

Merton Council

Licensing Committee

Membership

Jeff Hanna (Chair)

David Simpson CBE (Vice-Chair)

Stan Anderson

Michael Bull

Tobin Byers

Pauline Cowper

Joan Henry

Philip Jones

John Sargeant

Linda Taylor OBE

Gregory Patrick Udeh

Jill West

A meeting of the Licensing Committee will be held on:

Date: 24 February 2015

Time: 7.15 pm

Venue: Committee rooms B & C - Merton Civic Centre, London Road, Morden SM4 5DX

Merton Civic Centre, London Road, Morden, Surrey SM4 5DX

This will be followed by a meeting of the Licensing Committee (miscellaneous) to deal with any licensing matters which are not within the scope of the Licensing Act 2003.

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Licensing Committee

24 February 2015

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Note on declarations of interest

Members are advised to declare any Disclosable Pecuniary Interest in any matter to be considered at the meeting. If a pecuniary interest is declared they should withdraw from the meeting room during the whole of the consideration of that matter and must not participate in any vote on that matter. If members consider they should not participate because of a non-pecuniary interest which may give rise to a perception of bias, they should declare this, withdraw and not participate in consideration of the item. For further advice please speak with the Assistant Director of Corporate Governance.

All minutes are draft until agreed at the next meeting of the committee/panel. To find out the date of the next meeting please check the calendar of events at your local library or online at www.merton.gov.uk/committee.

LICENSING COMMITTEE

27 NOVEMBER 2014

(19.15 - 20.50)

PRESENT

Councillors:

Jeff Hanna (in the Chair), David Simpson,
Stan Anderson, Michael Bull, Tobin Byers, Pauline Cowper,
Joan Henry, Philip Jones, John Sargeant, Linda Taylor,
Gregory Udeh and Jill West

Also present:

Chris Lee, Director of Environment and Regeneration, Barry
Croft, Licensing Manager, David Ryan, Technical Officer, Street
Trading, Paul Foster, Head of Regulatory Services, Janet
Pinkney, Safer Merton Manager, Hilary Gullen, Democratic
Services Officer

1 DECLARATIONS OF INTEREST (Agenda Item 1)

None

2 APOLOGIES FOR ABSENCE (Agenda Item 2)

None

3 MINUTES FROM THE MEETING HELD 12TH JUNE 2014 (Agenda Item 3)

Agreed

4 LICENSING AND GAMBLING LEGISLATION (Agenda Item 4)

Joint Regulatory Services Partnership

Barry Croft spoke to this item, explaining it was early days for the partnership, having come into effect on 1st August, and the purpose of the report was to identify how things have changed under licensing. Barry Croft stated that his role was purely for licensing for the two local authorities, Merton and Richmond.

Resolved: The report was noted by the committee

Review of the Statements of Merton's Licensing and Gambling Policies

Barry Croft spoke to this item, and described that he was going to suggest changes to the licensing and gambling policies with a view to making them more robust and/or flexible. A completed document would then be drafted for agreement by the committee to be taken to full council for adoption. Barry Croft will bring the proposed changes to the licensing committee meeting on 24th February.

Resolved: The committee noted the report, and agreed that the current policy documents, together with the proposed changes, should be considered at its meeting on 24 February 2015.

Consideration of a Cumulative Impact Zone Being Introduced in Mitcham Town Centre

The Chair introduced this part of the item by referring to the joint discussion with Cllr Draper, Barry Croft and himself, when the possibility of a No-Drinking had also been discussed. Subsequently Barry Croft had provided the Chair with copies of recent guidance documents. He had also explained this item was not technically under the jurisdiction of the licensing committee, and that it was a Safer Merton item. Chris Lee was therefore attending on behalf of Safer Merton to explain the current regulations. Chris Lee stated that it was relevant to the committee in how to restrict antisocial behaviour related to alcohol consumption.

Chris Lee gave the committee information about the Designated Public Place Order (DPPO) which gives police the power to ask anyone consuming alcohol anywhere in the borough to stop where they believe they may cause anti-social behaviour. If they refuse and continue to drink, this is then an offense where the police may issue a penalty notice or arrest the offender leading to prosecution and a level 2 fine. The legislation came to an end in October 2014, and new legislation in the form of the ASB Crime and Policing Act 2014 came in giving a range of new powers. The effect of the new legislation is to allow the DPPO to be extended for a maximum of 3 years. The current borough wide order can therefore run for up to another 3 years if the local authority and police so wish.

The new legislation provides for, amongst other things, a Public Space Protection Order (PSPO). To be designated by the Local Authority. This would require evidence to be available to show need and consultation with the Police and community representatives before being established. If a PSPO is established then Designated Local Authority Officers, PCSOs and Police Officers can enforce behaviour prohibited in the designated area in a similar way to DPPOS. If a member of the public refused to refrain from drinking then the potential sanctions available include a fixed penalty notice, or arrest by a Police Officer [leading to prosecution and a level 3 fine.

Chris Lee explained that the borough could continue with the existing order, that any new powers would need consultation, it would be debatable whether this could be a borough wide order but that it could be enforced by more people (although limited to appropriately designated officers who would require training), and that there would be a broader range of sanctions

Chris Lee clarified that the legislation is not a ban on drinking, but enforcement of those who refuse to stop when asked by appropriate officers. Some people misleadingly refer to No Drinking Zones – these are the same as CDZs but by a different name. There is no current legislation that bans alcohol from a public space. In response to member questions, Chris Lee said the current legislation had been used successfully and that the Police believed the current arrangements were

working well. Chris Lee also explained that the PSPO can be used to deal with other issues, such as dog control. The new legislation would cover an area agreed by the council and police, in consultation, and based on evidence (as there would be the potential for judicial review).

The Chair expressed surprise that the police felt that arrangements were working well, referring to a confidential police report which indicated a different view. Chris Lee stated that it would be advisable to see how the rest of the country manages with the new legislation (for around 6 months) before considering changing our arrangements. However, discussions with the Police support the belief that Merton currently has sufficient powers and were keen to see how the new legislation was utilised elsewhere before considering its use in Merton.

Members discussed Cumulative Impact Zones (CIZ), and how it was difficult for new applicants to get licences and how more data was required giving detail of the CIZ in Wimbledon and whether the issues in Mitcham differed.

Concern was expressed not to discourage businesses in Mitcham providing facilities for consumption on the premises, but possibly to address the number of off-licences, this being a factor in street drinking.

Barry Croft confirmed that a CIZ may be framed so as to target the type of licenced premises affected in this way. He stated that data would be available in February, as it formed part of the debate about the CIZ in Mitcham on which area and how many roads would be involved. Barry Croft also explained the current policies need to be under constant review, and how there was no requirement for evidence, but his advice was to gather it in support of any decisions.

Barry Croft also felt it might be possible to get data on the number of instances of relevant crime, disorder and nuisance by locality from the borough commander.

Resolved: The Licensing Committee noted the possibility of a PSPO, and requested a written report from Safer Merton to be brought to its June meeting, setting out the procedures and implications, and any experience gained from other authorities who had already introduced PSPOs.

The Licensing Committee also noted the possibility of a Cumulative Impact Zone for Mitcham, requested a report to its February meeting on the procedure and implications, suggesting a possible zone, and providing relevant data regarding outlets and rates of crime, disorderly behaviour and nuisance by locality.

Voluntary Restriction on High Strength Beers and Ciders in Mitcham Town Centre

In response to members' questions, Barry Croft stated that this was an ongoing initiative which had started in Ipswich to resolve issues with street drinking. The voluntary code had had a big effect. It had been requested by the local police and remained voluntary. The off licence trade was able to self-impose conditions on the strength of alcohol sold. If 'big players' became involved, it was felt that smaller traders might follow suit.

Barry Croft also gave the example of a street drinking problem in the London Borough of Richmond, that had been controlled via a voluntary code, and therefore it would be worth trying in Merton.

A member stated that the current licensing sub committees were imposing restrictions for new license applications for high strength beers, so action was already being taken.

Resolved: The Licensing Committee noted the report.

Updates on Licensing Legislation

Barry Croft gave the committee information on the proposed Home Office changes to the requirement for renewal of personal licences.

Resolved: The Licensing Committee noted the report.

5 THE DESIGNATION OF PARTS OF THE HIGHWAY FOR THE PURPOSES OF STREET TRADING (Agenda Item 5)

David Ryan gave the committee information about street trading licences, that they cover a designated area, not the whole street, to enable appropriate enforcement, and that the sole reason for turning down an application was that the business could not be conducted in the space provided by the designated area. The committee considered the following applications:

M & J Halal Meat (Please number these in line with the agenda)

Committee agreed the recommendation

Rana Food & Halal Meat

Committee agreed the recommendation

Nordic Style

Committee agreed the recommendation

Top Fashion Hair & Beauty

Committee agreed the recommendation

Madura Fancy & Giftware

Committee agreed the recommendation

Brew

Committee agreed the recommendation

Monkeys

Committee agreed the recommendation

The Old Fizzle

Committee discussed the possibility of customers straying out of the designated area on the Broadway and the benefits of an appropriate barrier was used on the Broadway frontage.

Resolved: The Licensing Committee agreed the recommendation subject to a condition requiring an appropriate barrier on the Broadway frontage of the designated area.

Patisserie Valarie

Committee agreed the recommendation

80 Morden Road

Committee agreed the recommendation

The 'Island Site'

Committee had concerns relating to the narrowness of the area, the high footfall, particularly on special event days, that horse-riders were potentially at risk from surprise from customers using the van catering service, the existence of a table and chairs outside the designated area as shown in the photograph and whether the van canopy exceeded the designated area.

David Ryan confirmed that the issue of the table and chairs has been raised, but he was unaware as to whether they had been brought back into use. He was unaware of the dimensions of the van.

Resolved: The Licensing Committee agreed to defer the decision to the February meeting in order to have more information on the size of the designated area, the area occupied by the van when the canopies were in use, and the possibility of de-designation of the area (without prejudice). Committee also agreed that a temporary licence be issued to the end of March.

Committee: Licensing Committee

Date: 24 February 2015

Agenda item: 4

Wards: All.

Subject: Update of the Council's Statement of Licensing Policy, proposed Cumulative Impact Zone for Mitcham Town Centre and timetable for the update of the Council's Statement of Principles under the Gambling Act 2005.

Lead officer: Chris Lee, Director of Environment and Regeneration.

Lead member: Councillor Nick Draper, Cabinet Member for Community and Culture.

Forward Plan reference number: N/A

Contact Officer: Barry Croft, Licensing Manager, London Boroughs of Merton and Richmond upon Thames Joint Regulatory Services Partnership and Guy Bishop Senior Lawyer Litigation and Planning Team.

Recommendations:

- A. The Licensing Committee to approve the recommended amendments to the revised Statement of Licensing Policy before the start of public consultation.
 - B. The Licensing Committee to discuss and debate recommendations contained within this report in respect of the proposed Cumulative Impact Zone (CIZ) for Mitcham Town Centre.
 - C. The Licensing Committee to note the timetable for the update of the Council's Statement of Principles under the Gambling Act 2005.
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1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 There is a statutory requirement under section 5 (1) of the Licensing Act 2003 (as amended) for the Council to review and re-publish its Statement of Licensing Policy every five years.
- 1.2 Combined with the review and re-publication of the Council's Statement of Licensing Policy, consideration is to be given to a new Cumulative Impact Zone (CIZ) for Mitcham Town Centre, the extent of the proposed CIZ and type of licensed premises the CIZ is to cover before the Licensing Authority starts its public consultation. It is proposed the CIZ for Mitcham Town Centre covers the following:
 - London Road Mitcham;
 - Holborn Way; and
 - Upper Green.

- 1.3 There is a statutory requirement under section 349 of the Gambling Act 2005 for the Council to review and republish its Statement of Principles under the Gambling Act 2005 every three years.

