

4. REPORT

Background

4.1 The premises applied for a premises license in November 2005 to allow late night refreshment on the premises between the hours of 23.00pm – 2.00a.m, the application was refused following a hearing. Mr Kovaycin then appealed to the Magistrates Court. The license was granted Sunday to Thursday 2300 to 0000 and Friday to Thursday 2300 to 0100. 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 02.00

Supply of Alcohol

Monday to Sunday 09.00am to 00.00

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 Nizamettin Kovaycin

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 March 2006 – February 2008. 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 5.

- 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.

REVIEW APPLICATION

APP 1



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Site plan

Mizgin Restaurant, 485 Green Lanes N4

HARINGEY COUNCIL

**Directorate of
Environmental
Services**

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

Tel 020 8489 0000
Fax 020 8489 5525

	Drawn by	DW
	Scale	1:1000
	Date	03/04/2008

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 grid reference description MIZGIN RESTAURANT 485 GREEN LANES N4 1AJ		
Post town LONDON	Postcode (if known) EC2A 4EJ	
Telephone number (if any)		
Name of premises licence holder or club holding club premises certificate (if known) MR NIZAMETTIN KOVACYIN		
Number of premises licence or club premises certificate (if known) 1 LATE NIGHT REFRESHMENTS		

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

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Current address

Post town

Postcode

Daytime contact telephone number

E-mail address
(optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Post town

Postcode

Day Month Year

Date of birth

--	--	--	--	--	--	--	--	--	--

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)

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)

An appeal hearing took place on 19th September 2006 at Highgate Magistrates court this was to appeal against the decision by Haringey Council not to grant Mr Kovacyin a late night premises licence. Following the deliberation of the evidence for and against the licence the court gave a decision to allow a licence but limited the hours to 1am in the morning following Friday and Saturday nights and to midnight on Sundays to Thursdays.

Noise enforcement

Haringey Noise Team gave evidence during the hearing that there have been problems in the past with noise from the restaurant ventilation system causing a noise problem to the resident(s) who live above the shop which led to a statutory noise abatement notice being issued on 11th July 2003. Mr Kovacyin had breached the order and was subsequently fined by the court.

After the court had heard from Haringey Noise Team Manager Mr Derek Pearce and a resident who lives above the restaurant the court imposed a condition, that the extract ventilation system should be upgraded and or modified in order to dissipate the odours away from the building. This should be done in liaison with the environmental health team and a competent contractor, who is acceptable to both parties, and for both parties to agree the upgrade or modification plans. This work will need to be completed within three months from 19/09/2006.

The operation of the extract ventilation system shall also cease at the cessation of the opening times.

Mr Kovacyin did carry out various works to the ventilation system but complaints have been received indicating that premises is still opening past their permitted times The resulting noise from the ventilation fan system is a unnecessary noise which is disturbing making it very hard for the resident above to sleep at night.

Seven complaints pertaining to noise from the ventilation system have been received during September 2006- September 2007

Please provide as much information as possible to support the application

A visit was made on 15th June 2007 regarding noise from the ventilation system the fan was audible but not a nuisance on that occasion - as system is noisy the noise team recommended it to be checked out by an engineer but no evidence has been provided that this has been done.

Planning Enforcement

There is currently an open case for Mizgin Restaurant regarding departure from Granted Hours of Operation - reports have been received that the business is not closing at permitted times.

Brief history – This restaurant was granted Planning Permission after appealing Council's decision to refuse extension of their hours of business, the hours granted for opening were set as: open to 12am Sunday to Thursday; 1am Friday and Saturday.

An enforcement notice has been served in 2002 to cease using these premises as a social club - the file was closed as the notice was complied with, but the notice is still effective for the property.

Licensing out of hours Enforcement

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

There is also one offence pending prosecution (officer Mark Eastwood) for trading after permitted hours.

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

SANCTION TYPE	OFFENCE/DATE	OUTCOME	LEAD OFFICER
Prosecution	Using premises as a night café when it was not licensed. 3 offences. s.15(1)(b) of the London Local Authorities Act 1990. Hearing date: <u>28th March 2006</u>	Found guilty-Fined £1,500; £300 for first offence,£500 for second offence and £700 for third offence. Costs awarded £955.00 Total - £3,955.00	Mr B Ellick Environmental Crime Group Tactical Enforcement Officer
Prosecution	Dumping waste on the public highway outside of permitted times and failure to provide waste transfer documents. Sections 33&34 EPA 1990 Hearing Date <u>10/10/2006</u>	Found guilty- fined £300 and £250 cost. Total - £550.00	Miss D Feeley Environmental Crime Group Tactical Enforcement Officer
Prosecution	Using premises as a night café when it was not licensed. Contrary to Licensing Act 2003 Hearing Date <u>10/10/2006</u>	Found guilty – 2 offences 14 th and 28 th May 06- Court heard both cases (Brian Ellick below) together- Total fines for 2 offences of operating without a premises licence for Mr Nizamettin Kovaycin £5,700 and costs £500 Total - £6,200.00	Miss D Feeley Environmental Crime Group Tactical Enforcement Officer
Prosecution	Using premises as a night café when it was not licensed. Contrary to Licensing Act 2003 Hearing date <u>10/10/2006</u>	Found guilty –4 offences 22 nd Jan,25 th Feb, 5 th March, and 12 th March 2006- Court heard both cases (Dianne Feeley above) together- Total fines for 6 offences of operating without a premises licence for Mr Total fine for Mr Eric Kovaycin £2,100 and £200 costs Total - £2,300.00	Mr B Ellick Environmental Crime Group Tactical Enforcement Officer
Prosecution LA 51-87	Trading after permitted hours contrary to Licensing Act 2003 4 offences Hearing Date	Found guilty – 3 offences – Licence holder Mr N Kovacyin failed to appear in court for trial. This case was originally heard in April 07 where Mr Kovacyin pleaded guilty to one	Miss D Feeley Environmental Crime Group Tactical Enforcement

	<p><u>04/02/2008</u></p>	<p>offence dated 24/12/06 but not guilty to other three so trial was set for 04/09/07, Mr Kovacyin was released on Bail to appear for trial. His Solicitors made a request to the court to have case put back as he was abroad, but court refused. The case was heard in Mr Kovacyin's absence and he was found guilty. A Warrant without bail was issued for the arrest of Mr Kovacyin- this is the first time a warrant without bail has been given for a licensing case.</p> <p>Mr Kovacyin was arrested and bailed to appear at Tottenham Magistrates. A request to have the case reopened was granted and a trial took place on the 4th February 2008.</p> <p>The court found Mr Kovacyin guilty of 3 offences.</p> <p>Total fines for 3 offences £2,700 and £1,000 costs awarded.</p> <p>Total £3,700</p>	<p>Officer</p>
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RECCOMADATION:

The owner of Mizgin Mr Kovacgin has shown complete disregard for licensing law and in doing so is breaching the licensing objective of "Crime and Disorder" therefore I recommend a complete revocation of his premises license based on the information supplied above.

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. Malah.

Date 7th MARCH 2008

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.

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

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.

