

#### 4. REPORT

##### Background

The police have applied for a review under the Crime and disorder objective due to a number of breaches witnessed at the premises. The licensee has continually allowed clients to stand outside of the Public House consuming alcoholic drinks in contravention of the license. The Police state they have made a number of attempts to talk with the licensee in order to get compliance but this has proved unworkable.

##### Licensable activities authorised by the Licence:

##### Supply of Alcohol

Monday to Friday:	1000 to 0000
Saturday:	1000 to 0200
Sunday:	1100 to 0000
Christmas Eve:	1000 to 0200
Christmas Day:	1200 to 1500 and 1900 to 2230
New Years Eve:	1000 to 0200
St Patrick's Day:	1000 to 0200

##### The opening hours of the premises:

Monday to Friday:	1000 to 0000
Saturday:	1000 to 0200
Sunday:	1100 to 0000
Christmas Eve:	1000 to 0200
Christmas Day:	1200 to 1500 and 1900 to 2230
New Years Eve:	1000 to 0200
St Patrick's Day:	1000 to 0200

##### 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: Clifford John Pope

#### 4.2 Details of the Application for Review. Appendix 1

#### 5.0 RELEVANT REPRESENTATIONS (CONSULTATION)

**Responsible authorities:**

**5.1 Comments of Metropolitan Police**

See documents

**5.2 Comments of Child Protection Agency or Nominee**

No comments received on this matter

**5.3 Interested Parties –**

No letters of representation have been received.

**6.0 POLICY CONSIDERATIONS**

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

In determining the application the Licensing Sub Committee can take such steps as it considers 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 3.**

**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 4.**

- 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.

APPENDIX 1

REVIEW APPLICATION FORM

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

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

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

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

I Inspector David Gladwell

*(Insert name of applicant)*

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

**Part 1 – Premises or club premises details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> The Two Brewers 40 - 42 Scotland Green	
<b>Post town</b> Tottenham	<b>Post code (if known)</b> N17 9TT

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Clifford Pope, 157 Bulwer Road N.18 John O'Rourke, 14 Hounsdon Road, N.21
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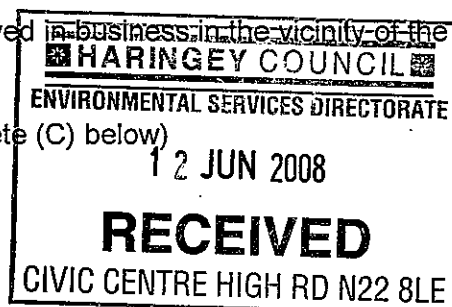
<b>Number of premises licence or club premises certificate (if known)</b> LN/00002176
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**Part 2 - Applicant details**

I am

Please tick yes

- 1) an interested party (please complete (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
- 2) a responsible authority (please complete (C) below)



3) a member of the club to which this application relates (please complete (A)  below)

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

Please tick

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

**Surname**

**First names**

I am 18 years old or over

Please tick yes

**Current postal address if different from premises address**

**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address (optional)**

**(B) DETAILS OF OTHER APPLICANT**

**Name and address**

**Telephone number (if any)**

**E-mail address (optional)**

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address Inspector David Gladwell Wood Green Police Station High Road Wood Green N.22 4HZ
Telephone number (if any) 0208 345 2058
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 | <input checked="" type="checkbox"/> |
| 2) public safety                        | <input type="checkbox"/>            |
| 3) the prevention of public nuisance    | <input type="checkbox"/>            |
| 4) the protection of children from harm | <input type="checkbox"/>            |

**Please state the ground(s) for review** (please read guidance note 1)  
The Police seek a review of the premises licence for the above mentioned premises on the grounds of Crime & Disorder.

