



NOTICE OF MEETING

Special Licensing Sub-Committee A

THURSDAY, 13TH MARCH, 2008 at 09:30 HRS - CIVIC CENTRE, HIGH ROAD, WOOD GREEN, N22 8LE.

MEMBERS: Councillors Demirci, Patel (Chair) and Vanier

AGENDA

1. APOLOGIES FOR ABSENCE

2. URGENT BUSINESS

The Chair will consider the admission of any late reports, related to item 5 below, which will be considered under that agenda item.

3. DECLARATIONS OF INTEREST

A member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

A member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest **and** if this interest affects their financial position or the financial position of a person or body as described in paragraph 8 of the Code of Conduct **and/or** if it relates to the determining of any approval, consent, licence, permission or registration in relation to them or any person or body described in paragraph 8 of the Code of Conduct.

4. SUMMARY OF PROCEDURE (PAGES 1 - 2)

The Chair will explain the procedure that the Committee will follow for the hearing considered under the Licensing Act 2003. A copy of the procedure is attached.

5. MANGOL OCAKBASI, 443 GREEN LANES N4 (PAGES 3 - 60)

To consider an application by the Enforcement Services Manager for review of the Mangol Ocakbasi Restaurant, 443 Green Lanes, London N4.

Please note that under the Council's Constitution, Part 4, Section B, Paragraph 17 no other business shall be considered.

Yuniea Semambo
Head of Local Democracy &
Member Services, 5th Floor
River Park House
225 High Road
Wood Green
London N22 8HQ

Anne Thomas
Principal Committee Coordinator
(Non Cabinet Committee)
Tel: 020-8489 2941
Fax: 020-8489 2660
Email: anne.thomas@haringey.gov.uk

Monday, 03 March 2008

LICENSING SUB-COMMITTEE HEARINGS PROCEDURE SUMMARY	
INTRODUCTION	
1.	The Chair introduces himself and invites other Members, Council officers, Police, Applicant and Objectors to do the same.
2.	The Chair invites Members to disclose any prior contacts (before the hearing) with the parties or representations received by them
3.	The Chair explains the procedure to be followed by reference to this summary which will be distributed.
NON-ATTENDANCE BY PARTY OR PARTIES	
4.	If one or both of the parties fails to attend, the Chair decides whether to:
	(i) grant an adjournment to another date, or
	(ii) proceed in the absence of the non-attending party.
	Normally, an absent party will be given one further chance to attend.
TOPIC HEADINGS	
5.	The Chair suggests the "topic headings" for the hearing. In the case of the majority of applications for variation of hours, or other terms and conditions, the main topic is:
	Whether the extensions of hours etc. applied for would conflict with the four licensing objectives i.e.
	(i) the prevention of crime and disorder,
	(ii) public safety,
	(iii) the prevention of public nuisance, and
	(iv) the protection of children from harm.
6.	The Chair invites comments from the parties on the suggested topic headings and decides whether to confirm or vary them.
WITNESSES	
7.	The Chair asks whether there are any requests by a party to call a witness and decides any such request.
8.	Only if a witness is to be called, the Chair then asks if there is a request by an opposing party to "cross-examine" the witness. The Chair then decides any such request.
DOCUMENTARY EVIDENCE	
9.	The Chair asks whether there are any requests by any party to introduce late documentary evidence.
10.	If so, the Chair will ask the other party if they object to the admission of the late documents.
11.	If the other party do object to the admission of documents which have only been produced by the first party at the hearing, then the documents shall not be admitted.

12.	If the other party object to documents produced late but before the hearing, the following criteria shall be taken into account when the Chair decides whether or not to admit the late documents:	
(i)	What is the reason for the documents being late?	
(ii)	Will the other party be unfairly taken by surprise by the late documents?	
(iii)	Will the party seeking to admit late documents be put at a major disadvantage if admission of the documents is refused?	
(iv)	Is the late evidence really important?	
(v)	Would it be better and fairer to adjourn to a later date?	
THE LICENSING OFFICER'S INTRODUCTION		
13.	The Licensing Officer introduces the report explaining, for example, the existing hours, the hours applied for and the comments of the other Council Services or outside official bodies. This should be as "neutral" as possible between the parties.	
14.	The Licensing Officer can be questioned by Members and then by the parties.	
THE HEARING		
15.	This takes the form of a discussion led by the Chair. The Chair can vary the order as appropriate but it should include:	
(i)	an introduction by the Objectors' main representative	
(ii)	an introduction by the Applicant or representative	
(iii)	questions put by Members to the Objectors	
(iv)	questions put by Members to the Applicant	
(v)	questions put by the Objectors to the Applicant	
(vi)	questions put by the Applicant to the Objectors	
CLOSING ADRESSES		
16.	The Chair asks each party how much time is needed for their closing address, if they need to make one.	
17.	Generally, the Objectors make their closing address before the Applicant who has the right to the final closing address.	
THE DECISION		
18.	Members retire with the Committee Clerk and legal representative to consider their decision including the imposition of conditions.	
19.	The decision is put in writing and read out in public by the Committee Clerk once Members have returned to the meeting.	

Licensing Act 2003 Licensing Sub-Committee on 13th March 2008

Report title: Application for a Review of a Premises Licence at MANGAL OCAKBASI RESTAURANT, 443 GREEN LANES, LONDON N4

Report of: The Lead Officer Licensing

Ward(s) ST. ANN'S

1. Purpose

To consider an application by The Enforcement Services Manager for a review of Mangal Ocakbasi Restaurant, 443 Green Lanes, London N4.

Summary of application

Eubert Malcolm – Service Manager Enforcement Response and Responsible Authority under the Licensing Act 2003 has requested a review on the grounds that the operators are not promoting the statutory objectives of:

- preventing crime and disorder

Date review application served: 29TH January 2008

In accordance with regulation 38 of the Licensing Act 2003 (Premises and Club Premises Certificates) Regulations 2005, officers arranged for notices of the review to be published for 28 days on the affected premises, on the public notice board at the Civic Centre and on the Councils website.

A copy of the review application and supporting documents are at appendix 2

2. Officers Observations

In determining this application the Licensing Sub Committee must have regard to the:

- 2.1
- (a) need to promote the four licensing objectives
 - (b) representations
 - (c) relevant sections of the statutory guidance to licensing authorities (appendix 5)
 - (d) relevant sections of the licensing authority's statement of licensing policy (appendix 6)

Report authorised by: Robin Payne.....


Assistant Director Enforcement Services

Contact Officer: Ms Daliah Barrett -Williams

Telephone: 020 8489 8232

3. Access to information:

Local Government (Access to Information) Act 1985

Background Papers

The following Background Papers are used in the preparation of this Report:

File: MANGAL

The Background Papers are located at Enforcement Service, Civic Centre, High Road Wood Green N22

4. REPORT

Background

4.1 The premises applied for a premises license in September 2005 to allow late night refreshment on the premises between the hours of 23.00pm – 5.00a.m. the application was granted following a hearing with modified times and conditions. A further application was made in November 2006 requesting a variation for the sale of alcohol to be added to the license. The current license is attached at Appendix 1.

The premises is situated in a terrace of shops with residential accommodation above, there are a number of late night refreshments in the surrounding area.

Licensable activities authorised by the Licence:

Supply of Alcohol

Late Night Refreshment

The times the Licence authorises the carrying out of licensable activities:

Provision of Late Night Refreshment

Monday to Sunday 2300 to 01.45

Supply of Alcohol

Monday to Sunday 11.00am to 01.45

The opening hours of the premises:

Monday to Sunday 09.00 to 2.00

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

Supply of alcohol for consumption both ON and OFF the premises.

The designated premises supervisor is: Mr I Garip

4.2 Details of the Application for Review. Appendix 2

The Enforcement Services manager has brought the review because of the constant breaches of the conditions of the license by the premises license holder.

The documents produced by the Enforcement Manager covers a period between April 2006 – December 2007. They demonstrate that the license holder has knowingly continued to offer licensable activity beyond the times permitted by the license.

5.0 RELEVANT REPRESENTATIONS (CONSULTATION)

Responsible authorities:

5.1 Comments of Metropolitan Police

No comments received on this matter

5.2 Comments of Child Protection Agency or Nominee

No comments received on this matter

5.3 Interested Parties –

A representation has been received from The Ladder Safety Partnership which reiterates the disregard shown by the license holder in keeping to the terms of the license.

6.0 POLICY CONSIDERATIONS

- 6.1 The following provisions of the Licensing Act 2003 apply to this application:
Section 13(3) (definition of interested parties)
Section 51-53 (review of premises licenses)

In determining the application the Licensing Sub Committee can take such steps as it considers necessary for the promotion of the licensing objective, which are:

1. Take no further action
2. to issue formal warnings to the premises supervisor and /or premises license holder
3. modify the conditions of the license
4. exclude a licensable activity from the scope of the license
5. remove the designated premises supervisor
6. suspend the license for a period not exceeding three months
7. revoke the license.

Where the Licensing Sub Committee takes steps mentioned in 3 or 4 it may provide that the modification or exclusion is to have effect for one such period (not exceeding three months) as it may specify. The licensing sub committee is asked to give full reasons for its decision.

The Licensing Sub Committee must make its decision within 5 working days of the end of the hearing. Any decision of the Licensing Sub Committee is stayed from coming into effect for 21 days from the date of the decision, pending any appeal that might be made and the determination of that appeal. Any party to the proceedings may appeal against the decision of the decision of the Licensing Sub Committee.

- 6.2 The following provisions of the Secretary of State's guidance apply to this application: Paras 11.1 – 11.10, 11.14 – 11.21. These provisions are attached at appendix ~~6~~.
- 6.3 The following paragraphs of the licensing authority's statement of licensing policy apply to this application; 24.1 -24.2, 25.1 – 25.7, these provisions are attached at appendix ~~6~~.
- 6.4 The Licensing Sub Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property which may include licences in existence, and the protection of private and family life.



