



Notice of Hearing

Licensing Sub Committee (North)

Date: TUESDAY, 18 NOVEMBER 2014

Time: 10.00 AM

Venue: COMMITTEE ROOM 4
CIVIC CENTRE
HIGH STREET
UXBRIDGE
UB8 1UW

Meeting Details: Members of the Public and Press are welcome to attend this meeting

This agenda and associated reports can be made available in other languages, in Braille, large print or on audio tape on request. Please contact us for further information.

Councillors on the Sub-Committee:

Dominic Gilham (Chairman)
Lynne Allen (Labour Lead)
Carol Melvin

Important Information

On receipt of this notice, you **MUST** notify the Committee Clerk (contact details below) by the following date:

Thursday 13 November 2014

If you don't notify you may lose your right to speak at the hearing. When notifying you must confirm:

- 1) Whether you intend to attend or to be represented by someone at the hearing;
- 2) If you consider a hearing to be unnecessary and;
- 3) Whether to request that another person attends (other than your representative) as a witness

Published: Monday, 3 November 2014

Contact: Gill Oswell
Tel: 01895 250693
Fax: 01895 277373
Email: democratic@hillingdon.gov.uk

This Agenda is available online at:

<http://modgov.hillingdon.gov.uk/ieListDocuments.aspx?CId=300&MId=2237&Ver=4>

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Please enter from the Council's main reception where you will be directed to the Committee Room.

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In the event of a SECURITY INCIDENT, follow instructions issued via the tannoy, a Fire Marshal or a Security Officer. Those unable to evacuate using the stairs, should make their way to the signed refuge locations.



Agenda

CHAIRMANS ANNOUNCEMENTS

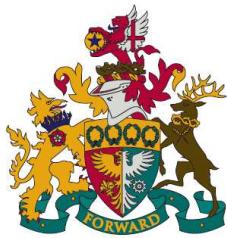
Hearing Protocol - Reviews - Premises Licences & Certificates		1 - 8
1	Apologies for Absence	
2	Declarations of Interest in matters coming before this meeting	
3	Minutes of the meeting on 22 October 2014	9 - 10
4	To confirm that the items of business marked Part 1 will be considered in Public and items marked Part 2 will be considered in Private	
5	Matters that have been notified in advance or urgent	

Part 1 - Members, Public and Press

	Title of Report / Address of application	Ward	Time	Page
6	Ruislip Superstore 67 Station Approach South Ruislip	South Ruislip	10 AM	11 - 42

Part 2 - Members Only

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HILLINGDON
LONDON

Licensing Act 2003

Sub-Committee Hearings Protocol for determining applications for Reviews of Premises Licences or Club Premises Certificates

This protocol outlines the procedures that will apply:

Full details of the regulations surrounding sub-committee hearings are available for download on the Department of Culture, Media and Sport's website by [clicking here](#).

**It is important that you carefully read these
procedures if you wish to attend and be heard at a
Licensing sub-committee hearing**

1. On receiving the Notice of Hearing

What is the Notice of Hearing?

Hillingdon Democratic Services will give appropriate notice of the hearing, which depends upon the type of application to be considered. Exact timings are shown on the front page of the Agenda (attached to the front of the Notice of Hearing).

A Notice of the Hearing will be sent to all parties accompanied by:

- Date, time and location of the actual hearing and a procedural briefing to be held beforehand;
- This procedure note, the report from the Council's Licensing Officer with relevant requests attached;
- Confirmation that a party may be assisted / represented by a person who does not have to be legally qualified;
- Confirmation that a party to the hearing may address the authority, give further information on a point on which the authority requires clarification and, if considered by the authority to be required, question another party to the hearing;
- The consequences of not attending or being represented at a hearing (which normally will be that the hearing will proceed in the party's absence); and
- A note of any particular points on which the Hillingdon Licensing Service wants clarification.

What do I do when I receive the Notice of Hearing?

