

<p style="text-align: center;">LICENSING AND APPEALS SUB-COMMITTEE 30 January 2014</p>

*PART 1 – PUBLIC DOCUMENT	AGENDA ITEM No.
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LICENSING ACT 2003

**APPLICATION BY NADARAJAH MOHAN FOR THE GRANT OF A PREMISES LICENCE IN
RESPECT OF ONE STOP, 38, WHITEHORSE STREET, BALDOCK HERTFORDSHIRE, SG7
6QQ.**

REPORT OF THE LICENSING OFFICER

1. BACKGROUND

1.1 No premises licence under the Licensing Act 2003 is currently in place for the premises.

2. APPLICATION

2.1 The application is for the grant of a premises licence under Section 17 of the Licensing Act 2003.

2.2 The Licensable activities and hours applied for areas follows:

2.3 During the consultation period following negotiations with Hertfordshire Constabulary, the applicant amended the application to include the following operating schedule which should be considered as part of the original application:

3. APPLICATION PROCESS

- 3.1 On 06 December 2013, Nadarajah Mohan made an application for the grant of a Premises Licence.
- 3.2 The Application was received electronically by the Council and copies of this application was served on the Police Authority and the other Responsible Authorities by the Licensing Department.
- 3.3 A public notice was displayed on the premises for a period of not less than twenty-eight (28) days in accordance with the requirements of the Licensing Act 2003.
- 3.4 A newspaper advertisement was placed in a local newspaper in accordance with the Act.

4. REPRESENTATIONS

- 4.1 In light of the amendment received during the consultation period, no representation was received from Hertfordshire Constabulary.
- 4.2 No representations were received from any other Responsible Authority
- 4.3 Six (6) representations were received from Other Persons and are enclosed below:

- 4.4 The Council's Scheme of Delegation in respect of the Licensing Act 2003 requires the Licensing Officer to determine whether a representation is relevant as specified by the Act.
- 4.5 Where representations include paragraphs that are not relevant to the Licensing Act 2003, these paragraphs have been clearly crossed through and marked as 'not relevant' by the Licensing and Officer and should not be considered as part of the determination process. Other Persons must not refer to these paragraphs in any oral presentation at the hearing.
- 4.6 The Licensing Officer determined that the representations were relevant; it is for the Sub-Committee to determine what weight to apportion to the representation.
- 4.7 The Applicant has been served with a copy of the representation as part of this report.
- 4.8 The Applicant and Other Persons have been invited to attend the hearing to present their respective cases. They have been advised that they may be legally represented and of the Committee Hearing procedure.

5. OBSERVATIONS

- 5.1 In determining this application, the Sub-Committee must have regard to the representations and take such steps, as it considers appropriate for the promotion of the Licensing Objectives.
- 5.2 In making its decision, the Licensing and Appeals Sub-Committee must act with a view to promoting the Licensing Objectives. It must also have regard to the Licensing Authority's Statement of Licensing Policy and National Guidance.
- 5.3 The Licensing and Appeals Sub-Committee has the following options when issuing the Decision Notice:
- i) Grant the Application as made
 - ii) Grant the Application with conditions; conditions should only be added where they are appropriate to promote the Licensing Objectives.
 - iii) Refuse the Application.

6. LICENSING POLICY CONSIDERATIONS

- 6.1 The following paragraphs from the Council's Statement of Licensing Policy 2011 may be relevant to this application. This section does not prevent the Sub-Committee from considering other paragraphs of the Statement of Licensing Policy where they deem it appropriate.

5.1

Each licence application will be decided by reference to this Policy, the National Guidance issued by the Secretary of State, relevant legislation and to the individual circumstances of the particular application. The Council may depart from the Policy where the individual circumstances of any application merit such a decision in the interests of the promotion of the Licensing Objectives. Full reasons will be given for decisions taken by the Council when undertaking its licensing functions.

5.10

In seeking to promote the above stated aims, the Council will support local and national schemes designed at raising and/or maintaining high standards in licensed premises such as 'Challenge 21', 'Challenge 25', Pubwatch and 'Safer Pubs and Clubs'. The Council will work with the licence holders to achieve these goals offering advice and support either through trade forums or trade newsletters.