2. DETAILS.

2.1 Review of the Statements of Licensing Policy for the London Borough of Merton.

There is a statutory requirement under the Licensing Act 2003 for the Council to review and re-publish its Statement of Licensing Policy every five years. The requirement to review and re-publish the Council's Statement of Licensing Policy was extended from three to five years by an amendment to the Licensing Act 2003 brought about by the Police Reform and Social Responsibility Act 2011. The current Statement of Licensing Policy will expire on 6th January 2016.

As part of the work already undertaken by the Licensing Manager and the Senior Lawyer and legal advisor to the Licensing Sub-Committee, work has been completed showing legal and licensing amendments arising from legislative changes. These changes are shown in the attached draft Statement of Licensing Policy, at appendix "A" with track changes for members to consider.

Counsel was instructed to check the alterations made, and to offer legal opinion. Counsel's legal opinions on the proposed changes are also shown in the attached draft Statement of Licensing Policy at appendix "A" for members to consider.

Following this meeting it is proposed that officers of the Licensing Authority shall meet with all Responsible Authorities before the start of the public consultation period. This meeting will enable officers to discuss the proposed changes to the Council's Statement of Licensing Policy, and to take into consideration points a Responsible Authority may want to present for consideration during the public consultation of the document. It is proposed details, comments and points raised during this meeting will be brought before a meeting of the Licensing Committee on the 9 June 2015. This will enable members to consider any final changes or proposed amendments before the start of the public consultation period.

If agreed, the draft Statement of Licensing Policy will be circulated for public consultation starting on the 22 June 2015. It is recommended that the public consultation period shall last for a minimum period of twelve weeks (three months).

As part of the consultation processes, following the Licensing Committee meeting on 9 June 2015, the Licensing Authority will write to all responsible authorities notifying them of the start of the public consultation and of the proposed changes.

The Licensing Authority does not propose to distribute paper copies of the draft Statement of Licensing Policy, but it will be available in electronic format on the Council's website. An on-line questionnaire will also be created for use of those responding during the consultation period.

Details of the responsible authorities are as follows:

- The local Chief Officer for the Metropolitan Police;
- The London Fire and Emergency Planning Authority;
- The local Planning Authority;
- The Director of Public Health;
- The local Children's Safe Guarding Board;
- The Manager of the local Environmental Health Team; and
- The Manager of the local Trading Standards Team;

The Licensing Authority will also notify the following organisations or individuals:

- Safer Merton;
- The British Transport Police;
- All local Ward Councillors;
- Local area forums;
- The Musician's Union and Equity;
- Persons/bodies representing local holders of premises licenses;
- Persons/bodies representing local holder of club premises certificates;
- Persons/bodies representing local businesses; and
- Local residents associations.

Electronic submissions of responses to the consultation for the revised Statement of Licensing Policy will be encouraged. This will ensure the process is cost efficient, and it should save time for local residents, businesses, responsible authorities and any person wishing to make comment of the proposed changes.

Following the end of the public consultation period, which it is proposed will end at midnight on Monday 14 September 2015; officers of the Licensing Authority will collate comments received. Details of the comments received and any suggested changes to the draft Statement of Licensing Policy will be made available to members for discussion at a meeting before the Licensing Committee on a date yet to be confirmed.

Following this meeting if Committee members agree to the proposed amendments to the draft Statement of Licensing Policy, the Licensing Committee shall recommend adoption by Full Council that will formally adopt the revised Policy. It is proposed to take the final draft of the Statement of Licensing Policy to a Full Council meeting scheduled to take place on Wednesday 18 November 2015 for adoption.

2.2 **Consideration of a Cumulative Impact Zone (CIZ) to be introduced for Mitcham Town Centre.**

At the previous Licensing Committee meeting held on the 27th November 2014, a section of a report published for that meeting covered a proposal to introduce a Cumulative Impact Zone (CIZ) for Mitcham Town Centre.

The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for the grant or variation of premises licences or club premises certificates which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations, following relevant representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

There are currently two CIZs in the borough, one in Wimbledon Village, the other in the Wimbledon town centre area.

The adoption of a CIZ requires that it be included in the Statement of Licensing Policy, following the procedure described in this report, meaning that the matter must effectively be decided by Full Council.

The steps that must be followed when considering the adoption of a CIZ are governed by Chapter 13 of the Guidance issued under Section 182 Licensing Act 2003. Those steps are as follows:

1. Identify concern about crime and disorder; public safety; public nuisance; or protection of children from harm;
2. Consider whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or the protection of children from harm;
3. If such problems are occurring, identify whether these problems are being caused by the customers of licensed premises, or that the risk of cumulative impact is imminent;
4. Identify the boundaries of the area where problems are occurring (this can involve mapping where the problems occur and identifying specific streets or localities where such problems arise); and

Consult those specified in section 5(3) of the 2003 Act, and subject to the outcome of the consultation, include and publish details of the special policy in the licensing policy statement.

Paragraph 13.23 stipulates that “ ... *There must be a clear evidential basis for the decision to include a special policy within the statement of licensing policy ...*” The Guidance then goes on to list the information from which the necessary evidence can be gleaned, which includes crime and disorder statistics; complaints made to the police and local authorities regarding anti-social behaviour and environmental health issues; complaints made to the local authority by local residents; residents’ questionnaires; evidence from local councillors and evidence obtained from local consultation.

The Guidance also states that the authority can also take into consideration such matters as trends in licensing applications, for example the type of application and terminal hours; changes in terminal hours to premises and the capacity of premises at various times of the day.

The Guidance also states that where the local authority believe that where there are problems in an area resulting from the cumulative impact of licensed premises, and where the information to support that assertion is insufficient or not readily available, it can consider undertaking or commissioning a specific study to assess the position.

The consultation process involves contacting various parties, namely:

- The Chief Officer of Police for the Licensing Authority’s area;
- The Fire and Emergency Planning Authority for that area;
- Such persons as the Licensing Authority considers to be representative of holders of premises licences issued by that authority;
- Such persons as the Licensing Authority considers to be representative of holders of club premises certificates issued by that authority;
- Such persons as the Licensing Authority considers to be representative of holders of personal licences issued by that authority; and
- Such other persons as the Licensing Authority consider being representative of business and residents in its area.

Part of the twelve week (three months) public consultation process will focus on the proposed introduction of a CIZ for Mitcham Town Centre. It will also ask for comment and take views on the proposed area the CIZ in Mitcham Town Centre is to cover. Attached to this report at appendix “B” is a map showing the proposed area of the CIZ for Mitcham Town Centre and the roads to be covered, which include:

- London Road Mitcham;
- Holborn Way; and

- Upper Green.

Members are asked for their views on this proposal to ensure the area and roads suggested to be covered by the Mitcham Town Centre CIZ are suitable and sufficient before the start of the public consultation.

Evidence will be sought from Responsible Authorities including Safer Merton, Public Health England and the Local Police. Details of evidence collated will be made available to members at a later Licensing Committee hearing, together with details of the responses received during the public consultation period.

Members are also asked to consider what licensable activities the proposed CIZ for Mitcham Town Centre is to cover. For example the CIZ could cover premises which sell alcohol for consumption off the premises (off licensed premises) only or it could cover all types of licensed premises including pubs, bars, restaurants and late night refreshment premises.

2.3 **Review of the Statement of Principles under the Gambling Act 2005.**

There is a statutory requirement under the Gambling Act 2005 (the Act) for the Council to review its Statement of Principles under the Gambling Act 2005 every three years and the current Statement of Principles will expire on 31 January 2016.

It is proposed to lay the revised draft of the Statement of Principles under the Gambling Act 2005 before members at the next Licensing Meeting due to take place on (*details of day and date required from Democratic Services*).

Following this meeting a public consultation process, similar to that proposed for the revised Statement of Licensing Policy under the Licensing Act 2003 will be required.

3. **Alternative options.**

- 3.1 Members may choose to increase the proposed area as suggested for the Cumulative Impact Zone for Mitcham Town Centre.
- 3.2 Members may choose not to implement or agree to the proposed Cumulative Impact Zone for Mitcham Town Centre.

4. **Consultation undertaken or proposed.**

- 4.1 A twelve week (three month) public consultation to be undertaken on the proposed revisions to the Statement of Licensing Policy and proposed Cumulative Impact Zone for Mitcham Town Centre.

5. **Timetable.**

- 5.1 Draft Statement of Licensing Policy to be used for public consultation to be brought before the Licensing Committee meeting on Tuesday 9 June 2015.
- 5.2 Public consultation to start on Monday 22 June 2015. Public consultation to last for a twelve week period.

5.3 Comments received during the public consultation period and the final draft of the Statement of Licensing Policy to be submitted before the Licensing Committee on (date of meeting to be confirmed in due course).

5.4 Statement of Licensing Policy to go to Full Council meeting for adoption on Wednesday 18 November 2015.

6. Financial, resource and property implications.

6.1 None for the purposes of this report.

7. Legal and statutory implications.

7.1 None for the purposes of this report.

8. Human rights, equalities and community cohesion implications.

8.1 These are statutory functions and are applied globally.

9. Crime and Disorder Implications.

9.1 The service has a statutory duty to contribute to the reduction of crime and disorder within the London Borough of Merton under Section 17 Crime and Disorder Act 1988. The prevention of crime and disorder is also one of the licensing objectives as defined in the Licensing Act 2003 and in the Council's current Statement of Licensing Policy.

By examining issues raised such as the possible adoption of a CIZ in Mitcham town centre and the possible introduction of a scheme to limit the sale of high strength alcohol, the licensing authority is contributing to that commitment.

10. Risk management and health and safety implications.

10.1 All risk and health and safety implications have been considered when compiling this report. None are apparent.

11. Appendices – the following documents are to be published with this report and form part of the report.

11.1 Appendix "A" Draft revised Statement of Licensing Policy showing proposed changes using track changes and Counsels opinion.

11.2 Appendix "B" Map showing the proposed area of the Cumulative Impact Zone for Mitcham Town Centre.

12. Background Papers – the following documents have been relied on in drawing up this report but do not form part of the report.

12.1 The Licensing Act 2003; and

12.2 Revised guidance issued under section 182 of the Licensing Act 2003.

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LONDON BOROUGH OF MERTON



STATEMENT OF LICENSING POLICY

(Draft) TO BE ADOPTED 6th JANUARY 2016



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Comment [GG1]: Page numbers will need correcting once draft is finalised (they do not currently match the actual pagination)



1. The Licensing Act 2003 – Policy and Scope

- 1.1 The Licensing Act 2003 (“the Act”) gained Royal Assent on 10 July 2003 and established a single integrated scheme for licensing premises which are used for the sale or supply of alcohol, to provide regulated entertainment, or to provide late night refreshment. These activities are known as “licensable activities”. ~~repealed most of the existing legislation relating to liquor, entertainment and night cafe licensing (late night refreshment) and replaced it with a totally new licensing regime. The Act came into force in November 2005. Responsibility for liquor licensing was transferred from the Magistrates Court to Local Authorities. All licence applications are published on Merton’s web site (www.merton.gov.uk/licensing).~~
- 1.2 ~~Under the Act, Merton Council became the Local Authorities became~~ licensing authority responsible for authorising and regulating licensable activities in the London Borough of Merton. ~~ies for All licence applications received under the Act are published on Merton’s website (www.merton.gov.uk/licensing). the purposes of liquor licensing, entertainment and late night refreshment.~~
- ~~1.3 Merton Council became the licensing authority within the London Borough of Merton under the provisions of the Licensing Act 2003. For the purposes of this policy~~ policy, reference to Merton is in relation to its function as a Licensing Authority unless otherwise specified.
- 1.4 The London Borough of Merton is situated in the South West of Greater London. Merton is generally “greener” and more suburban than most other London Boroughs. The Borough is predominantly a residential area. Its, the borough comprises of properties, which are bare both wide ranging in character and are often of a high quality. The Council’s strategic objectives include improving the quality of life for residents and businesses alike. They will benefit from a cleaner and more attractive physical environment and improved access to high quality housing, transport systems, learning opportunities and jobs. The Council will also maintain our current position as a low crime borough and our residents will continue to see Merton as a safe place to live, work and learn. Relationships between Merton’s many diverse communities will be positive.
- 1.5 The Borough has five principal areas namely Raynes Park, Colliers Wood, Mitcham, Morden and Wimbledon. At present, the Council is responsible for the licensing of some 500 premises for the sale or supply of alcohol (e.g. off-licences, restaurants, public houses, bars, registered clubs etc). In addition, the licensing authority is responsible for granting the grant of personal licences to individuals these wishing to sell or supply alcohol. Some licensed premises are in residential areas. A greater number are located in town centres which are often on a single main road with commercial uses backing onto residential streets. In addition, town centre buildings may contain flats on their upper floors. Customers of Parking by customers of licensed premises may often park also take their vehicles e in residential streets.
- 1.6 The busiest of these areas is Wimbledon (comprising the Town Centre and Village, the former being approximately twice the size of the latter), which has the highest density of leisure and entertainment venues in the Borough.
- 1.7 Of paramount importance, the Act requires the Licensing Authority Merton, to carry out its various licensing functions with a view to so as to promote the following licensing objectives:
- The prevention of crime and disorder;

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Licensing Policy

- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

Each of these licensing objectives is of equal importance.

