NOTICE OF MEETING

SPECIAL LICENSING SUB COMMITTEE

Monday, 3rd October, 2016, 10.00 am - Civic Centre, High Road, Wood Green, N22 8LE

Members: Councillors David Beacham, Peter Mitchell and Ann Waters

Quorum: 3

1. FILMING AT MEETINGS

Please note this meeting may be filmed or recorded by the Council for live or subsequent broadcast via the Council's internet site or by anyone attending the meeting using any communication method. Although we ask members of the public recording, filming or reporting on the meeting not to include the public seating areas, members of the public attending the meeting should be aware that we cannot guarantee that they will not be filmed or recorded by others attending the meeting. Members of the public participating in the meeting (e.g. making deputations, asking questions, making oral protests) should be aware that they are likely to be filmed, recorded or reported on. By entering the meeting room and using the public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings.

The Chair of the meeting has the discretion to terminate or suspend filming or recording, if in his or her opinion continuation of the filming, recording or reporting would disrupt or prejudice the proceedings, infringe the rights of any individual, or may lead to the breach of a legal obligation by the Council.

2. APOLOGIES FOR ABSENCE

3. URGENT BUSINESS

It being a special meeting of the Sub Committee, under Part Four, Section B, Paragraph 17, of the Council's Constitution, no other business shall be considered at the meeting.

4. DECLARATIONS OF INTEREST

A member with a disclosable pecuniary interest or a prejudicial interest in a matter who attends a meeting of the authority at which the matter is considered:

(i) must disclose the interest at the start of the meeting or when the interest becomes apparent, and
(ii) may not participate in any discussion or vote on the matter and must withdraw from the meeting room.

A member who discloses at a meeting a disclosable pecuniary interest which is not registered in the Register of Members' Interests or the subject of a pending notification must notify the Monitoring Officer of the interest within 28 days of the disclosure.

Disclosable pecuniary interests, personal interests and prejudicial interests are defined at Paragraphs 5-7 and Appendix A of the Members' Code of Conduct.

5. 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.

6. YAO YAO SUPERMARKET 37 BROAD LANE LONDON N15 4DJ (PAGES 3 - 32)

To consider an application for a premises licence review brought by Trading Standards as a Responsible Authority.

Maria Fletcher, Principal Committee Co-ordinator
Tel – 020 8489 1512
Fax – 020 8881 5218
Email: maria.fletcher@haringey.gov.uk

Bernie Ryan
Assistant Director – Corporate Governance and Monitoring Officer
River Park House, 225 High Road, Wood Green, N22 8HQ

Friday, 23 September 2016

APPENDIX 3

LICENSING SUB-COMMITTEE REVIEW HEARINGS PROCEDURE SUMMARY

INTRODUCTION

1. The Chair introduces himself and invites other Members, Council officers, the Premises Licence Holder, representatives of responsible authorities, interested parties and the Review Applicant to do the same.
2. The Chair invites Members to disclose
   i) any prior contacts (before the hearing) with the parties or representations received by them; and separately
   any declarations of interest.
3. The Chair explains the procedure to be followed by reference to this summary which will be distributed in advance.

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 opportunity 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 any other topic headings to be discussed.

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 generally 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 sought to be varied 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 Review Applicant's main representative	
(ii) an introduction by the Premises Licence Holder or representative	
(iii) questions put by Members to the Review Applicant	
(iv) questions put by Members to the Premises Licence Holder	
(v) questions put by the Review Applicant to the Premises Licence Holder	
(vi) questions put by the Premises Licence Holder to the Review Applicant	
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 Review Applicant makes their closing address before the Premises Licence Holder, 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.	

Agenda Item 6

Haringey LONDON

Agenda Item
Page No. 1

Licensing Act 2003 Sub-Committee on 3rd OCTOBER 2016

Report title: Application for a Review of a Premises Licence at Yao Yao Supermarket, 37 Broad Lane Tottenham N15 4DJ

Report of: The Licensing Team Leader

Ward(s) affected TG

1. Purpose

To consider an application by The Trading Standards Team for a review of the premises licence at the above named premises.

Summary of application

- **The applicants – Trading Standards as a Responsible Authority are seeking a review of the Premises Licence with reference to the licensing objectives of the Prevention of Crime and Disorder and Public Safety.**

Date review application served: 8th August 2016

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 Council's website.
A copy of the review application and supporting documents are at Appendix 1.

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 2)
(d) relevant sections of the licensing authority's statement of licensing policy (appendix 3)

Report authorised by: Daliah Barrett

.....