On receipt of the Notice of Hearing, all parties must inform the Clerk to the Committee – **normally no later than 2 working days before the hearing*** – whether they:

- Intend to attend or to be represented at the hearing;
- Consider a hearing to be unnecessary; and
- Wish to request that another person appear at the hearing (other than their representative) as a witness. If such a request is made, it should be accompanied by details of the name of that person and a full description of the points about which that person may be able to assist the hearing.

*Full details are given in the front of the Notice of Hearing of the deadline by which you should give your notice. All those who have made a request and the premises licence holder are also reminded of their right to have a legal representative at the hearing.

If a party does not notify the above to the Clerk to the Committee before the relevant deadline they will not be entitled to speaking rights at the hearing.

IT IS IMPORTANT THAT YOU REPLY TO THE NOTICE

Contact Information:

To give notice or any queries relating to the hearing please contact:

Clerk to the Committee

Tel: 01895 277655

Email: democratic@hillingdon.gov.uk

Write to: Clerk to the Committee, Cabinet Office, 3E/05, Civic Centre, Uxbridge, UB8 1UW

If I want to withdraw my request - how do I do this?

Any party may withdraw their request by contacting the Clerk to the Committee by telephone, letter or email, providing they give notice no later than 24 hours before the hearing. If, during the hearing, any party wishes to withdraw their request they may do so orally by informing the Chairman.

What happens if I cannot attend the sub-committee hearing?

When a party informs the authority that he/she cannot attend the hearing or, without prior notice, fails to attend or be represented at the hearing, the sub-committee may either adjourn the hearing to a specified date, but **only** where it considers this to be necessary in the public interest or necessary for its consideration of any representations. Alternatively, the sub-committee may hold the hearing in the party's absence.

Where the sub-committee adjourns the hearing it shall notify the parties of the new date, time and place to which the hearing has been adjourned. Where the hearing is held in the absence of a party the sub-committee will still consider the application or any representations submitted by that party.

Can the date of the hearing be changed?

Only if the Licensing sub-committee scheduled to hear the review considers it to be necessary in the public interest or necessary for its consideration of any representations made by a party. In all other circumstances, the licensing authority cannot be flexible in the dates for hearings as the Licensing Act 2003 sets a strict legal deadline by which hearings must be heard.

Can you accommodate any special needs I may have?

Yes, if any person, who intends to be present at the hearing, has any special needs, (for example in connection with access, hearing, language or vision) this should be brought to the attention of the Clerk to the Committee prior to the hearing in order that appropriate provision may be made.

2. Before the Hearing

You will have been notified of the date and time of the Licensing sub-committee hearing. The hearings will normally take place at the Civic Centre, High Street, Uxbridge in one of the Committee Rooms.

How do I get to the Civic Centre?

Parking may be available via the entrance to the Civic Centre in the High Street by contacting the Clerk to the Committee in advance. Parking is also available in the nearby Chimes Shopping Centre Car Park. Bus routes 607, 427, U1, U3, U4 and U7 all stop at the Civic Centre. Uxbridge underground station, with the Piccadilly and Metropolitan lines, is a short walk away.

Please enter from the main reception where you will be directed to the relevant Committee Room. Please switch off your mobile phone when entering the room and note that Hillingdon Council operates a no-smoking policy in its offices.

Will the hearing be in public?

There may be other members of the public and press that attend the hearing to observe the proceedings, but they will not be allowed to speak. At any hearing, the person who has requested the review may attend in person or, if the review is made by an organisation or corporate body, a duly authorised representative may be present, who is able to speak on their behalf can do so.

The hearing will take place in public. However, in exceptional circumstances, when the sub-committee considers that it is in the public interest, it may exclude the public from all or any part of a hearing. Hearings will normally take place during the day.

I have some new evidence - may I present it?

The sub-committee **will not** normally allow the production of new written evidence not previously submitted by any party. In the case where the sub-committee does allow new evidence, all other parties must give their consent before it is heard.

If new material is permitted, the hearing may need to be adjourned to allow time to consider it and for other parties to respond to it. Accordingly, any application to have new material considered should demonstrate exceptional reasons for its admission. It is, therefore important for parties to ensure that all evidence is submitted in writing as soon as possible and in accordance with the relevant timescales.