- 1.8 Under the Act, the Licensing Authority Merton is required to publish a Statement of Licensing Policy with respect to the exercise of its licensing functions. Merton's The London Borough of Merton's first Statement of Licensing Policy was prepared in accordance with the provisions of the Act and with regard to the Secretary of State's Guidance issued under Section 182 of the Act. It and was adopted by the Council on 05 January 2005. In accordance with the Act, our Policy document was reviewed and re-adopted by the Full Council in December 2007. -This document is the second review of Merton's the London Borough of Merton's Statement of Licensing Policy.
- 1.9 Licensing law and policy The legislation is a recognition that in a modern and vibrant society the licensable activities covered by this Act covers require a more responsive and flexible system that balances the interests of commerce and its customers with the rights of residents to enjoy their homes and locality without being unreasonably disturbed. One of the purposes of this Policy is to will ensure that local people and visitors to the London Borough Borough of Merton will have better opportunities to enjoy their leisure time safely without fear of violence, intimidation or disorder. while on, arriving at or leaving licensed premises. Another intention of the policy is to ensure that local residents are not unreasonably disturbed, whether in the street or at home, by activities within licensed premises or by customers arriving at or leaving licensed premises.
- 1.10 An effective Licensing Policy, alongside other initiatives, can work towards promoting positive aspects of the licensed economy, such as increasing the leisure industry provision for the community and encouraging regeneration of town centres and providing communal hubs, as well as controlling the negative impacts which affects residents, such as an increase in noise, nuisance, anti-social behaviour and crime and disorder.

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2. Types of Licences

- 2.1 The types of licences and authorisations available under the Licensing Act 2003 include are:
- premises licences;
 - club premises certificates;
 - temporary events notices (standard and late);
 - provisional statements; and
 - personal licences in respect of the sale and/or supply of alcohol; the provision of regulated entertainment; and late night refreshment.



3. The Policy

3.1 ~~The Act requires that Merton carry out its various licensing functions so as to promote the following four licensing objectives:~~

- ~~the prevention of crime and disorder;~~
- ~~public safety;~~
- ~~the prevention of public nuisance; and~~
- ~~the protection of children from harm.~~

Comment [GG2]: This paragraph is a repeat of paragraph 1.7, so I have removed it. Paragraph numbering will need altering on final version.

3.2 This Statement of L-licensing Ppolicy serves 4 main purposes: ~~that are:~~

- To ~~reinforce guide to~~ elected Members sitting on the Licensing Committee and Sub-Committees, as well as and Officers with delegated authority, on the boundaries and powers of the licensing authority, and to provide them with guidance parameters u when nder which making decisions to make their decisions. ~~Members~~The committee and officers should be able to test any the application against the criteria set out in this Pe policy ~~and if necessary add conditions to those set out in the operating schedule;~~
- To inform ~~and assist the licence potential~~ applicants for a licence ~~s~~ of the expectations of the licensing authority and -factors that will be considered parameters under which the licensing authority when making will make licensing decisions; ~~and therefore how a licensed premises is likely to be able to operate within an area;~~
- To inform ~~and assist~~ responsible authorities and other persons (including residents and residents' bodies) ~~authorised persons, interested parties and responsible authorities~~ of the parameters under which the licensing authority will make licence decisions, and therefore how their needs and concerns can will be addressed; and
- To inform a Ceourt of Law of the policy considerations taken into account by the ~~how the~~ Licensing authority when making arrived at its decisions, if it is when these are challenged in a court, and to support these decisions. challenged.

3.3 The ~~scope of the 2003~~ Act covers these licensable activities:

- The sale by retail sale of alcohol;
- The supply of alcohol by or on behalf of a club to, or toat the order of, a member of thea club;
- The provision of regulated entertainment; and
- ~~The provision of late night refreshment; and~~
- ~~Personal licences in respect of the sale and/or supply of alcohol.~~

3.4 Regulated entertainment is defined as follows:

- A performance of a play;
- An exhibition of a film;
- An indoor sporting event;
- A boxing or wrestling entertainment (indoor and outdoor);
- A contest, exhibition or display which combines boxing or wrestling with one or more martial arts ("combined fighting sports");
- A performance of live music;
- Any playing of recorded music;



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- A performance of dance; and
- Entertainment of a similar description ~~to to that falling within the~~ performance of live music, ~~any~~the playing of recorded music ~~or~~and the performance of dance.

However, the Live Music Act 2012 deregulated live music performances, as follows:

- Unamplified live music between 8am – 11pm is no longer a licensable activity;
- Amplified live music between 8am – 11pm before audiences of no more than 200 persons is not a licensable activity in a premises that has a Premises Licence or Club Premises Certificate for the sale or supply of alcohol for consumption on the premises or is a workplace (that is not licensed or is only licensed for the purposes of late night refreshment).

[The Legislative Reform (Entertainment Licensing) Order 2014 comes into force on 6th April 2015, which will further de-regulate entertainment so it may be referred to here when it comes into force].

3.5 Main Principles

The following are the main principles underpinning this Policy:

- Nothing in this Policy ~~restricts will undermine~~ any person from making an application ~~applying for a variety of licences or permissions~~ under this Act;
- Each application will be judged on its individual merits, having regard to this ~~Policy, and the Secretary of State's Revised national~~ Guidance issued under section 182 of the Licensing Act 2003 ~~and the law of England and Wales;~~ Guidance issued under section 182 of the Licensing Act 2003 is under constant review following amendments to relevant legislation. At the time of publication of this policy the last amendment to the section 182 guidance was published by the Home Office in October 2014;
- Nothing in this Policy ~~restricts overrides~~ the right of any person to make relevant representations in response to any application or to seek a review of a premises licence or club premises certificate because of a matter arising at the premises in connection with any of the four licensing objectives;
- ~~That appropriate weight will be given to all relevant representations unless they are deemed frivolous, vexatious or repetitious, by an officer of the Licensing Authority or the Licensing Sub-Committee;~~
- ~~Licensing is concerned with regulating licensable activities, therefore all conditions shall relate to matters that are within the control of operators, centering on the premises and their locality;~~
- ~~For the purposes of this Policy Statement, a person is an interested party in relation to a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, that person:~~
 - ~~a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities;~~
 - ~~b) Has business interests that might be affected by the authorised activities;~~
 - ~~c) Represents persons who satisfy (a) or (b) above.~~



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- As well as responsible authorities, any person, body or business is entitled to make representations to the licensing authority in relation to applications for the the grant, variation, minor variation or review of a premises licence or a club premises certificate, regardless of their geographical proximity to the premises. Appropriate weight will be given to all relevant representations by persons unless they are deemed frivolous, vexatious or repetitious by an officer of the Licensing Authority or the Licensing Sub-Committee;
- The legislation relating to licensing is not the primary mechanism for the general control of anti social behaviour by individuals once they are away from the premises and beyond the direct control of the licence holder. Nonetheless, it is a key aspect of such control and licensing law will always be part of the holistic approach to the management of the evening and night time economy in Merton. Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in the London Borough of Merton.
- Conditions will only be imposed on a licence or other authorisation if they are appropriate for the promotion of the licensing objectives and are proportionate. Since licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events, any conditions attached will be focussed on matters that are within the control of individual licence holders (i.e. the premises and its vicinity). Conditions will will be tailored to the size, type, location, characteristics and activities taking place at the premises concerned and will be determined on a case-by-case basis. individual style and characteristics of the premises and events, and standardised conditions will be avoided, although selection may be made from pools of conditions. All conditions must be expressed in unequivocal, enforceable, and unambiguous terms suggested in other publications. A list of such publications is set out in Appendix 1. For the purposes of the imposition of conditions, the principal source is Annexes D to E of the national Guidance issued under section 182 of the Licensing Act 2003 (as ammended). A Schedule of Model Conditions will be made available on the Council's website.

3.6 This policy will be reviewed at regular intervals and, in accordance with the legislation Act, no later than three five years after the current policy has been adopted by the Council.

3.7 Consultation on Policy Document

Section 5(3) of the 2003 Act prescribes that the following must be consulted:

- The Borough's Chief Officer of Police ~~for the area;~~
- The Fire and Rescue Authority; ~~(LFEPA Croydon)~~
- The local authority's Director of Public Health;
- Persons/bodies representative of local premises licence holders ~~of premises licences;~~
- Persons/bodies representative of local club premises certificates holders;
- Persons/bodies representative of local holders of personal licences holders;
- and
- Persons/bodies representative of businesses and residents in the area.

Comment [GG3]: I suggest deleting reference to Appendix 1 : Some of the listed publications are out of date, withdrawn, or irrelevant. I understand you are working on your own pool of conditions so perhaps this can be attached or made available if and when they are ready?



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3.8 The following organisations or individuals ~~will also be~~ ~~have been~~ consulted:

- Safer Merton;
- British Transport Police;
- Local Accident & Emergency Hospital Departments;
- The Musician's Union & Equity;
- Local Childrens Safeguarding Board;
- ~~The Area Forums;~~
- ~~Neighbouring Local Authorities which border the London Borough of Merton;~~
- All Ward Councillors; and
- ~~Merton and Sutton Primary Care Trust~~ Public Health Merton local Pubwatch organisations and local business organisations.

Comment [GG4]: Who among this list represents local businesses (Area Forums?) and licence holders? Perhaps you have a pubwatch or similar you could also consult?

3.9 In addition, the Policy will be available on the Internet on ~~Merton's the London Borough of Merton's~~ web site (www.merton.gov.uk/licensing).

3.10 In ~~determining~~ ~~agreeing~~ this ~~P~~ policy ~~appropriate~~ ~~proper~~ weight will be given to the views of the persons and bodies consulted.

3.11 Duplication

3.11.1 This ~~P~~ policy seeks to avoid duplication with other regulatory regimes so far as is possible. This policy statement is not intended to duplicate existing legislation and regulatory regimes that already places obligations on employers and operators in respect of employees ~~and~~ or members of the public (e.g. ~~the~~ Health & Safety ~~at~~ Work etc. Act 1974, ~~The~~ Environmental Protection Act 1990, ~~d~~ Disability ~~d~~ Discrimination and equality legislation, Anti-Social Behaviour Act 2003, Anti-Social Behaviour, Crime and Policing Act 2014 and Fire Safety legislation).