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Town and Country Planning Act 1990 (As amended)
Plan relating to the Enforcement Notice dated
443 GREEN LANES N4



Robin Payne
 Assistant Director
 Enforcement Service
 639 High Road
 Tottenham
 N17 8BD

 NORTH	Drawn by	Haringey Council
	Scale	1:1000
	Date	28/02/2008
	Drawing	N/A

APPENDIX 1
CURRENT LICENSE



PREMISES DETAILS [CONT'D]

PREMISES LICENCE SUMMARY

Receipt: F 00103048628

Premises Licence Number: LN/00002158

This Premises Licence has been issued by:

*The Licensing Authority, London Borough of Haringey,
Civic Centre, High Road, Wood Green,
London, N22 8LE*

Signature:.....

Date: 24th November 2005

Part 1 – PREMISES DETAILS

Postal Address of Premises or, if none, Ordnance Survey map reference or description:

**MANGAL OCKBASI RESTAURANT
443 GREEN LANES
LONDON
N4 1HA**

Telephone: 020 8340 7801

Where the Licence is time limited, the dates:

Not applicable.

Licensable activities authorised by the Licence:

- Provision of Late Night Refreshment
- Supply of Alcohol

The times the Licence authorises the carrying out of licensable activities:

- Provision of Late Night Refreshment
 - Monday to Sunday 2300 to 0145
- Supply of Alcohol
 - Monday to Sunday 1100 to 0145

The opening hours of the premises:

- Monday to Sunday 0900 to 0200





PREMISES DETAILS [CONT'D]

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

Supply of alcohol for consumption both ON & OFF the premises

Name, (registered) address of holder of Premises Licence:

Mr Menderes Garip
33 Latimer House
1 Morning Lane
London
E9 6HE

Ibrahim Garip
50 Durant Road
Edmonton
London
EN3 7AW

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

569 9469

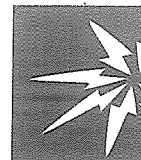
Name of designated premises supervisor where the Premises Licence authorises the supply of alcohol:

Ibrahim Garip

State whether access to the premises by children is restricted or prohibited:



Licensing Team
Enforcement Service, Technopark, Ashley Road, Tottenham, London N17 9LN
Tel: 020 8489 8232 Fax: 020 8489 5528
www.haringey.gov.uk



Lead Officer (Licensing) Daliah Barrett -Williams

Haringey

Your ref:

Date: 28th February 2008

Our ref:

Direct dial: 020 8489 8232

Email: Daliah.barrett@haringey.gov.uk

Mr Ibrahim Garip
443 Green Lanes
London
N4 1HA

Dear Sir

Mangal Ockbasi, 44 Green Lanes, London, N4 1HA

Licensing Act 2003

With regard to the above, I enclose the updated summary Premises Licence.

- Please note the corrected time for the sale of alcohol.
- Please make sure you have the Premises Licence Summary on Display within the premises.

If you consider there is a mistake in the premises licence or the premises licence summary, the Licensing Authority will correct anything which it accepts as being a clerical mistake. If you believe there is such a clerical mistake, please contact us. Errors will be corrected free of charge within 21 days of receipt of the Summary licence.

The premises licence will last indefinitely unless it is surrendered or revoked, but will lapse in the event of the death of the holder of the premises licence or upon the licence holder becoming mentally incapable or financially insolvent.

An annual fee is payable on the anniversary of the grant of the licence, unless the premises are a school or community building, e.g. village hall. We will send you a reminder for the payment of the annual fee and advise you of what sum is then payable. The fees are set by government and may be subject to change.

Finally, there are specific provisions in section 57 of the Licensing Act 2003 concerning the requirements for keeping, displaying and producing the premises licence and premises licence summary whenever the premises are used for any licensable activity authorised by the licence. A brief summary of these requirements is set out below for your convenience:

Interim Director Niall Bolger
Assistant Director Enforcement Robin Payne



2005-2006
Getting Closer to Communities



INVESTOR IN PEOPLE

Premises Licence

The holder of the premises licence must ensure that the premises licence (or a certified copy of it) is kept at the premises and is either in the custody or control of the holder of the premises licence or some other specific person who works at the premises (e.g. manager).

Premises Licence Summary

The holder of the premises licence must ensure that the premises licence summary (or a certified copy of it) is prominently displayed at the premises and, if the premises licence (or a certified copy of it) is in the custody of someone other than the holder of the premises licence, a notice must also be prominently displayed stating the position (e.g. manager) of that person.

Duty to produce

A police constable or an authorised officer (e.g. a Council licensing officer) may require such person who has custody of the premises licence (i.e. the holder of the premises licence or such other nominated person, as referred to above) to produce the licence for examination.

Offences

The holder of a premises licence commits an offence if they fail to comply with the above requirements relating to a premises licence and / or a premises licences summary. Anyone who has custody or control of the premises licence (i.e. the holder of the premises licence or such other nominated person, as referred to above) commits an offence if they fail, without reasonable excuse, to produce the licence in accordance with a requirement under the above duty to produce. A person guilty of an offence under section 57 is liable on summary conviction to a fine.

Yours sincerely

Daliah Barrett-Williams
Lead Licensing Officer

Interim Director Niall Bolger
Assistant Director Enforcement Robin Payne



2005-2006
Getting Closer to Communities



INVESTOR IN PEOPLE

APPENDIX 2

APPLICATION FOR REVIEW AND SUPPORTING
DOCUMENTS

**Application for the review of a premises
licence or club premises certificate under
the Licensing Act 2003**

(1)

Reference number:

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

(2) **I/We THE ENVIRONMENTAL HEALTH AUTHORITY**

apply for the review of a [premises licence under section 51]

[club premises certificate under section 87] of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 - Premises or club premises details

Postal address of premises or club premises, or if none, Ordnance Survey map reference or description

MANGAL OCKBASI RESTAURANT 443 GREEN LANES N4 1AJ

Post town LONDON

Postcode (if known)

N4 1AJ

Telephone number (if any)

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

MR MENDERES GARIP

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

1 Late night refreshments and provision of alcohol.

Part 2 - Applicant details

I am

Please tick ✓ yes

- 1) an interested party (please complete section (A) or (B) below)
- a) a person living in the vicinity of the premises
- b) a body representing persons living in the vicinity of the premises
- c) a person involved in business in the vicinity of the premises
- d) a body representing persons involved in business in the vicinity of the premises

Delete any words in square brackets which do not apply

(1) Insert name and address of relevant licensing authority and its reference number (optional)

(2) Insert name(s) of applicant(s)

Please tick ✓ yes

- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname First names

I am 18 years old or over Please tick ✓ yes Date of birth

Day	Month	Year

Current address

Post town Postcode

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Post town Postcode

Date of birth

Day	Month	Year

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address

MR EUBERT MALCOLM
ENFORCEMENT RESPONSE SERVICE MANAGER
2ND FLOOR 639 HIGH ROAD TOTTENHAM LONDON N17 8BD

Post town LONDON

Postcode

Telephone number (if any)

0208 489 6984

E-mail address
(optional)

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- 1) the prevention of crime and disorder
 2) public safety
 3) the prevention of public nuisance
 4) the protection of children from harm

Please state the ground(s) for review (please read guidance note 1)

Licensing out of hours Enforcement

Haringey Council Enforcement officers carry out late night patrols throughout the borough. On several occasions officers have found Mangal Restaurant open for business after the permitted hours as stated in their premises licence.

The following table shows all sanctions to date for these offences.

Sanctions Against Mangal Ockbasi Restaurant
2006/2007

SANCTION TYPE	OFFENCE/DATE	OUTCOME	LEAD OFFICER
Prosecution	Unauthorised use of premises as a night café when not licensed to be open between 3&4an Contrary to London Local Authorities Act. 7 offences and 1 offence of selling alcohol without a licence. Hearing date: <u>25/04/2006</u>	The business Elit (UK) Limited Director Mr Menderes Garip was found guilty of all offences and fines increased chronologically £50, £75, £100, £150, £225, £250 and £300 for sale of alcohol total- £1,050 and costs awarded £423 Total £1,573.00 Collection order made by court.	Mr Brian Ellick Environmental Crime Group Tactical Enforcement Officer
Prosecution	Trading after permitted hours contrary to section 136 Licensing Act 2003 3 offences Hearing date: <u>17th April 2006</u>	Found guilty-Fined £200 per offence total fine £600 and costs awarded in full £513.20 Total- £1,113.20	Miss D Feeley Environmental Crime Group Tactical Enforcement Officer

Prosecution	Dumping waste on the public highway outside of permitted times contrary to 33&34 EPA 1990 Hearing Date: <u>20th June 2006</u>	Found guilty- fined £250 and costs awarded of £541.87 Total- £791.87	Miss D Feeley Environmental Crime Group Tactical Enforcement Officer
Prosecution	Trading after permitted hours contrary to section 136 Licensing Act 2003 4 offences Hearing date: <u>7th November 2006</u>	Found guilty-Fines increased chronologically £100, £110, £130 and £180 total fines £520 and costs awarded £350.00 Total- £870.00 Ordered to pay within 28 days.	Miss D Feeley Environmental Crime Group Tactical Enforcement Officer
Prosecution	Trading after permitted hours contrary to section 136 Licensing Act 2003 2 offences Hearing date: <u>25th September 2007</u>	Found Guilty-fined £700 for first offence and £1,000 for second offence. Costs awarded £253.25 for each offence total costs- £506.50 Total - £2,203.50 Ordered to pay within 28 days.	Miss S Benning Environmental Crime Group Street Enforcement Warden

RECCOMADATION:

The license holder and director of this business Mr Menderes Garip of Mangal Ockbasi Restaurant has shown complete disregard for licensing law and in doing so is breaching the licensing "Crime and Disorder" for continual breach of license conditions therefore I recommend a complete revocation of his premises license based on the information supplied above

Please provide as much information as possible to support the application

Please tick ✓ yes

Have you made an application for review relating to these premises before?

If yes, please state the date of that application

Day	Month	Year

If you have made representations before relating to these premises, please state what they were and when you made them.

Please tick ✓ yes

• I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate

• I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 - Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 4)
If signing on behalf of the applicant please state in what capacity.