Licensing Team Leader

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: Yao Yao Supermarket

The Background Papers are located at Regulatory Services, Alexandra House Level 6, 10 Station Road, Wood Green, London N22 7TR

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4. REPORT

Background

A premises licence was originally granted to Yao Yao Supermarket in November 2013. Mr Yan has been the licence holder and DPS since this time.

Licensable activities authorised by the Licence:

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

Supply of Alcohol Supply of Alcohol

Monday to Sunday 1000 to 2100

The designated premises supervisor is: Mr Yan

4.2.1 Details of the Application for Review and Supporting Documentation. Appendix 1

The application for the review has been made on the following grounds:

The operation of the premises has failed to uphold the Licensing Objectives of The Prevention of Crime and Disorder and Public Safety.
The premises were found to be stocking and selling non duty paid tobacco and alcohol from the premises.

5.0 RELEVANT REPRESENTATIONS (CONSULTATION)

Responsible authorities:

5.1 Comments of Metropolitan Police

No representation made.

5.2 Comments of Enforcement Services:

No representation made

5.3 Comments of The London Fire and Emergency Planning Authority

No representation made.

6.0 Comments of Interested Parties

No comments made.

7.0 POLICY CONSIDERATIONS

7.1 The following provisions of the Licensing Act 2003 apply to this application: Section 51-53 (review of premises licenses)

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

1. Take no further action
2. modify the conditions of the license
3. exclude a licensable activity from the scope of the license
4. remove the designated premises supervisor
5. suspend the license for a period not exceeding three months
6. 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 Licensing Sub Committee.

8.0 The following provisions of the Secretary of State's guidance apply to this application: Paras 11.24-11.28 These provisions are attached at **Appendix 2**.

8.1 The following paragraphs of the licensing authority's Statement Of Licensing Policy apply to this application; Section 78, these provisions are attached at **Appendix 3**.

8.2 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.

APPENDIX 1 – COPY OF REVIEW APPLICATION FORM

WK|360868

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

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.
You may wish to keep a copy of the completed form for your records.

I **Rebecca Whitehouse**
(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
Yao Yao Supermarket 37 Broad Lane	
Post town London	**Post code (if known)** N15 4DJ

HARINGEY COUNCIL
LICENSING
RECEIVED
- 8 AUG 2016

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

Number of premises licence or club premises certificate (if known)
LN0000011710

Part 2 - Applicant details

I am

	Please tick ✓ yes
1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)	☐
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)

Please tick ✓ yes

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

Surname

First names

I am 18 years old or over Please tick ✓ yes ☐

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address L.B.Haringey Trading Standards Service 6th Floor, Alexandra House, 10 Station Road, London N22 7TR
Telephone number (if any) **020 8489-5158**
E-mail address (optional) Rebecca.whitehouse@haringey.gov.uk

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 2)

This application to review relates to the objectives to prevent crime and disorder.

It particularly relates to the discovery of illicit tobacco in the shop under the control of the Premises Licence Holder and Designated Premises Supervisor Longming YAN. These circumstances indicate that the highest standards of management have not been exhibited by the business.

On 6th April 2016, officers from Trading Standards and Her Majesty's Revenue and Customs (HMRC) visited the premises to inspect the stock of alcohol and tobacco. The Premises Licence Holder and Designated premises Supervisor Longming YAN was present.

The officers seized 40,320 cigarettes with a Duty Value of £9,140.51 which were not UK Duty Paid. These products were discovered concealed under the sales counter of the shop with the bulk of the stock being found in boxes in the basement of the licenced premises.

The seized goods were Chinese branded cigarettes not intended for the UK market.

It can be an offence under Section 144 of the Licensing Act 2003 for the Designated premises Supervisor and Premises Licence holder to knowingly keep or allow goods to be kept on the premises which have been imported without payment of duty.

As well as being not UK Duty paid the cigarettes also also did not bear the correct statutory health warnings which are legally required for the UK market. Having these cigarettes in possession for supply on a shop premises on that date is a breach of Regulation 14 (1) of the Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002 as they do not bear the required warning "smoking kiils" or "Smoking seriously harms you and others around you" and on the other most visible surface a prescribed picture warning . This can be a criminal offence under Section 12(1) of the Consumer Protection Act 1987.

Longming YAN the Premises Licence holder and designated Premises Supervisor was interviewed at the time by HMRC officers and he was also subsequently interviewed under Caution in accordance with the Police and Criminal Evidence Act 1984 by Trading Standards.

During the interview Mr YAN admitted selling the cigarettes for a small profit in that he pruchased a carton of 200 cigarettes for £25 and sold it for £30 with Marlboro being slightly more expensive.

My YAN admitted he knew it was illegal to store smuggled goods on the premises.