6.1

The Council recognises that arbitrary restrictions would undermine the principle of flexibility and should be avoided; the Licensing Objectives will be the paramount consideration at all times.

6.3

Generally, when the Council's discretion is engaged, the presumption will be to grant the hours requested unless there are representations raised by responsible authorities and/or interested parties that demonstrate an adverse effect or likely effect on the Licensing Objectives.

6.4

The Council also recognises that licensing hours should not inhibit the development of a thriving and safe evening and night time economy, which is important for local investment, employment and tourism. The Council will not seek to restrict the trading hours of any particular premises unless this is necessary to promote one or more of the Licensing Objectives

6.6

With regards to shops, stores and supermarkets that provide sales of alcohol for consumption off the premises, the Council would normally expect to grant the sale of alcohol at any time the premises is open to the public, unless representations give good reason to restrict the hours in relation to the Licensing Objectives.

11.3

The Council recognises that there is a difference between the commercial need and the Cumulative Impact of premises in an area. Commercial need is the commercial demand for another licensed premises and is a matter for planning consideration and market forces. It does not form part of this Licensing Policy Statement.

11.5

In considering issues of Cumulative Impact the Council will be mindful that, in addition to the licensing functions, there are a number of other mechanisms, both within and outside the licensing regime, for addressing nuisance and disorder. These include:

- (i) planning controls;*
- (ii) positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;*
- (iii) the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;*
- (iv) powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;*
- (v) police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;*

- (vi) *the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;*
- (vii) *the confiscation of alcohol from adults in designated areas;*
- (viii) *the confiscation of alcohol from children;*
- (ix) *police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance;*
- (x) *the power of the Police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question; and*
- (xi) *other local initiatives that similarly address these problems.*

12.1

The Council recognises that each application must be considered on its own merits and any conditions attached to licences and certificates must be tailored to the individual style and characteristics of the premises and activities concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises. A standardised approach to imposing conditions must be avoided and will only be lawful where they are deemed necessary to promote the Licensing Objectives in response to relevant representations.

24.4

In order to avoid duplication with other regulatory regimes the Council will not, as far as reasonably possible, attach conditions to licences unless they are in promotion of the Licensing Objectives and inadequately covered by other legislation. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

7. RELEVANT EXTRACTS OF STATUTORY GUIDANCE

- 7.1 The following paragraphs from the Guidance issued by the Home Office under section 182 of the Licensing Act 2003 (June 2013 version) may be relevant to this application. This section does not prevent the Sub-Committee from considering other paragraphs of the Guidance where they deem it appropriate and the determination should be based upon consideration of the full document.

1.3

The licensing objectives are:

- *The prevention of crime and disorder;*
- *Public safety;*
- *The prevention of public nuisance; and*
- *The protection of children from harm.*

1.4

Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.

1.5

However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work.

They include:

- *protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;*
- *giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;*

- *recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;*
- *providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and*
- *encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.*

1.16

Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will” is encouraged. Licence conditions:

- *must be appropriate for the promotion of the licensing objectives;*
- *must be precise and enforceable;*
- *must be unambiguous and clear in what they intend to achieve;*
- *should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;*
- *must be tailored to the individual type, location and characteristics of the premises and events concerned;*
- *should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;*
- *should not replicate offences set out in the 2003 Act or other legislation;*
- *should be proportionate, justifiable and be capable of being met, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not);*
- *cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and*
- *should be written in a prescriptive format.*

1.17

The licensing authority should only impose conditions on a premises licence or club premises certificate which are appropriate and proportionate for the promotion of the licensing objectives. If other existing law already places certain statutory responsibilities on an employer at or operator of a premises, it cannot be appropriate to impose the same or similar duties on the premises licence holder, or club. It is only where additional and supplementary measures are appropriate to promote the licensing objectives that there will be a requirement for appropriate, proportionate conditions to be attached.

2.1

Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).

2.3

Conditions should be targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

2.6

Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

2.18

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

2.19

Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

2.24

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 and to respect the rights of people living nearby to a peaceful night.

2.25

The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated with alcohol but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment).

8.33

In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to

undertake their own enquiries about the area in which the premises are situated to inform the content of the application.

8.34

Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:

- the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;*
- any risk posed to the local area by the applicants' proposed licensable activities; and*
- any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.*

8.39

Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises

9.4

A representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.