Signature E. Malcolm

Date 26th December 2007

Capacity SERVICE MANAGER ENFORCEMENT RESPONSE

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)	
Post town	Postcode
Telephone number (if any)	
If you would prefer us to correspond with you using an email address your e-mail address (optional)	

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details, for example dates of problems which are included in the grounds for review, if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

STATEMENT OF WITNESS
(C.J. Act, 1967, S.9; M.C. Act, 1980, S.102; M.C. Rules, 1981 R.70)

Statement of: Brian Ellick
Age of Witness: Over 18
Occupation of Witness: Enforcement officer
Address: 639 High Road, Tottenham, London N17 8BD
Telephone Number: 020 8489 0000

This statement consisting of 8 page signed by me, is true to the best of my knowledge and belief and I make it in the knowledge that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything I know to be false or do not believe to be true.


Signed: 

Dated: 6 February 2006

1. I am a Heavy Enforcement officer employed in the Enforcement Service of the London Borough of Haringey. My duties include the inspection of premises to ensure that they have the correct licences regarding the sale of alcohol, opening hours and entertainment in line with the London Local Authorities Act 1990.

2. On Sunday 18 September 2005 I was on duty with my Manager Robert Curtis at approximately 03.20 Hours in Green Lanes, N4. I was checking the licensed premises to ascertain whether or not the premises were complying with the relevant legislation and conditions attached to their license.

3. I had checked the Council records and it showed that Mangul Restaurant at 443 Green Lanes, N4 had not previously held a night café License. In October 2004 an application was received by Haringey Council Licensing Department from Mr. Garip of Mangul 443 Green Lanes. The applicant requested a night café license but the application was refuse. This meant the premise could not open past the 23.00 Hours. The records also showed that the premise has never been licensed to sell alcohol.


Signature of witness 

Statement of B. Ellick Cont.....

4. On the 18 September 2005 at approximately 03.20 Hours I observed Mangul Restaurant at 443 Green Lanes, N4 was open for business. I stood outside the premise and I observed the lights were on with approximately thirteen people seated inside eating and drinking. Hot food was being cooked inside the premise. There were approximately four hot plates inside the premise adjacent to the window. Each hot plate was contained a quantity of food. I noticed kebabs in the process of being cooked.

5. I took four photographs of the premise which I produce as exhibit "BE1", exhibit "BE2", exhibit "BE3" and exhibit "BE4". I stood outside for a further 10 minutes and observed an Eastern European male inside the premise behind the counter preparing hot food. I observed two males enter the premise approach the counter and order food. After a short time I observed the man behind the counter wrap up a quantity of cooked food then hand the food to each of the men. I observed the two men give the man behind the counter money. The two men then left the premise and as they left they opened the food and began to consume it

6. On the 25 of September 2005 at approximately 03.00 Hours I was on duty in Green Lanes along with my manager Robert Curtis. I observed Mangul Restaurant at 443 Green Lanes, N4 was open for business. The lights were on inside the premise. The front door was open and the sign on the door displayed "open". I took a photograph of the door which I produce as

Signature of witness 

Statement of B. Ellick Cont.....

exhibit "BE5". I observed five hot plates inside the premise adjacent to the window. Each hot plate contained a quantity of food. I took a photograph of the hot plates containing food which I produce as exhibit "BE6". I observed two eastern European men behind the counter preparing food. I took two photographs of the premise which I produce as exhibit "BE7" and exhibit "BE8".

7. After approximately 10 minutes one of the men working behind the counter exited the premise and approached Robert Curtis and I. He looked at us and said "You should be careful in Haringey and Green Lanes". I introduced myself to the man showing my authorisation and asked him to identify himself but he refused. The man then went back into the shop.

8. I remained outside Mangul for a further 20 minutes and during this time I observed a number of men and women enter the shop approach the counter and order food. After a short time the individuals gave money to the man behind the counter and took food in exchange. I then left and continued on with my duties.

9. On the 1 October 2005 at approximately 04.00 Hours I was on duty in Green Lanes, N4. I observed Mangul Restaurant at 443 Green Lanes was open for business. The lights were on with approximately 13 people inside seated eating and drinking. I observed two eastern European men behind the counter preparing food. I observed five hot plates inside the premise adjacent to the window. Each hot plate contained a quantity of food. I took three photographs of the premise which I produce as exhibit "BE9", exhibit "BE10 and exhibit "BE11". I then left and continued on with my duties.

Signature of witness


Statement of B. Ellick Cont.....

10. On the 8 October 2005 at approximately 02.40 Hours I was on duty in Green Lanes, N4 with my manager Robert Curtis. I observed Mangul Restaurant at 443 Green Lanes, N4 was open for business. The lights were on inside the restaurant. The sign on the door displayed "open". I observed approximately 10 people inside the restaurant seated eating and drinking.

11. I saw two eastern European males behind the counter preparing food. On seeing me one of the men left the counter approached the front door and turned the sign until it displayed "closed". I took four photographs of the premise which I produce as exhibit "BE12", exhibit "BE13", exhibit "BE14" and exhibit "BE15". I then left and continued on with my duties.

12. On the 20 of November 2005 I was on duty in Green Lanes at approximately 03.10 Hours with my colleague Dianne Feeley and manager Robert Curtis. I observed Mangul at 443 Green Lanes, N4 was open for business. The lights were on and the sign on the door displayed "open". I counted approximately 21 people inside the premise seated eating and drinking. There were two eastern European males behind the counter preparing food. One of the men I know now as Mr. Erkan Garip. The door to the premise was wide open. I took four photographs of the premise which I produce as exhibit "BE16", exhibit "BE17", exhibit "BE18" and exhibit "BE19".

Signature of witness 

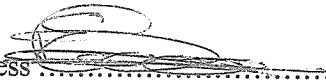
Statement of B. Ellick Cont.....

13. One of the men working behind the counter approached Robert Curtis and said "if you don't move from my shop I will punch you in the face". The man then went back into the shop and continued preparing food behind the counter. At approximately 03.15 Hours I observed two men enter the premise approach the counter and order food. The man behind the counter (same man who threatened Robert Curtis) served the two men.

14. Shortly afterwards I observed eight people enter the shop and sit down inside the premise. I observed Mr. Garip serve food to the eight people seated in the restaurant. At approximately 03.20 Hours I observed seven people enter the premise approach the counter and order food. I observed two female waitresses serving food to customers that were seated in the restaurant.

15. At approximately 03.25 Hours I observed the two men that entered the premise at 03.15 Hours exchange money with Mr. Garip for food with the man behind the counter they then left the premise. I then continued on with my duties.

16. On the 22 of November at approximately 15.00 Hours I was on duty with the Police, my colleague Dianne Feeley and my manger Robert Curtis. We were visiting various business premises in the borough which were known to sell food, alcohol and or have entertainment on the premise. Under the Licensing Act 2003 businesses would need to apply to the local authority if they wish to sell food or alcohol from the premise or wish to operate passed 23.00 Hours.

Signature of witness 

Statement of B. Ellick Cont.....

17. I have checked the council records and confirmed that the said premise had not applied under the new scheme to serve alcohol on the premise or operate passed 23.00 Hours.

18. At approximately 15.00 Hours on the 22 November 2005 I arrived at Mangul 443 Green Lanes, N4. I entered the premise and introduced myself to a man I now know as Menedes Garip. I showed him my authorisation and advised him that I was conducting a licensing visit. I observed a number of bottles of alcohol displayed behind the bar. I took three photographs of alcohol which I produce as exhibit "BE20", exhibit "BE21" and exhibit "BE22". I asked Mr. Menendes Garip if I could speak with the manager or someone in charge. Mr. Garip stated that he was the Owner of the business. I asked Mr. Garip if he has a license to sell alcohol. Mr. Garip stated no.

19. I then formally cautioned Mr. Garip and asked him the following questions.

Q. What is your name?

A. Menderesa Garip

Q. What is your date of birth sir?

A. 05/07/59.

Q. What is the name of this Company?

A. Elit Limited

Q. What is you position in the said company?

A. Worker.

Q. Who is the Company Secretary?

A. Sertac Kurtul

Q. Who is the manager of the company?

A. Erkan Garip.

Signature of witness 

Statement of B. Ellick Cont.....

Q. What time does the business open and close daily?

A. Seven till two Monday to Sunday.

Q. On Sunday the 20 November 2005 I observed the business open after 2am, can you explain why the business was open.

A. I didn't know about it I have always told them to close at two.

Q. This matter will be reported to the borough solicitor with a view to prosecution do you have anything else to add?

A. No

22. At this point I concluded my interview with Mr. Garip and read back to him the notes I had made. I offered him my note book to sign but he refused to sign my notes.

23. I observed a number of receipts on the counter which displayed the name and address of the restaurant. The receipts also clearly displayed the sale of alcohol. I produce four receipts as exhibit "BE23", exhibit "BE24, exhibit "BE25"and exhibit "BE26". I advised Mr. Garip that he will be reported for opening passed his prescribed hours and for selling intoxicating liquor without the appropriate license. Then left and continued on with my duties. When I returned to my office I checked the Companies House Web site on the Internet. It showed that Elit (UK) Limited was registered at 443 Green Lanes, London, N4 1HA. It also stated that the Company Secretary was Garic Erkan date of birth 20/03/1985. I produce a copy of the web page as exhibit "BE27".

Signature of witness 

Statement of B. Ellick Cont.....

20. At this point I concluded my interview with Mr. Garip and offered him my noted book to read and sign. Mr. Garip refused to read and sign my note book. I then spoke to r. Erkan Garip. I introduced myself to Mr. Erkan Garip showing him my authorisation. I advised Mr. Erkan Garip that I wanted to speak with him regarding then sale of alcohol on the premise and matters relating to the operating hours of the premise.