When asked at the end of the interview if there was anything he wished to say Mr Yan stated that he was sorry and he did not do it anymore. He added that Trading Standards had returned to recheck the premises and found nothing wrong.

I have set out below the relevant history of the business.

On 29th April 2015 the business was approched to join Haringey's Responsible Retailer Scheme.

On 2nd June 2015 a follow up letter was sent to the business requesting them to join the Responsible Trader Scheme. To date the business have not become members of the Responsible Trader Scheme

On 6th April 2016 a visit was made to Yao Yao Supermarket by HMRC officers and Trading Standards and 40,320 cigarettes were seized.

On 30th June 2016 Longming YAN was interviewed by Trading Standards under Caution.

Trading Standards are concerned at the possession for supply of illicit tobacco for the following reasons:

- The willingness to intentionally or recklessly break one law indicates the business is less likely to be compliant with other laws.
- The sale by retailers of illicit goods gives them an unfair advantage over law abiding businesses.
- Illicit goods are often smuggled into the country and / or produced by organised crime. It is believed that the profits are frequently used to fund other types of serious organised crime.
- The trade in illicit alcohol and tobacco causes huge losses to the UK's tax revenues.
- The trade in illicit alcohol and tobacco facilitates teen drinking and smoking
- The trade in illicit alcohol and tobacco makes it harder to beat addiction
- The trade in illicit cigarettes poses a risk to public safety through increased risk of fire from non fire retardant cigarettes.
- Illicit goods may be harmful as they do not come from legitimate, legal and/or traceable suppliers. There is no guarantee that they are safe and comply with other legislation.
- Supplying tobacco products with incorrect health warnings undermines the effectiveness of public health messages designed to discourage smoking.

Section 13(4) of Licensing Act 2003 and Regulation 7 of The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 makes a local weights and measures authority a responsible authority for the purposes of the legislation. The London Borough of Haringey is a local weights and measures authority and that function is carried out by the Trading Standards team.

Here is a summary of events supporting this application:-

Date	Event	Description
16th September 2014	Business approached to join Haringey's Responsible Trader Scheme	Responsible Trader Scheme includes a commitment to comply with legislation enforced by HMRC and Environmental Health
2nd June 2016	Follow Up letter Sent requesting the trader joins the Responsible Trader Scheme	
6th April 2016	Visit By HMRC and Trading Standards	40,320 cigarettes seized which were not Duty Paid and not labelled in accordance with UK Health Warnings
25th May 2016	Revisit Carried out by HMRC and Trading Standards	Further inspection carried out of the shop premises. No infringing items seized
30th June 2016	Longming YAN interviewed Under Caution by Tading Standards	Interview Recorded on CD and written Summary made

Recommendations:

This Licensee has clearly demonstrated that there is a breakdown in due diligence In respect to the sourcing of legitimate products to be sold by the business and a failure to pay substantial amounts of Duty to HMRC.

Cigarettes were being sold by the Licensee by his own admission at prices considerably below the Duty rates payable to HMRC.

There is evidence that the Designated Premises Supervisor and Premises Licence Holder Longming YAN has been knowingly involved in serious breaches of the law and has disregarded legal requirements. This gives me severely reduced confidence in his willingness to fulfil his responsibility to promote the licensing objectives or to exhibit the highest standards of management.

I would submit that the Committee consider adding the following conditions to the Licence

- All tobacco products which are not in the covered tobacco display cabinet shall be stored in a container clearly marked "tobacco stock". This container shall be kept within the store room or behind the sales counter.
- Tobacco shall only be taken from the covered display cabinet behind the sales counter in order to make a sale.
- Only goods available for retail sale shall be stored on the premises

I would also recommend that the Committee consider a suspending the Licence for a period of a of three months.

No conditions have previously been attached by the Licensing Authority.

Please provide as much information as possible to support the application (please read guidance note 3)

Attached Documents

1. Letter requesting the Business join the Responsible Trader Scheme
2. Statement of HMRC Officer following visit on 6th April 2016
3. Photographs of Goods Seized on 6th April 2016
4. Transcript of PACE interview with Trading Standards

Please tick ✓ yes

Have you made an application for review relating to the premises before ☐

If yes please state the date of that application

Day		Month		Year			

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

N/A

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 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature .....