Signed:

Dated:

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, London Local Authorities Act 1990 and the Licensing Act 2003.
2. I work with my colleague Mr Brian Ellick and our 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 January 2003 Mr Nizamettin Kovacyin of Mizgin restaurant 485 Green Lanes applied to Haringey Council for a premises licence to operate after 23.00 Hours but the application was refused. This meant that the business could not operate after 23.00 Hours or offer late night refreshments after 23.00 Hours Monday to Sunday.
4. I can confirm that I have examined the Heavy Enforcement Team files and computer database for the premises located at 485 Green Lanes London N4 which is known as Mizgin Restaurant.
5. On 25th September 2005 my colleague Mr Brian Ellick was on duty in Green Lanes N4. At 03.00 hours he observed Mizgin restaurant open for business and offering food for sale. The lights were on and there were approximately six people sitting inside eating and drinking. Hot food was being cooked inside the premises and there were five hot plates adjacent to the front window with food inside. Mr Ellick observed one male member of staff behind the counter serving hot food to individuals. Mr Ellick observed two males inside the premises approach the counter and give the man behind the counter money. The two males then exited the restaurant.
6. On Sunday 2nd October 2005 my colleague Mr Brian Ellick was on duty in Green Lanes N4. At 03.55 hours he observed Mizgin restaurant open for business and offering food for sale. Mr Ellick stood outside the premises for approximately ten minutes and saw the lights on and six people seated inside eating and drinking. Hot food was being cooked on five hot plates which were full of food. There was one male member of staff behind the counter and he was preparing food. At 04.00 hours Mr Ellick observed two people enter the premises

Signed:

LONDON BOROUGH OF HARINGEY
Environmental Services (Enforcement)

and sit at a table. The man behind the counter noticed Mr Ellick and switched off the lights inside the shop. Mr Ellick remained outside the premises for a further ten minutes and observed the same man behind the counter proceed to serve food to persons seated inside the restaurant.

7. On Sunday 16th October 2005 my colleague Mr Brian Ellick was on duty in Green Lanes N4. At 02.45 hours he observed Mizgin restaurant open and offering food for sale. The lights were on and there were three men behind the counter preparing hot food. On seeing Mr Ellick, one of the men switched off the lights. Mr Ellick could see approximately six people inside the restaurant eating and drinking. Four men were seen to give money to one of the men behind the counter and then leave the premises.
8. I can confirm that a prosecution was brought against Mizgin restaurant by Haringey Council for the above three offences contrary to section 15(1)(b) of the London Local Authorities Act 1990. The date of this hearing was 28th March 2006. I have included the outcome of this case in paragraph fifteen of my statement dated 5th September 2006.

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

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:

1. My name is Miss Dianne Feeley, I am employed by Haringey Council as a Enforcement Officer, working within the Environmental Crime Group. I have Delegated Authority to carry out work on behalf of Haringey Council with regards to the Environmental Protection Act 1990. As part of my duties I was engaged in a waste monitoring exercise on Saturday 25th February 2006 in Green Lanes area. This was to check that residential and business properties were not placing waste on the public highway outside of the authorised collection days and banding times contrary to the Environmental Protection Act 1990.
2. The waste collection times for the Green Lanes area is every morning 08.00 to 09.00am and every evening 09.00pm to 10.00pm there is no Saturday evening collection. There are signs placed on lamp post columns all along Green Lanes showing these collection times.
3. At approximately 23.40 Hours I found one plastic waste bag on the highway outside of 485 Green Lanes N4 1AN, I produce a photograph taken of the bag as exhibit DF/1. After searching this bag I found a till receipt for Mizgin Restaurant 485 Green Lanes Haringey N4 dated 25th February 2006, I produce this as exhibit DF/2. I took a photograph of this receipt at the time of finding it and produce this photograph as exhibit DF/3. I also found two pieces of paper which appear to be food order slips; I exhibit these as DF/4 and DF/5.
4. On my return to my office I uploaded the digital photographs from my digital camera onto my work computer. I can confirm that the photographs that I have produced have not been edited or altered.
5. On the 11th March 2006 at approximately 23.45 Hours I hand delivered a letter and a Environmental Protection Act 1990 section 34 notice to Mr Nizamettin Kovacyin the owner of Mizgin Restaurant address to 485 Green Lanes London N4 1AN. The notice required Mr Kovacyin to produce evidence of waste transfer notes; I produce a copy of the letter dated 10th March 2006 as exhibit DF/6 and a copy of the notice as exhibit DF/7.
6. As no reply to the notice had been received within the 14 day specified time, I sent another letter and notice to Mr Kovacyin on 27th March 2006 giving him seven more days to furnish me with the required documents. I produce a copy of the letter as exhibit DF/8 and a copy of the

Signed:

LONDON BOROUGH OF HARINGEY
Environmental Services (Enforcement)

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)

Continuation of statement: Miss D Feeley

notice as exhibit DF/9.

7. I can confirm I have checked my records and no correspondence have been received to date from Mr Kovacyin.

Signed:

LONDON BOROUGH OF HARINGEY
Environmental Services (Enforcement)

Signed:

LONDON BOROUGH OF HARINGEY
Environmental Services (Enforcement)

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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.

Signed:

Dated:

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 January 2006 Mr Nizamettin Kovacyin of Mizgin restaurant 485 Green Lanes applied to Haringey Council for a premises licence to operate after 23.00 Hours but the application was refused. This meant that the business could not operate after 23.00 Hours or offer late night refreshments after 23.00 Hours Monday to Sunday. I can confirm that an appeal date has been set for 19th September 2006 regarding the refusal of this licence.
4. On Sunday 14th May 2006 I was on duty in Green Lanes N4 and N8 with my colleague Mr Brian Ellick at 02.00 Hours I observed Mizgin restaurant 485 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 men behind the counter area one of these men I know to be Mr Eric Kovacyin . There were five customers sitting at tables eating and drinking. I waited outside and watched as a man entered the restaurant and placed an order with a member of staff behind the counter. At 02.16 Hours I saw the same member of staff prepare and serve the waiting customer with a doner kebab and one can of coke. The customer then paid for his goods and left the shop. I took three photographs one showing the business sign and interior lights on which I exhibit as DF/1 the next photograph shows the door sign displaying open and a member of staff serving table customers, I exhibit this as DF/2 and the third photograph shows a male customer waiting for his order while a man I know as Mr Eric Kovacyin and another member of staff prepare food, I exhibit this as DF/3.
5. On Saturday 27th May 2006 at 23.30 Hours I was making my way to meet my colleague Mr B Ellick to commence our duties. As I drove along Green Lanes I observed that Mizgin

Signed:

LONDON BOROUGH OF HARINGEY
Environmental Services (Enforcement)

restaurant 485 Green Lanes N4 was open for business. During the course of my duties on Sunday 28th May 2006 at 00.55 I observed Mizgin restaurant open for business, the lights were on, food cooking and in the hot plates. There were eight customers sitting at tables eating and drinking. I observed one male customer order food at the counter and I waited outside with my colleague Mr B Ellick and watched as the customer was served with hot food in exchange for money and then leave the premises. My colleague and I spoke with a man that I knew as Mr Eric Kovacyin who insisted that they held a licence to remain open until 02.00 Hours we informed Mr Eric Kovacyin that he did not have licence and that he should close immediately to which he agreed. As we were leaving the restaurant we then observed five new customers enter and take seats at a table. I watched as Mr Eric Kovacyin approached them, and ask what they would like to order he did not turn them away; we then left the premises and carried on with our duties. I took two photographs the first photograph shows the restaurant open with food cooking and customers can be seen at the rear seated at a table I exhibit this as DF /4 and the second photograph shows customers at the counter and the door sign displaying open, I exhibit this as DF/5. I then left and continued with my duties.