Will I be briefed on procedure before the hearing?

Yes, in the notice of hearing, you will have been asked to attend a procedural briefing before the hearing starts. All parties will be asked to attend this briefing so that the Council's Legal Advisor can outline the procedures to be followed at the hearing.

What if there is more than one Applicant or a number of different Parties to the review attend the hearing?

At the briefing, the Legal Advisor may ask that a spokesman is agreed amongst those present who have similar requests for a review or representations in support.

Who are the people on the Licensing sub-committee?

Three elected councillors of the London Borough of Hillingdon sit on a Licensing sub-committee and it is only they who can determine the application. Its minimum membership is two. Councillors who sit on the sub-committees have been trained in the new Licensing regulations and have experience of determining applications of various kinds.

One of the Councillors will be the Chairman of the hearing and it will be he/she who will call interested parties and responsible authorities to speak and ensure time limits are adhered to as set out in the procedures.

Other people who will be present along with the Councillors include:

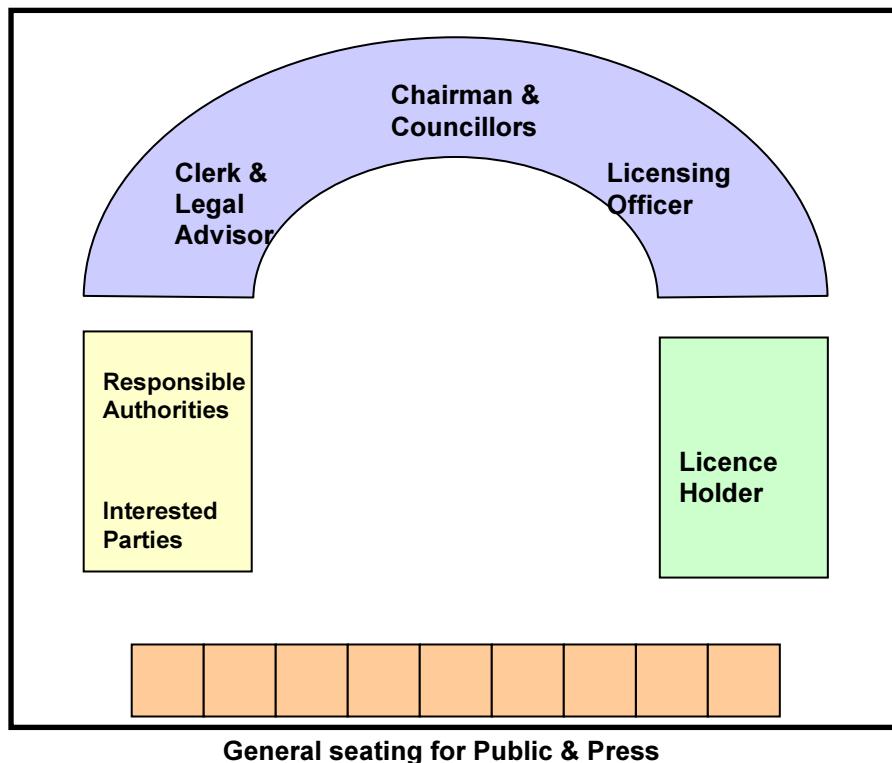
- The **Council's Licensing Officer** who will introduce the Officer report and outline his/her role.
- A **Legal Advisor** whose role is to assist the Committee with legal advice and to ensure that a fair and balanced hearing takes place.
- A **Clerk to the Committee** whose role is to summarise and record decisions on individual matters and to provide help and assistance to members of the public attending such meetings.

3. During the Hearing

The procedure at the sub-committee hearing will, in general, be based on those used in a court of law. Although the strict rules of evidence will not apply, they will be observed to a great extent, because this is the best way of hearing the evidence from all parties. The hearing will take the form of a discussion led by the sub-committee councillors. The sub-committee will seek clarification on the issues from the parties as it considers appropriate.

Where shall I sit at the hearing?

The hearing will begin immediately after the procedural briefing and the set up of the room for those involved will generally be as shown below:



In general, how will the hearing be conducted?