3.11.2 Conditions will only be attached to licences if they are ~~necessary~~ ~~appropriate~~ for the promotion of the licensing objectives ~~and are proportionate~~. If a ~~requirement~~ ~~condition~~ is already ~~imposed~~ ~~provided for in ot~~ by other legislation, it will not generally be considered to be ~~necessary~~ ~~appropriate~~ in the context of licensing law. However, the fact that a matter is covered by other legislation does not always mean that a condition will not be ~~necessary~~ ~~appropriate~~ for the purposes of licensing. It may be that current legislation or regulations might not cover ~~the~~ particular circumstances that arise out of the type of activity at specific premises. In those situations it may be appropriate for conditions to be attached that reflect those particular circumstances. However, ~~Merton the licensing authority~~ will not ~~simply seek to~~ duplicate a condition which is already provided for under other legislation.

4. Integrating Strategies

4.1. There are many organisations ~~and bodies including this Authority~~ whose policies and strategies impact ~~on~~, or involve, ~~one or more of~~ the licensing objectives. ~~Where necessary, -eg. Prevention of crime and nuisance-~~

~~4.2. Many of their strategies deal in part with the licensing function, and the Licensing Authority Merton will liaise with such organisations groups to ensure proper integration of local crime prevention, planning, transport, tourism, equality schemes, economic development, and cultural strategies and alcohol harm reduction initiatives, n, where necessary. Examples of these strategies are as follows:-~~

4.2.1 Alcohol Harm Reduction Strategy



In 2004, the Government published its 'Alcohol Harm Reduction Strategy for England' ("the Strategy") in which they identified the problems associated with the consumption of alcohol and suggest measures to tackle those problems.

In June 2007, the government published a further report identifying the Next Steps in the National Alcohol Strategy. This strategy, known as "Safe. Sensible. Social", builds upon the foundations, which have been laid, and the lessons learnt since 2004. It will forge a clearer national understanding of what is acceptable drinking behavior, in order to reduce the amount of harm that alcohol causes to individuals, families and communities. Safe, Sensible, Social outlines a concerted approach to support a change in drinking culture and shows how the police, local communities, local authorities, the NHS, voluntary organisations, the alcohol industry and others all have a role to play.

The key measures contained within the policy are:

- Working with the drinks industry to ensure that advertising does not promote or condone irresponsible or excessive drinking. This would include creating a Social Responsibility Charter for drinks producers requiring them to put "sensible drinking" messages on packaging; information about units of alcohol on bottles and cans and ensuring that products are not created to appeal to under-age drinkers.
- The strategy states that at local level, there will be new "code of good conduct" schemes for retailers, public houses and clubs, which would be run locally by a partnership of the industry, police and local authorities. These will ensure that industry works alongside local communities that are of concern such as: underage drinking and making town centres safer and more welcoming at night. However any such scheme would be voluntary.
- The strategy contains measures for combating alcohol related disorder in town and city centres. These include an increase in the use of exclusion orders and fixed penalty fines and better enforcement of existing rules governing under-age drinking and serving people who are already drunk.
- The strategy identifies the social and health problems associated with the consumption of alcohol and propose to combat them by promoting greater awareness among health service workers, in schools and by information campaigns.

When carrying out its licensing functions, Merton will endeavour to complement the Governments Alcohol Strategy and the following are examples of how this may be achieved:

- monitoring the sale or supply of alcohol to minors
- where there are relevant representations the licensing authority may attach conditions requiring licensees to require customers who appear to be under 18 to provide evidence of their age

4.2.2 Crime and Disorder Strategy

The Crime and Disorder Act 1998 (as amended) places a duty on Local Authority Chief Executives and Borough Police Commanders, in partnership with other agencies, to work together to reduce crime and disorder in the Borough. Merton's Crime and Disorder Strategy complements central Government strategies and



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other initiatives, as well as the plans of the other member agencies.

The Safer Merton group has agreed seven key objectives for the Merton Crime and Disorder Strategy (available at www.safermerton.org.uk or on request at the Civic Centre), and the licensing authority's Licensing Policy will integrate with those objectives in the following ways:

- promotion of the four statutory licensing objectives namely prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm
- where there are relevant representations, providing a pool of appropriate conditions to new licences or reviewing existing licences
- monitoring licensed and unlicensed activities
- prosecution of offences in accordance with the enforcement concordat and any other policies that may relate to enforcement
- the review of the licensing policy itself will also enable Merton to respond to changes in the types of crime and disorder in the Borough and take into account changes in this Council and central Governments strategies.

4.2.3 Metropolitan Police Drugs Strategy

- The Metropolitan Police drugs strategy has two strands, namely reducing supply and reducing demand, and this will be achieved by forging a partnership approach between the Police, Merton Council and the local community.
- The Police strategy supports the development, and use of, intelligence garnered from appropriate sources to target those involved in any form of drug dealing.
- The use, and sharing of, intelligence provided by all relevant organisations is emphasised as necessary to identify those areas of drug misuse that cause particular concern to the community.
- Merton is developing a protocol with the Metropolitan Police with regard to enforcement and part of the protocol will relate to the sharing of information generally and specifically in the area of misuse of drugs.
- Merton Council through the promotion of the licensing objectives and the carrying out of its licensing function will contribute to achieving the aims stated in this section.
- In this way, Merton's Licensing Policy will integrate with both the Police and Courts in seeking to properly address the "Crime & Disorder" objective of the Licensing Act 2003.

4.2.4 Door Supervisors

The Security Industry Authority (SIA) exists to manage the licensing of the private security industry as set out in the Private Security Industry Act 2001 ("PSIA 2001"). Their aims include:



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- Increasing public confidence in the private sector security industry
- Improving training, standards and professionalism
- Promoting and spreading best practice
- Strengthening the extended police family by encouraging and supporting further engagement of the private security industry

Under the PSIA 2001, door supervisors are required to be licensed by the SIA. Door supervisors are employed at many licensed premises in Merton, either by the proprietor or when conditions have been attached to a licence by Merton with regards to the provision of door supervisors. Merton's Licensing Policy integrates with and is compatible with the SIA strategy by requiring such persons to be SIA licensed.

~~4.3 Test Purchases for the Sale by Retail of Alcohol~~

~~A Code of Best Practice concerning test purchases has been compiled by the Department of Business Innovation and Skills, Better Regulation Delivery Office, Code of Practice on Age Restricted Products. This Code has been approved by Central Government and this Council has signed up to this code as a means to gather evidence and prosecute where appropriate.~~

~~4.4 Merton's Business Plan and the Community Plan set out within the document is organised around six key themes.~~

- 4.5 The "Merton Partnership" brings together a range of key players from the public, private and voluntary sectors in Merton, including the council, health bodies, and pPolice, to co-ordinate the delivery of local services.

4.4 Merton's Business Plan and the Community Plan set out within the document is organised around six key themes.

Merton Partnership brings together a range of key players from the public, private and voluntary sectors in Merton, including the council, health and police, to co-ordinate the delivery of local services.

The Partnership developed a Community Plan in 2009 setting out the overall direction and vision for the Borough until 2019, and a set of commitments and activities to achieve this vision. The Community Plan was refreshed in 2013 to take into account demographic, legislative and policy changes. It now sets out a vision, and pledges to deliver the vision with details of achievements to date, under the following six key headings:

- Merton: A place to work;
- A healthy and fulfilling life;
- Better opportunities for youngsters;
- Keeping Merton moving;
- Being safe and strong; and
- Contributing to your community.

Underpinning all this is the concept of 'Bridging the Gap', that is to say to address the significant differences between those living in the east and west of our Borough, for example average salary, life expectancy or educational attainment.



The Community Plan sits above each partner's own Business Plan and sets the context for how each organisation delivers its business.

The Partnership is made up of three tiers:

The Merton Partnership – this is the full partnership body that provides the governance, overall leadership and representation to ensure that the Partnership delivers the community's priorities. It is chaired by the Leader of the Council, the person with the clearest democratic authority in the Borough. It provides the strategic direction for the work of the Partnership.

The Executive Board – this is the decision making body that provides the governance, overall leadership and representation to ensure that the Partnership delivers the community's priorities. The Executive Board meets every two months and brings together the organisations with the most significant budgets in the Borough. It ensures the Partnership is given the leadership and capacity it needs to do its job. The Executive Board is committed to sharing information and resources, and to implementing cross-cutting projects to achieve the aspirations set out in the Community Plan.

Thematic Partnerships – four thematic partnerships co-ordinate the work of different partners to ensure that specific activity takes place to deliver the Community Plan. The thematic partnerships are the:

- Children's Trust;
- Health & Wellbeing Board;
- Safer & Stronger Communities; and
- Sustainable Communities & Transport.
- Sustainable Communities & Transport.
- Sustainable Communities

Our aim is to improve the quality of life for our residents and businesses. They will benefit from a cleaner and more attractive physical environment and improved access to high quality housing, transport systems, learning opportunities and jobs. In particular, those living and working in the east of the borough will benefit from the implementation of the LAA, our neighbourhood renewal programme, and the regeneration of Mitcham town centre.

- Safer and Stronger Communities

We will maintain our current position as a low crime borough and our residents will see Merton as a safe place to live, work and learn. Relationships between Merton's many diverse communities will be positive, and citizens of the borough will actively contribute to the development and delivery of council services.

- Healthier Communities

We will have a well developed and defined role in the promotion of healthier communities, with a special focus on reducing the health inequalities between the eastern and western wards.

- Older People

We will engage constructively with older people about their needs and aspirations as part of a broad approach that addresses the traditional

Comment [GG5]: Do we really need all this detail about the organisational pyramid of the Partnership? I wouldn't have thought it would interest many/any licensees or residents? Perhaps consider deleting this section from "The Partnership" down to "Sustainable Communities and transport"?



areas of health, care and independence. We will also focus on a more holistic notion of age that involves a full expression of citizenship and active ageing.

• Children and Young People

We will work with our partners to improve the lives of children, young people and their families. We are determined to significantly improve the quality, accessibility and coherence of services so that every child and young person can fulfill their potential and those facing particular obstacles are supported to overcome them.

• Corporate capacity

Our residents and customers will receive excellent, value for money services. We will improve customer access to our services, set high standards of customer care and take advantage of new technology. We will manage our resources to provide value for money, high standards of governance, financial control and budget management. We will recruit and develop our workforce so that it is equipped and motivated to deliver effective services.

Notwithstanding other Council objectives set out in separate Plans, Policies and Strategies, the Licensing Objectives are overriding objectives in the context of this Policy Statement. The Licensing Authority Merton, in promoting the four Licensing Objectives, may also take into account the Council's policy on neighbourhood renewal. Examples of how this can be achieved are:

- attaching conditions to licences which are appropriate and proportionate, subject to evidence to support such conditions; and
- reviewing the Policy and reflecting changes in Council and central Government strategies concerning renewal.

4.6 Test Purchases for the Sale by Retail of Alcohol.

A Code of Best Practice concerning test purchases has been compiled by the Department of Business Innovation and Skills, Better Regulation Delivery Office, Code of Practice on Age Restricted Products. This Code has been approved by Central Government and this Council has signed up to this code as a means to gather evidence and prosecute persons for unlawful sales of alcohol where appropriate. The Code (published in April 2014) can be accessed here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/29937/3/13-537-code-of-practice-age-restricted-products.pdf

Comment [GG6]: I assume this is the new Code we are referring to?

5. Promotion of Racial and Gender Equality

5.1. The Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. This Policy complies with that legal obligation.

Comment [GG7]: These following Acts have all been repealed so I have deleted them: Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000 and the Sex Discrimination Act 1975, as amended by the Disability Discrimination Act 1995. The relevant Act is the Equality Act 2010. I have taken this paragraph from the s 182 guidance as reflecting current law. We are supposed to indicate HOW we will comply with our Equality Duty – I suggest you investigate this with the appropriate department and complete the next paragraph appropriately?