21. At approximately 15.20 Hours I formally caution Mr. Erkan Garip and asked him the following questions.

Q. Can I take your name?

A. Erkan Garip.

Q. What is your date of birth?

A. 20/03/85.

Q. What is the name of the company you work for?

A. Elit Limited.

Q. What is the registered address of the company?

A. 443 Green Lanes.

Q. What is your position in the company?

A. Manager

Q. Are you authorised to speak on behalf of the company regarding the sale of alcohol on the premise?

A. No

Q. Are you authorised to speak on behalf of the company regarding the operating hours of the business.

A. Yes.

Signature of witness


LONDON BOROUGH OF HARINGEY

Environmental Services (Enforcement)

Ref: DF/HET/ MANGAL

LBH v Elit (UK) Limited

Date of Offence: 15th January 2006

Statement of Miss Dianne Feeley.

STATEMENT OF WITNESS

(Criminal Justice Act, 1967, Section 9;
Magistrates' Court Act, 1980, Section 102; and
Magistrates' Court Rules, 1981, Rule 70)

Statement of: : Miss Dianne Feeley

Age of Witness :Over 18

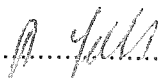
Occupation of Witness: Local Government Enforcement Officer

Address: : 639 High Road, London, N17 8BD

Telephone: : 020 8489 5284

This Statement, consisting of 3 pages signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

1. I confirm that I am the above named person. I am employed by Haringey Council as a Heavy Enforcement Officer, working within the Environmental Crime Group. I have held this position for six months. As part of my duties I was involved in a waste monitoring exercise on Sunday 15th January 2006, in the Green Lanes area of Haringey. This was to check that residential and business properties were not placing waste on the Highway outside of the authorised collection times.
2. The waste collection times for the Green Lanes area is every morning 08.00am to 09.00am and every evening 09.00pm to 10.00pm, there is no Saturday evening collections. There are signs placed on lamp post columns all along Green Lanes showing these collection times. At the bottom of these signs it reads; Failure to put rubbish in Green Lanes for collection between the above times may result in a fine or prosecution.
3. At approximately 03.05 hours on the 15th January 2006, I found one black plastic waste bag on the Highway outside number 443 Green Lanes London N4. After searching the bag I found eight receipts for Mangal Restaurant 443 Green Lanes London N4 1HA. I produce these as exhibits DF/1A/1B/1C/1D/1E/1F/1G/1H. I also took two photographs, one of the waste showing the receipts that were found, which I produce as exhibit DF/2A and the other photograph showing the shop that the waste was found outside, I produce this as exhibit DF/2B.

Signed: 

Signature witnessed by:

LONDON BOROUGH OF HARINGEY

Environmental Services (Enforcement)

Ref: DF/HET/ MANGAL

LBH v Elit (UK) Limited

Date of Offence: 15th January 2006

Statement of Miss Dianne Feeley.

4. After searching the bag, I approached a man I now know to be Mr Erkan Garip who came out of Mangal Restaurant 443 Green Lanes London N4. I identified myself by showing my authorisation card, I recognised Mr Garip from a previous visit to his business and at that time he had identified himself as the manager. I proceeded to formally caution Mr Garip regarding the waste and interview him using my notebook to record the interview. The interview went as follows;

DF: is this your waste?,

EG: No,

DF: What is your name?

EG: No reply,

DF: Have you got a waste contract?,

EG: Shook head no reply,

DF: Do you wish to comment on this offence under the Environmental Protection Act 1990?,

EG: No,

DF: Who placed this waste out?,

EG: Don't know,

DF: What is your position here?,

EG: Nothing,

DF: I will be reporting this matter with a view to prosecution under the Environmental Protection Act section 34 duty of care and section 33 of the Environmental Protection Act would you like to comment on anything?,

EG: No,

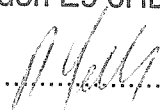
DF: would you like to sign my notebook?,

EG: No.

The interview ended at 03.15 hours and my colleague Mr R Curtis signed my notebook to confirm this. I produce copies of my notebook as DF/3A/3B/3C.

5. At the time of interviewing Mr Garip I was unsure of his name and he refused to give me his details. I informed Mr Garip that as I believed an offence had been committed if he did not give me his name I would have to call the Police to identify him under section twenty five of the Police and Criminal Evidence Act 1984. Mr Garip would not tell me his name so I telephone the Police for assistance.
6. At approximately 03.20hours two Police officers arrived their shoulder numbers were YR937 and YR583. The officers questioned Mr Garip regarding his identity at first Mr Garip told the officers his name was Hasan Murtogun but after further questioning the Police officers told me that his full name was Mr Erkan Garip of 33 Latimer House London E9 6HE and his date of birth is 20th March 1985.

Signed:



Signature witnessed by:

LONDON BOROUGH OF HARINGEY

Environmental Services (Enforcement)

Ref: DF/HET/ MANGAL

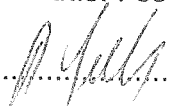
LBH v Elit (UK) Limited

Date of Offence: 15th January 2006

Statement of Miss Dianne Feeley.

-
7. As I was leaving this location I observed two members of staff come out of Mangal Restaurant at 443 Green Lanes and pick up the above mentioned waste. I took a photograph of this and produce it as exhibit DF/4.
 8. On the 20th of January 2006, I carried out a search on companies' house internet web site for details of the business at 443 Green Lanes London N4 1HA. I produce my findings as exhibit DF/5. This document confirmed that the company name for this address is registered as ELIT (UK) Limited. The company director is named as Mr Sertac Kurtal, address listed as 443 Green Lanes London N4, date of birth 10th October 1973. The company secretary is recorded as Mr Erkan Garic of 33 Latimer House, Morning lane, London E9 6HE and his date of birth is 20th March 1985.
 9. Following this information I sent a letter to both the Company Director and the Company Secretary of ELIT (UK) Limited, the letter contained a formal caution and advised them of my findings. This was to give both parties the opportunity to make any comments regarding the offences under section 33 and 34 of the Environmental Protection Act 1990. The letters were sent out by recorded delivery on the 20th January 2006. I produce copies of these letters as exhibits DF/6 and DF/7. The letters gave both the Company Director and the Company Secretary fourteen days to reply. I have checked my records and can confirm that no correspondence has been received to date.
 10. On the 25th of February 2006 at approximately 23.00 hours I hand delivered two letters and notices to Mangal Restaurant 443 Green Lanes, London N4. The two letters and notices were addressed to Mr S Kurtal, Company Director and Mr E Garip Company Secretary of ELIT (UK) Limited. The two letters and notices which I produce copies of as exhibits DF/8 and DF/9, requested that the business furnish me with (A) copies of the waste transfer notes for the period 24th February 2004 to 24th February 2006 and (B) to furnish me with copies of the written descriptions of the waste transferred. The note must identify the waste in question and state its quantity, how it is stored, the time and place of transfer, the name and address of the transferee. This request was made under section 34(5) of the Environmental Protection Act 1990-Requirement to produce evidence of trade waste agreement. This notice gave both parties fourteen days to supply this information.
 11. On the 27th February 2006 at approximately 14.30 hours I received a telephone call from a gentleman who identified himself as Erkan Garip, he asked me what was required regarding the section 34 notice that he received on the 25th February 2006. I explained to Mr Garip that I need to see the last two years waste contracts. Mr Garip told me he holds a contract with Haringey Accord, I told Mr Garip I would need to see proof of this. I confirm to date no correspondence has been received.

Signed:



Signature witnessed by:

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STATEMENT OF WITNESS

(Criminal Procedure Rules 2005 r27.1 (1);
Criminal Justice Act, 1967, Section 9;
Magistrates' Court Act, 1980, Section 5B)

Statement of: Miss Dianne Feeley

Age of Witness: Over 18

This Statement, consisting of 3 pages signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Signed:



Dated: 29/09/06

1. I confirm that I am the above named person. I am employed by Haringey Council as an Enforcement Officer, working within the Environmental Crime Group. I have held this position for one year. I have Delegated Authority to carry out work on behalf of Haringey Council with regards to the Environmental Protection Act 1990, the Highways Act 1980, London Local Authorities Act 1990 and the Licensing Act 2003.
2. My duties include the inspection of premises to ensure that these premises have the correct licences regarding the sale of alcohol, opening hours and entertainment as required by the Licensing Act 2003.
3. Under the licensing Act 2003 individuals are permitted to apply to the local authority for a licence to operate after 23.00 Hours. The Council records show that in November 2005 Mr Menderes Garip of Mangal Ockbasi restaurant 443 Green Lanes applied to Haringey Council for a premises licence to operate after 23.00 Hours. On the 24th November 2005 a premises licence was granted. This meant that the business could operate after 23.00 hours until 02.00 hours Monday to Sunday to offer the provision of late night refreshments. I produce a copy of the premises licence as exhibit DF/1.
4. On Sunday 9th April 2006 I was on duty in Green Lanes N4 with my colleague Mr Brian Ellick at 02.40 Hours I observed Mangal restaurant 443 Green Lanes N4 open for business, the lights were on, food cooking and food was in the hot plates adjacent to the front window There was one male member of staff behind the counter area preparing hot food and I could see the owner who I knew to be Mr Menderes Garip standing at the bar area of the restaurant which is located in the middle of the restaurant. There were approximately twenty customers seated inside the restaurant eating and drinking.
5. As I waited outside this restaurant I observed one male customer enter at 02.40 hours and take a seat at a table inside the restaurant. At 02.45 hours I observed a male and a female entered Mangal restaurant, they placed an order at the counter and then stood back and waited as the member of staff began to prepare two kebabs. At 02.47 hours another male customer entered Mangal restaurant and he also placed an order at the counter and I observed the member of staff begin to cook chicken on the grill.
6. At 02.50 hours I observed the owner of Mangal who I knew to be Mr Menderes Garip come out of the restaurant and talk to a man who was standing outside. I then observed the


Signed:



LONDON BOROUGH OF HARINGEY
Environmental Services (Enforcement)

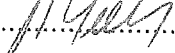
female customer take two wrapped kebabs from the member of staff in exchange for money. both the female and her companion then left the premises. At 02.52 hours two more customers entered Mangal restaurant and took a seat at a table inside. When the owner Mr Menderes Garip noticed us outside, he went back into the restaurant and turned the door sign to show close and the lights were turned off while all of the customers were still eating inside. We then moved to deal with the restaurant next door and after leaving these premises at 03.10 hours Mangal restaurant had put the lights back on in rear of the premises.

