobs will be compromised by lack of sleep. Residents including paramedics, nurses, bus & train drivers, all of who work shifts, with the lives and safety of many people in their hands.
- They should certainly not need to move house to get essential sleep.
- During the summer months, residents will want to have their windows open during the day and night, and I for one, would certainly want to relax in my garden to hear the birds sing and children laughing, and then have quiet so I can experience essential sleep, not disturbing loud tribute bands or disturbing loud karaoke dominating the air from mid day onwards. The stress created will be totally unreasonable.
- **Parking:** The Olive Indian Restaurant does not have dedicated parking, it's very near The Plough Roundabout, which gets very busy and congested, the roads off Lawn Lane, which are not permit holder parking, will have their parking issues compounded by the extra load from the restaurant, we already have problems from people parking to go shopping, get the train or bus, or to collect a take-away.
- **Effects on other Entities:** This parade's establishments are mainly take-away food outlets. It is not unusual to have to dodge discarded; food that people have thrown on to the footway, packaging, drinks bottles and vomit!
- Already, we have our sleep disturbed by essential emergency vehicles, as most of these emergency vehicles pass through the Plough roundabout with their sirens on.

I hope this gives you an insight to the problems residents in this area already have to deal with. Everybody wants to have peacefulness. They want to come home after a hard day's

work and relax, whether in the garden or their home in peace and quiet, to unwind from the stresses of a day's work, and get to sleep at a reasonable hour, ready for an early riser and work the following day.

Will you also seek the advice of Environmental Health on these proposals and report their findings to me and the Licensing Authority please?

Yours Faithfully

\*\*\*\*\*

\*\*\*\*\*

Hemel Hempstead  
Herts  
\*\*\*\*\*

## ANNEX D

### Local Policy considerations and statutory guidance

#### Local Policy

##### Public Nuisance

5.12. The licensing authority will interpret the term 'public nuisance' widely, and when considering this objective will take into account issues relating to noise, vibration, light, litter, offensive odours and anti-social behaviour arising from or in connection with public nuisance

5.13. This objective does not mean the complete prevention of all of the above issues, but rather the prevention of such unreasonable levels of these as would constitute a nuisance to the public or a section thereof. A degree of noise, for example, is an inevitable consequence of the provision of most forms of regulated entertainment. The licensing authority will therefore seek to exercise its powers in a way which promotes the licensing objective, to discourage and eliminate the carrying on of licensable activities in a way that causes unreasonable inconvenience, upset or distress to others through the provision of licensable activities.

##### Applications

9.1. Every matter requiring determination by the licensing authority will be considered on its individual merits, and in doing so the authority shall have regard to this Statement, the Guidance, and the need to promote the licensing objectives. Where applicable, an evidentiary hearing will be conducted prior to the determination of the matter, in full accordance with Regulations made under the Act.

9.3. Where the authority's discretion is engaged, following receipt of a relevant representation or an objection notice, or in the case of review or minor variation applications, the licensing authority will apply the considerations set out below.

9.4. Almost all of the decision-making powers under the Act require licensing authorities to take such action as they consider appropriate for the promotion of the licensing objectives. The Act was amended to substitute 'appropriate' for 'necessary', a move which may be regarded as having increased authorities discretion in respect of the determination of applications. The licensing authority will now consider 'appropriate' in accordance with the standard dictionary definition: "suitable or proper in the circumstances".

9.6. When considering applications for a new licence, or a variation of an existing licence, the options available to the authority will generally include: granting the application as applied for, granting the application with amendments to the operating schedule or additional conditions, or refusing the application. The last of these options is clearly the most serious, and the authority will only look to refuse applications where it is satisfied that the proposed activities could not be carried on, even with modifications or additional restrictions, without a detrimental effect to the licensing objectives.

##### Licensing hours

10.3. Licensing hours should not inhibit the development of a thriving and safe evening and night time economy. This is important for investment, local employment, tourism and local services associated with the night time economy. Providing consumers with greater choice and flexibility is an important consideration, but

should always be balanced carefully against the duty to promote the licensing objectives and the interests of local residents.

10.4. The licensing authority expects that issues relating to licensing hours, and in particular measures to limit the potential for nuisance or disorder arising from later hours of trading, will be addressed by the applicant in their operating schedule.