**Please provide as much information as possible to support the application**  
(please read guidance note 2)

On the 22<sup>nd</sup> January 2008 Tottenham Hotspur F.C. were due to play Arsenal F.C. in the semi final of the Carling Cup. At about 18.00 Police visited the Two Brewers and they noticed approximately 20 - 30 people consuming alcohol on the footway outside the public house. Approximately 8 -10 of these people are known risk supporters and are likely to attack rival supporters without provocation. Mr. Pope did not appear to be making any effort to get these people back inside his premises. Inspector Gladwell pointed out to him that this was a flagrant breach of his premises licence and this cannot be allowed to re-occur. Mr Pope had previously attended Wood Green Police Station on the 1<sup>st</sup> November 2007 when a meeting took place between Mr. Pope, Inspector Gladwell and Sergeant Willmott. Concerns were expressed regarding clientele from the premises spilling out onto the pavement from the public house on match days. It was suggested that large gates should be placed across the side entrance and locked on match days. This would make it easier for the door staff to control the clientele from a single entrance. Mr. Pope was also made aware that a number of his customers who attended on match days were Tottenham risk supporters. A letter was sent to Mr. Pope by Inspector Gladwell on the 24<sup>th</sup> January 2008 warning him that flagrant breaches of his Premises Licence could not be allowed to reoccur.

On the 6<sup>th</sup> March 2008 Tottenham Hotspur entertained PSV Eindhoven in the UEFA cup competition. Mr. Pope displayed in the pub window a notice requesting his customers not to drink outside the Two Brewers. A photograph was taken of this sign by a Metropolitan Police photographer.

On Saturday 11<sup>th</sup> of May 2008 Tottenham Hotspur were playing Liverpool in the Barclays Premiership. At 13.40 Police attended the Two Brewers and they noticed a large crowd of people standing on the pavement and into the road outside the pub they were drinking alcohol. Mr Pope was spoken to and he said that he had better control the situation. Police assisted him in clearing the frontage of drinkers. Police observed Mr. Pope for 15 minutes and he directed people into the pub or into the pub garden.

At 14.20 Police once again visited the Two Brewers and they saw in excess of 30 people standing outside the pub drinking alcohol. Mr Pope upon seeing Police attempted to clear the footway of his customers this appeared to be ineffective. Police had to assist him in this matter.

I have sought advice from the Fire safety Officer a Kevin Close of the London Fire Brigade and he advised me that he did not consider for safety reasons locking the side door leading to the garden as an option.

The minimum number of Security Industry Authority doorstaff we would accept to control the flow of customers on match days is two. This we believe will result in better control and prevent people drinking and congregating on the footway outside the public house.



Please tick yes

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day Month Year

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

Please tick yes

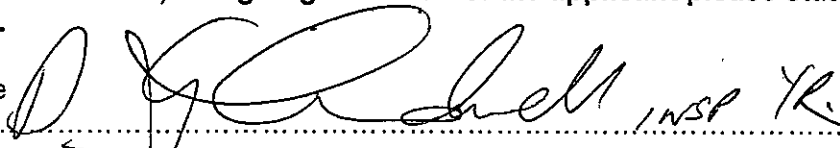
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

**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** (See guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature



Date

9<sup>th</sup> June 2008

Capacity Inspector

**Contact name (where not previously given) and postal address for correspondence associated with this application** (please read guidance note 5)

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

**Notes for Guidance**

1. 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.

APPENDIX 2

SUPPORTING DOCUMENTS

**WITNESS STATEMENT**

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; MC Rules 1981, r.70)

Statement of Stephen PAYNE..... URN: 

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Age if under 18 ..... (if over 18 insert 'over 18') Occupation: Police Officer .....

This statement (consisting of: .... 2..... pages each 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 anything in it which I know to be false, or do not believe to be true.

Signature: ..... Date: 17/06/2008.....

Tick if witness evidence is visually recorded  (supply witness details on rear)

I am presently employed as an intelligence officer on Haringey Borough, focusing on football related matters. I have policed football matches involving Tottenham hotspur Football Club since the 1999-2000 season and have been employed as the full time Football Intelligence Officer at Tottenham since the end of the 2007-2008 season.

Tottenham Hotspur Football Club (THFC), as with many football clubs, has an active hooligan group associated with it. In broad terms, a football-related hooligan group comprises individuals who, affiliated to a specific club, come together as a group and plan and/or engage in violence and disorder against like-minded groups affiliated to other clubs.