Signed:

LONDON BOROUGH OF HARINGEY
Environmental Services (Enforcement)

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

This Statement, consisting of 4 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:

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. Also as part of my duties I carry out checks of the public highway in relation to waste issues; this is to make sure that waste is not left on the public footway outside of authorised collection times.
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 January 2003 Mr Nizamettin Kovacyin of Mizgin restaurant 485 Green Lanes applied to Haringey Council for a premises licence to operate after 23.00 Hours but the application was refused. This meant that the business could not operate after 23.00 Hours or offer late night refreshments after 23.00 Hours Monday to Sunday.
4. I can confirm that I have examined the Heavy Enforcement Team files and computer database for the premises located at 485 Green Lanes London N4 which is known as Mizgin Restaurant.
5. On Saturday 19th November I was on duty with my colleague Brian Ellick; I commenced my duties at 00.30 Hours and worked until 04.50 Hours. As part of my duties I was carrying out checks on premises to ascertain if they were complying with the conditions of their licence or if they were operating without a licence. At approximately 02.15 Hours I drove passed Mizgin I could see the lights on, the door sign displayed open and I could see customers sitting at tables eating and drinking.
6. On Sunday 22 January 2006 I was on duty with my colleague Mr Brian Ellick. I was checking licensed premises to ascertain whether or not the premises were complying with the relevant legislation and conditions of their licence. At approximately 02.30 Hours I observed Mizgin restaurant at 485 Green Lanes open for business. I stood outside and observed the entrance door wide open, the lights were on and approximately four people

Signed:

Brian

JK

LONDON BOROUGH OF HARINGEY
Environmental Services (Enforcement)

Continuation of statement of Miss Dianne Feeley

were seated inside eating and drinking at tables. Hot food was being cooked inside the premises. There were approximately five hot plates inside the premises adjacent to the window. Each hot plate contained a quantity of food. There were two males working behind the counter. One of the men working behind the counter I knew to be Mr Eric Kovacyin.

7. At approximately 02.35 Hours I observed a customer enter the premises and approach the counter. One of the men behind the counter prepared a quantity of food then gave it to the customer in exchange for money. The customer then left the premises.
8. I was on duty on Saturday 25th February 2006 at 23.40 Hours with my manager Mr Robert Curtis and my colleague Mr Brian Ellick, I observed Mizgin Restaurant open for business, I stood outside and saw two customers seated inside the premises, there was food cooking, the lights were on and the door sign showed open. I could see that the extractor fan was operating as the smoke from the cooking food was being drawn upwards. There were two males working behind the counter. I took two photographs one showing the door sign marked as open and customers sitting at tables which I exhibit as DF/1 and the second photograph showing food in the hot plates and member of staff behind counter, I exhibit this as DF/2.
9. I stood outside and observed the restaurant for approximately twenty minutes. During this time I observed a man enter the premises and order food. One of the men working behind the counter prepared hot food and then gave this to the waiting customer in exchange for money, the customer then left the premises.
10. As I was about to leave I noticed a plastic sack of waste deposited on the Public Highway outside Mizgin restaurant, after searching the bag I found some receipts from Mizgin restaurant, I produce a photograph of the receipts as exhibit DF/3 and a photograph of the waste as exhibit DF/4. I spoke with a Mr Eric Kovacyin who told me he was the brother of the owner of Mizgin restaurant. Mr E Kovacyin told me that another member of staff had put the waste outside of his shop, I told Mr E Kovacyin that it was an offence to place waste on the Public Highway outside of authorised collection times.
11. Following an investigation into the waste offences a case is now pending legal proceedings and is due to be heard in court on the 10th October 2006 for offences contrary to section 33(1) and 34(1) of the Environmental Protection Act 1990.
12. On Sunday 5th March 2006 I was on duty in Green Lanes N4 and N8 with my colleague Mr Brian Ellick, at approximately 00.00 Hours I observed Mizgin restaurant 485 Green Lanes open, the lights were on and the door sign was turned to show open, food was cooking and there was food in the hot plates adjacent to front shop window, the extractor fan was on as I could see the smoke from cooking food being drawn upwards. I could see three customers sitting at tables eating and drinking beverages. I stood outside and I observed one male customer enter the shop I watched as the customer was served with wrapped food in exchange for money that he paid to a member of staff behind the counter I know this person to be Mr Eric Kovacyin the brother of the owner. My colleague Mr B Ellick took four photographs, one of the outside of the premises which is produced as exhibit DF/5, the second photograph showing the hot plates which is exhibited as DF/6, the third photograph

Signed:

LONDON BOROUGH OF HARINGEY
Environmental Services (Enforcement)

Continuation of statement of Miss Dianne Feeley

shows the illuminated sign outside the shop which is exhibited as DF/7 and the fourth photograph shows the door sign displaying open this is exhibited as DF/8.

13. Mr E Kovacyin came out of the shop and spoke with my colleague Mr Brian Ellick, Mr Ellick told Mr E Kovacyin that as the shop did not hold a licence to be open past 23.00 Hours he should be closed at this time. Mr Eric Kovacyin told Mr Ellick that he had received a hand delivered letter from Haringey Council which stated that the restaurant should close at 23.00 Hours and that he had passed this letter onto his solicitors. He said that this letter was delivered by a black woman. He also said that his brother would be back in the country in one week. At approximately 00.20 Hours I took one photograph which shows Mr Eric Kovacyin serving a male customer which I exhibit as DF/9. At approximately 01.00 Hours I walked back past Mizgin restaurant and I observed that they were still open, lights on and food in hot plates.

Diane
14. On Saturday 11th March 2006 I was on duty in Green Lanes N4 and N8 with my Manager Mr Robert Curtis at 23.45 Hours I went into Mizgin restaurant 485 Green Lanes N4 to hand deliver a letter addressed to the owner of Mizgin restaurant Mr Nizamettin Kovacyin the letter was requesting proof of a waste contract for this business. I can confirm that the business was open during my visit, the lights were on, food cooking the door sign showed open and I observed five customers sitting at tables eating and drinking. I spoke with Mr Eric Kovacyin and told him that he should close at 23.00 Hours as he did not have a licence to stay open past this time; Mr Eric Kovacyin told me that the owner was away and that his solicitor is dealing with the licence.

15. I can confirm that a prosecution was brought against Mizgin restaurant by Haringey Council for three offences contrary to section 15(1)(b) of the London Local Authorities Act 1990. The date of this hearing was 28th March 2006, the court found Mizgin restaurant guilty of all three offences and fined Mizgin restaurant £300.00 for the first offence, £500.00 for the second offence and £700.00 for the third offence, the court awarded costs of £955.00 for this case.

16. On Sunday 29th April 2006 I was on duty in Green Lanes N4 and N8 with my colleague Mr Brian Ellick. At approximately 23.40 Hours I observed Mizgin restaurant 485 Green Lanes N4 open for business, the lights were on, food cooking and food in the hot plates there were three customers sitting at tables eating and drinking. We went into the shop and spoke with Mr Eric Kovacyin the brother of the owner, Mr E Kovacyin told us that the restaurant now has a licence to stay open until 02.00 Hours, we informed Mr E Kovacyin that this was not the case but he was adamant that he now had a licence so we told him we would confirm this with the Licensing Officer. At 02.25 Hours as I drove past this restaurant I observed the lights on staff appeared to be cleaning and there were no customers inside.

Diane
17. On Sunday 14th May 2006 I was on duty in Green Lanes N4 and N8 with my colleague Mr Brian Ellick at 02.00 Hours I observed Mizgin restaurant 485 Green Lanes N4 open for business, the lights were on, food cooking and in the hot plates there were five customers sitting at tables eating and drinking. I waited outside and watched as a man entered the restaurant and placed an order with a member of staff behind the counter. At 02.16 Hours I saw the same member of staff prepare and serve the waiting customer with a doner kebab and one can of coke. The customer then paid for his goods and left the shop. I took three photographs one showing the business name and lights on which I exhibit as DF/10 the next photograph shows the door sign displaying open and a member of staff serving table

Signed:

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customers, I exhibit this as DF/11 and the third photograph shows a male customer waiting for his order while Mr Eric Kovacyin and another member of staff prepare food, I exhibit this as DF/12.