10.5. In addition to their licensable activities, applicants are also expected to set out the proposed opening hours of their premises within their operating schedule. The licensing authority expects these times to be provided for all premises which may be accessed by members of the public, as these will inform the authority, responsible authorities and other persons of the full extent of the operation of the premises, and allow all parties to consider the application and the effect on the licensing objectives fully. The hours given should include all times when the premises may trade to the public (whether licensable activities are being provided or not), when individuals may be present on the premises.

10.8. The licensing authority will deal with the issue of licensing hours on the individual merits of each application. However, when issuing a licence, stricter conditions are more likely to be considered appropriate for the promotion of the public nuisance objective in the case of premises that are situated in predominantly residential areas.

#### Licence Conditions

11.1. The licensing authority will seek to avoid imposing disproportionate conditions on premises. It will only impose conditions that it considers appropriate in order to promote the licensing objectives, and which are in themselves reasonable and proportionate.

11.2. Additionally, we will seek to ensure that conditions only pertain to matters which are within the direct control or the sphere of influence of the licence-holder.

#### **National Guidance**

##### Each application on its own merits

1.17. Each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

##### Public Safety

#### **Ensuring safe departure of those using the premises**

2.10 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:

- Providing information on the premises of local taxi companies who can provide safe transportation home; and
- Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

## Public Nuisance

2.14. The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

2.18 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

2.20 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

## Determination of applications

9.36 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation.

9.37 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- this Guidance;
- its own statement of licensing policy.

9.38 The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating

schedule. Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational.

#### Imposed conditions

10.8 The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.

10.9 It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives.

# Agenda Item 5



Report for:	Licensing of Alcohol and Gambling Sub-Committee
Date of meeting:	19 September 2017
PART:	I
If Part II, reason:	-

Title of report:	<i>Application reference number: M043323</i> <b>Small society lottery registration application under the Gambling Act 2005</b>
Contact:	Ross Hill – Licensing Team Leader, Legal Governance
Purpose of report:	This report sets out details of an application for registration to promote small society lotteries (raffles, etc), which requires consideration and determination by the Sub-Committee in accordance with the adopted scheme of delegation.
Recommendations	That the Sub-Committee consider the contents of the report, and determine the application(s) in accordance with the options set out below.
Corporate objectives:	<p>Safe and Clean Environment</p> <p>Applications are required to be considered with regard to the promotion of the licensing objectives, which are:</p> <ul style="list-style-type: none"> <li>• Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;</li> <li>• Ensuring that gambling is conducted in a fair and open way; and</li> <li>• Protecting children and other vulnerable people from being harmed or exploited by gambling.</li> </ul> <p>Dacorum Delivers</p> <ul style="list-style-type: none"> <li>• Consideration of applications for small society lottery registrations is a statutory function, with a risk of judicial proceedings and reputational damage should the authority fail to properly exercise its functions.</li> </ul>
Implications:	Applications are to be determined under existing policies. No new policy implications arise.
Consultees:	There are no consultation requirements for applications of this type.



Background papers:	<p>Gambling Act 2005, and associated regulations</p> <p><a href="#">DBC Statement of Principles 2016-2019</a> (Para 29.2)</p> <p><a href="#">Gambling Commission's Guidance to Licensing Authorities</a> (Part 34) (5<sup>th</sup> edition, September 2015)</p>
Glossary of acronyms and any other abbreviations used in this report:	