10.8

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

10.9

It is possible that, in certain cases, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions are appropriate to promote the licensing objectives.

10.11

The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.

10.13

Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

10.46

The premises licence holder or club premises certificate holder must ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. This must as a minimum require individuals who appear to the responsible person (see paragraph 10.38) to be under the age of 18 years of age to produce on request, before being served alcohol, identification bearing their photograph, date of birth, and a holographic mark.

10.47

It is acceptable, and indeed encouraged, for premises to have an age verification policy which requires individuals who appear to the responsible person to be under an age greater than 18 to produce such identification on request. For example, if premises have a policy that requires any individual that appears to be under the age of 21 to produce identification that meets the criteria listed above, this is perfectly acceptable under the mandatory code

10.48

Licence holders should consider carefully what steps they are required to take to comply with the age verification requirements under the 2003 Act in relation to sales of alcohol made remotely. These include sales made online, by telephone and mail order sales, and alcohol delivery services. Each of these sales must comply with the requirements of the 2003 Act. The mandatory condition requires that age verification takes place before a person is served alcohol. Where alcohol is sold remotely (for example, online) or through a telephone transaction, the sale is made at this point but the alcohol is not actually served until it is delivered to the customer. Age verification measures (for example, online age verification) should be used to ensure that alcohol is not sold to any person under the age of 18. However, licence holders should also consider carefully what steps are appropriate to ensure that age verification takes place before the alcohol is served (i.e. physically delivered) to the customer to be satisfied that the customer is aged 18 or over. It is, therefore, the responsibility of the person serving or delivering the alcohol to ensure that age verification has taken place and that photo ID has been checked if the person appears to be less than 18 years of age.

10.49

The premises licence holder or club premises certificate holder must ensure that staff (in particular staff who are involved in the supply of alcohol) are made aware of the existence and content of the age verification policy applied by the premises.

13.19

“Cumulative impact” is not mentioned specifically in the 2003 Act. In this Guidance, it means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its licensing policy statement.

13.20

In some areas, where the number, type or density of premises selling alcohol is high or exceptional, serious problems of nuisance and disorder may be arising or have begun to arise outside or some distance from those premises. Such problems generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport.

13.39

Once away from the licensed premises, a minority of consumers will behave badly and unlawfully. To enable the general public to appreciate the breadth of the strategy for addressing these problems, statements of policy should also indicate the other mechanisms both within and outside the licensing regime that are available for addressing such issues. For example:

- *planning control;*
- *positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;*
- *the provision of CCTV surveillance in town centres, taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;*
- *powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;*
- *the confiscation of alcohol from adults and children in designated areas;*
- *police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;*
- *prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale);*
- *police powers to close down instantly for up to 24 hours (extendable to 48 hours) any licensed premises in respect of which a TEN has effect on grounds of disorder, the likelihood of disorder, or noise emanating from the premises causing a nuisance; and*
- *the power of the police, other responsible authorities or other persons to seek a review of a licence or certificate.*
- *Early Morning Alcohol Restriction Orders (see Chapter 16).*

8. LICENSING OFFICER COMMENTS

8.1 The comments within this section of the report are provided by the Licensing Officer to assist the Sub-Committee with the interpretation of the Act, the Guidance and existing case law. It is for the Sub-Committee to determine what weight they attach to this advice.

Definition of ‘appropriate’

8.2 The previous Statutory Guidance first issued in July 2004 and subsequently updated up until April 2012, specifically required Licensing Sub-Committees to ensure that their decisions were based on measures that were ‘necessary’ for the promotion of the licensing objectives. This placed a burden on the licensing authority to demonstrate that no lesser steps would satisfy the promotion of the licensing objectives and any conditions imposed on a licence would only be those necessary for the promotion of the licensing objectives with no opportunity to go any further.

8.3 The revised Statutory Guidance issued on 25th April 2012 and subsequently amended in October 2012 and June 2013 has amended the ‘necessary’ test to one of ‘appropriate’. This has changed the threshold which licensing authorities must consider when determining applications by requiring that they make decisions which are ‘appropriate’ for the promotion of the licensing objectives.