18. On Saturday 27th May 2006 at 23.30 Hours I was making my way to meet my colleague Mr B Ellick to commence our duties. As I drove along Green Lanes I observed that Mizgin restaurant 485 Green Lanes N4 was open for business. During the course of my duties on Sunday 28th May 2006 at 00.55 I observed Mizgin restaurant open for business, the lights were on, food cooking and in the hot plates. There were eight customers sitting at tables eating and drinking. I observed one male customer order food at the counter and I waited outside with my colleague Mr B Ellick and watched as the customer was served with hot food in exchange for money and then leave the premises. My colleague and I spoke with Mr Eric Kovacyin who insisted that they held a licence to remain open until 02.00Hours we informed Mr E Kovacyin that he did not have licence and that he should close immediately to which he agreed. As we were leaving the restaurant we then observed five new customers enter and take seats at a table. I watched as Mr E Kovacyin approached them, and ask what they would like to order he did not turn them away; we then left the premises and carried on with our duties. I took two photographs the first photograph shows the restaurant open with food cooking and customers can be seen at the rear seated at a table I exhibit this as DF /13 and the second photograph shows customers at the counter and the door sign displaying open, I exhibit this as DF/14. I then left and continued with my duties.

D Donec

- 19 I can confirm that the London Borough of Haringey are prosecuting Mr Nizamettin Kovacyin and Mr Eric Kovacyin of Mizgin restaurant for four offences contrary to section 136(1)(a) and / or 136(1)(b) of the Licensing Act 2003. The first hearing for this case was the 22nd August but this has been adjourned until the 10th October 2006.
- 20 I can also confirm that I am in the process of preparing a case against Mizgin restaurant for offences contrary to the Licensing Act 2003. I expect this case to be with Haringey Criminal Litigation Team by Friday 8th September 2006.

Signed:

Decision
24
Decision
5 days

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: *A Yell*

Dated: *8th March 2007*

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 and five months. I have Delegated Authority to carry out work on behalf of Haringey Council with regards to 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 on 9th October 2006 a premises licence was issued to Mr Nizamettin Kovaycin for Mizgin restaurant 485 Green Lanes Haringey London N4. I exhibit the premises licence as DF/1. The permitted times for the provision of late night refreshments is stated on the licence as Sunday to Thursday 23.00 to 00.00 and Friday and Saturday as 23.00 to 01.00 hours. The premises licence was granted following an appeal hearing on the 19th of September 2006, during the hearing Mr N Kovaycin told the court that if he is granted a premises licence he would adhere to the permitted times.
4. On Sunday 8th October 2006 I was on duty in Green Lanes N4 with my colleague Mr Brian Ellick. At 02.00 Hours I observed Mizgin restaurant 485 Green Lanes N4 open for business, the lights were on, food was being cooked and I could see food in the hot plates adjacent to the front window. The front door was wide open, there were two male members of staff behind the counter area one of these men I know to be the premises licence holder Mr Nizamettin Kovacyin. I stood outside the restaurant and observed the member of staff preparing food for a waiting customer who was standing at the counter, I watched as the customer was given a hot wrapped donor kebab, chips and a tin of coke in exchange for money. At approximately 02.05 hours two more customers entered the restaurant and placed an order at the counter, Mr Kovacyin then proceeded to prepare hot food for these customers as I could see him slicing hot meat from the rotating spit and place the cut meat with salad into bread and wrap up two kebabs. This was then given to the waiting customers in exchange for money. I took three photographs which I exhibit as DF/2 showing the door sign displaying open, DF/3 showing Mr Kovacyin preparing food for the two waiting customers and DF/4 showing the customers waiting for their food. As the two customers were paying for their food another two customers entered and order food at the counter area

Signed: *A Yell*

LONDON BOROUGH OF HARINGEY
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followed by another two customers. My colleague Mr Ellick and I went into the restaurant, I observed Mr Kovacyin and the other member of staff preparing hot food for the waiting customers, the other member of staff placed the hot prepared food into two plastic bags and gave both bags to one of the customers in exchange for money. Mr Kovacyin then acknowledge our presence by nodding at us, he proceeded to take the hot plates out of the shop window and removed the meat from the rotating spit and he then turned off the lights. Two more customers entered, Mr Kovacyin told the customers that he was closed. I asked Mr Kovacyin what time he should close and he replied 'one o'clock' I asked why he was still serving after two o'clock, he said that he was just closing after he had finished serving the customers. I told Mr Kovacyin that I would be reporting my findings and he replied 'ok report me then', I then left the restaurant and continued with my duties.

5. 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 Mizgin restaurant 485 Green Lanes London N4 for the period of three months commencing 5th November 2006.
6. On Sunday 24th December 2006 I was driving along Green Lanes to meet with my colleague Mr Brian Ellick, at 01.50 Hours I drove past Mizgin restaurant 485 Green Lanes and I observed that it was open I could see two customers sitting at a table and one customer standing at the counter area. I then met with my colleague Mr Ellick and we decided to park opposite Mizgin restaurant 485 Green Lanes to carry out directed surveillance. I can confirm that it was a clear night, I could clearly see into the restaurant as the entire interior and exterior lights were on, my only obstruction was the occasional passing traffic. I can confirm that between 02.06 hours until 02.46 hours I observed a total of nine customers enter the restaurant and received hot food in exchange for money. I produce a copy of my notes which were made at the time as exhibit DF/5. At 02.42 hours my colleague Mr Ellick and I got out of our car, crossed over the road (Green Lanes) and went into Mizgin restaurant and spoke with Mr Kovacyin, I asked him why he was still open and serving customers he said that it is Christmas and that he is trying to make money he said that he buys food like a box of tomatoes and he needs to use them up or he would loose money. Mr Kovacyin went on to say that all of the night clubs are open late so he needs to make money at this time. I told Mr Kovacyin that when he had attended court for his appeal hearing he said that he would abide by what ever time he was given if he was granted a premises licence. Mr Kovacyin said he knows this and he is sorry and that he will now close. Mr Kovacyin then proceeded to turn off the lights inside the shop.
7. On Sunday 13th January 2007 I was on duty in Green Lanes N4 with my colleague Mr Brian Ellick. At 01.25 hours I parked my car opposite Mizgin restaurant 485 Green Lanes London N4 to carry out directed surveillance. I can confirm that it was a clear night, I could clearly see into the restaurant as the interior and exterior lights were on, my only obstruction was the occasional passing traffic. I observed seven customers seated inside the restaurant, four at one table and three at another. The premises licence holder Mr Kovacyin appeared to be on his own, I could see him preparing hot food behind the counter, he was slicing meat from the rotating spit and I could see him taking hot food from the hot plates, I knew this food was hot as I could see steam rising. I produce a copy of my notes made at the time as exhibit DF/6.
8. On Saturday 20th January 2007 I was on duty in Green Lanes N4 with my colleague Mr Brian Ellick. At 02.15 hours we were walking along Green Lanes opposite Mizgin restaurant, at first I thought Mizgin restaurant was closed as I could see chairs on tables and the main

Signed: 

LONDON BOROUGH OF HARINGEY
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lights were switched off. I was about to note this in my pocket book when I observed a male enter the restaurant, we crossed over the Road and stood outside Mizgin I took one photograph which I produce as exhibit DF/ 7. I watched as the customer spoke to Mr Kovacyin who then began to take hot food out of a hot plate and place the steaming food into a container we then went into the restaurant and observed Mr Kovacyin prepare a donor kebab, he placed both items into a plastic bag and gave them to the waiting customer in exchange for money. My colleague Mr Ellick then advised Mr Kovacyin to stop selling hot food at this time of night. We then left and continued with our duties.

Signed:



**London Borough of Haringey
Urban Environment
Enforcement Service**

Ref: UE/ENF/NT

**Re Premises: Mizgin
Restaurant, 485 Green
Lanes, London N4 1AJ**

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 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.