## 1. Background

- 1.1. The provision of commercial and non-commercial gambling activities in the UK is regulated under the Gambling Act 2005. The definition of gambling includes gaming, betting or participation in a lottery, and is generally defined as activities provided for a payment, in exchange for the chance to win a prize.
- 1.2. The Act includes regulatory measures for lotteries (with the exception of the National Lottery), which are defined as either:
  - a) A 'simple lottery', in which players must pay to participate, and may be allocated a prize through a single process relying wholly on chance, or
  - b) A 'complex lottery', in which players must pay to participate, and may be allocated a prize through a series of processes, the first of which relies wholly on chance.
- 1.3. These definitions are wide enough to capture a variety of different fund-raising schemes, including lotteries, raffles, tombola, 100 clubs, prize draws, and non-skill competitions. The law only allows any lottery to be promoted to benefit a non-commercial purposes – not for private profit or gain.
- 1.4. There are several different categories of permissible lotteries, including some which must be formally licensed by the Gambling Commission (large society lotteries and local authority lotteries). Incidental lotteries (those run incidentally to an event), private society/work/residents' lotteries (those run solely for members of a society, employees of a workplace, or residents of a property), and customer lotteries (for customers at a business premises) are considered to be exempt lotteries, which do not require any licence/registration but must be run in accordance with strict statutory requirements. Small society lotteries are also considered to be an exempt type of lottery, but can only be promoted under a registration issued by the relevant local authority.
- 1.5. A small society lottery must:
  - Be promoted by or on behalf of a non-commercial society, which is registered with the relevant local authority throughout the promotion period;
  - Comply with limits on proceeds of such lotteries (no more than £20,000 per lottery, and £250,000 in aggregate in a calendar year);
  - Deliver at least 20% of its proceeds to the purposes of the promoting society;
  - Have a prize value not exceeding £25,000, including any rollover arrangements;
  - Charge the same amount for every ticket sold, and provide a ticket document to buyers containing certain prescribed details.

## 2. Application

- 2.1. An application for registration to promote small society lotteries was received on the **26 April 2017**, from **ProFormance Global**.
- 2.2. The application describes the purpose of this organisation as:  
**Football training for young people. Children register to train in our teams and are coached by professional coaches. We have a strict child protection policy and maintain the highest of standards. Local players have gone through our programme and on to professional clubs**
- 2.3. The applicant is not a registered charity, and has not held operating licences from the Gambling Commission in the previous 5 years.
- 2.4. On making checks as to the status of the applicant, officers noted that ProFormance Global is registered with Companies House as a commercial private limited company, number 10202891. This status would not be compatible with the statutory requirement that local authorities only register non-commercial societies.
- 2.5. Officers raised these concerns with the applicant and asked for additional information about the structure and constitution of the company, which was provided in a short email (appended at Annex A). Officers subsequently wrote to the applicant again to advise that the concerns remained, with advice on how to proceed (appended at Annex B). To date, no response has been received to this letter.

## 3. General principles to be followed when determining applications

- 3.1. Schedule 11 to the Gambling Act 2005 sets out the relevant framework for the determination of applications for registration, stating:

*44. As soon as is reasonably practicable after receipt of an application under paragraph 42 a local authority shall, subject to paragraphs 47 and 48–*  
*(a) enter the applicant, together with such information as may be prescribed, in a register kept by the authority for the purposes of this Part,*  
*(b) notify the applicant of his registration, and*  
*(c) notify the Commission of the registration.*

...

*47. A local authority shall refuse an application for registration if in the period of five years ending with the date of the application–*  
*(a) an operating licence held by the applicant for registration has been revoked under section 119(1), or*  
*(b) an application for an operating licence made by the applicant for registration has been refused.*

*48. A local authority may refuse an application for registration if they think that–*  
*(a) the applicant is not a non-commercial society,*  
*(b) a person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence, or*  
*(c) information provided in or with the application for registration is false or misleading.*

*49. A local authority may not refuse an application for registration unless they have given the applicant an opportunity to make representations.*

- 3.2. There is a small amount of content relevant to applications of this type within both the statutory guidance to licensing authorities, issued by the Gambling Commission, and the statement of principles issued by the licensing authority. Both of these documents are linked above.
- 3.3. If the application is refused, the applicant will have a right of appeal against the decision. Appeals may be instituted by way of written notice to a Magistrates Court, within 21 days of being notified of the decision.

#### **4. Options available to the Sub-Committee / Recommendation**

- 4.1. Officers recommend that this application be refused under para 48(1), schedule 11 to the Gambling Act 2005, on the grounds that the applicant, ProFormance Global, is a commercial company and is thus not eligible to promote small society lotteries to benefit a non-commercial society.
- 4.2. If the Sub-Committee are not minded to accept the recommendation, then the application for registration to promote small society lotteries must be granted. There is no provision to add conditions to a registration.