The Tottenham hooligan group has different patterns of behaviour depending upon the fixture concerned and whether THFC are playing at home or away. Tottenham hooligans do not organise or engage in disorder at every fixture; it is only at certain games that they become active. High-risk fixtures – where the risk of disorder and violence is assessed as high. If THFC are playing at home in a High Risk fixture then the Tottenham hooligan group will become territorial and will go to public houses that they consider to be 'theirs' from early on in the day and 'defend' them. The Tottenham hooligan group will see how any visiting hooligan group acts and respond accordingly. Visiting hooligan groups tend to draw attention to themselves and are usually contained and escorted to the stadium inside a protective police cordon. Individual Tottenham hooligans often assess this escort and as it draws nearer to the stadium groups of Tottenham hooligans will be waiting to seize any opportunity to engage in disorder.

Signature: ..... Signature witnessed by: .....

Continuation of Statement of .....

The Two Brewers pub in Scotland Green is a public house that is used by hooligan supporters associated with Tottenham on a regular basis. Scotland Green is located close to the junction with Tottenham High Road; its position is such that any large group standing outside the pub would attract attention from a visiting hooligan group being walking along the High Rd towards the stadium.

The police and licenses of pubs in the Tottenham area have to work together, and it is agreed not to let any person drink on the council maintained pavement area outside their respective public houses during relevant periods before during and after football fixtures. (In effect all persons are to remain inside the public house or beer garden area of the pub at all times)

One example of the problems that can occur happened on 21/04/2007 when Tottenham Hotspurs played Arsenal in a league fixture. Some time after the end of the game a group of Arsenal hooligans numbering around sixty were being escorted by police south along Tottenham High Road away from White Hart Lane stadium. As they were approaching the junction with Scotland Green a group of Tottenham hooligans who were drinking in the street around the Two Brewers pub noticed this Arsenal hooligan group. On seeing them the Tottenham hooligans have made there way to the High Rd and attempted to engage in disorder. Only intervention by police prevented serious disorder breaking out.

In our experience this one simple measure of not letting anyone drink outside licence premises on match days is extremely effective in the prevention of spontaneous acts of violence. As opposing supporters are walked passed pubs in the Tottenham area there is a reduced chance for either the home or away fans to get close to each other, greatly reducing the chance to verbally abuse each other, actions that in the past has lead to violent confrontations.

Signature: ..... Signature witnessed by: .....

**RESTRICTED – FOR POLICE AND PROSECUTION ONLY**  
(when completed)

Home address: .....

..... Postcode: .....

Home telephone number ..... Work telephone number .....

Mobile/pager number ..... Email address: .....

Preferred means of contact: .....

Male / Female (delete as applicable) ..... Date and place of birth: .....

Former name: ..... Height: ..... Ethnicity Code: .....

Dates of witness non-availability .....

.....

**Witness care**

- a) Is the witness willing and likely to attend court? Yes / No. If 'No', include reason(s) on MG6. What can be done to ensure attendance?
- b) Does the witness require 'special measures' as a vulnerable or intimidated witness? Yes / No. If 'Yes' submit MG2 with file.
- c) Does the witness have any specific care needs? Yes / No. If 'Yes' what are they? (Healthcare, childcare, transport, disability, language difficulties, visually impaired, restricted mobility or other concerns?)

**Witness Consent (for witness completion)**

- a) The criminal justice process and Victim Personal Statement scheme (victims only) has been explained to me Yes  No
- b) I have been given the leaflet 'Giving a witness statement to police — what happens next?' Yes  No
- c) I consent to police having access to my medical records in relation to this matter: Yes  No  N/A
- d) I consent to my medical record in relation to this matter being disclosed to the defence: Yes  No  N/A
- e) I consent to the statement being disclosed for the purposes of civil proceedings e.g. child care proceedings (if applicable) Yes  No  N/A
- f) The information recorded above will be disclosed to the Witness Service so they can offer help and support, unless you ask them not to. Tick this box to decline their services:

Signature of witness: .....

Statement taken by (print name): .....

Station: .....

Time and place statement taken: .....

Signature of witness: .....

WITNESS STATEMENT

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; MC Rules 1981, r.70)

Statement of David Gladwell Insp YR ..... URN: [ ] [ ] [ ] [ ]

Age if under 18 Over 18..... (if over 18 insert 'over 18') Occupation: Police Staff 54/181832.....

This statement (consisting of: .... 2..... pages each 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 anything in it which I know to be false, or do not believe to be true.