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

signed:

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.

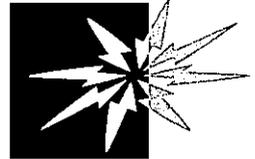
- 3) Any premises that is looking to carry on any of the activities listed in paragraph 2 should have applied for and been granted a premises licence.
- 4) They must also ensure that where any premises licence has been granted and is subject to certain conditions that those conditions are adhered to. 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 Nizamettin Kovaycin, of Mizgin Restaurant, 485 Green Lanes, N4 1AJ, has a premises licence to provide late night refreshments from 23:00hrs to 00:00hrs Sunday to Thursday and from 23:00hrs to 01:00hrs Friday and Saturday. 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 04:20hrs I visited the Mizgin Restaurant, 485 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.

Signed:

- 8) I entered the premises and saw two 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 kebab meat that was cooking. I also saw another male member of staff wrap up the food, and take money as payment for it . The two customers then left the restaurant.
- 9) I saw approximately ten 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 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 00:00 hrs on a Monday night and the business be closed at 00:00hrs.
- 11) I then left the restaurant, which was still open for business.

Signed:

Licensing Team
Urban Environment, 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 Council

Your ref: LN/00003098

Date: 7th March 2008

Our ref:

Direct dial: 020 8489 8232

Email: Daliah.barrett@haringey.gov.uk

For a large print copy contact 020 8489 8232

Mr Nizamettin Kovaycin
56 Ermine House
Hoselle Street
London
N17 8DE

Dear Sir

Re: PREMISE LICENCE REVIEW APPLICATION – BY THE ENVIRONMENTAL HEALTH TEAM - NOISE TEAM

Mizgun Restaurant, 485 Green Lanes, London, N4 1AJ

The Licensing Authority has been served with the attached application for a review of the premises license by the Environmental Health Officer- Noise Team. The review is brought about due to the 'License Holder failing to uphold the licensing objectives and the licensing conditions'.

This Authority is required to display public notices on the premises for 28 days and also carry out a public notice. You are advised that the notices left on display in and around the premises must not be defaced or tampered with in any way.

During the 28 day consultation period other Responsible Authorities and Interested Parties are able to submit letters of representation to the Council.

You may also submit any evidence you feel will be relevant to your case at the review hearing.

It is intended that the matter is set before the Licensing Sub Committee in April 2008

Yours faithfully

**DALIAH BARRETT-WILLIAMS
LICENSING LEAD OFFICER**



2005-2006
Getting Closer to Communities



INVESTOR IN PEOPLE

MINUTES OF PREVIOUS LICENSING HEARING

**MINUTES OF THE LICENSING SUB-COMMITTEE B (2003 LICENSING ACT)
24 January 2006**

Councillors Patel (Chair)*, Floyd*, E Prescott, Haley*

* denotes members present

LSC25 APOLOGIES FOR ABSENCE (Agenda Item 1)

Apologies were received from Councillor E Prescott who was substituted by Councillor Haley

LSC26 URGENT BUSINESS (Agenda Item 2)

Item 7 on the Agenda (Lomnava) was withdrawn from the Agenda because the applicant withdrew his application for a new premises license.

Item 8 on the Agenda (Bingol) was withdrawn from the Agenda because it was mistakenly thought to be in Cllr. Haley's ward and will be heard at a later date.

LSC27 DECLARATIONS OF INTEREST (Agenda Item 3)

No declarations of interest were received.

**LSC28 MINUTES OF PREVIOUS MEETINGS OF LICENSING SUB-COMMITTEE C
(Agenda Item 4)**

RESOLVED

That the Committee approves the minutes of the meetings of Licensing Sub-Committee C of 8 December 2005.

LSC29 MIZGIN RESTAURANT, 485 GREEN LANES, N4 (Harringay ward): To consider an application for a NEW Premises Licence (Agenda Item 5).

The Licensing Officer, Daliah Barrett presented the Report for the New Premises License to the Committee highlighting the current position in terms of the operation of the premises. Ms Barrett reported that the premises had been the centre of enforcement action. The applicant had kept the premises open constantly on a 24 hour basis. The matter was taken to court and costs were awarded to the Council in the amount of £3000 for operating without a license. Mr Barrett finally reported that the premises had continued to operate on a 24 hour basis. Ms Barrett also highlighted to the Committee that the current application was not for the sale of alcohol because the applicant did not possess a personal license. Once this was received, the applicant could then apply for a license for the sale of alcohol. Ms Barrett continued that there had been a number of representations against the application. The Enforcement Services had submitted comments to the application. The Noise Team commented on the application and advised that this premise was served with a noise abatement notice for noise emanating from the extractor fan. The Heavy Enforcement Team had witnessed the premises open and

MINUTES OF THE LICENSING SUB-COMMITTEE B (2003 LICENSING ACT)
24 January 2006

trading in the early hours of the morning and the matter had been referred to legal. Ms Barrett highlighted that the Fire Officer had objected to the application, but that this had been withdrawn. The Planning Officer had objected the application on the grounds that the premises were not permitted to be operated between 07:00 or after midnight on Monday to Saturday and not at all on Sundays or Bank Holidays under the terms of its planning consent. Finally, Ms Barrett highlighted that there had been 3 letter of objection to the applicant for interested parties.

The Chair invited questions to the Licensing Officer. The applicant, Mr Nizamettin Kovaycin, asked Ms Barrett why the Enforcement Services claimed the premises were opened for 24 hours. Ms Barrett replied by given evidence of an occasion when the premises was found to be open at 05:00. Councillor Haley asked Ms Barrett when the premises were last visited by Enforcement Services. The reply was that Heavy Enforcement had visited in January 2006, and the Noise Team had visited in December 2005. The Chair asked why the Fire Officer had withdrawn his representation. Ms Barrett replied that the fire equipment within the premises had been up-dated, but that she was not sure if CCTV cameras had been installed. Mr Sygrave, representing the Ladder Community Safety Partnership (LCSP), objector, asked Ms Barrett to clarify the hours applied for. Ms Barrett confirmed that although the application form itself stated 03:00 on Friday and Saturday nights, the applicant had amended the hours to Monday to Sunday 08:00 to 02:00.

The Chair invited the objectors to address the Committee. Mr Sharman, an objector resident of Green Lanes, read out the content of the letter of representation re-emphasising that the premises was open on a 24 hour basis and that there was considerable noise nuisance caused by the extractor fan to the rear of the premises. In a brief discussion between the objector and Committee members, it was established that Mr Sharman had been a resident at his property since 1989 and that he had no been consulted by the owner of the premises before the extractor fan was installed. Mr Sharman stated that he had approached the applicant numerous times and on one occasion was pushed out of the premises by the manager.

Mr Mitesh Mashru, an objector of Green Lanes, echoed Mr Sharman's concerns about the application, with particular emphasis on the extractor. He also raised an issue about the smell of cooking that emanates from the premises 24 hours a day. Mr Mashru also stated that there was noise nuisance from slamming doors and live music playing. He claimed that the manager of the premises (also the applicant) was not at all approachable on the occasions that when he had complained about the nuisances. The applicant subsequently denied this claim as well as denying that live music was played, stating that only recorded music some played. The Legal Advisor to the Committee, Maria Bilbao, asked Mr Mashru to clarify the problem of nuisance customers. Mr Mashru replied that there had been a problem in the past but that at present, this was not so much of a problem due to the presence of police in the area. He stated that he could not relate acts of crime to the actual premises. Ms Mashru continued by stating that he had lived in

MINUTES OF THE LICENSING SUB-COMMITTEE B (2003 LICENSING ACT)
24 January 2006

this vicinity of the premises for 20 years and had spoken to the applicant on numerous occasions, and reported issues to Haringey Council about dumped rubbish which had not been properly tied up and stored in the alleyway that led to his property. Finally, Mr Mashru confirmed that a reasonable compromise to the application would be a 12midnight closure on weekends, and 02:00 on weekends. This was also agreed with Mr Sharman.