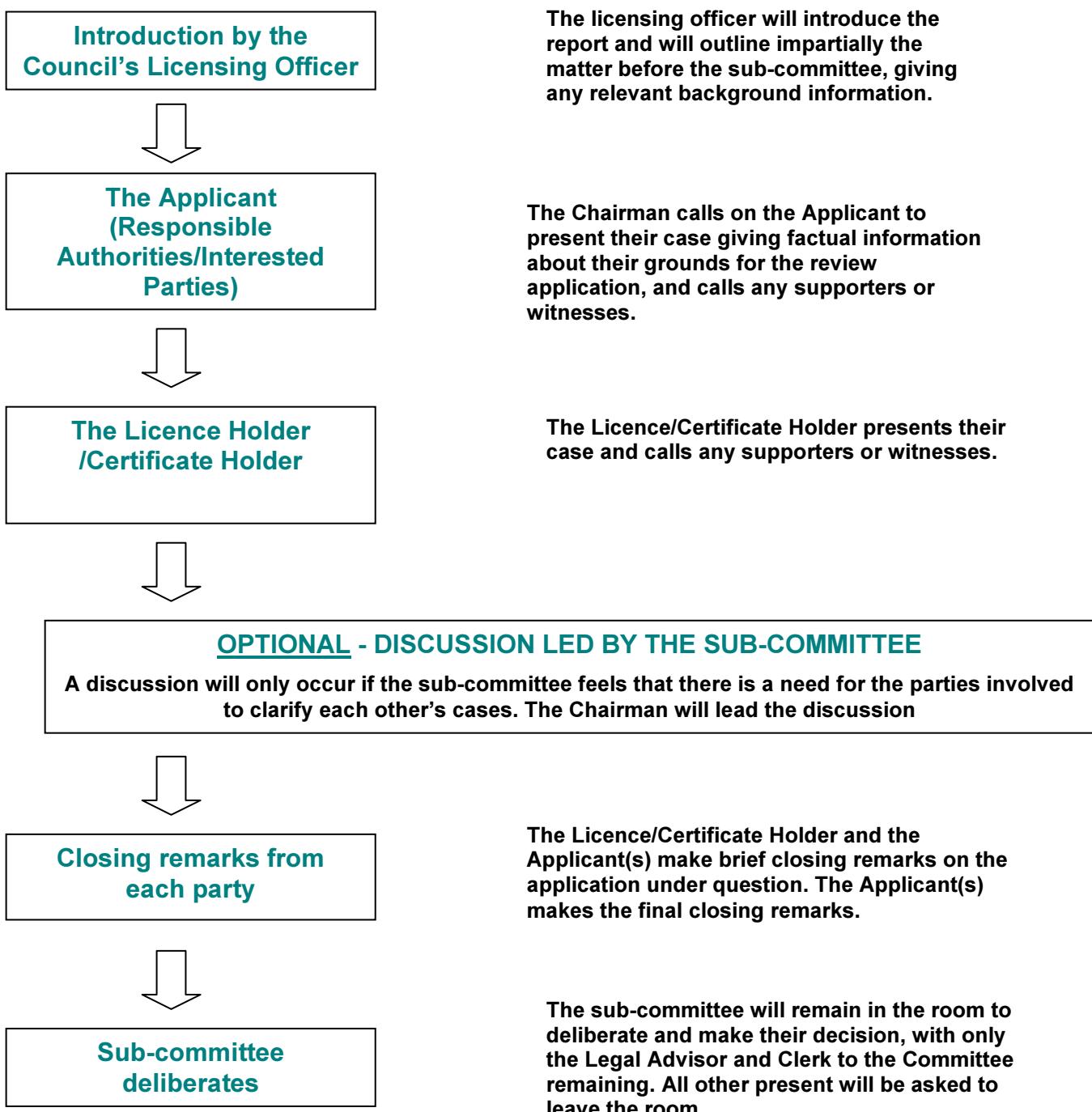
The procedure to be followed at the hearing will normally be as shown in the flow chart below, although all procedural matters will be subject to the discretion of the Chairman. All persons present will be requested to identify themselves and to give the reason for their presence. The sub-committee may consider any request from a party for another person to appear at the hearing as their representative.