Signature: [Signature] Date: 15/5/08

Tick if witness evidence is visually recorded [ ] (supply witness details on rear)

On Tuesday 22nd January 2008 I was on duty in full uniform. I was posted working as part of the intelligence team involved in spotting duties at the Carling Cup Semi final game between Tottenham Hotspur and Arsenal FC. In this role I head up a team of " spotters" whose job is to identify where Tottenham risk supporters are and to advise senior officers of the mood and intention of these supporters. Risk supporters are those supporters who have been identified historically to pose a concern because of their likelihood to plan and become involved in football violence. As part of this role it is necessary to visit public houses and hopefully identify where the main risk supporters are.

At about 1800 hours I attended The Two Brewers, Scotland Green, N17. This is a premises, which is known to regularly have risk supporters drinking in. This area has traditionally been known as a place where away supporters have been ambushed when they are escorted along Tottenham High Road from the underground stations. Upon my arrival at the pub I noticed a male I know to be Clifford POPE standing outside eating a bag of chips .I know POPE as the designated premises supervisor for this public house. I have met POPE at Wood Green Police Station on a previous occasion when as the Haringey Police Licensing Inspector I discussed concerns that I have over street drinking at the premises. On this previous occasion I reminded POPE of the responsibilities that he had under his licence and made a number of suggestions on how this matter could be resolved.

Behind POPE I noticed that there were between 20-30 men drinking alcohol on the pavement outside the premises. Of this group approximately 8-10 of the group were risk supporters and those who may lead an attack on those Arsenal supporters who may be identified in the area. The area is a residential area and a number of the supporters were leaning on fences outside the houses nearby. All were drinking. In the event that persons had wanted to pass the group they would have had to

Signature: [Signature] Signature witnessed by: .....

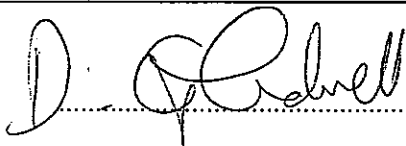
Continuation of Statement of .....

walk into the road.

I spoke to Pope and pointed out the group standing behind him. He continued to eat his chips and stated that the drinkers were not drinking on the footway but were drinking on an area of concrete, which is not part of the public footway. I explained that whilst this indeed may be a technicality that could be explored I was concerned that the spirit of the licence was to prevent crime and disorder by people in the street attacking away supporters. I also pointed out that even outside of the group that were standing on the concrete area, many of the drinkers were still standing on the pavement or in the footway and this point could not be argued as not being pavement. Pope turned and began to usher people back into the side garden. Whilst this was effective, as soon as Pope stopped this people again walked back out and stood around on the footway. Pope again ushered people back into the garden area. This was effective whilst he did this but as soon as he stopped the people crept back out. I pointed out that this wasn't acceptable and again told POPE that he must resolve this issue on the basis of public safety. POPE nodded his head in agreement.

Because of other commitments I then left the area of this public house. On 24<sup>th</sup> January 08 I sent POPE a letter again reminding him of his responsibilities and making suggestions On how to prevent reoccurrence and offering further assistance if required.

Signature:



Signature witnessed by: .....

insp  
YR



**WITNESS STATEMENT**

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; MC Rules 1981, r.70)

Statement of **Gareth SCHOORL A/Ps 820YE** ..... URN: 

01			08
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Age if under 18 **Over 18**..... (if over 18 insert 'over 18') Occupation: **Police Officer 216056** .....

This statement (consisting of: .... **2**..... pages each 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 anything in it which I know to be false, or do not believe to be true.

Signature: *Gareth Schoorl A/Ps 820YE* ..... Date: *24/08* .....

Tick if witness evidence is visually recorded  (supply witness details on rear)

On Saturday 11<sup>th</sup> MAY 2008 I was on duty in full uniform in company with other officers (CHRISTOFI Pc 560YE, DOOLEY Pc 326YE, HAYHURST Pc 495YE, HALIDAY Pc 468YE, HURKOO Pc 421YE, PERRY Pc 360YE & OAKES Pc 611YE) on patrol in a marked Police Carrier callsign 960B patrolling the Tottenham area as at 1500hrs that day THFC were playing LFC in the English Football Premiership a designated fottball match.

I had attended a briefing and I had been tasked pre-match with attending four (4) Public Houses to check on numbers, mood and mixture of fans.