7. On Sunday 30th April 2006 I was on duty in Green Lanes N4 with my colleague Mr Brian Ellick at 02.20 Hours I observed Mangal restaurant 443 Green Lanes N4 open for business, the lights were on, food was cooking and food was in the hot plates adjacent to the front window. There was two male members of staff behind the counter area I knew one of these to be the owner Mr Menderes Garip. I could see customers inside the restaurant sitting at tables eating and drinking. As I was making notes outside of these premises I observed two customers enter the restaurant and order food at the counter, I then observed one of staff prepare a kebab for this customer. I waited and watched as the two customers were served with wrapped food and two tins of drink, they then paid for their goods and exited the premises.
8. On Sunday 14th May 2006 I was on duty in Green Lanes N4 with my colleague Mr Brian Ellick at 02.20 hours I stood across the road opposite Mangal restaurant 443 Green Lanes N4, I had a clear view into the restaurant as the lights inside were on and the door was wide open, the only obstruction was from the occasional passing traffic. I observed that Mangal restaurant was open for business, the lights were on, food was cooking and food was in the hot plates adjacent to the front window. I could see customers inside the restaurant sitting at tables eating and drinking. As I arrived I could see two customers standing at the counter, I watched as they were served with two wrapped packages, I observed one of these customers give a male member of staff money in exchange for the two packages. At 02.25 hours I observed a male customer enter Mangal restaurant, he placed an order at the counter, I could see the member of staff behind the counter prepare a kebab as I could see him slicing meat from a large donor rotating spit, the waiting customer was served with his order in exchange for money and then he exited the premises. I took three photographs which I produce as exhibit DF/2, which shows the door sign displaying open, DF/3, which shows a member of staff preparing food, food in the hot plates and meat on a spit and DF/4, this shows the illuminated shop sign and the lights on inside the premises.
9. On Tuesday 20th June 2006 I carried out a search with Companies House, this was to confirm the company name for Mangal restaurant and the directors details. I produce a print out of my findings as exhibit DF/5, this shows that the company name is registered as Frika Limited at 443 Green Lanes London N4 1HA and the director is Garip Menderes of 33 Latimer House Morning Lane London E9 6ND. The date of this appointment is 6th February 2006.
10. On Sunday 28th May 2006 I was on duty in Green Lanes N4 with my colleague Mr Brian Ellick at 02.00 hours I stood across the road opposite Mangal restaurant 443 Green Lanes N4, I had a clear view into the restaurant as the lights inside were on and the door was wide open, the only obstruction was from the occasional passing traffic. I observed that Mangal restaurant was open for business, the lights were on, food was cooking, there was food in the hot plates adjacent to the front window and the door sign was turned to show open. I could see customers inside the restaurant sitting at tables eating and drinking. There was

Signed: 

LONDON BOROUGH OF HARINGEY
Environmental Services (Enforcement)

one male member of staff behind the counter area preparing hot food. I observed two customers enter the premises and place an order at the counter, I watched as the member of staff prepared hot food for the waiting customers. I then observed the owner of Mangal restaurant who I knew to be Mr Menderes Garip come out of the restaurant he went into the neighbouring restaurant and then came out again and went back into his restaurant. At 02.10 hours three female customers entered Mangal restaurant and they took seats inside at a table, I then observed two male customers entered and they to were seated inside at a table. At 02.15 hours I watched as the two male customers who were waiting at the counter area receive their order, they paid the owner Mr Menderes Garip for their goods and then exited the premises.

Signed:.....

LONDON BOROUGH OF HARINGEY
Environmental Services (Enforcement)

STATEMENT OF WITNESS

(Criminal Procedure Rules 2005 r27.1 (1);
Criminal Justice Act, 1967, Section 9;
Magistrates' Court Act, 1980, Section 5B)

Statement of: Miss Dianne Feeley

Age of Witness: Over 18

1.

This Statement, consisting of 3 pages signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Signed: 

Dated: 12th MARCH 2007

2. I confirm that I am the above named person. I am employed by Haringey Council as an Enforcement Officer, working within the Environmental Crime Group. I have held this position for one year. I have Delegated Authority to carry out work on behalf of Haringey Council with regards to the Licensing Act 2003.
3. My duties include the inspection of premises to ensure that these premises have the correct licences regarding the sale of alcohol, opening hours and entertainment as required by the Licensing Act 2003.
4. Under the licensing Act 2003 individuals are permitted to apply to the local authority for a licence to operate after 23.00 Hours. The Council records show that in November 2005 Mr Menderes Garip of Mangal Ockbasi restaurant 443 Green Lanes applied to Haringey Council for a premises licence to operate after 23.00 Hours. On the 24th November 2005 a premises licence was granted. This meant that the business could operate after 23.00 hours until 02.00 hours Monday to Sunday to offer the provision of late night refreshments. I produce a copy of the premises licence as exhibit DF/1.
5. On Sunday 8th October 2006 I was on duty in Green Lanes N4 with my colleague Mr Brian Ellick at 02.20 Hours I observed Mangal restaurant 443 Green Lanes N4 open for business, the lights were on, food cooking and food was in the hot plates adjacent to the front window. There were two male members of staff behind the counter area preparing hot food one of the males I knew to be the owner Mr Menderes Garip. I was standing outside the premises when I observed a customer enter the restaurant and speak with a member of staff behind the counter. The member of staff then proceeded to prepare a donor kebab; the kebab was then given to the waiting customer in exchange for money. Four more customers entered the restaurant they then waited next to the counter while the member of staff prepared a quantity of hot food. After approximately 10 Minutes the member of staff behind the counter wrapped up a quantity of hot food and gave it to the customers in exchange for money the customers then left the premises. At approximately 02.30 Hours a male and female entered the premises and approached the counter. The couple were then shown to a table in the rear of the property. Two more customers then entered the premises and approached the counter. I took three photographs which I produce as exhibit DF/2 showing shop signage

Signed: 

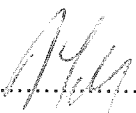
LONDON BOROUGH OF HARINGEY
Environmental Services (Enforcement)

- and interior lights on, DF/3 showing customers waiting at counter, interior lights on and food in hot plates and exhibit DF/4 showing staff preparing take away food, meat spit heaters on and food in hot plates. My colleague B Ellick and I then entered the premises and spoke to Mr. Menderes Garip, we asked to see the premises licence, Mr Garip showed us the licence on the wall, the licence showed that the business could serve hot food until 02.00 Hours. I took two photographs while I was inside the premises showing customers seated in the rear and waiting at the counter area and the red glowing heater from the rotating meat spit which I produce as exhibit DF/5.
6. I advised Mr. Garip that he should not be serving hot food at this time. Mr. Garip apologised. During this time I observed the two waiting customers at the counter area receive a quantity of hot food in exchange for money. A female waitress then turned off the lights at the front of the premises. I then left the premises and continued with my duties.
 7. On 30th October 2006 I obtained authority for directed surveillance in line with Regulation Investigatory Powers Act 2000 (RIPA). This gave me the authority to carry out directed surveillance at Mangal restaurant 443 Green Lanes London N4 for the period of three months commencing 5th November 2006.
 8. On Sunday 26th November 2006 I was on duty in Green Lanes N4 with my colleague Mr Brian Ellick between 02.36 hours until 03.05 hours I was sitting in my car opposite Mangal restaurant 443 Green Lanes, it was a clear night and I had a clear view into the restaurant as the interior lights were on, my only obstruction was from the occasional passing traffic and members of the public walking passed the premises. I observed Mangal restaurant open for business, the lights were on, food cooking and food was in the hot plates adjacent to the front window I could see steam rising from these plates. There were two male members of staff behind the counter area preparing hot food, one of the males I knew to be the owner's son Mr Erkan Garip. During my observations I saw eight customers enter the restaurant and take seats at tables. I observed two male customers enter and I watched as they were served with wrapped hot food in exchange for money. My colleague Mr Ellick and I got out of my car and crossed over the road and went into Mangal restaurant and spoke with Mr Erkan Garip. I asked Mr E Garip why he was still open at 03.05 hours and selling hot food, he told me he was now closed. I advised Mr E Garip that we had observed him selling hot food after 02.00 hours and that we had seen customers enter and sit at tables, I pointed out that some of these customers were now eating. I advised Mr E Garip that I would report my findings with a view to prosecuting his father the licence holder. Mr E Garip smiled at us and said he will wait for the paperwork.
 9. On Saturday 20th January 2007 I was on duty in Green Lanes N4 with my colleague Mr Brian Ellick at 02.30 hours I observed Mangal Ockbasi restaurant 443 Green Lanes open for business. I stood outside the premises and observed customers seated at tables within the restaurant. The interior lights were on, the shop sign was illuminated, there was food cooking on the rotating meat spit and food was in the hot plates as I could see steam rising from them. There was one male member of staff behind the counter area preparing hot food and serving customers. I observed two customers enter the restaurant and they waited next to the counter as the member of staff prepared hot food for them, he then gave them the food which was two donor kebabs and chips in exchange for money. The two customers then left the premises with their food. I took a photograph which I exhibit as DF/6. Mr Erkan Garip the licence holder's son then came outside to talk to my colleague and I. Mr Erkan Garip told us that before the new licensing Act came into force his father opened his restaurant on almost a twenty four hour basis, he said that he found the two o'clock closing time unfair as he stated that most of their business happens on Friday and Saturday's during the early hours. Mr E Garip said that people that go clubbing knew that Green Lanes

Signed:

LONDON BOROUGH OF HARINGEY
Environmental Services (Enforcement)

is the place to go to get late night food. I pointed out to Mr E Garip that by continuing to trade past his prescribe licence hours will result in his father Mr Menderes Garip being prosecuted again and again and the fines may increase with each successful outcome, so I advised him to close at 02.00 hours to avoid this.