8.4 The Guidance explains ‘appropriate’ as:

9.39

The authority’s determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

9.40

Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that

end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

8.5 It is anticipated that, in due course, case law will provide clarity on the meaning of 'appropriate' as referred to in paragraphs 9.39 and 9.40 of the Guidance. The Sub-Committee is therefore advised to give 'appropriate' its ordinary meaning, as expanded upon by paragraph 9.40 of the Guidance, subject to the over-riding requirement on all local authority decisions of reasonableness.

8.6 This approach, of allowing the courts to provide clarity, is reflected in the following paragraphs of the Guidance:

1.9

Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. The requirement is therefore binding on all licensing authorities to that extent. However, the guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood the Guidance, they may depart from it if they have reason to do so as long as they are able to provide full reasons. Departure from the Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.

1.10

Nothing in this Guidance should be taken as indicating that any requirement of licensing law or any other law may be overridden (including the obligations placed on any public authorities under human rights legislation). The Guidance does not in any way replace the statutory provisions of the 2003 Act or add to its scope and licensing authorities should note that interpretation of the 2003 Act is a matter for the courts. Licensing authorities and others using the Guidance must take their own professional and legal advice about its implementation.

8.7 The Sub-Committee should also be aware that their decision must be proportionate to the evidence received in respect of the application and representation. Proportionality is a key factor in assisting with the definition of 'appropriate'.

NHDC Statement of Licensing Policy

8.8 The council's statement of Licensing Policy was adopted on 11th November 2010 since which there have been several changes to legislation and re-issued Guidance. Whilst the Policy still remains fit for purpose in that its intentions are clear, it does contain reference to some terminology that no longer applies.

- (i) vicinity

the restriction to the consideration of representations within the vicinity of a premises has since been removed; representations now only need to demonstrate an impact on the licensing objectives specific to the person making the representation.

- (ii) necessary

amended to 'appropriate'

- (iii) interested parties

amended to 'other persons'

Case Law

- 8.9 As paragraph 2.33 of the Guidance confirms, public nuisance under the Licensing Act 2003 has a wide interpretation and it is for the Sub-Committee to determine, based on the evidence, whether they consider these issues to be a public nuisance.
- 8.10 The Guidance states at paragraph 2.24 that conditions relating to public nuisance beyond the vicinity of the premises are not appropriate and the Council's Statement of Licensing Policy supports that view. Conditions that it would be either impracticable or impossible for the licence holder to control would clearly be inappropriate.
- 8.11 That said, if behaviour beyond the premises can be clearly linked to a premises and it is causing a public nuisance, it is wrong to say that the Licensing Act 2003 cannot address this. Whilst conditions may well be inappropriate, if the evidence deems it necessary, times and/or activities under the licence could be restricted or, indeed, the application could be refused.
- 8.12 The magistrates court case of *Kouttis v London Borough of Enfield*, 9th September 2011 considered this issue.
- 8.13 In a summary of the case provided by the Institute of Licensing it is reported that District Judge Daber considered an appeal against a decision of the local authority to restrict the hours of musical entertainment of a public house to mitigate the noise from patrons as they left the premises in response to representations from local residents. The appellant relied on the sections of the Guidance that state that "beyond the vicinity of the premises, these are matters for personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right" (para 2.38). It was also suggested that, given that certain residents were not disturbed, this did not amount to public nuisance within the meaning of para 2.33 of the Guidance as approved by Burton J in the Hope and Glory case.
- 8.14 The District Judge held that there was ample evidence of public nuisance, and that section 4 of the Act gave the licensing authority a positive duty to deal with it proportionately. In this case, no less interventionist way of dealing with the nuisance had been suggested. He held that not only was the authority not wrong, but that it was in fact right to reduce the hours as it had. The appeal was therefore dismissed.
- 8.15 As this was a decision of the Magistrates Court it would not be binding on other courts, however, it could be considered as persuasive.

Other Persons

- 8.16 A representation was received from Kishore Patel of 36 Whitehorse Street. This is the address of a convenience store that is licensed for the sale of alcohol for consumption off the premises and Mr Patel is a joint premises licence holder. This doesn't preclude him from making a representation, however, for transparency the Sub-Committee should be aware of this fact when considering the weight that they attach to the representation.

9. CONTACT OFFICERS

- 9.1 Colin Broadhurst
Licensing Officer
01462 474381