It is important to note that cross-examination will not normally be permitted. Evidence, discussion and address must be relevant to the four licensing objectives. Repetition should also be avoided. The sub-committee will seek to prevent irrelevant and repetitive matters.

If, during its deliberations, the sub-committee considers that it is necessary for any person present at the hearing to provide further information or clarification on a particular point the hearing may be reconvened to deal with that issue. The sub-committee can also ask for procedural, technical or legal matter from officers present at any time during the proceedings.

What is the order of proceedings?

The Chairman of the sub-committee will open the hearing by introducing the Councillors explaining the purpose of the proceedings and the general procedure. The Chairman will then check that there are no additions or alterations to the list of those appearing at the hearing, which will have been prepared in advance by the Clerk to the Committee and will then outline the procedure that will be followed for the remainder of the hearing. The procedure is as follows:





Chairman announces the decision

Parties may return to the room when asked and the Chairman announces the decision. The Chairman reminds the Licence/Certificate Holder that the decision will be sent to them in writing. There can be no further questions or statements.

Can a councillor sit on a sub-committee if the application is in their ward?

Councillors who sit on a sub-committee are advised to take steps to minimise their involvement in any application prior to its consideration by the sub-committee so that decisions are seen to be reached at the hearing impartially and with an open mind. Councillors should not appear to be acting both as an advocate on behalf of their residents and as an adjudicator on an application.

If a Councillor on the sub-committee has already taken a view on an application in advance of the hearing, they should not be present for the hearing of the application and should leave the meeting room for that item. They should also not visit any premises under consideration prior to the hearing. In any cases of doubt, the Councillor should not sit on the sub-committee for a particular application. In this instance, a substitute Councillor may need to be found from the main Licensing committee of the Council or the hearing may continue as long as two of the three Councillors are still present.

The agenda papers will show which ward each Councillor sits for and the reports from the Council's Licensing Officer will detail which ward the application is in.

Can a ward Councillor make a representation and or speak at a hearing?

If a ward Councillor, who does not sit on the sub-committee, wishes to make a formal objection to an application they may only do so if they make a written relevant representation as would apply to an Interested Party and in the same way as any other member of the public using the procedures outlined in this protocol. If the ward Councillor believes they have a personal or prejudicial interest in the application, they may still submit a relevant representation.

Ward Councillors, who do not sit on the sub-committee, may also speak at a sub-committee hearing in support or against an application, for example on behalf of their constituents without notice. They may also speak as an advocate or witness on behalf of the applicant or an Interested Party, even if they believe they have a personal or prejudicial interest. However, for the purposes of transparency, at the hearing, the ward Councillor should disclose what their personal or prejudicial interest is and whether they have been in contact with the applicant, agent, Interested Party or responsible authority beforehand or have visited the premises concerned.

Ward Councillors making either a written relevant representation or wish to speak at a hearing should not communicate about the application before the hearing with any Councillors who sit on the sub-committee. This is so the sub-committee makes their decision with an open mind.

What power does the Chairman have to control the meeting?

Under the Licensing act 2003, the Chairman may require any person attending the hearing who is behaving in a disruptive manner to leave the hearing and may refuse to permit that person to return or may permit the person to return only on such conditions as he or she may specify.

How will the sub-committee make its final decision?

Once the sub-committee has heard from officers and the parties to the hearing and has had answers to its questions, the sub-committee will usually withdraw to make its decision on the application. The sub-committee must disregard any information given or evidence produced by a party or witness, which is not relevant to the application, representations or notice or the promotion of the licensing objectives.

Members of the sub-committee have a duty to behave impartially, not to predetermine the issue and not to discuss matters with press or residents. In making its decision the sub-committee must state the reasons for that decision, taking into account the evidence presented by all parties during the hearing.

4. After the Hearing

When will we get formal notice of the decision?

The Chairman will normally announce the Sub-committee's decision in public at the end of the hearing and the reasons for the sub-committee's decision. This decision will then be communicated in writing to the parties as soon as possible after the hearing.