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~~The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000 and the Sex Discrimination Act 1975, as amended by the Disability Discrimination Act 1995 and the Equality Act 2010, places a legal obligation on this Council to have due regard to the need to eliminate unlawful discrimination.~~

~~5.2. This statement of Licensing Policy will be taken into account with regards to Merton Council's Race Equalities Scheme. In complying with our Equality Duty, this Statement of Licensing Policy will be taken into account.~~

6. Live Music, Theatre & Dancing

- 6.1. In its role of implementing local authority cultural strategies, the Council recognises the need to encourage and promote live music, dance and theatre for the wider cultural benefit of the community, ~~to include children~~. The Council is particularly concerned to increase cultural opportunities for children.
- 6.2. When considering applications for such events and the imposition of conditions on licences or certificates, ~~the Licensing Authority Merton~~ will carefully balance the cultural needs with the ~~necessity of promoting~~ promotion ~~of~~ the licensing objectives.
- 6.3. Consideration will be given to the particular characteristics of any event, including the type, scale and duration of the proposed entertainment, especially where limited disturbance only may be caused.
- 6.4. As a Local Authority, the London ~~Borough Borough~~ of Merton, ~~has been has applied to the Licensing Authority for premises licences and has been~~ granted premises licences for ~~regulated entertainments for~~ a number ~~of~~ properties and sites owned by the Council. The granting of such premises licences means that those individuals or organisations who may wish to use ~~thesesuch~~ venues ~~to provide regulated entertainment~~ have been relieved of the ~~necessity requirement requirement~~ to apply for ~~regulated entertainment a~~ licences ~~or other authorisation~~. Further information can be found at www.merton.gov.uk
- 6.5. ~~The Licensing Authority Merton~~ will monitor the impact of licensing on regulated entertainment, particularly music and dancing, to ensure that ~~unnecessary inappropriate~~ restrictions are not being placed on the development of entertainment activities in the ~~borough Borough~~. ~~Where there is evidence of such a negative impact, Merton will have regard to this in reviewing the Licensing Policy Statement.~~

7. Cumulative Impact

- 7.1. The Council ~~as licensing authority~~ will not take 'need' (i.e. ~~commercial demand~~) into account when considering an application for a licence, as this is a matter for ~~the~~ market ~~forces and planning control~~.
- 7.2. ~~Cumulative impact means the potential impact upon the promotion of the licensing objectives by a significant number of licensed premises concentrated in one area. However, t~~The Council recognises that the cumulative impact of the number, type and density of licensed premises in a given area, may lead to serious problems of nuisance and disorder outside and within the ~~vicinity locality~~ of these premises. In such circumstances the impact of those premises when taken as a whole can be far greater than that arising from individual premises and it may not be possible to distinguish a specific premises as being the sole cause, or even a major contributing factor of a particular problem. It is acknowledged that it is the "Cumulative Impact" of all of the premises that causes problems for a wider area.



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7.3 It may become apparent to the Council by way of representations made to it by responsible authorities and/or ~~interested parties~~other persons or bodies that an area has or is becoming saturated with premises, making it a focal point for many/or large groups of people to gather and circulate around the locality or further away from the licensed premises, creating exceptional problems of disorder and nuisance over and above the impact from the individual premises.

7.4 In these circumstances the Council may consider that the attachment of conditions is unlikely to address these problems and it may then consider the adoption of a special policy of refusing new premises licences or club premises certificates because the area is saturated with licensed premises and the granting of any more would undermine one of the licensing objectives.

7.5 When consulting upon its original Statement of Licensing Policy~~Statement~~, the Council took the following steps in considering whether to adopt a special policy:

- Identification of concern about crime and disorder or public nuisance;
- Consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises and if so identifying the area from which the problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent;
- Consultation with those specified by section 5(3) of the 2003 Act as part of the general consultation required in respect of the whole statement of licensing policy;
- Subject to that consultation, inclusion of a special policy about future premises licence or club premises certificate applications from that area within the terms of the Guidance in the statement of licensing policy;
- Publication of the special policy as part of the statement of licensing policy as required by the Act.

The Council still considers these steps to be appropriate for reviewing existing Special Policy areas and for contemplating new ones.

7.6 In 2005, the Council considered that the evidence available justified two specific areas in Merton where a special policy was appropriate and necessary. Those areas were Wimbledon Town Centre (part of this area is also a Controlled Drinking Zone) and Wimbledon Village. Having regard to the evidence currently available the Council considers that it is appropriate to continue the special policies in these two areas and add a further special policy for Mitcham Town Centre. The evidence has been examined, indicating that the special policy is working and ought to be continued.



Wimbledon Town Centre

There has been a significant increase in the number and scale of licensed premises in Wimbledon Town Centre over recent years. This has resulted in a significant number of alcohol related crimes and of complaints being made to the Council concerning nuisance. The Police have provided evidence regarding alcohol related crime and disorder and the connection between the offences and licensed premises. Anti-social behaviour has led to the Metropolitan Police designating part of the town centre as a dispersal area under the Anti -Social Behaviour Act 2003. Residents and Residents Associations in Wimbledon Town Centre have made representations that the Town Centre is at saturation point. The Police support the designation of Wimbledon Town Centre as a cumulative impact zone.

Wimbledon Village

Wimbledon Village has not experienced the same development pressures as Wimbledon Town Centre. However, the usage and opening hours of existing public houses and conversion of shops to restaurants has impacted on the locality. There are fewer crimes recorded in the Village as compared to the Town Centre. However, it is clear from the significant number of responses received from residents and Residents Associations to the original consultation that many people experience regular disturbance and nuisance as a result of the proximity of a large number of licensed premises. The Police again supported the designation of Wimbledon Village as a cumulative impact zone. By designating these areas as cumulative impact zones, the Council is promoting the licensing objectives and complying with its statutory duty under Section 17 of the Crime and Disorder Act 1998 to prevent crime and disorder in its area.

Mitcham Town Centre

There has been a significant increase in the number and scale of licensed premises in Mitcham Town Centre over recent years. This has resulted in a significant number of alcohol related crimes and of complaints being made to the Council and/or Police concerning disorder and nuisance involving street drinkers, litter, urination in the street, and the proliferation of alcohol off licence premises. The Police have provided evidence regarding alcohol related crime and disorder and the connection between the offences and licensed premises. The Council has also undertaken research on these issues by way of a survey recording low level anti social behaviour which supports a special policy.

Comment [GG8]: Subject to evidential justification for this new CIP in Mitcham Town Centre and whether it will be only applicable to off or all licences?

7.7 The areas subject to the special policy are as shown in the plans attached to this policy.

The Wimbledon Town Centre cumulative impact zone applies to the following roads and areas:

- Wimbledon Hill Road from the junction with Mansel Road and Woodside Road to the Broadway including Wimbledon Bridge;
- The Broadway to its junction with Merton Road;
- Kings Road from its junction with The Broadway to South Park Road;
- Stanley Road from its junction with The Broadway to South Park Road;



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- Merton Road from its junction with The Broadway to its junction with Griffiths Road and Quicks Road;
- Hartfield Road from its junction with Wimbledon Bridge to Sir Cyril Black Way;
- Sir Cyril Black Way;
- Gladstone Road from its junction with The Broadway to Sir Cyril Black Way;
- The forecourt and platforms of Wimbledon Station;
- Hartfield Crescent to number 31 – commercial premises;
- Worple Road from Wimbledon Hill Road to its junction with Raymond Road and Francis Grove; and
- Centre Court Shopping Precinct.

The Wimbledon Village cumulative impact zone applies to the following roads:

- High Street (including Hampton House), from its junction with Marryat Road to Wimbledon Hill Road
- Church Road from its junction with the High Street to its junction with Belvedere Square; and
- The Ridgway from its junction with the High Street to its junction with Hillside including 120 Wimbledon Hill Road (120 Wimbledon Hill Road has frontage on the Ridgway).

The Mitcham Town Centre cumulative impact zone applies to the following roads:

- London Road Mitcham;
- Holborn Way; and
- Upper Green;

Comment [gb9]: To be inserted if Mitcham CIP is approved.

7.8 The Council considers that it is appropriate and necessary-proportionate to continue a special policy within the designated cumulative impact zones and add an additional cumulative impact zone for Mitcham Town Centre. Where relevant representations have been received the policy will affect applications for new premises licences or club premises certificates or variations of existing licences or certificates. It will be for ~~the~~ applicants to show in their operating schedules that their proposals will not add to the cumulative impact already being experienced. Failure to provide such information to the Council is likely to Licensing Sub-Committee may result in a refusal of the application if the matter proceeds to a hearing before the Licensing Sub-Committee. Responsible authorities and/or ~~other persons interested parties~~ will need to ~~consider-see~~ the steps proposed by an applicant in order to decide whether to submit representations. ~~Failure to provide such information to the Licensing Sub-Committee may result in refusal. The presumption will be that where proposed operations are material to the policy they will normally be refused. The effect of the cumulative impact policy is to create a rebuttable presumption that applications for new premises licences or club premises certificates or variations~~



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~~that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless the applicant can demonstrate that there will be no negative cumulative impact on one or more of the licensing objectives.~~ However, the process allows applicants to rebut the presumption of refusal in their applications, and to make the case before a Licensing Sub-Committee why their application should be granted as an exception to our cumulative impact policy. ~~to allow an application.~~ Where an application engages the is material to the special policy the burden of proof lies on the applicant to rebut the presumption.

- 7.9. The presumption of a refusal does not, however, relieve responsible authorities or ~~other persons interested parties~~ of the need to make a relevant representation, as the special policy can only lawfully be considered invoked by a Licensing Sub-Committee, which has been convened in response to valid representations made that refer to that special policy in relation to the specific application. If no representations ~~are were~~ received then it would remain the case that any application must be granted in terms that are consistent with the application and operating schedule submitted.

Responsible authorities, such as the Police, or ~~other persons interested parties~~, can make a written representation maintaining that it is necessary appropriate to refuse the application in order to promote meet the licensing objectives. In doing so they should may wish to refer to the special policy and, if appropriate, any other relevant information supporting the representation, ~~which had been before the licensing authority when it developed its Statement of Licensing policy.~~

~~Responsible authorities, where they have promoted or provided the evidence to support a special policy, should consider carefully any implications that maybe drawn from their not making a representation.~~

- 7.10 This special policy is not absolute. The circumstances of each application will be considered on its own individual merits properly. ~~When and where the applicant can demonstrate that their proposed operation will have no negative impact on one or more of the licensing objectives in the town centres and beyond then,~~ it is possible for licences and certificates ~~that are unlikely to add to the cumulative impact on the licensing objectives~~ to be granted. As a consequence of the presumption that underpins the special policy applications must directly address the underlying reasons for this policy in order to demonstrate why an exception should be made in any particular case. such cases are likely to be exceptional. Following receipt of representations in respect of a new application for, or a variation of, a licence or certificate, the Licensing Authority will consider whether it would be justified in departing from its special policy in the light of the individual circumstances of the case. Notwithstanding the significance of the special policy the Licensing Sub-Committee ~~will must~~ give announce its reasons for any decision to refuse or grant an application. An exception may be made where the application proposes, for example:

- To substitute one type of premises with another which is likely to have a lesser impact on the licensing objectives;
- To substitute one licensable activity with another of less or equal impact;
- To effect a real reduction in capacity;
- To replace vertical drinking with seated consumption and/or condition alcohol sale or supply as ancillary to substantial food;
- To make alterations to the premises that maintain the status quo or enhances the premises without negatively impacting on the licensing objectives; or
- Where a reduction in hours of operation is proposed.