Mr Ian Sygrave addressed the Committee as objector on behalf of the LCSP. He begun by stating that the premises was one of the worse cases of non-compliance in the Green Lanes area and urged the Committee to act decisively on its duty to protect residents in the vicinity of licensed premises against a range of nuisances that can impact on the people living, working or sleeping in the vicinity of the licensed premises. Mr Sygrave confirmed to the Committee that he had personally witnessed the premises open at between 02:00 and 03:00.

The Chair invited the applicant, Mr Kovaycin, to address the Committee. Mr Kovaycin stated that he would comply strictly with the hours he had applied for. He asked the Committee to consider a further amendment to the application in the form of 3-6 month trial period with the new hours in order to prove that he could abide by the rules. Mr Kovaycin apologised for the previous business conduct that had been highlighted to the Committee. He stated that without the longer hours, he could not make enough money to pay for bills, rent, taxes and renovation works to the premises. Cllr Haley asked Mr Kovaycin a number of times what assurances he could give to the Committee to ensure compliance with the law and to any hours that the Committee might be mindful to grant him. Mr Kovaycin gave no response. Cllr Haley then asked the applicant if he possessed a waste license. Mr Kovaycin stated that he did hold a waste license with Haringey Accorde and that refuse from the premises was tied up properly ready for collection every evening. The Chair asked Mr Kovaycin to clarify what time he closed the premises. Mr Kovaycin replied that he opened at 19:00 until 02:00 since a court hearing. The Chair asked Mr Kovaycin a number of questions at this point. He asked who the designated premises supervisor (DPS) was. Mr Kovaycin replied that he and his brother were both DPSs. The Chair asked if refused had been dumped outside the neighbour's door? Mr Kovaycin replied that this had not occurred and that all refuse from the premises was stored on the main road, not the alleyway. The Chair asked Mr Kovaycin if he had pushed Mr Sharman out of the premises. Mr Kovaycin denied this, stating that Mr Sharman had shouted at him. Finally, the Chair asked Mr Kovaycin what hours he would be operate the premises. Mr Kovaycin replied that he would close at 02:00 daily because he did not want to incur anymore fines.

The invited all parties to summarise their views in respect of the application. Ms Barrett added that the applicant's previous licenses had been breached two days after it had been granted. She stated that the premises were a difficult one when it came to enforcement and that she had been pushed out of the premises by Mr Kovaycin in the past.

Mr Sharman concluded that he had been continually ignored by Mr Kovaycin.

**MINUTES OF THE LICENSING SUB-COMMITTEE B (2003 LICENSING ACT)
24 January 2006**

Mr Mashru concluded that he had photo evidence of waste in the alleyway and stated that the premises had no benefit to local residents under the current management.

Mr Sygrave re-iterated that there was evidence that the premises had been operating beyond its permitted hours and that other night cafes in the Green Lanes area had survived by operating until 02:00.

RESOLVED

The Committee decided to refuse the application in full in order to uphold the public nuisance licensing objective.

The reasons for the decision were:-

The Committee heard evidence that there is nuisance from noise and smell which has led to prosecution, and evidence from residents that this nuisance is still taking place.

The Committee heard that there had been a prosecution for breaches of a previous license and there is a pending prosecution for operating the premises without a licence.

The Committee heard that at the Licensing Committee on 31 March 2005, the late night café licence was revoked because the applicant had breached nine enforcement actions; had recently pleaded guilty to a noise abatement order; and because planning permission conditions had also been breached.

The Committee heard that a breach of conditions notice had been served for a breach of a condition on the planning consent and that a prosecution was pending.

On the applicant's own evidence, he indicated that he wanted longer hours for opening and was reminded that he had not applied for those hours. The applicant assured the Committee, having resolved his financial problems, that he was operating the premises between the hours of 19:00 and 02:00 since August 2005 and would continue to do so if the license was granted.

The Committee heard evidence from the Licensing Officer and the interested parties that there had been several breaches by the applicant who should be closing at 23:00 as he has no license and that the premises had been witnessed open after 02:00.

In view of this evidence, the Committee was of the view that the applicant would not comply with any conditions if the application were to be granted with conditions.

LSC30 ALI BABA, 645 GREEN LANES, N4 (Harringay ward): To consider an application for a NEW Premises Licence (Agenda Item 6).

MINUTES OF THE LICENSING SUB-COMMITTEE B (2003 LICENSING ACT)
24 January 2006

The Licensing Officer, Daliah Barrett presented the Report for the New Premises License to the Committee highlighting the current position in terms of the operation of the premises. The premises had been the centre of enforcement action. The previous owner of the premises had pleaded guilty to operating without a license and was fined £2500 and that the premises had been found to be open without a license past 23:00 since this fine. Ms Barrett informed the Committee that the representation against the application by the Fire Officer had been withdrawn since the measures required by the Fire Authorities had been implemented. Ms Barrett also notified the Committee of concerns raised by the Planning Officer. There was one letter of objection from an interested party.

The Chair invited questions to the Licensing Officer. Mr Sygrave, representing the Ladder Community Safety Partnership (LCSP), objector, asked Ms Barrett to clarify when the premises had been found to be open beyond 23:00. Ms Barrett replied by listing dates and times of the offending occasions on 20 November 2005 (02:15) and 22nd January 2006 (02:15).

The Chair invited the objector to address the Committee. Mr Sygrave, objector on behalf of the LCSP raised his concerns over the operating schedule that had been submitted as part of the application stating that it did not tackle directly the four objectives of the licensing laws and this raised concerns to him because of the levels of crime and anti-social disorder in the area around the premises. Mr Sygrave asked the applicant to compromise in his application by bringing the closing hours applied for to 12midnight on weekends, and 02:00 on weekends. The Legal Adviser, Maria Bilbao, asked Mr Sygrave if there was any evidence of crime and anti-social behaviour being attributable to the premises. Mr Sygrave replied that there was no evidence.

The Chair invited the applicant, Mr Orhan Kati, to address the Committee. Mr Kati stated that he was new to the business (since 21st October 2005). He informed the Committee that there had been no criminal activity related to his premises and that he supported efforts to prevent it. Mr Kati rejected Mr Sygrave's request for shorter opening hours on the grounds that he had not received any complaints from local residents or other residents' groups. Mr Kati continued by highlighting that a public house was situated next to his premises which operated longer hours. He claimed that there was more likely to be nuisance emanating from this establishment. He also stated that there was no evidence that parking had been a problem attributable to the premises. At the request of the Chair, Mr Kati gave reasons for the two occasions the premises were found to be open beyond its licensed hours. On 20 November 2005, this was four weeks after Mr Kati had taken over the running of the premises, and there had been a mis-communication in respect of the what hours the license permitted the premises to be open, although he was aware that his closing hour should have been 23:00. On 22 January 2006, Mr Kati stated that the premises were not open to the public, but the lights were on and the door open whilst it was being cleaned. Mr Kati claimed that the premises took a long time to clean up after customers had finished eating. The Chair asked Mr Kati what time he stopped serving customers. Mr Kati's reply was that he stopped serving food at 23:00.

MINUTES OF THE LICENSING SUB-COMMITTEE B (2003 LICENSING ACT)
24 January 2006

RESOLVED

The Committee decided to grant the application in full and subject to the following conditions:

- (i) Conditions to enforce the operating schedule.