At 1340hrs I attended The TWO BREWERS Public House & The VICTORIA on Scotland Green Road. The VICTORIA was quiet, however immediately outside The TWO BREWERS I could see a large number of the patrons were out on the pavement and onto the street with alcoholic beverages in their hands. They were actively drinking in the streets. Scotland Green Road is a quiet street however their was very light traffic trying to use the road every now and again. As we approached the TWO BREWERS many of the patrons made their way back onto the pavement from the road. We drove up next top the TWO BREWERS and one patron rolled himself along the front of the Police Carrier to entertain the other patrons and then started to feign injury.

The Police arrier was parked up and I approached the TWO BREWERS Public House and a Male I now know to be Mr POPE introduced himself to me as the liscencee. I explained that his patrons should not be drinking in the street and he apologised and said he'd get better control over it. I assisted him and directed the patrons back into the Public House or the side of the public house. The street and pavement were now clear of drinkers, I made a visit to THE VICTORIA Public House which was a short distance away on the same road and then I returned and waited on the police Carrier to monitor the situation at THE TWO BREWERS. I watched for about 15mins and noticed Mr POPE controlling the situation and directing anyone coming outside with their drinks to take them either inside or around the side. I also noticed that the TWO BREWERS had a lengthy sign in the window explaining that they were at risk of losing their liscence if people did not stop drinking in the street.

I then left the TWO BREWERS and we continued with the rest of our taskings checking other Public House in

Signature: *Gareth Schoorl A/Ps 820YE* ..... Signature witnessed by: .....

Continuation of Statement of Gareth SCHOORL A/Ps 820YE .....

the local area.

At 1420hrs we were making our way North up the HIGH ROAD towards THFC and I looked down Scotland Green Road and I could again see that people from the TWO BREWERS were drinking in the streets. We re-attended the PUBLIC HOUSE. On arrival outside there were in excess of 30 people out on the pavement and road drinking. There were even several people sat on walls on the opposite footway drinking their drinks. On arrival of the Police Carrier the Licensee again started trying to move people back inside the TWO BREWERS but was ineffective in doing so. It required the officers from my carrier and myself to assist him in getting people back inside the public house and off the road. Mr.POPE told me that it was wrong they couldn't come outside and that next year the road was going to be pedestrianized and he'd then have tables and chairs out the front and the problem of people drinking outside the TWO BREWERS would be resolved.

I noticed that the side of the pub had an access (fire door) that people could use to move between the side and the inside of the public house. The side had a gate that was open and where people were spilling out into the road. I suggested that he may want to shut the gate and then prevent people with alcohol walking out off the main entrance and this would be easier for him to control. Mr. POPE nodded but made no comment. Patrons from the public house continued to approach the officers outside the TWO BREWERS telling them and myself to go away and leave the pub alone, saying they never caused any trouble.

My serial then stayed outside the TWO BREWERS Public House until 1500hrs when the pub emptied due to many of the patrons leaving to watch the match.

My impression was that MR.POPE had not managed to control the situation before the initial arrival of police, after we did arrive he proved over a duration of 15mins that he could control the situation without any assistance other than the police carrier being in the vicinity. However on police leaving the area for about 20mins Mr.POPE had failed to maintain order at the location and had let it get out of control. It is my belief that Mr.POPE had not tried to maintain the control as he only appeared to start actively controlling the situation again when he saw the Police Carrier returning to outside the TWO BREWERS.

Signature: Gareth Schoorl A/Ps 820YE Signature witnessed by: .....

## APPENDIX 3

### EXTRACTS FROM 182 GUIDANCE

# 11. Reviews

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## THE REVIEW PROCESS

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

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

### REPETITIOUS REPRESENTATIONS

11.11 Relevance, vexation and frivolousness were dealt with in paragraphs 9.8 – 9.13 above. A repetitious representation is one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in relation to the same premises licence which has already been determined; or
- representations considered by the licensing authority when the premises licence was first granted; or
- representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement;

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

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

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

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

### POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

11.15 The 2003 Act provides a range of powers for the licensing authority on determining a review that it may exercise where it considers them necessary for the promotion of the licensing objectives.

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

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

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

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

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

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

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

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

## APPENDIX 4

### EXTRACTS FROM LICENSING POLICY

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

#### **24.0 Conditions**

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

#### **25.0 Enforcement**

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



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