## **Annex A – Correspondence with applicant**

**From:** Ben ProFormance  
**Sent:** 30 May 2017 18:56  
**To:** Licensing Mailbox  
**Subject:** Re: Small lottery registration

Thank you for coming back to me.

We are a company. I didn't know how else to submit the application.

We coach children's football and so have been involved with DBC on projects such as 'kick it out' and 'get set go'.

We do quite a lot for free but as we do not make big profits it's really hard.

We'd like to hold a raffle of our members to raise money for free children's playing kit and free coaching for children in Dacorum.

thank you for your time

Best  
Ben

Sent from my iPhone

On 30 May 2017, at 18:36, Licensing Mailbox <[Licensing@dacorum.gov.uk](mailto:Licensing@dacorum.gov.uk)> wrote:

Dear Mr Roberts,

Apologies for the delay in responding, unfortunately we currently have staff absent long-term which is affecting our response times.

We do have some concerns about this application. Our initial checks show that Proformance Global is a registered commercial company, no. 10202891. Under the Gambling Act 2005, small society lotteries can only be promoted by non-commercial societies, and we are obliged to refuse applications from bodies which do not meet this status. With the exception of the National Lottery, there is no lawful means to promote a lottery for commercial or personal gain.

I would be grateful if you could provide additional information about how your company is structured, how you intend to promote lotteries if a registration is granted, and how the proceeds would be applied.

With regards,

**Ross Hill**  
Licensing Team Leader | Legal Governance

Dacorum Borough Council | The Forum | Marlowes | Hemel Hempstead | HP1 1DN  
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Visit [www.dacorum.gov.uk/licensing](http://www.dacorum.gov.uk/licensing) for information on all of our licences and registrations.

## Annex B – Letter sent to applicant

Date: 9 June 2017  
Your reference:  
Our reference: M043323  
Contact: Ross Hill  
Email: [licensing@dacorum.gov.uk](mailto:licensing@dacorum.gov.uk)  
Direct line: 01442 228654



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D/deaf callers, Text Relay:  
18001 + 01442 228000

Ben Roberts  
ProFormance Global  
REDACTED  
REDACTED  
REDACTED  
REDACTED

Dear Mr Roberts

### **Gambling Act 2005: Application for Small Society Lottery Registration**

I refer to your recent application to register ProFormance Global for the promotion of small society lotteries, and to the additional information you provided by email on 30 May.

As I explained in my original email, the fact that ProFormance Global is a registered commercial company has given rise to various issues. The Gambling Act 2005 only allows licensing authorities to register non-commercial societies for the promotion of small society lotteries – in fact under UK law, the only commercial company permitted to operate lotteries is the National Lottery operator. Other companies which hold lottery manager licences from the Gambling Commission may also run lotteries (including the Health Lottery and the Postcode Lottery), but these are run to benefit registered charitable societies, each of which is registered or licensed for lotteries in its own right – the company only serves as an external provider of services.

I have considered the additional information you have provided about the intention being to use lottery proceeds to provide free kit and coaching for children, and have no doubt that this is a laudable aim. However, after carefully considering your application and the applicable legislation, I remain of the opinion that we would be unable to lawfully register your company to engage in small society lotteries.

Continues...



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Were your company founded as a non-profit organisation, such as a community interest company or a private company limited by guarantee, we may take a different view, but as Proformance Global is a commercial (share capital) company with shareholders being personally entitled to a share of the company's assets and dividends, this breaches the non-commercial requirements under the Act.

An alternative way forward may be to establish a non-commercial society outside the auspices of the company, and for that society to apply for a registration. However in such a case, the society would need to be wholly separate from the company, with its own constitution, membership and financial arrangements. It would also, by law, have to be established and active for a different purpose – promotion of lotteries cannot be the sole or primary purpose of a registered non-commercial society.

I would be grateful if you would advise how you wish to proceed at this point. Should you wish to proceed with your current application, it will be necessary to refer it to a hearing of our Licensing Sub-Committee, where I would be recommending refusal for the reasons outlined above. If the Committee were minded to agree and refused the application, you would subsequently have a right of appeal to a magistrates' court against such a decision.