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This list is not intended to be an exhaustive or prescriptive list of when exceptions may be found as each case will be determined on its individual merits. There are other factors that might contribute to an application being considered as an exception, such as the licensable activities sought, the hours of operation, management standards applied or to be applied to the operation inside and outside of the premises, including door supervision, acoustic controls, CCTV coverage inside and outside the premises, smoking controls, safe capacities, management of exterior spaces, and neighbour considerations.

- 7.11 This special policy cannot be used at a review hearing as a ground for revoking an existing licence or certificate when relevant representations are received about problems with those premises. ~~The special policy can also not be used to justify rejecting applications to vary an existing licence or a certificate except where refusal of those modifications are directly relevant to the policy and are strictly necessary for the promotion of the licensing objectives.~~
- 7.12 The special policy relating to cumulative impact deliberately does not include provisions relating to any specific for a terminal hour in a particular area. ~~The Council acknowledges that it would be wrong not to apply the special policy to applications that include provisions to open no later than, for example, midnight, but to apply the policy to any other premises that propose opening later. The effect would be to impose a fixed closing time akin to that under the “permitted hours” provisions of the Licensing Act 1964. The Council recognises that terminal hours were abolished by statute to avoid the serious problems that may arise when customers exit licensed premises simultaneously. The Council does not intend to attempt to fix a terminal hour in any area so as directly which may to~~ undermine a key purpose of the 2003 Act.
- 7.13 This special policy does not seek to impose quotas ~~—based on either on the number of premises or the capacity of those premises, —that restrict the consideration of any application on its individual merits or which seek to impose limitations on trading hours in particular areas.~~ Quotas that indirectly have the effect of pre-determining the outcome of any application will not be used because they have no regard to the individual characteristics of the premises concerned. Public houses, night clubs, restaurants, hotels, theatres, concert halls and cinemas all could sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard will be given to those differences and the differing impact they will have on the promotion of the licensing objectives.
- 7.14 If the Licensing Sub-Committee decides that an application should be refused it will still need to conclude that in light of the cumulative impact policy the grant of the application would undermine the promotion of one or more of the licensing objectives and that the imposition of conditions would be ineffective or disproportionate in preventing any cumulative impact.
- 7.15 Notwithstanding the special policy the Council will continue to work with all appropriate partners to help meet the licensing objectives through local initiatives and good practice, including the provision of CCTV surveillance, police enforcement of general law, ongoing measures to create a safe and clean environment, and working in partnership with licensees.
- 7.16 This special policy will be reviewed regularly to assess whether it is needed any longer or whether it needs expanding.



8. The Prevention of Crime and Disorder

8.1 Under section 17 of the Crime and Disorder Act 1998, the London Borough of Merton, as a Local Authority, has a duty to do all that it reasonably can to prevent crime and disorder within the Borough. As previously stated the prevention of crime and disorder is also one of the four licensing objectives that this Licensing Authority has a duty is to promote.

8.2 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a significant source of crime and disorder. ~~problems.~~

8.3 In ~~determining~~ ~~aiding~~ licence applications where relevant representations have been ~~are~~ made, it will be the policy of the Council to consider the adequacy of measures proposed to deal with the potential for crime and disorder having regard to all the circumstances of the case. In particular the authority may consider the following:

- the levels of crime and disorder in and around the venue;
- the level of compliance with conditions on existing licences;
- the measures to be put in place to prevent underage drinking;
- the measures proposed to prevent the consumption or supply of illegal drugs, including search procedures, provision of CCTV, design of premises, monitoring of toilets, surrender and seizure procedures;
- the measures proposed to discourage binge drinking and drunkenness and to promote sensible drinking including the use of low % ABV conditions on licences or certificates;
- the measures proposed to prevent violence on the premises, including the threat of violence to staff and the use of polycarbonate drinking vessels to avoid injury to staff and customers;
- whether door supervisors are to be provided and, if so, how many and the hours of employment;
- measures to be put in place to react to any situations of disorder should they occur;
- in the case of premises selling alcohol on the premises, any measures to be put in place to prevent glass or bottles from being taken into the street;
- any steps that are to be taken to reduce thefts from patrons using the premises; and
- for new applications, the extent to which the layout has been designed to minimise crime and disorder; and any steps that are to be taken to reduce the risk of spiking of drinks.

8.4 The London Borough of Merton will expect an applicant's operating schedule ~~Operating Schedule~~ to satisfactorily address these issues from the design of the premises through to the daily operation of the business.



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- 8.5 Applicants are recommended to seek advice from the Council's Licensing Officers and the Metropolitan Police, as well as taking into account, as appropriate, local planning policies, tourism, cultural and crime prevention strategies, when preparing their plans and operating sSchedules. In general, conditions will, so far as possible, reflect local crime prevention strategies.
- 8.6 The London Borough of Merton, where ~~necessary~~ appropriate, will consider attaching conditions to licences to deter and prevent crime and disorder both inside and within the locality ~~vicinity~~ of the premises, and these may include use of the model conditions that are in the Schedule of Model Conditions available on the Council's website.
- 8.7 The London Borough of Merton also recognises that there are a number of other mechanisms available to address the impact of crime and disorder and anti-social behaviour. Examples of these are as follows:
- ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council Departments;
 - designation of ~~parts of~~ the Borough as a places where alcohol may not be consumed publicly where people are causing, or likely to cause, a nuisance. It should be noted that the whole Borough is currently designated as a Controlled Drinking Zone;
 - regular liaison with local Metropolitan Police on law enforcement issues regarding disorder and anti-social behaviour, including the issue of fixed penalty notices, prosecution of those selling alcohol to people who are drunk; confiscation of alcohol from adults and children in designated areas and instantly closing down licensed premises or temporary events on the grounds of likely or imminent disorder, ~~or likelihood of disorder~~ or excessive noise nuisance from the premises;
 - the power of the police, other responsible authorities ~~iesies y~~, Ward Councillors or a local resident, as well as operators of local or businesses, to seek a review of the licence or certificate; and
 - Similar liaison is also available via Safer Merton who are the co-ordinating body in respect of the Merton Crime and Disorder Strategy.

9. Public Safety

- 9.1 The Licensing Act 2003 covers a wide range of premises that require the authorisation of a premises licence or a club premises certificate ~~licensing~~, including, cinemas, concert halls, theatres, nightclubs, public houses, cafes/restaurants and fast food outlets/takeaways.
- 9.2 These types of premises present the potential for a variety of safety concerns, some of which are common to all premises and others that may be unique to specific operations. It is essential that premises are constructed or adapted and operated so as to address potential and identified risks and safeguard occupants against them.
- 9.3 The Council will expect the applicant's Operating SSchedule to fully address these issues. Applicants are advised to seek advice from the Council's Licensing team, Building Control Officers, the London Fire and Emergency Planning Authority, the Police, Public Health Merton, and Health & Safety (both the Executive and the Council's department)



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before preparing and submitting their application, plans and supporting documents Schedules.

9.4 The London Borough of Merton, as the Licensing Authority, where appropriate, and necessary will consider attaching conditions to licences to promote public safety where appropriate, and these may include the conditions that are in Appendix 1 of this statement are listed in the Schedule of Model Conditions or from other sources or officers.

10. The Prevention of Public Nuisance

10.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can may cause a range of public nuisances impacting on people living, working or sleeping in the locality vicinity of the premises.

10.2 The concerns mainly often relate to noise nuisance, light pollution and noxious smells. The London Borough of Merton will expect applicants' operating schedules to address these issues. Applicants are advised to seek advice from the Environmental Health Pollution Team before preparing their plans and Schedules supporting documents.

10.3 The Council recognises that it is necessary to in its capacity as the Licensing Authority will actively protect promote and encourage the necessary protection of residents, members of the public and businesses in the locality vicinity of licensed premises from disturbances linked to licensed premises or their customers that amount to a public nuisance. Such a nuisance can impact on the quality of life of residents and the ability of other businesses to operate effectively, whose living, working and sleep can be adversely affected by nuisance linked to licensed premises. The applicant must demonstrate within their operating schedule how they intend to promote the licensing objective relating to the prevention of public nuisance.

10.4 The London Borough of Merton, where appropriate and necessary, will consider attaching conditions to licences to promote avoidance of public nuisance, and these may include conditions that are listed in the Schedule of Model Conditions or from other sources or officers include Conditions as attached at appendix 1.

10.5 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. The following are some examples of problems that may give rise to concern and should be addressed where appropriate:

- noise and vibration escaping from the premises, including;
- music, noise from ventilation equipment, and human voices;
- disturbance by customers arriving at or leaving the premises;
- queuing, either by pedestrian or vehicular traffic;
- parking by patrons and staff;
- the provision for public transport in the locality (including taxis and private hire vehicles) for patrons;



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- the level of likely disturbance from associated vehicular movement;
- the use of licensed premises' gardens and other open-air areas;
- littering or glass dispersal in the immediate vicinity;
- the delivery and collection areas and times e.g. early morning refuse collection;
- the siting of external lighting, including security lighting that is installed inappropriately;
- the impact on refuse storage and litter (including fly posters and illegal placards);
- the generation of odour, e.g. from the preparation of food; and
- any other relevant activity likely to give rise to nuisance.

11. The Protection of Children from Harm

11.1 Access to Licensed Premises

- 11.1.1 The wide range of premises that require a licensing means that children and young persons may visit many of these, sometimes on their own, for food and/or entertainment.
- 11.1.2 The Licensing Act 2003 creates, among others, the following two offences:
 - to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for supply of alcohol for consumption on those premises under authorisation of a premises licence, club premises certificate etc.
 - to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at other premises supplying alcohol for consumption on the premises under the authority of any premises licence, club premises certificate etc. Outside these hours, this offence does not prevent the admission of unaccompanied children under 16 to various types of premises where the consumption of alcohol is not the exclusive or primary activity at those venues. It should also be noted that between 5-am and midnight the offence would not necessarily apply to many restaurants, hotels, cinemas and those pubs where the main activity is the consumption of both food and drink.
- 11.1.3 Subject to the provisions of the Licensing Act 2003 and any licence or certificate conditions, admission will always be at the discretion of those managing the premises. The Licensing Authority Merton will not attach conditions requiring the admission of children.
- 11.1.4 The Licensing Authority will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them.
- 11.1.5 Each application shall will be considered on its merits. However, there may be particular areas of concern in respect of children including the following examples:



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- premises where there have been convictions for serving alcohol to minors or with a reputation for underage drinking;
- premises with a known association with drug taking or dealing;
- premises where there is a strong element of gambling on the premises (but not, for e.g. the simple presence of a small number of fruit machines, slot machines or any other cash prize gaming machines);
- premises where entertainment or services of an adult or sexual nature are commonly provided; and
- premises where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided.

11.1.6 The following options are possible alternatives; which the The Licensing Authority Merton may consider attaching as conditions for limiting the access of children where it is appropriate~~necessary~~ for the prevention of harm to children:

- Limitations on the hours when children may be present;
- Limitations on ages below 18;
- Limitations or exclusion when certain activities are taking place;
- Requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
- Full exclusion of people under 18 from the premises when any licensable activities are taking place.

These alternatives can be adopted either individually or in combination in order to promote this licensing objective.

11.1.7 The Licensing Authority Merton recognises ~~that~~ the Safeguarding Children Board as being competent to ~~advise on~~ as the responsible authority in relation matters relating to the protection of children from harm ~~objective and is a "responsible authority" and that~~ can make relevant representations. As a responsible authority, the applicant is required to copy details of their applications to the Safeguarding Children is Board when an application is made. The Board may be contacted at Children, Schools & Families Department, London Borough of Merton.

11.2 Access to Cinemas.

11.2.1 Films cover a vast range of subjects, some of which deal with adult themes and/or contain, for example, scenes of horror or violence that may be considered unsuitable for children within certain age groups.