Date 5th August 2016

Capacity Manager

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)	
Post town	**Post Code**
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

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

LICENSING ACT 2003
Sec 24

PREMISES LICENCE

Receipt: SELMS00001185 **Premises Licence Number:** LN/000011710

This Premises Licence has been issued by:
The Licensing Authority, London Borough of Haringey,
Urban Environment, Technopark, Ashley Road
Tottenham, London, N17 9LN

Signature:..... **Date:** 5th November 2013

Part 1 – PREMISES DETAILS

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

YAOYAO SUPERMARKET
37 BROAD LANE
TOTTENHAM
LONDON
N15 4DJ

Telephone: 020 8801 9555

Where the Licence is time limited, the dates:

Not applicable

Licensable activities authorised by the Licence:

Supply of Alcohol

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

Supply of Alcohol

Monday to Sunday **1000 to 2100**

The opening hours of the premises:

Monday to Sunday **1000 to 2100**

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

Supply of alcohol for consumption **OFF** the premises

LICENSING ACT 2003
Sec 24

Part 2

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

Yan Longming
Flat 32
Grover Court
Loampit Hill
London
SE13 7ST

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

Not applicable

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

Yan Longming
Flat 32
Grover Court
Loampit Hill
London
SE13 7ST

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

Personal Licence:	LEW 2993
Issued by:	The London Borough of Lewisham
Expiry date:	15th January 2022

Annex 1 –Mandatory Condition

(2) Supply of alcohol: No supply of alcohol may be made under the premises licence-

(a) at a time when there is no designated premises supervisor in respect of the premises licence, or
(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

(3) The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Additional Mandatory Conditions in relation to Supply of Alcohol

(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

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

Annex 2 –Conditions consistent with the Operating Schedule

CCTV will be installed and maintained of clear quality and in order to deter disorder, nuisance and anti-social behaviour and crime.

The CCTV serving the premises shall:

Be maintained, fully operational and in good working order at all times.

Make and retain clear images which include the points of alcohol sales and facial images of customers.

Ensure that recordings show an accurate date and time of recordings

All images will be retained for a period of not less than 31 days.

CCTV recordings will be made available for viewing and original recordings, or copy will be provided to Police, Community Support Officers or Authorised persona upon demand.

Copies of recordings shall be provided in a format that can be viewed on ready available equipment without the need for specialist software.

THE PREVENTION OF CRIME AND DISORDER

PUBLIC SAFETY

THE PREVENTION OF PUBLIC NUISANCE

Deliveries and collections
Deliveries and collections associated with the premises will be arranged between the hours 08:00 -20:00 so as to minimise the disturbance caused to the neighbours

Prevention of nuisance from light
Illuminated external signage shall be switched off when the premises is closed

Security lights will be positioned to minimise light intrusion to nearby residential premises.

THE PROTECTION OF CHILDREN

The premises will not sell alcohol to persons appearing to be under the age of 25, without proof of identification.

Alcohol may only be sold to individuals over the age of 18 with valid proof of identification with one of the following:

- A valid passport
- A photo driving license issued in a European Union Country
- A proof of age standard card system
- A citizen card, supported by the Home Office

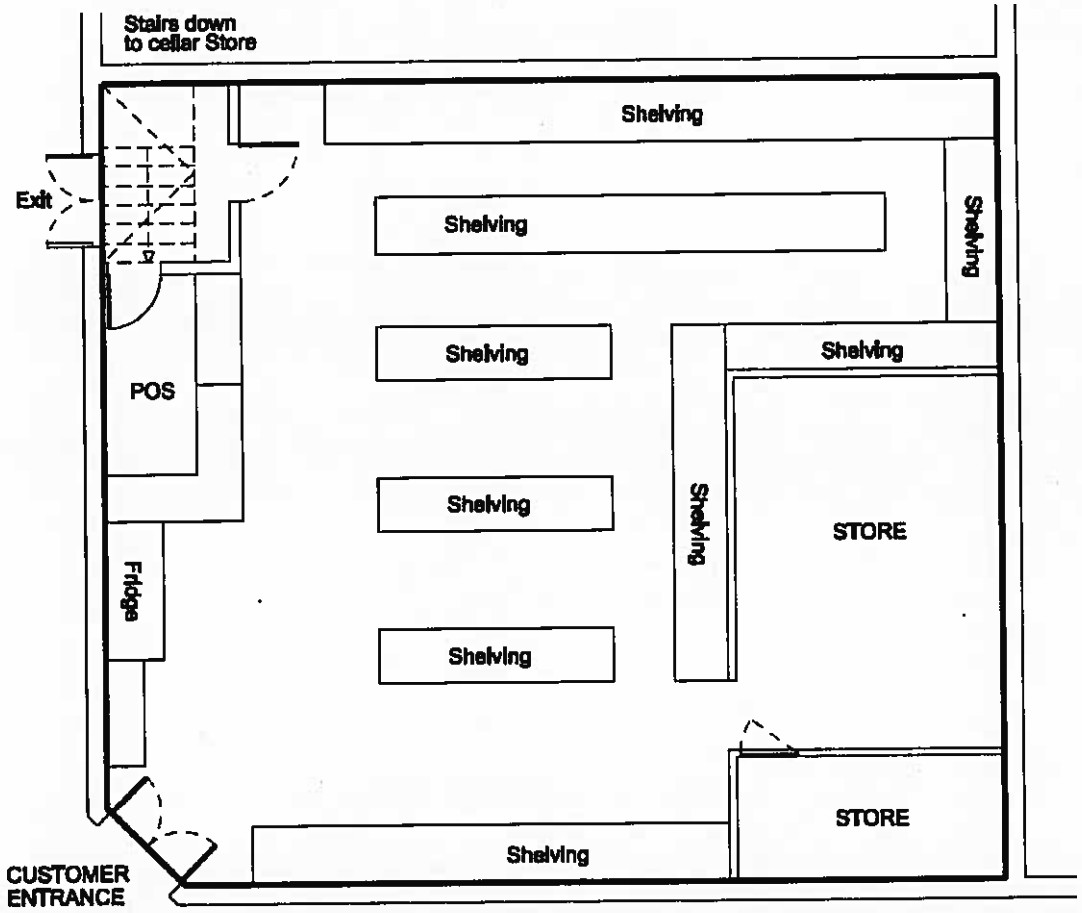
A refusal book will be kept in the premises which will record the date, time and circumstances under which any attempted purchases have been refused.