Signed: 

STATEMENT OF WITNESS

*(Criminal Procedure Rules 2005 r27.1 (1);
Criminal Justice Act 1967 s.9; M.C. Act 1980 s5B)*

Statement of: Sarah Benning

Age of Witness (If under 18): Over 18

This statement consisting of 2 pages signed by me is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution, if I have wilfully stated in it anything, which I know to be false or do not believe to be true.

Signature:

Date: 9th August 2007

- 1) I am Sarah Benning. I am employed by the London Borough of Haringey as a Street Enforcement Warden Supervisor.
- 2) Part of my duties includes the inspection of any premises within the London Borough of Haringey to ensure that the premises hold the correct authorisation, namely a premises licence issued under the Licensing Act 2003, by the Council, as the relevant Licensing Authority.
- 3) A premises licence allows a premises to carry on a licensable activity on or from their premises namely; the sale by retail of alcohol, the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club, the provisions of regulated entertainment and the provisions of late night refreshments. Within the ambit of regulated entertainment this could include a performance of a play, an exhibition of a film, an indoor sporting event, boxing or wrestling either indoors or outdoor, a performance of live music, any playing of recorded music and a performance of dance or some similar description. They could also provide entertainment facilities to make music, for dancing or some other similar facility.
- 4) Any premises that is looking to carry on any of the activities listed in paragraph 3 should have applied for and been granted a premises licence.
- 5) They must also ensure that where any premises licence has been granted and is subject to certain conditions – that those conditions are adhered to. Some common conditions that require monitoring is the hours that the premises is open and carries on the said licensable activities.
- 6) Under the Licensing Act 2003, premises must apply for a licence if they sell hot food and hot drinks after the hours of 11pm and until the hours of 5am on or from their premises. Food or drink is considered 'hot' if a) before it is supplied it is heated on the premises or elsewhere to enable it to be consumed at a temperature above the ambient air temperature and, at the time of supply, is above the temperature or b) after it is supplied may be heated on the premises to enable it to be consumed at a temperature above the ambient air temperature.

Signed

Date: 9th August 2007

- 7) Council records show that, Mr Menderes Garip and Ibrahim Garip of Mangal restaurant, 443 Green Lanes, N4 1AH, has a premises licence to provide late night refreshments after 23.00 hours – 01.45, seven days a week Monday – Sunday (inclusive). This licence has been held since 24th November 2005. I exhibit a copy of the Premises Licence as SB1.
- 8) On Saturday 4th August 2007, whilst on patrol in Green Lanes, N4. At approximately 02.15. I was outside Mangal restaurant, 443 Green Lanes, N4 1HA. I observed the shop open for business. The door was open with a sign on the door displaying the word OPEN, the lights were on, food was cooking and food was in the hot plates adjacent to the front window. Steam was rising from the hot plates and a spit containing meat was turning with the heater bright red behind it. I exhibit pictures as SB2 and SB3
- 9) I observed one male member of staff behind the counter area who I could clearly see was cutting meat from the spit of meat. There were customers sitting in the restaurant with full plates of food in front of them. A waitress was serving the customers. There was a female member of staff sitting on a table at the front of the restaurant. I had clear visibility and was approximately 2 metres away from the restaurant on the same side of the street. I observed for approximately 20 minutes. I exhibit a picture as SB4.
- 10) At 02.20, I observed a male enter the premises. He approached the male working behind the counter and placed an order. There was no restriction to who could enter the premises and there was no charge to enter. The food was not being supplied via a vending or other similar machine. The food did not appear to be free of charge. I could clearly see the man behind the counter slice some meat from the spit and prepare a kebab using salad that was in the fridge at the front of the counter. I clearly observed the customer hand the male behind the counter some money, the male then placed the food into a bag and handed it to the customer.
- 11) At 02.35, I went into the restaurant and identified myself to a female who approached me. I identified myself to her by showing her my authorisation badge and I asked her what time the shop closed. The female informed me that the shop is about to close. I asked her name. The female gave her name as Serap Yilmaz. Ms Yilmaz informed me that she was working there to help the manager.
- 12) Ms Yilmaz informed me that she is fully aware that the business should close at 2 am. She showed me, on request a copy of the premises licence that was displayed on the wall behind the counter.
- 13) I informed Ms Yilmaz that because I believe that an offence had been committed contrary to section 136 of the licensing Act 2003, I would be passing the case over to the Borough solicitor with a view to prosecution. I exhibit a copy of my note book as SB5.
- 14) I am willing to attend court if required.

Signed:

Date: 9th August 2007

STATEMENT OF WITNESS

*(Criminal Procedure Rules 2005 r27.1 (1);
Criminal Justice Act 1967 s.9; M.C. Act 1980 s5B)*

Statement of: Sarah Benning

Age of Witness (If under 18): Over 18

This statement consisting of 2 pages signed by me is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution, if I have wilfully stated in it anything, which I know to be false or do not believe to be true.

Signature:

Date: 13th February 2008

- 1) I am Sarah Benning. I am employed by the London Borough of Haringey as a Street Enforcement Warden Supervisor.
- 2) Part of my duties includes the inspection of any premises within the London Borough of Haringey to ensure that the premises hold the correct authorisation, namely a premises licence issued under the Licensing Act 2003, by the Council, as the relevant Licensing Authority.
- 3) A premises licence allows a premises to carry on a licensable activity on or from their premises namely; the sale by retail of alcohol, the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club, the provisions of regulated entertainment and the provisions of late night refreshments. Within the ambit of regulated entertainment this could include a performance of a play, an exhibition of a film, an indoor sporting event, boxing or wrestling either indoors or outdoor, a performance of live music, any playing of recorded music and a performance of dance or some similar description. They could also provide entertainment facilities to make music, for dancing or some other similar facility.
- 4) Any premises that is looking to carry on any of the activities listed in paragraph 3 should have applied for and been granted a premises licence.
- 5) They must also ensure that where any premises licence has been granted and is subject to certain conditions – that those conditions are adhered to. Some common conditions that require monitoring is the hours that the premises is open and carries on the said licensable activities.
- 6) Under the Licensing Act 2003, premises must apply for a licence if they sell hot food and hot drinks after the hours of 11pm and until the hours of 5am on or from their premises. Food or drink is considered 'hot' if a) before it is supplied it is heated on the premises or elsewhere to enable it to be consumed at a temperature above the ambient air temperature and, at the time of supply, is above the temperature or b) after it is supplied may be heated on the premises to enable it to be consumed at a temperature above the ambient air temperature.

Signed

Date: 13th February 2008

- 7) Council records show that, Mr Menderes Garip and Ibrahim Garip of Mangal restaurant, 443 Green Lanes, N4 1AH, have a premises licence to provide late night refreshments after 23.00 hours – 01.45, seven days a week Monday – Sunday (inclusive). This licence has been held since 24th November 2005. I exhibit a copy of the Premises Licence as SB1.
- 8) On Sunday 27th January 2008, whilst on patrol in Green Lanes, N4, at approximately 02.53, I was outside Mangal restaurant, 443 Green Lanes, N4 1HA. With my colleague Robert Curtis. I observed the shop open for business. The door was open, the lights were on, food was cooking and food was in the hot plates adjacent to the front window. Steam was rising from the hot plates and a spit containing meat was turning with the heater bright red behind it.
- 9) I observed two male members of staff behind the counter area who I could clearly see serving customers that were standing at the counter these customers were given hot food in exchange for money. There were two waitresses serving customers that were sitting in the restaurant, there were over 30 customers sitting at different tables in the restaurant, some of the customers had hot food in front of them and some of the customers were sitting down and appeared to be waiting for food, I had clear visibility and was approximately 1 metre away from the restaurant on the same side of the street. I observed for approximately 15 minutes. I exhibit pictures as SB2.
- 10) At 03.05, I observed two customers enter the premises, they had a conversation with one of the males that was serving behind the counter, the customers then stood at the front of the counter. There was no restriction to who could enter the premises and there was no charge to enter. The food was not being supplied via a vending or other similar machine. The food did not appear to be free of charge. I could clearly see the man behind the counter slice some meat from the spit and prepare a kebab using salad that was in the fridge at the front of the counter. I clearly observed the customer that had walked in hand the male behind the counter some money, the male then placed the food into a bag and handed it to the customer.
- 11) At 03.10, Mr Garip came out of the shop and informed me he was the manager. I then identified myself to him by showing him my authorisation. I informed Mr Garip that as the shop was still open and customers were being served at 03.10 that I believed that an offence had been committed contrary to section 136 of the licensing Act 2003, I then asked Mr Garip why he was still serving customers at this time, Mr Garip replied "how can I turn them away" and pointed to the very busy restaurant. I then started to take pictures of inside the shop as I did this Mr Garip instructed his staff to turn the lights out, The lights were then switched off.
- 12) The customers continued to stay in the restaurant. I observed one of the waitresses take some hot food that had been prepared by the man behind the counter over to a table where people were sitting, I then observed her go over to another table and serve another customer. Mr Garip made no attempt to shut the shop or lock the door
- 13) I informed Mr Garip I would be passing the case to the Borough solicitor with a view to prosecution. I exhibit a copy of my note book as SB3.
- 14) I am willing to attend court if required.

Signed

Date: 13th February 2008

London Borough of Haringey
Urban Environment
Enforcement Service

Ref: UE/ENF/NT

Re Premises: Mangal Ockbasi
Resaurant, 443 green Lanes, London
N4 1HA

Statement of Witness

(Criminal Procedure Rules 2005 r27.1(1)
Criminal Justice Act 1967 Section 9; and
Magistrates' Court Act 1980 s5B)

Statement of: : Mark Eastwood
Age of Witness: : Over 18 years
Address: : 639 High Road, London, N17 8BD.

This Statement, consisting of 2 pages signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated: Signed:.....