11.2.2 In the past, films that have been shown at cinemas or film exhibitions in the London Borough of Merton have been classified by the British Board of Film Classification (BBFC). It is not anticipated that this will change.

11.2.3 Applicants for licences in relation to premises showing film exhibitions will be expected to address arrangements for restricting children from viewing age-restricted films (as classified by the BBFC) in their operating schedules.



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11.2.4 The Licensing Act 2003 also provides a mandatory condition to be included in all premises licences and club premises certificates authorising the exhibition of films for the admission of children to the exhibition of any films to be restricted in accordance with the recommendations given to films by the BBFC or the licensing authority if it so desires.

11.3 Children and Public Entertainment.

11.3.1 Many children go to see and/or take part in an entertainment arranged especially for them, for example children's film shows and dance or drama school productions.

11.3.2 In order to promote the protection of children, [the Licensing Authority Merton](#) may attach conditions where it is appropriate and necessary to safeguard them whilst they are on the premises.

Examples of such conditions may be:

- concerning the presence of adult staff at places of public entertainment to control the access and egress of children and to protect them from harm; [and](#)
- age restrictions of children or young persons if unaccompanied by a responsible adult.

11.3.3 The [Licensing Authority Merton](#) expects, where relevant, that submitted operating schedules will address the licensing objective relating to the protection of children and public safety.

11.3.4 The [Licensing Authority Merton](#) will consider attaching Conditions to licences and permissions to promote these licensing objectives and these may include [include conditions that are listed in the Schedule of Model Conditions or from other sources or officersthe conditions that are in appendix 1 of this statement.](#)

11.3.5 The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks is commended.

~~11.3.6 The body competent to advise the Licensing Authority regarding the child protection objective is the Safeguarding Children Board, which may be contacted at Children, Schools & Families Department, London Borough of Merton. [following](#) are conditions that this Licensing Authority may also attach where it is appropriate:~~

~~(i) [Where a regulated entertainment is specially presented for children, the Council may require the following arrangements when necessary in order to control their access and egress and to ensure their safety:](#)~~

- ~~• [Age restrictions attached to children being admitted to any entertainment unless such child is accompanied by and is in the charge of a responsible adult person](#)~~
- ~~• [no child unless accompanied by an adult to be permitted in the front row of any balcony](#)~~
- ~~• [no standing to be permitted in any part of the auditorium during the performance](#)~~
- ~~• [an adult member of staff to be stationed in the vicinity of each of the exits from any level, subject to there being a minimum of one member of staff per 50 children or part thereof](#)~~

Comment [gb10]: Inserted from conditions appendix removed below.



In addition to the staff members required to be stationed at any exit or head of any staircase there shall be on duty no less than 2 other attendants who shall take charge of and safeguard young children who are not accompanied by a responsible adult and as far as conditions allow, shall arrange for such young children to sit together in groups

- attendants wearing a conspicuous white armband not less than 4" wide with the wording "CHILDRENS ATTENDANT" marked thereon
- Police checks of staff that are dealing with children for relevant offences that may make them unsuitable to be dealing with children.

(ii) The following are also conditions that may be attached with regards to prevention of harm to children

- Limitations on the hours when children may be present
- Limitations on ages below 18
- Limitations or exclusion when certain activities are taking place
- Requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult)

Full exclusion of people under 18 from the premises when any licensable activities are taking place.

12. Tourism, Employment, Planning & Building Control

12.1 ~~Planning, Building Control and the Licensing functions will be properly separated in accordance with statutory requirements in order to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice-versa.~~

12.2 ~~However, it should also be noted that under the Licensing Act 2003, the local Planning Authority is a "responsible authority" that must be notified of licensing applications and is also entitled to make representations to the Licensing Authority in relation to the application for the grant, variation or review of a premises licence or club premises certificate.~~

12.3 Arrangements will also be made for the Licensing Committee to receive reports where appropriate on the following matters to ensure members are aware of them when making decisions:

- the needs of the local tourist economy and cultural strategy for the Borough; and
- the employment situation in the Borough and the need for investment and employment.

~~12.4 However, some regulations do not cover the unique circumstances of some entertainment. The Licensing Authority will consider, where appropriate and necessary, attaching conditions to premises licences and club premises certificates where these are necessary for the promotion of the licensing objectives~~



~~and are not already provided for in any other legislation in respect of that particular premises.~~

13. Licensing Hours

13.1 ~~In the Secretary of State's Guidance, the Government acknowledges that different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make such decisions based on their local knowledge and in consultation with other responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application~~

Comment [GG11]: The s 182 guidance on hours has changed significantly so I have quoted from para 13.43 of the October 2014 revision.

~~The Government considers that longer licensing hours for the sale of alcohol may avoid large numbers of people leaving premises at the same time. This in turn, could reduce potential friction at late night fast food outlets, taxi ranks, minicab offices and other sources of transport that can lead to disorder and disturbance.~~

13.2 Fixed trading hours within designated areas (Zoning) will not be adopted in this Borough. One reason for this is that it could lead to significant movements of people to areas within the Borough at particular times either seeking premises or going to premises that have longer opening hours and provide either alcohol and/or other regulated entertainment. This movement of people may give rise to a concentration of disturbance and noise.

13.3 ~~The Licensing Authority Merton~~ recognises that hours of trading are a critical factor in assessing adverse and beneficial impacts in its area. Whilst the ~~Borough~~ does not generally have in general a problem, outside a particular CIP, with small numbers of customers leaving licensed premises at the same time, there is a problem with noise and anti social behaviour which affects local residents. Residents can tolerate an element of noise disturbance in the earlier part of the night when ambient noise levels are higher but find it increasingly intolerable as ambient levels fall later at night when they expect to sleep. Noise can come from within premises, a potentially controllable source, and from revellers in the street.

Comment [GG12]: Reconsider this sentence.

13.4 All applications will be considered on their merits. In considering whether to ~~impose restrict~~ licensing hours ~~conditions and their terms to in order to~~ promote the licensing objectives, ~~t~~ ~~The Licensing Authority Merton~~ will consider the following matters (among others):

- whether the licensed activity ~~is likely may to~~ result in a ~~reduction or an~~ increase in crime, ~~disorder or~~ anti-social behaviour in the area;
- whether the licensed activity ~~is would not be lik~~ likely to ~~lead to a public nuisance disturbing~~ ~~re~~ ~~cause~~ ~~adverse~~ ~~effect~~ ~~on~~ ~~the~~ ~~safety~~ ~~and~~ ~~amenity~~ ~~of~~ ~~local~~ ~~residents~~ ~~or~~ ~~other~~ ~~businesses~~ ~~in~~ ~~the~~ ~~vicinity~~, ~~and~~ ~~or~~, ~~if~~ ~~there~~ ~~is~~ ~~any~~ ~~potential~~ ~~to~~ ~~cause~~ ~~adverse~~ ~~effect~~, ~~whether~~ ~~any~~ ~~and~~ ~~if~~ ~~so~~ what measures will be put in place to prevent it;
- whether there will ~~not~~ be an increase in any cumulative adverse effect from the activity on local residents ~~or other businesses~~ in the vicinity; ~~and~~



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- ~~whether there is a high~~the level of public transport accessibility to and from the premises for the hours requested, or whether other effective methods of dispersal will be put in place ~~that which will prevent not themselves the licensing objectives being undermined, add to adverse impact on local residents in the vicinity.~~

13.5 ~~The Licensing Authority Merton~~ will consider the imposition of conditions in relation to the design, operation and management of premises which reflect any licensing hours allowed. In particular consideration may be given to imposing stricter conditions in respect of noise control where premises are below or adjacent to residential premises.

13.6 Particular areas of concern that may be taken into account by ~~the Licensing Authority Merton~~ when considering appropriate operating hours include:

- Noise emanating from the premises itself, including external areas, that may affect residents;
- Noise caused by patrons leaving the premises;
- Noise caused by patrons queuing at the premises prior to admission;
- Behaviour of patrons in the vicinity that may result in public nuisance and/or crime and disorder; and
- Noise caused by delivery vehicles, waste vehicles and operatives collecting empty bottles and other waste products.

Shops, Stores and Supermarkets

~~13.7 Shops, stores and supermarkets will normally be permitted to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours. The Licensing Authority will generally consider that shops, stores and supermarkets will sell alcohol for consumption off the premises at any time when they are open for shopping, unless there are good reasons for restricting those hours e.g. police representations relating to crime and disorder and/or; representations relating to public nuisance.~~

~~13.8~~ If there is more than one business trading from the same premises (e.g. hypermarkets, malls etc) which require separate premises licences, ~~Merton the Licensing Authority~~, where appropriate, necessary will assign a nominal unit number or sub-division of the address to accommodate and individually identify such premises and issue a premises licence accordingly.

14. Conditions

14.1 Mandatory Conditions

14.1.1 Section 19, 20 and 21 of the Act, provides for certain mandatory conditions to be included in a premises licence.

14.1.2 Under section 19, ~~Merton the Licensing Authority~~ will be required to attach to any premises licence authorising the supply of alcohol the conditions that at any time when such supplies under the premises licence are made

- There must be a 'designated premises supervisor' who is the holder of a valid personal licence, and



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- Every supply of alcohol under the premises licence must be made by a personal licence holder (although not necessarily by the designated premises supervisor) or an individual authorised by a personal licence holder.

14.1.3 Where a premises licence authorises the exhibition of a film, section 20 makes it mandatory for a condition to be included in the premises licence requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 or by the licensing authority itself. When the Licensing Act 2003 was passed the only body designated under section 4 of the Video Recordings Act 1984 was the British Board of Film Classification.

14.1.4 Section 21 applies where the provision of door supervision is a requirement of the premises licence. It requires the licence to provide that anyone carrying out such a security function must be licensed by the Security Industry Authority established under the Private Security Industry Act 2001. However, s21(2) specifies some exceptions to the requirement (e.g. theatres). The provisions of the Private Security Industry Act 2001 are amended by paragraph 118 of Schedule 6 to the Act.

14.1.5 In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises –

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to –
 - i. drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - ii. drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
- (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.



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The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

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

- (a) a holographic mark, or
- (b) an ultraviolet feature.

The responsible person must ensure that –

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

For the purposes of the condition set out in paragraph 1—

- (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) “permitted price” is the price found by applying the formula—

$$P = D + (D \times V)$$

Where –

- (i) P is the permitted price;
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—

- (i) the holder of the premises licence;
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol

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under such a licence:

“relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

“value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.

The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

The admission of children to the exhibition of any film is to be restricted in accordance with any recommendation made by the relevant film classification body or relevant licensing authority.

No condition may be attached to the licence as to the nature of the plays which may be performed, or the manner of performing plays, under a licence that permits the performance of plays.

14.2 Prohibited conditions

14.2.1 Under section 22, in the case of any premises licence authorising the performance of a play, the Licensing Authority will not be able to attach conditions relating to the nature of the play performed or the manner of its performance, unless they are justified as a matter of public safety.

14.3 Standard Conditions

14.3.1 Conditions may only be imposed on licences and certificates where they are ~~necessary-appropriate~~ for the promotion of one or more of the four licensing objectives ~~and are proportionate~~. Standard conditions will be avoided. The ~~pool of conditions from which this~~ Licensing Authority ~~may include conditions that are listed in the Schedule of Model Conditions or from other sources or officers~~ may draw necessary and proportionate conditions in particular circumstances can be found with reference to the documents referred to in Appendix 1 to this policy.

Comment [GG13]: Do we really need this paragraph bearing in mind conditions are dealt with earlier on?

15. Applications for Premises Licences

15.1 Any person (if an individual, aged 18 or over) who is carrying on or who proposes to carry on a business which involves the use of premises (which includes any place including one in the open air) for licensable activities may apply for a premises licence either on a permanent basis or for a time limited basis.