The Council's Legal Advisor will send the premises licence holder a decision letter shortly after the meeting outlining the decision and any conditions that are attached to the licence. In addition, a copy of the decision letter will be sent to all those who made an application for a review in connection with the premises. This will confirm the decision made; any conditions attached to a review application or the reasons for revocation. Details of the respective appeal rights will also be sent with this notice.

The minutes of the meeting will be made available on the Council's website at:
www.hillingdon.gov.uk

Can we appeal against the decision?

Following the decision, the premises licence holder or any person who has made an application for a review can appeal to the Magistrates Court.

How can I find out about other applications in my area?

The council's Licensing Service is required to arrange for a poster to be displayed at, or near, the premises in question when applications for Reviews of premises licences or club premises certificates are received. A poster is also displayed at the Civic Centre.

All applications once they are lodged will be available for viewing on Hillingdon Council's website at www.hillingdon.gov.uk and in the Civic Centre Offices by appointment with the Licensing Service during working hours.



Minutes

LICENSING SUB COMMITTEE (NORTH)

22 October 2014

Meeting held at Committee Room 6 - Civic Centre,
High Street, Uxbridge UB8 1UW

	<p>Committee Members Present: Councillors Dominic Gilham (Chairman), Lynne Allen (Labour Lead) and Carol Melvin</p> <p>Also Present: Applicant: Shabeg Negra - Public Protection Manager Ian Meens - Licensing Officer Ian Wares - Metropolitan Police Service Reenie Eguine - Licence Holder Councillor Judy Kelly</p> <p>LBH Officers Present: Charlene Ellis, Licensing Officer Sarah White, Legal Advisor Gill Oswell, Democratic Services Officer</p>
1.	<p>APOLOGIES FOR ABSENCE <i>(Agenda Item 1)</i></p> <p>No apologies received.</p>
2.	<p>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING <i>(Agenda Item 2)</i></p> <p>There were no declarations received.</p>
3.	<p>TO CONFIRM THAT THE ITEMS OF BUSINESS MARKED PART 1 WILL BE CONSIDERED IN PUBLIC AND ITEMS MARKED PART 2 WILL BE CONSIDERED IN PRIVATE <i>(Agenda Item 3)</i></p> <p>It was confirmed that items marked Part 1 would be heard in public and items marked Part 2 would be heard in private.</p>
4.	<p>MATTERS THAT HAVE BEEN NOTIFIED IN ADVANCE OR URGENT <i>(Agenda Item 4)</i></p> <p>There had been no matters notified in advance or urgent.</p>
5.	<p>RUISLIP SUPERSTORE, 67 STATION APPROACH, SOUTH RUISLIP <i>(Agenda Item 5)</i></p> <p>The Licensing officer introduced the report in respect of an application for the review of a premises licence made by the Council's Environmental Services (A Responsible Authority) under Section 51 of the Licensing Act 2003. The Sub-Committee were informed that that the application to transfer and vary the Designated Premises Supervisor had now been withdrawn.</p>

Representations in respect of the application had been received from the Metropolitan Police Service, a Ward Councillor and South Ruislip Residents Association in support of the review on Crime Prevention licensing objective.

The Sub-Committee heard from the applicant for the review, Shabeg Negra, Public Protection Manager who set out the reason for bringing the review, which related to continued breaches and general mis-management by the Licence Holder. Mr Ian Meens was called as a witness by Mr Negra

The Sub-Committee heard representations from Ian Wares - Metropolitan Police and a Ward Councillor in support of the application for a review.

The Licence Holder then addressed the Sub-Committee and advised that she and her husband had been running the shop since August 2014 and had installed a CCTV system in August that retained footage for a 30 day period. The Licence Holder made it clear that her mother had not worked in the shop since August and that since this time she had ensured that the shop closed on time every evening.

Following deliberation, the Sub-Committee unanimously agreed that the application be deferred to enable officers to carry out a full compliance check and for CCTV footage to be provided for the 30 days prior to the hearing.

The Sub-Committee considered that the information requested was relevant in considering the review in light of the information provided by the Licence Holder.