- 1) I am employed by the London Borough of Haringey as an Out of Hours Response Enforcement Officer. My duties include the inspection of any premises within the London Borough of Haringey to ensure that the premises hold the correct authorisation, namely a premises licence issued under the Licensing Act 2003, by the Council, as the relevant licensing Authority.
- 2) A premises licence allows a premises to carry on a licensable activity on or from their premises namely: the sale by retail of alcohol, the supply of alcohol by or on behalf of a club to, or to the order of a member of a club, the provisions of regulated entertainment and the provisions of late night refreshments. Within the ambit of regulated entertainment this could include a performance of a play, an exhibition of a film, an indoor sporting event, boxing or wrestling either indoors or outdoor, a performance of live music, any playing of recorded music and a performance of dance or some similar description. They could also provide entertainment facilities to make music for dancing or some other similar facility.

Signed:

- 3) Any premises that is looking to carry on any of the activities listed in paragraph 2 should have applied for and been granted a premises licence.
- 4) They must also ensure that where any premises licence has been granted and is subject to certain conditions that those conditions are adhered to. Some common conditions that require monitoring is the hours that the premises is open and carries on the said licensable activities.
- 5) Under the Licensing Act 2003, premises must apply for a licence if they sell hot food and hot drinks after the hours of 11pm and until the hours of 5am on or from their premises. Food or drink is considered "hot" if a) before it is supplied it is heated on the premises or elsewhere to enable it to be consumed at a temperature above the ambient air temperature and, at the time of supply, is above the temperature or b) after it is supplied may be heated on the premises to enable it to be consumed at a temperature above the ambient temperature.
- 6) Council records show that, Mr Menderes Garip and Ibrahim Garip of Mangal Ockbasi Restaurant, 443 Green Lanes, N4 1AH, has a premises licence to provide late night refreshments from 23:00hrs to 01:45hrs seven days a week, Monday to Sunday inclusive. I enclose a copy of the Premises Licence as MDE1.
- 7) I was on duty from 21:00hrs 31st December 2007 until 05:00hrs 1st January 2008. At approximately 04:12hrs I visited the Mangal Ockbasi Restaurant, 443 green Lanes, London N4 1HA. I observed the restaurant was open for business. The door was open with a sign on the door which said OPEN. The lights were on and I could see food cooking. There was a large spit of meat cooking turning in front of the red hot heater behind it. I could see food on the hot plates by the window. I could see steam rising from the food.
- 8) I entered the premises and saw three customers standing at the counter. I could see uncooked food displayed in the display case. I observed one male member of staff cutting meat from the large spit of meet that was cooking. I also saw another male member of staff wrap up the food, and take money as payment for it . The three customers then left the restaurant.
- 9) I saw approximately twenty people seated in the restaurant, eating and drinking. The restaurant was very busy with customers. I had clear visibility of the inside of the restaurant. There was no restriction on who could enter the premises nor

Signed:

was there a charge for entry. The food was being freshly prepared and served. The food did not appear to be free of charge.

10) I am aware that the licence for provision of late night refreshment stipulates that such provision should cease at 01:45hrs and the business be closed at 02:00hrs.

11) I then left the restaurant, which was still open for business.

Signed:

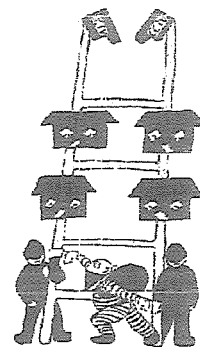
APPENDIX 3

REPRESENTATION FROM RESIDENTS ASSOCIATION

1 of 7

LADDER COMMUNITY SAFETY PARTNERSHIP ...keeping crime off

P.O. Box 32109 Haringey London N4 1GN
 lcsp@blueyonder.co.uk



the "Ladder"

Ms D Barrett
 Licensing Team
 Techno park
 Ashley Rd
 London N17 9LN

20 February 2008

Dear Ms Barrett

Premises Review (Licensing Act 2003)
Mangal Restaurant, 443 Green Lanes, London N4 1AJ

The Ladder Community Safety Partnership (LCSP) is an umbrella organisation which represents Neighbourhood Watches and Residents' Associations in the 19 'Ladder' roads and along Green Lanes itself. We are writing to support the actions of the Environmental Health Authority/Enforcement Response Service in seeking a review of the premises licence for Mangal Restaurant under the terms of the Licensing Act 2003.

For many years, residents have noted the repeated breaches of permitted opening hours. The LCSP has already had occasion to write to the Licensing Sub Committee with regard to the premises (see our letter dated 11 September 2005, attached). In addition, at a hearing on 7 June 2005, attended by LCSP members and Cllr. G Adamouu, a long list of breaches was presented, for example:

'The premises has continued to trade on a 24 hour basis and has been visited on a number of occasions ...

27 November 2004: open and trading at 3.15am

5 December 2004: open and trading at 3.10am

23 January 2005: open and trading at 3.40am'

In addition,

'The Waste Management Team have taken three enforcement actions against Mr Garip' (details follow, see Agenda of Meeting on 7 June 2005)

In sum, they have a very long and serious history of non-compliance, in addition to the 5 breaches from 2006 and 2007 cited in the current Review Notice.

Given that multiple breaches have occurred since at least 2004 and that warnings, Court appearances and repeated fines all have no impact, the only way forward is that recommended by the Responsible Authority, namely revoking of the premises licence (the history of non-compliance makes it self-evident that any conditions imposed would not be respected).

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Thank you for your consideration of these comments; we should be grateful if you would let us know the outcome of the hearing.

Yours sincerely

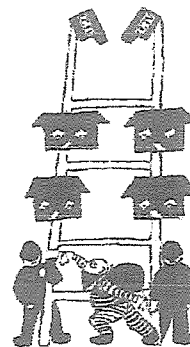
A handwritten signature in dark ink, appearing to be 'J. H. ...', written over a horizontal line.

On behalf of the LCSP

3 of 7

LADDER COMMUNITY SAFETY PARTNERSHIP ...*keeping crime off*

P.O. Box 32109 Haringey London N4 1GN
 lcsp@blueyonder.co.uk



the "Ladder"

Daliah Barrett
 Environmental Control Service
 Civic Centre
 Wood Green
 London N22 8LE

19 September 2005

Dear Ms Barrett

Late-night premises licence application: Mangal, 443 Green Lanes, N4 1HA
Applying for Mon-Sunday 07.00 -05.00 late-night café and take-away

1 INTRODUCTION

The Ladder Community Safety Partnership (LCSP) contains representatives of Neighbourhood Watches and Residents' Associations from the 'Ladder' roads, adjacent to Green Lanes, Haringey. We are an independent group, although working in partnership with Haringey Council and the Metropolitan Police where appropriate.

We are writing to you as members of the LCSP to oppose this application.

We believe that in the context of the well known problems in the area, granting a licence for the hours requested would be against the general principles of Haringey's Licencing Policy and specifically under the following headings:

- **The Prevention of Crime and Disorder**
- **Public Safety**
- **Prevention of Public Nuisance**

We are concerned that the applicant has only addressed these key issues in a very limited way in his application which could indicate a lack of understanding and/or commitment to their importance.

We note that, only recently, (7 June 2005) the premises was refused a Night Café Licence due to lack of compliance with various regulations and because the applicant at that time was not considered a fit and proper person to hold such a licence.
Finally, we believe that there are Planning Permission, Building Control and Fire Safety

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considerations which (if they have not been satisfied since the previous application) require the Committee to reject this application regardless of other considerations.

More information on why we believe the Committee should reject this application is provided under appropriate headings below.

2 PLANNING CONSIDERATIONS

Whereas in the past numerous premises on Green Lanes have been allowed Night Café licences despite not having Planning Permission for A3 use or the appropriate hours, under the new Licensing Policy [para 8.2] applications can no longer be accepted without appropriate Planning Permission.

The agenda provided for the meeting on 7 June 2005 to consider the previous application for a Night Café Licence for this premises indicates a complex planning history, but that no change of use to A3 has been granted. It would seem that no application for change of use or Certificate of Lawfulness has been made, let alone granted, so neither can this licence application.

3 REASONS FOR OBJECTING

(a) Relevant sections of the Borough's Licensing Policy/Objectives

We believe the following statements in the Borough's Licensing Policy support our objections:

- *'the Council considers that licensing law plays a key role in both preventing and controlling ... anti-social behaviour ... by regulating and applying conditions to affect the number, location and hours of premises' [2.4]*
- *'the council will have special regard to the local impact of licensing on related crime and disorder ... particularly when concerning location, impact, operation and management of all proposed licenses, applications, renewals and variations of conditions' [7.14]*
- *'licensed premises, especially those operating late at night and in the early hours of the morning, can cause a wide range of nuisances that can impact on the people living, working or sleeping in the vicinity of the licensed premises. The Council is committed to protecting the residents in the vicinity of these licensed premises.'* [13.1]
- *'in particular, late night activities cause much of this nuisance. Late night cafes ... can have a number of adverse effects on the residents in the vicinity of these premises. Nuisance such as noise, litter, anti-social behaviour, lights and odour all contribute to the loss of amenity to the general public' [13.2]*
- *'the potential for additional crime and disorder and/or public nuisance is increased with longer hours.'* [18.1]

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- *'operating hours between 23.00 and 07.00 are considered to give greater potential for noise nuisance'* [18.3]

(b) Licensing Hours

In the light of the above statements and of the licensing objectives in general, we believe that in this case a normal closing time of no later than 2.00am (Fri & Sat) and 12 midnight (Sun-Thurs) represents a reasonable compromise between the interests of the residents (many of whom would really prefer earlier times) and the applicant (who wishes to remain open for 22 out of 24 hours every day).

We believe that granting of a permanent licence for 22 hour opening is an unreasonable proposition, given the location of the premises in the heart of one of the most densely populated residential areas in the borough.