Alternatively, should you wish to withdraw your current application, I would be grateful to receive confirmation from you of this. On this occasion, given the misunderstanding that has arisen, I would be prepared to refund the application fee you have paid, or to carry this over to an application from a revised applicant.

I am sorry that you will not be able to use this route to raise funds for your proposed activities, but I hope that you will understand that the legal framework around lotteries is restrictive, to avoid abuse and misuse.

I look forward to hearing how you would like to proceed.

Yours sincerely

**Ross Hill**  
**Licensing Team Leader**  
**Legal Governance**

## LICENSING OF ALCOHOL AND GAMBLING SUB-COMMITTEE PROCEDURE

The procedure of the Sub-Committee will be as follows:

1. The Chairman will open the meeting by:
  - (a) Introducing the Members of the Sub-Committee (at the same time indicating any change in membership), and the Officers present, to the parties and any other person in attendance, including any representative of the press;
  - (b) stating the nature of the matter to be considered, (including a reference to the name of the premises or place concerned) and
  - (c) explaining the procedure to be followed.
2. The Chairman will ask those present to introduce themselves and:
  - (a) if any party, without prior notice, fails to attend or to be represented, the Sub-Committee will consider whether or not it is necessary in the public interest to adjourn the hearing to a specified date;
  - (b) if any party is unaccompanied, the Chairman will clarify whether that party understood it was permissible to have a representative;
  - (c) the Chairman will establish whether it is proposed anyone speak as a spokesperson;
  - (d) the Sub-Committee will consider:
    - (i) any properly made request by a party for permission for any other person, (not being a representative), to appear and
    - (ii) any request to provide late documentary or other information and will only take the same into account if the other parties consent.
3. The Chairman will ask whether any Member has an interest to declare and whether any Member has visited the premises or place the subject of the application.
4. The Chairman will establish whether all Members of the Sub-Committee have read the papers before them.
5. The Chairman will ask the Officers present to confirm whether there has been compliance with all relevant requirements and to summarise any relevant information, as necessary.
6. Members may ask any relevant question of any Officer.
7. The Chairman will ask each person who is to speak at the meeting for an indication of how much time he or she reasonably estimates is required to make relevant points concisely, and without undue repetition, and will consider a maximum period of time to be applied equally in the case of all the parties.
8. The Sub-Committee will hear from the Applicant (and any proposed Premises Supervisor, if applicable), any Responsible Authority or other person who has made relevant representations (in that order, except in the case of a Review where the order will be: the person or Responsible Authority bringing the Review, the Licence-Holder, and any other Responsible Authority or other person having made relevant representations). Subject to 2 (d)(ii) above, those persons speaking may only raise points which have been made in

writing prior to the meeting and/or give further information, by way of clarification of a point, if this has been sought by the Authority in the notice given by it prior to the hearing.

9. In every case at a suitable point, Members of the Sub-Committee may ask relevant questions of each party.
10. The Sub-Committee will consider any party's request to question/cross-examine another party and will not permit cross-examination unless it is of the view that it is required in order for Members to consider the representations, application or notice as the case may be.
11. The Chairman will invite any person or Responsible Authority, who have made relevant representations, and the Applicant (in that order, except in the case of a Review where the order will be: any person or Responsible Authority which has not made the application for Review, the Licence-Holder, and the person or Responsible Authority bringing the Review), or those representing them, to summarise their points if they wish. At this stage, the Applicant will be afforded the opportunity to consider whether or not to propose amendments to the operating schedule with a view to addressing relevant issues and any such amendment would then fall to be discussed.
12. The Chairman will seek confirmation from all parties that they are satisfied they have made all the pertinent points which they wished to make.
13. Members of the Sub-Committee will discuss what has been said and written on the matter before them and make their decision.
14. The Chairman will confirm the decision, the reasons for the decision, and any condition placed upon the licence (if granted) and the licensing objective to which each condition relates.

Please Note:

- All properly made applications, notices and representations received from absent parties will be considered.
- An Applicant has a right to appeal, details of which can be obtained via the Licensing Officer.
- The Authority has the right to require any person who, in its opinion, is behaving in a disruptive manner, to leave the hearing and may preclude, or impose conditions in relation to, that person's return.