Decision – That the application be deferred to enable:-

- 1) A full compliance check to be carried out.**
- 2) CCTV footage for the 30 day period prior to the hearing to be provided.**

The meeting, which commenced at 2.00 pm, closed at 4.20 pm.

These are the minutes of the above meeting. For more information on any of the resolutions please contact Gill Osswell on 01895 250693. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

Agenda Item 6

APPLICATION FOR THE REVIEW OF A PREMISES LICENCE

Committee	Licensing Sub-Committee (North)
Officer Contact	Stephanie Waterford, Licensing Service swaterford@hillingdon.gov.uk 01895 277232
Papers with report NOT FOR PUBLICATION The appendices contain confidential or exempt information and are included in Part 2	<ul style="list-style-type: none">• Appendix 1 – Inspection report by Ian Meens, Licensing Service• Appendix 2 – Further statement from Ian Meens, Licensing Service• Appendix 3 – Statement from PC Chris Troughton• Appendix 4 – Submissions made by the Licence Holder for consideration by the Licensing Sub-Committee

Ward(s) affected	South Ruislip
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SUMMARY

The Licensing Sub-Committee are being reconvened to conclude the hearing to consider an application for a Review of a premises licence in respect of **Ruislip Superstore, 67 Station Approach, South Ruislip, HA4 6SD**.

RECOMMENDATION

That the Licensing Sub Committee conclude the review of the premises licence and make a determination.

INFORMATION

1. The Licensing Sub-Committee is being reconvened to conclude the Ruislip Superstore Review application.
2. The original hearing took place on 22nd October 2014 and the full report is available online at <http://modgov.hillingdon.gov.uk/ieListDocuments.aspx?CId=300&MId=2221>
Hard copies are available from Democratic Services.
3. At the meeting of the Licensing Sub-Committee on Wednesday 22nd October 2014, Members deferred determination of the review application in order for further information to be received and verification checks to take place at the premises.
4. A number of checks have taken place including a full compliance visit carried out by Ian Meens of the Licensing Service and a technical appraisal of the installed CCTV system by the Metropolitan Police Service.

5. Ian Meens carried out a full Licensing Compliance inspection on 23rd October 2014. A number of compliance issues were noted and statement giving details of the inspection is annexed as **APPENDIX 1**.
6. A further statement from Ian Meens is attached as **APPENDIX 2**,
7. On Tuesday 28th October 2014, Acting Police Sergeant Wares visited the premises accompanied by PC Chris Troughton, a visual images specialist from the Metropolitan Police Service.
8. The Licence Holder, Ms Reeni Eguine, has also been given an opportunity to submit any relevant documents to be considered by the Licensing Sub-Committee. These are annexed as **APPENDIX 4**
9. Ms Eguine has also provided the Authority with the CCTV hard drive from the premises. An Officers report giving the findings of the CCTV footage, once viewed, will be available to the Licensing Sub-Committee at the meeting.

LEGAL IMPLICATIONS

10. The licensing authority must review the premises licence where it is alleged in an application for review by a Responsible Authority or other persons that any of the licensing objectives are being undermined.
11. "Relevant representations" are those which :—
 - Are relevant to one or more of the licensing objectives;
 - Are made by a Responsible Authority or other persons within the prescribed period;
 - Are made by the holder of the premises licence in response to an application for a review of the said premises;
 - Have not been withdrawn; and
 - If made by other persons, that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.

The four licensing objectives are –

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

Each objective must be considered to be of equal importance

12. The Licensing Sub-Committee must also consider the London Borough of Hillingdon's Licensing Policy when what action, if any, to instigate. The terms of the Statement of Licensing Policy are highly persuasive, but not binding, on the Licensing Sub-Committee. The Licensing Sub-Committee may depart from the guidance contained in the Statement of Licensing Policy if it considers there are clear and convincing reasons to do so.

Where there is a conflict between the Licensing Act 2003 and the Statement of Licensing Policy, the Licensing Act must prevail.