There were two informatives:

- (i) The licence granted would not constitute consent under any other regime. It would be necessary for the licensee to obtain any other consents that may be necessary for the lawful operation of the premises, including planning consent.
- (ii) That there should be a clear and visible "closed" sign after 02:00, with doors closed to any customers.

LSC31 ITEMS OF URGENT BUSINESS (Agenda Item 7).

None

The meeting ended at 23:05

.....
Councillor JAYANTI PATEL
Chair of Licensing Sub-Committee C

Date.....

DECISION OF MAGISTRATES FOLLOWING
APPEAL

London Borough of Haringey -v- Mizgin Restaurant

Appeal Against Refusal to Grant A Licence

Reasons - 19th September 2006

"We have considered many documents and listened to the many witnesses called today.

The original application was refused on the basis that due to the noise, smell and waste there were grounds under Section 4 (2) (c) Licensing Act 2003 to refuse the licence. This was on the basis of the prevention of public nuisance.

We have been referred to the Haringey Council Guidelines, in particular paragraphs 13.1-13.3 dealing with late night activities.

The council refer to noise, smell and waste as the three reasons for finding against the applicant.

Dealing firstly with the litter problem; we do not feel we have heard sufficient evidence to suggest there is a problem. There is a prosecution pending for one bag of waste outside the premises in Green Lanes. This appears just to be a one off. In regards to the evidence of Mr Mashru regarding the waste outside the premises there does not appear to be any evidence to substantiate the claim, we have not heard any additional evidence or any evidence to suggest complaint had ever been made to the relevant authorities.

We have also heard evidence, in particular Mr Sharman, that there was a considerable smell emanating from the flue system which seemed to accumulate in the corner of the building where one of his bedrooms is. We are satisfied that this is a public nuisance and it is an ongoing problem.

Similarly we are also satisfied that there has been, and still is, a noise problem. There have been problems in the past which led to a statutory noise abatement notice being issued on 11th July 2003. It is not contested that Mr Kovayacin breached the order and was subsequently fined by the court. We accept that no further formal complaints have been made concerning the noise since November 2004 however Mr Sharman stated that he stopped making complaints direct to the council during the period when he complained to the Ombudsman. He also stated that the council had accepted that it was their ongoing duty to check the noise situation. Mr Sharman gave clear credible evidence about the conditions he now lives in. He generously accepts that there will be some noise and smell from a restaurant but we find it unacceptable for him to resort to sleeping with ear plugs during the night time and having to keep his windows closed to minimise the noise and smell.

We therefore agree that the council were right in deciding that there was a public nuisance caused by the operation of the Mizgin Restaurant.

We did consider flatly refusing the grant of the licence; however, we are prepared to grant a licence on limited terms and conditions.

We take great assistance from the statutory noise abatement notice. Clearly the noise team examined the flue, the area and the times and the operation of the premises:

(1) We are content to limit the hours to 1am in the morning following Friday and Saturday nights and to midnight on Sundays to Thursdays.

(2) We also impose a condition that the extract ventilation system be upgraded and or modified in order to dissipate the odours away from the building. This should be done in liaison with the environmental health team and a competent contractor, who is acceptable to both parties, and for both parties to agree the upgrade or modification plans. This work will need to be completed within three months from today.

(3) The operation of the extract ventilation system shall also cease at the cessation of the opening times."

COPY OF CURRENT LICENSE

PREMISES LICENCE

Receipt: AG763419

Premises Licence Number: LN00003098

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: 9th October 2006

Part 1 – PREMISES DETAILS

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

**MIZGIN RESTAURANT
485 GREEN LANES
HARINGEY
LONDON
N4 1AJ**

Where the Licence is time limited, the dates:

Not applicable.

Licensable activities authorised by the Licence:

Provision of Late Night Refreshment

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

Provision of Late Night Refreshment

Sunday to Thursday 2300 to 0000

Friday & Saturday 2300 to 0100

The opening hours of the premises:

Sunday to Thursday 0800 to 0000

Friday & Saturday 0800 to 0100

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

No supply of alcohol permitted at this premises.

Part 2

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

Nizamettin Kovaycin
56 Ermine House
Hoselle Street
London
N17 8DE

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

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

N/A

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

Annex 1 –Mandatory Conditions

Annex 2 – Conditions consistent with the Operating Schedule

There will be CCTV surveillance at the premises.

Premises will have provision of fire fighting equipment.

There will be provision of public notices.

Adults will accompany children at all times whilst on the premises.

THE PREVENTION OF CRIME AND DISORDER

CCTV will be installed and maintained at the premises.

PUBLIC SAFETY

There will be provision of fire fighting equipment on the premises.

The maximum number of people who will be permitted at the premises at any one time (including staff) will be: 60.

There will be 1 Foam Extinguisher in the restaurant seating area.

There will be 1 Dry Powder Extinguisher in the kitchen.

The fire doors to the rear of the premises to be kept locked open during opening hours.

THE PREVENTION OF PUBLIC NUISANCE

There will be provision of the relevant public notices on the walls.

THE PROTECTION OF CHILDREN

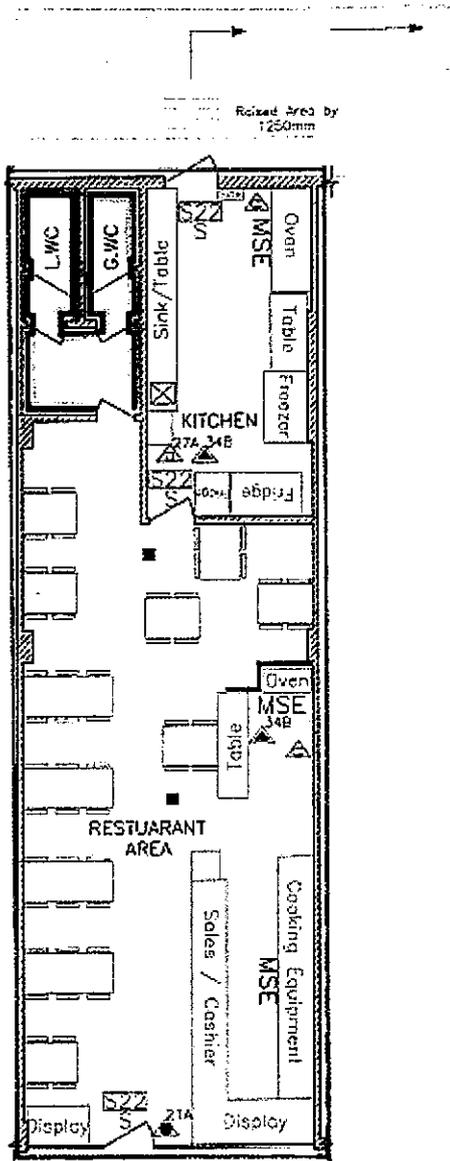
Children will only be allowed on the premises when accompanied by adults.

Annex 3 – Conditions attached after a hearing by the licensing authority

MAGISTRATES DECISIONS:

1. To limit the hours to 1am in the morning following Friday and Saturday nights and to midnight on Sundays to Thursdays.
2. The extract ventilation system will be upgraded and/or modified in order to dissipate the odours away from the building. This should be done in liaison with the environmental health team and a competent contractor, who is acceptable to both parties, and for both parties to agree the upgrade or modification plans. The work will need to be completed within three months from the 19th September 2006.
3. The operation of the extract ventilation system shall also cease at the cessation of opening times.