(c) The Prevention of Crime and Disorder

We have seen the brief comments relating to the prevention of crime and disorder put forward by the applicant. These seem inadequate and residents would also like to highlight the following points:

- has the use of CCTV to prevent crime and disorder been considered?
- are there policies/methods to deal with the arrival of intoxicated patrons and/or persons under the influence of illegal drugs?
- are patrons prevented from drinking alcohol brought onto the premises?
- are there procedures to deal with violence and anti-social behaviour?
- what methods are in place to discourage the handling of stolen goods etc?
- what methods are in place to address prostitution at the premises? (a particular problem on Green Lanes: Met. Police Taskforce 4 reported to the Green Lanes Strategy Group on 8 Sept 2005 that this was currently a serious concern with 5 prostitutes cautioned during the previous week)

(d) Public Safety

We are pleased to note that the applicant states that he is *'very keen for public safety, indoor and outdoor the premises'*. However, have all the issues raised under the previous application been satisfactorily addressed? There is a need for greater clarification regarding various aspects of Public Safety as set out in Appendix 2(2) of the Licensing Policy:

- fire safety risk assessment?
- installation of fire alarms and fire safety measures?
- compliance with all relevant building control rules and regulations?
- arrangements for emergency situations, including evacuation?
- clear signage throughout the premises, eg emergency exits, fire extinguishers etc?
- arrangement for the management, supervision and training of staff to ensure that these measures are known and implemented?

(e) Prevention of Public Nuisance

We welcome the statement that the venue *'does not have music'* and tries *'not to disturb the neighbourhood'*. However, some further questions remain unanswered, in particular:

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- the steps taken, or proposed, to prevent disturbances by customers arriving at, or leaving, the premises? (the Policy states that *'there will be greater responsibilities placed on premises operating between 23.00 and 07.00 than at other times of the day'*)
- the actions necessary to prevent disturbance from deliveries or collections at early or late hours, or staff cleaning up after closing time?
- the provision to properly extract and disperse odours and smells from cooking by properly installed and maintained ventilation equipment? There seem to have been complaints in the past.
- the steps taken, or proposed, to prevent littering and fouling of public and open spaces - what specific measures are proposed by the business? This is particularly important as the premises also advertises a take-away service
- the arrangement for storage and disposal of trade waste - would the very long hours sought by the applicant lead to increased waste storage and disposal problems?
- the arrangements for cleansing and keeping clean the vicinity of the premises - this will include litter, refuse and other items originating from the premises and fouling caused by customers.

The Borough's Licensing Policy points out the special importance of these issues after 23.00 and in residential areas. (See Appendix 2(3) and 13.2).

(f) Record of Compliance

Throughout the Operating Schedule of the Licensing Policy there are references to the importance of the record of compliance, *'particularly where statutory notices or warning letters have been served on the present licensees'*. In this case, Mangal lost its late night café application on 7 June 2005 when the Miscellaneous Functions Sub Committee resolved that:

- (1) the applicant had failed to comply with various regulations
- (2) the applicant had failed to demonstrate being a fit and proper person to hold such a licence [MFS Minutes 7 June 2005]

In these circumstances we have obvious reservations about the present application, particularly if the applicant is the same.

3. CONCLUSION

We believe that the above points need to be clarified by the Licensing Committee and clearly specified in any licence granted

Our comments and objections obviously make clear that residents are very concerned at the possible implications of a 22 hour daily licence for these premises. We would therefore urge the Licensing Sub-committee to support a balanced decision bearing in mind both the concerns of local residents and the needs of the present applicant to continue to operate a successful business.

In this light we believe that a 12 midnight closure during the week (Sun - Thurs), when residents need a good night's sleep before work the following day, would be appropriate. At weekends (Fri & Sat only) a later terminal time of 2am would seem to be a fair compromise, provided that this is not accompanied by any increase in noise and anti-social behaviour etc, and the terms of the licence are clear in this respect.

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Yours sincerely



on behalf of the LCSP

[Approved by the representatives of Neighbourhood Watches and Residents' Associations in the following Roads:]

Representation from Green Lanes and the following Roads:

- Umfreville Road
- Burgoyne Road
- Pemberton Road
- Seymour Road
- Allison Road
- Effingham Road
- Falkland Road
- Hampden Road
- Woollaston Road
- Cavendish Road
- Warham Road
- Hewitt Road
- Beresford Road
- Fairfax Road
- Lausanne Road
- Sydney Road

APPENDIX 4
EXTRACTS FROM GUIDANCE

11. Reviews

THE REVIEW PROCESS

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences represent a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a premises licence.
- 11.2 At any stage, following the grant of a premises licence, a responsible authority, or an interested party, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 In addition, a review of the licence will normally follow any action by the police to close down the premises for up to 24 hours on grounds of disorder or noise nuisance as a result of a notice of magistrates' court's determination sent to the licensing authority.
- 11.4 Licensing authorities may not initiate their own reviews of premises licences. Officers of the local authority who are specified as responsible authorities under the 2003 Act, such as environmental health officers, may however request reviews on any matter which relates to the promotion of one or more of the licensing objectives.
- 11.5 Representations made by a department of the local authority which is a responsible authority should be treated by the licensing authority in precisely the same way that they would treat representations made by any other body or individual.
- 11.6 In every case, the representation must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of the licensing objectives. After a licence or certificate has been granted or varied, a complaint relating to a general (crime and disorder) situation in a town centre should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.7 Representations must be in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing.
- 11.8 It is important to recognise that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between these groups in a way that would undermine the benefits of co-operation. It is good practice for authorised persons and responsible authorities to give licence holders early warning of their concerns about problems identified at the premises concerned and of the need for improvement. A failure to respond to such warnings is expected to lead to a decision to request a review.
- 11.9 Where the request originates with an interested party – e.g. a local resident, residents' association, local business or trade association – the licensing authority must first consider whether the complaint made is relevant, vexatious, frivolous or repetitious.

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

REPETITIOUS REPRESENTATIONS

- 11.11 Relevance, vexation and frivolousness were dealt with in paragraphs 9.8 – 9.13 above. A repetitious representation is one that is identical or substantially similar to:
- a ground for review specified in an earlier application for review made in relation to the same premises licence which has already been determined; or
 - representations considered by the licensing authority when the premises licence was first granted; or
 - representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement;

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

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

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

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

POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

- 11.15 The 2003 Act provides a range of powers for the licensing authority on determining a review that it may exercise where it considers them necessary for the promotion of the licensing objectives.
- 11.16 The licensing authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such warnings as an important mechanism for ensuring that the licensing

objectives are effectively promoted and that warnings should be issued in writing to the holder of the licence. However, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach.

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

- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence.

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

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

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

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

APPENDIX 5
EXTRACTS FROM STATEMENT OF LICENSING POLICY

- 23.2 The benefit of this procedure is that it allows investment to be committed to a project at an early stage, in the knowledge that a premises licence will be granted subsequently by the Authority, if all matters in the statement are met.

24.0 Conditions

- 24.1 The Council recognises that the only conditions that should be imposed on a licence are those that are necessary and proportionate to meeting the licensing objectives. There may be circumstances where existing legislation and regulations already effectively promote the licensing objectives.
- 24.2 The steps set out on the Operating Schedule will form the basis of conditions attached to any license granted. If no relevant representation is made, the application will be granted in accordance with the application and subject to conditions which are consistent with the Operating Schedule submitted by the applicant and the relevant mandatory conditions.
- 24.3 If relevant representations are made the Licensing Authority will hold a hearing unless there is agreement from all concerned that a hearing is not required. Where a hearing is held, the Licensing Authority has discretion whether or not to grant the application. If the application is granted, the Licensing Authority may attach or modify the conditions on the license to such extent as it considers necessary for the promotion of the licensing objectives
- 24.4 Where conditions are imposed they will be tailored to the individual style and characteristics of the premises and events concerned. Standardised conditions will not be imposed, but where appropriate the council will draw upon the model pool of conditions issued by the Department for Culture Media and Sport in annex D - H of the guidance issued by the Secretary of State under s182 of the Act. The Council may also impose conditions other than those set out in the annexes in circumstances where this is necessary to properly promote the four licensing objectives and to address problems referred to elsewhere in this Licensing Policy.

25.0 Enforcement

- 25.1 The Licensing Authority will undertake inspections, including joint inspections of premises and enter into other working arrangements with the Metropolitan Police, Fire Authority and other agencies to support the 'licensing objectives'.
- 25.2 Protocols will provide for targeting of agreed problem and high-risk premises, but with a 'lighter touch' to those premises which are shown to be well managed and maintained.

- 25.3 The Council has adopted an enforcement policy in accordance with the Government's 'enforcement concordat'. The key principles of consistency, transparency and proportionality are maintained throughout this policy.
- 25.4 Enforcement action will be taken in accordance with the principles of the enforcement concordat and the licensing enforcement policy. In particular enforcement action will be:
- targeted - i.e. focused on premises and activities that give rise to the most serious risk of the licensing objectives being undermined;
 - consistent - i.e. similar approaches will be taken in similar circumstances to achieve similar ends;
 - transparent - i.e. help applicants, designated premises' managers and anyone else with a duty to comply with licensing requirement understand what is expected and distinguishing between statutory requirements and guidance;
 - proportionate - i.e. action taken will be proportional to the risk of the licensing objectives being undermined.
- 25.5 The Licensing Authority will take appropriate enforcement action when there is a breach of licensing conditions causing significant risk to the licensing objectives. The selection of the most appropriate enforcement action from the options available will be in accordance with the licensing enforcement policy.
- 25.6 The Licensing Authority Enforcement Policy details the various options available in relation to enforcement measures. These measures will include the review of a licence at the request of an authorised person. The Licensing Sub-Committees will have a range of powers at review in order to secure the licensing objectives. These include the withdrawal of an activity from the premises licence, reductions in operating hours and additional conditions being attached to the licence.
- 25.7 The Council's licensing officers will monitor ongoing compliance with licence conditions. Where necessary for this purpose they will carry out inspections. Such inspections may be carried out without prior notice to the occupier or licensee if the licensing officer considers it appropriate in accordance with the law.
- 25.8 The Licensing Authority has produced a joint enforcement protocol in collaboration with the Police and London Fire & Emergency Planning Authority. This details the role of these bodies in the monitoring and enforcement role and will cover the new powers available , for example ;
- Police powers to require the temporary closure of any licensed premises or temporary event on the grounds of disorder, likely disorder or noise constituting a nuisance.