13. Members are required to have regard to the Home Office Guidance in carrying out the functions of Licensing Authority. However, guidance does not cover every possible situation, so long as the guidance has been properly and carefully understood, members may depart from it if they have reason to do so. Full reasons must be given if this is the case.
14. The sub-committee may decide to: –
 - Take no action
 - Modify the conditions of the licence by altering, omitting or adding any condition;
 - Issue a formal warning, recommending an improvement within a specified time frame;
 - Exclude a licensable activity from the scope of the licence;
 - Remove the designated premises supervisor;
 - Suspend the licence for a period not exceeding three months; or
 - Revoke the licence.

For this purpose the conditions of a premises licence are modified if any of them are altered or omitted or any new condition is added. Modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months.

15. The Sub-Committee 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 deciding what remedial action if any it should take, the Sub-Committee must direct its mind to the causes or concerns which the representations identify. The remedial action should generally be directed at these causes and should always be no more than a necessary and proportionate response.

It is of particular importance 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 in the circumstances that gave rise to the application for review.

16. **Conditions**

Conditions will not be necessary if they duplicate a current statutory requirement.

Members are also referred to the Home Office guidance on conditions, specifically section 10 which states that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises. Conditions should be determined on a case by case basis and standardized conditions which ignore these individual aspects should be avoided. Licensing Authorities and other Responsible Authorities should be alive to the indirect costs that can arise because of conditions.

Licensing Authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

17. **Notification of Determination**

Where the Licensing Authority determines an application for review it must notify the determination and reasons for making it to: –

- The holder of the licence;
- Any person who made relevant representations;
- The chief officer of police for the area (or each police area) in which the premises are situated

18. **The Role of the Licensing Sub-Committee**

Sub-Committee members will note that, in relation to this application, the Council has multiple roles. Council officers from various departments have been asked to consider the application from the perspective of the Council as authority responsible respectively for environmental health, trading standards, health and safety, public health and as the planning authority.

Members should note that the Licensing Sub-Committee is meeting on this occasion solely to **perform the role of the Licensing Authority**. The Sub-Committee sits in quasi-judicial capacity, and must act impartially. It must offer a fair and unbiased hearing of the application. In this case, Members should disregard the Council's broader policy objectives and role as statutory authority in other contexts. Members must direct themselves to making a determination solely based upon the Licensing Law, Guidance and the Council's Statement of Licensing Policy.

As a quasi-judicial body the Licensing Sub-Committee is required to consider the application on its merits. The Sub-Committee must take into account only relevant factors, and ignore irrelevant factors. The decision must be based on evidence, that is to say material, which tends logically to show the existence or non-existence of relevant facts. The Licensing Sub-Committee must give fair consideration to the contentions of all persons entitled to make representations to them.

The Licensing Sub-Committee is entitled to consider events outside of the premises if they are relevant, i.e. are properly attributable to the premises being open. The proprietors do not have to be personally responsible for the incidents for the same to be relevant. However, if such events are not properly attributable to the premises being open, then the evidence is not relevant and should be excluded. Guidance is that the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

The Sub-Committee can only consider matters within the application that have been raised through representations from Responsible Authorities and other persons. This will be decided on a case to case basis.

Under the Human Rights Act 1998, the Sub Committee needs to consider the balance between the rights of the applicant and those making representations to the application when making their decision. The Sub-Committee has a duty under section 17 Crime and Disorder Act 1998 when making its decision to do all it can to prevent crime and disorder in the Borough.

Responsible Authorities, other persons and the applicant have the right to appeal the decision of the Sub-Committee to the Magistrates' Court within a period of 21 days

beginning with the day on which the applicant was notified by the Licensing Authority of the decision to be appealed against.

19. **FINANCIAL IMPLICATIONS**

Members should be aware that the Residents Services does not have a budget for provision for costs, should the applicant be successful in appealing to the Court against a decision of the Council. In the event that a Court was to uphold an appeal, officers would need to identify how the costs would be funded before action could be taken in order to comply with Council financial policy.

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By virtue of paragraph(s) 7 of Part 1 of Schedule 12A
of the Local Government (Access to Information) Act 1985 as amended.

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