The refusal book will be made available upon request to any Responsible Authorities.

Annex 2 –Conditions consistent with the Operating Schedule

Staff will receive regular training, a minimum of a twice per year on the prevention of underage sales including Challenge 25. A training record book will be kept and made available upon request to any Responsible Authorities.

Annex 4 – Plans



Supply of alcohol

YaoYao Supermarket
37A Broad Lane
London N15 4DJ

Scale 1:100

APPENDIX 2 – SECTION OF 182 GUIDANCE

- 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)[10];
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

11.20 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 that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.21 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.

11.22 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 that impact upon the licensing objectives.

11.23 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 an appropriate 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 appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

Reviews arising in connection with crime

11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

[10] See chapter 15 in relation to the licensing of live and recorded music.

11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

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

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

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Appendix 3 – Licensing Policy

- The prohibition of the participation of customers in the performance
- The maintenance of a minimum distance of 1 metre between performer and customers during the performance
- The provision of CCTV and the maintenance of a library of recordings
- A code of conduct for dancers including appropriate disciplinary procedures for failure to comply with the code
- Rules of conduct for customers, including appropriate procedures for breach of these rules
- Procedures to ensure that all staff employed in the premises have pre-employment checks including suitable proof of identity age and (where required) permission to work
- The provision of supervisors and security staff
- Other necessary steps to be taken, including in the recruitment or supply of performers, is free of the influence or organised criminal activity

78 The sale and possession of smuggled, bootlegged or counterfeit Products and the handling of stolen goods

The guidance to the Act indicates that offences can be committed by certain persons in licensed premises if they allow the sale or supply of smuggled, bootlegged or counterfeit goods on the premises. This is in particular relation to alcohol or tobacco products, but may also include the sale of other counterfeited products such as DVDs and CDs and the handling of stolen goods.

Smuggled – foreign brands illegally brought into the UK
Bootlegged (duty evaded) foreign products brought into the UK in illegal quantities and / or resold in the UK
Counterfeit – Fake goods and packaging. Cheap low quality and often dangerous products packaged to look like premium UK brands

Offences are for selling illicit products but also for employees permitting sales and for employees buying or selling. The Home Office guidance indicates that these offences are taken particularly seriously. To prevent these offences occurring, the licensee should consider taking certain precautions. Advice on this can be obtained from the council's trading standards service.

79 Theft of personal property

Recent analysis of crime statistics has given rise to increasing concern over levels of theft of personal property within licensed premises, especially within the developing northern-western riverside area of the borough. Licence applicants are asked to give consideration to appropriate control measures within their risk-assessments and operating schedules.

Important steps that can be taken to reduce the risk of theft of personal property include:

- Raise the level of awareness among customers of the risk of theft of personal property through crime prevention information. This is especially important within premises where there is a high level of transient, tourist trade
- Provide controlled cloakroom areas
- Provide Chelsea clips under tables
- Ensure all areas of the premises are well lit and able to be observed by staff. Direct staff to observe the customer areas and politely raise with customers when personal belongings are unattended
- Provide and publicise internal CCTV