Annex 4 – Plans



KEY

-  WC AREA
- MSE MECHANICAL SMOKE EXTRACTION
-  FIRE EXIT SIGN SUSPENDED ABOVE HEAD HEIGHT
-  6LT FOAM EXTINGUISHER
-  FIRE BLANKET IN CONTAINER
-  2KG CARBON DIOXIDE FIRE EXTINGUISHER
-  6KG POWDER EXTINGUISHER
-  SURVEILLANCE MONITOR
-  CAMERA
-  SEATING AREA FOR SIX PEOPLE
-  SEATING AREA FOR TWO PEOPLE
-  AMBIT OF LICENSED PREMISES

GROUND FLOOR PLAN

COPIES OF LETTERS OF REPRESENTATION

Top Floor Flat
485B Green Lanes
Haringey
London
N4 1AJ

Tel: 0208 341 5961
07799410701
email: j.sharman@virgin.net

26th March 2008

Daliah Barrett
Licensing Team
Haringey Council
Techno Park
Ashley Road
Tottenham
London
N17 9LN

Re: Licence: Mizgin Restaurant, 485B Green Lanes N4

Dear Ms Barrett,

I am writing this letter in support of the Council's decision to review the Mizgin Restaurant's license regarding its hours of trading.

I reside in a flat directly above the restaurant and there has been an issue regarding the restaurant operating well outside its licensed opening hours, since it opened in 2003. As you are aware, I have previously complained to the council regarding this matter, as the restaurant's extractor fan that is attached to my flat is also running during the night. This constant operating noise means that I am unable to open my windows at night because of the noise and unpleasant odours.

This issue has always been exacerbated by the owner disregarding his licensed opening hours. On 19th September 2006, I was present at a court case where the restaurant's owner appealed re: his application for a late night café licence. The magistrate's final decision was to allow the restaurant to open until midnight from Sunday to Thursday, and until 1:00 am on Friday and Saturday. When the magistrate gave their verdict, they noted and sympathised with the problems I have with the extractor fan operating late at night and specified the equipment *must* be turned off at the specified hours.

Despite this very clear ruling, the establishment has continued to operate well outside of these hours. I am pleased that the council has been consistent in collecting a large amount of evidence to prove this. As recently as 3rd March 2008, the noise team witnessed the ventilation equipment running at 3.30am.

To ensure I get a good night's sleep, I now always wear earplugs at night and have put up thick, lined curtains in my bedroom. I have always felt extremely frustrated that



the owner of the restaurant is able to disregard the law so blatantly, whilst I have had to resort to such measures.

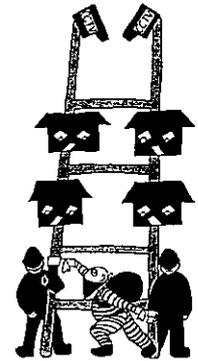
At the court hearing in September 2006, it was made extremely clear to the establishment's owner that he should now abide by the law and shut his establishment at the appropriate hour and turn off the ventilation equipment. Despite this, the owner has continued to flout any conditions placed upon him. I would therefore urge you to consider my comments when reviewing this establishment's licence in the near future.

Yours sincerely,

John Sharman

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

30 March 2008

Dear Ms Barrett

**Premises Review (Licensing Act 2003)
Mizgin Restaurant, 485 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 Mizgin Restaurant under the terms of the Licensing Act 2003.

For many years, residents have noted the repeated breaches of permitted opening hours, the improper disposal of commercial waste, and ongoing noise nuisance from the ventilation system. The LCSP has already had occasion to write to the Licensing Sub Committee with regard to the premises (see our letter dated 18 November 2005, attached). In particular, we would draw your attention to the latter part of that letter, which outlines an extraordinary history of lack of compliance over a lengthy period. Since then, of course, there have been further, and numerous breaches as cited in the current Review Notice.

Given that multiple breaches have occurred since at least 2003 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). This would also seem to be the only option given that the late-night licence for this premises has already been revoked on a previous occasion (31 March 2005). This was because of 9 enforcement breaches and persistent noise nuisance: see our attached letter dated 18 November 2005, (previously referred to), Section 3f, record of Compliance.

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

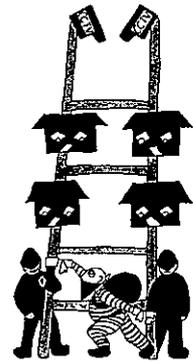
Yours sincerely

On behalf of the LCSP



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

18th November 2005

Dear Ms Barrett

**Late-night premises licence application: Mizgin, 485 Green Lanes, N4 1AJ
Applying for 08.00- 02.00 (Sun-Thurs),08.00-03.00 (Fri-Sat)**

1 INTRODUCTION

The Ladder Community Safety Partnership (LCSP) contains representatives of Neighbourhood Watches and Residents' Associations from the 'Ladder' roads, adjacent to Green Lanes, Haringay. 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, (31 March 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 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.

We are particularly concerned due to problems at the premises in the recent past and its poor record of compliance in relation to these, see 3(f) 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 31 March 2005 to consider the previous application for a Night Café Licence for this premises states that planning conditions only allow trading until midnight (Sun-Thurs) and 1am (Fri-Sat). Furthermore, these conditions were decided after an appeal (from the present applicant) by the Planning Inspectorate and this specific decision can not be altered by LBH.

In this context, Haringey's Licensing Policy states '*All premises that apply for a licence must have planning permission for the intended use and hours of operation... The Licensing Authority will not consider a new application or variation of conditions ... if the hours of operation sought exceed those authorised by the planning permission.*' Similarly, National guidance states that '*planning permission should be in place before the licence application is determined.*'

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]
- *'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, of the licensing objectives in general and in particular the decision of the Planning Inspectorate, we believe that in this case a normal closing time of no later than 1.00am (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 until 02.00am, Sun-Thurs and until 03.00am on Fri and Sat).

We believe that granting a permanent licence for such late hours 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. There are numerous flats above, adjacent to and opposite the premises, while residents in Pemberton Road and Kimberley Gardens are also extremely close.

(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 which largely focus on the use of CCTV. Given the very late hours requested, residents would like to highlight the following questions, drawn from App.2 of the borough's Licensing Policy Guidances.

- what practices are/will be in place to deal with intoxicated patrons and/or persons under the influence of illegal drugs, and the supply of illegal drugs?
- procedures to deal with violence and/or anti-social behaviour?
- methods to discourage the handling and distribution of stolen goods etc?
- methods 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

The applicant covers some important elements of public safety. We assume that all staff would be trained to ensure that all safety measures are known and implemented,

especially for emergency situations such as evacuation. We also assume that the premises is compliant with all relevant building control rules and regulations.

(e) Prevention of Public Nuisance

There is only one comment ('Provision of public notices on walls') from the applicant under this heading. There are therefore a large number of questions remaining unanswered, in particular:

- the steps taken, or proposed, by the applicant to prevent noise or vibration escaping from the premises (whether music, ventilation equipment or human voices)? The Licensing Policy states that this is '*particularly important in residential areas*'.
- 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 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 if the premises proposes 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*'. In the case of these premises, there is a long and sorry history of lack of compliance.

1. At the Licensing Committee meeting held on 31st March 2005, the late night café licence was revoked because
 - (a) the applicant had breached 9 enforcement actions
 - (b) the applicant had recently pleaded guilty to a noise abatement order
 - (c) planning permission conditions had also been breached
2. Since the revoking, on 31 March 2005, of the late night café licence, the premises should close at 11pm. However, it has continued to open regardless: most recently LBH Enforcement recorded it as open and trading on:
 - 19 September 2005 at 03.00am
 - 25 September 2005 at 03.55am
 - 1 October 2005 at 03.00am

In the light of this repeated, consistent and still continuing lack of compliance, over a number of years, we have obvious reservations about the present application, with particular regard to the lateness of the hours.

4. 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 very late hours at 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 1am has already been decided by the Planning Inspectorate, and is an acceptable 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.

Yours sincerely

A handwritten signature in black ink, appearing to be 'J. J.', enclosed within a circular scribble.

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