Licensing Policy

- 15.2 Furthermore, a wide range of other individuals and bodies set out in section 16 of the 2003 Act may apply for this type of licence e.g. government departments, local authorities, hospitals, schools and police.
- 15.3 An application for a premises licence or a club premises certificate must be on the prescribed form and served on this Licensing Authority and be copied to each of the responsible authorities (see Section 13 of the 2003 Act) or online where it will be copied to this Licensing Authority and each of the Responsible Authorities (that are listed in Appendix 1) and it must be accompanied by:
- The required fee;
 - An completed operating schedule (see below);
 - A plan of the premises in a prescribed form to which the application relates or to a scale agreed by the licensing authority; and
 - If the application involves the supply of alcohol, a form of consent from the individual who is to be specified in the licence as the designated premises supervisor.
- 15.4 If the application form is not completed correctly the application will may be returned to the applicant.
- 15.5 Further, the Licensing Authority Merton will not determine an application which has not been properly made, for example by failing to provide material information requested by the form, or failing to advertise or notify responsible authorities as required by regulations.
- 15.6 The Licensing Authority Merton recommends that applicants for premises licences, club premises certificates or for major variations of such licences to conduct a thorough risk assessment with regard to the licensing objectives when preparing their applications.
- 15.7 The Licensing Authority Merton ~~has~~will have a policy whereby valid applications will automatically be referred to the Building Control, Health & Safety or other appropriate departments and it will be for them to decide whether an inspection of the premises is required. ~~If, and if~~ any breaches are found these will be dealt with under other relevant legislation.
- 15.8 There will not be a routine inspection of premises carried out by Officers of the Licensing Authority the Licensing Team -but inspections may take place for example in the following circumstances:
- Where applications are received for new premises where there are concerns that arise out of the operating schedule;
 - Where there have been complaints raising concerns with regard to the promotion of the licensing objectives;
 - If there is a level of risk associated with the type of entertainment to be offered at the premises;
 - In situations where relevant representations have been received to cause the London Borough of Merton's confidence in the management of the premises to be questioned;
 - The history of the premises;



Licensing Policy

- Any other relevant factor; and
- Where other regulating authorities (internal or external) recommend action.

16. Operating Schedule (Licensed Premises and Registered Clubs)

- 16.1 As part of an application for a premises licence (or club premises certificate) an operating schedule must be submitted. The operating schedule is required to include information that is necessary to enable the Licensing Authority Merton (or an interested party/responsible authority) to assess whether the steps to be taken to promote the licensing objectives are satisfactory. The following are a few examples of the type of information that would be useful:
- Descriptions of the style and character of the business to be conducted on the premises (e.g. supermarket, bar, restaurant etc.);
 - If alcohol were being sold for consumption on the premises, it would be valuable for the applicant to indicate the extent of seating available as research has shown that the amount of seating can be relevant to the prevention of crime and disorder; and
 - The type of activities available in the premises whether licensable under the 2003 Act or not e.g. if there is dancing it would be helpful for a brief description to be given of the type of dancing and whether it is members of the public or professional performers.
- 16.2 An applicant is required to ensure that the operating schedule sets out the following details:
- the relevant licensable activities to be conducted on the premises;
 - the times during which it is proposed that the relevant licensable activities are to take place (including the times during each day of the week, during particular holiday periods and during particular seasons, if it is likely that the times would be different during different parts of the year);
 - any other times when the premises are to be open to the public;
 - where the licence is required only for a limited period, details of that period;
 - where the licensable activities include the sale or supply of alcohol, the name and address of the individual (who must hold a valid personal licence) to be specified as the designated premises supervisor ("DPS"). (The main purpose of the DPS is to ensure that there is always one specified individual who can be readily identified for the premises where a premises licence is in force. That person will normally have been given day to day responsibility for running the premises by the premises licence holder in a manner that promotes the licensing objectives)-who will be responsible on a day-to-day basis for conducting business in the premises in a manner consistent with the terms and conditions of the licence, in accordance with the Act and with the promotion of the licensing objectives;
 - where the licensable activities include the supply of alcohol, whether the alcohol will be supplied for consumption on or off the premises or both



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- the steps which the applicant proposes to take to promote the licensing objectives; and
- Such other matters as may be prescribed.

16.3 Applicants are reminded that the Licensing Act 2003 provides that where an operating schedule (or club operating schedule) has been submitted with an application and there are no relevant representations made with regards to the application, the premises licence or club premises certificate must be granted subject only to such conditions as are consistent with the operating schedule accompanying the application and any mandatory conditions required by the Licensing Act 2003.

16.4 Therefore, it is important that all schedules should be precise and clear about the measures that it is proposed to take to promote each of the licensing objectives, in particular in relation to the protection of children.

16.5 It is also important for the applicant to ensure that the steps suggested by the operating schedule are realistic and within the control of the applicant and management of the premises. If a premises licence or club premises certificate is granted with conditions attached requiring the implementation of such steps, a failure to comply with the condition is-may amount to a criminal offence.

16.6 Applicants for new premises licences/club operating schedules and those seeking variations to existing premises licences, are advised to consult with the following organisations before preparing their schedules or at the earliest possible stage in order to avoid disputes:

- Police and local authority community safety officers in relation to crime and disorder;
- Local community groups- nuisance especially in relation to noise;
- Local environmental Health officers – nuisance including noise;
- Fire brigade – fire precautions and public safety;
- Health & Safety Team of the London Borough of Merton – public safety; and
- Any other organisations or groups interested in the promotion of the licensing objectives in the area concerned.

17. Enforcement

17.1 The Council has a long-established Enforcement Policy, based around the principles of consistency, transparency and proportionality set out in the Department of Trade and Industry's Enforcement Concordat and which also takes into account the Attorney General's Guidelines to Crown Prosecutors for bringing prosecutions.

17.2 Enforcement decisions will be taken in line with the principles contained in the concordat and our Enforcement Policy.

17.3 The Council will comply with all laws and standards that govern the way enforcement action is to be dealt with. (e.g. The Licensing Act 2003 & Guidance, Police and Criminal Evidence Act 1984, Criminal Procedure and Investigations Act



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1996, Data Protection Act 1998, Human Rights Act 2000, Regulation of Investigatory Powers Act 2000 etc).

- 17.4 ~~The Licensing Authority Merton~~ will work ~~in partnership closely~~ with the Metropolitan Police on enforcement issues to ensure an efficient deployment of Police and ~~Officers of the Licensing Authority Council Officers~~ engaged in enforcing licensing laws and inspecting licensed premises. This will provide for the targeting of agreed problems and high-risk premises that require greater attention. In turn a lighter touch will be adopted in respect of low risk premises.

18. Applications for Personal Licences to Sell or Supply Alcohol

- 18.1 In order to obtain a personal licence under Part 6 of the Licensing Act 2003 ~~Act~~ the requirements are that the applicant:
- Must be aged 18 years or over;
 - Must possess a licensing qualification accredited by the Secretary of State (or one which is certified as if it is such a qualification or is considered equivalent) or is a person of a description prescribed by the Secretary of State by regulations;
 - must not have forfeited a personal licence within five years of his or her application; ~~and;~~
 - must produce a Criminal Record Bureau certificate;
 - must not have an objection notice from the police about the grant of a personal licence following notification of any unspent relevant offence or foreign offence;
 - must show that any unspent relevant offence should not be considered on crime and prevention grounds if an objection is received by the police; and
 - must pay the appropriate fee to the Council.
- 18.2 Applicants with unspent criminal convictions for relevant offences set out in the Licensing Act 2003 are strongly ~~advised encouraged~~ to first discuss their intended application with the Police and the Licensing Team before making an application.
- 18.3 A personal licence is valid ~~for an indefinite period for 10 years~~. A designated premises supervisor must hold a personal licence.
- 18.4 Further information about personal licences can be found on the London Borough of Merton's web-site (www.merton.gov.uk/licensing) in the Borough's Public Libraries or by contacting the Licensing team at the London Borough of Merton.

19. Temporary Event Notices

- ~~19.1 This section deals with temporary permitted regulated activities carried on in accordance with a statutory notice.~~
- ~~19.2 An individual who wants to use premises for one or more licensable activities in a period not exceeding 96 hours has to give a Temporary Event Notice to Merton.~~
- ~~19.3 This notice must be in the form prescribed by regulations and must give:~~
- ~~details of the proposed activities.~~



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- ~~• the date & time during which they will take place and~~
- ~~• whether there will be alcohol sold on or off the premises.~~

~~The Notice must also state the maximum number of persons permitted on the premises, which must be less than 500. There must be a minimum of 24 hours between the end of one event period and the start of another.~~

- ~~19.4 The Temporary Event Notice must be sent in duplicate to Merton and a copy has to be sent to the Chief Officer of Police at Wimbledon Police Station no less than a minimum of 10 working days before the event period begins. The Police then have 48 hours to lodge an objection. The grounds for an objection must concern the crime prevention objective. No other person or body can lodge an objection.~~
- ~~19.5 Notwithstanding that the law states that a minimum of ten working days notice must be given, it is recommended that wherever possible applicants give Merton and the Metropolitan Police at least three months' notice of the events, to allow them to help organisers plan their events safely.~~
- ~~19.6 Organisers of temporary events are strongly advised to contact the Licensing Team at the Council and the Police for advice at the earliest opportunity when planning events, to avoid any unnecessary objections being made that may arise from misunderstandings or confusion as to what is being proposed.~~
- ~~19.7 If the police raise an objection there must be a hearing unless both parties agree it is unnecessary and if Merton is in agreement with the police, it may serve a Counter Notice at least 24 hours before the event is to start.~~
- ~~19.8 There are limits on the number of Temporary Event Notices in any one year. The limit for a Personal Licence Holder is 50 and a non personal holder is 5. Further, no more than 12 Notices may be served in respect of a premises for events during a single calendar year, and premises may not be used for temporary events on more than 15 days in that year. If the limits are exceeded, Merton will issue a Counter Notice prohibiting licensable activities at the premises for which the Temporary Event Notice has been issued.~~
- ~~19.9 Police and Council Officers have a right of entry at reasonable times but only to assess the effect of the event on the crime prevention objective.~~
- 19.1 If the Licensing Authority receives a standard or late Temporary Event Notice ("TEN") and there are no representations made against it by the Police or Commercial Environmental Health department, then the Licensing Authority is obliged to issue the TEN subject to the statutory limits being complied with. Only the Police and Commercial Environmental Health team can object to a TEN and can do so in relation to any or all of the licensing objectives.
- 19.2 A **standard** TEN must be given to the licensing authority no later than 10 working days before the day on which the event period begins, and must be accompanied by the prescribed fee. An objection to a standard TEN must be made up to 3 working days following receipt by the Police or Commercial Environmental Health Team. If an objection is made to a standard TEN then the objection notice will be considered at a hearing and the licensing sub-committee will consider whether to issue a counter-notice.
- 19.3 A **late** TEN must be given to the licensing authority no later than 5 working days, but no earlier than 9 working days, before the day on which the event period begins, and must be accompanied by the prescribed fee. If the Police or Commercial Environmental



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Health Team object to a late TEN then a counter-notice must be issued without a hearing. This counter-notice must be issued at least 24 hours before the beginning of the event.

19.4 The working days run from the day after the notice is received by the Licensing Authority, as the day the notice is received is deemed to be day zero. Public holidays and weekends are not counted, as they are not working days. For example, if a TEN was served on Tuesday, 13 November, the working days would begin to run from Wednesday, 14 November to Tuesday, 27 November and the event could be no earlier than Wednesday, 28 November.

19.5 The Licensing Authority may attach conditions to a TEN, where there is an unwithdrawn objection and where it is appropriate for the promotion of the licensing objectives, but only if the conditions to be applied are already on a Premises Licence or Club Premises Certificate relating to the premises where the event will take place and are not inconsistent with the TEN. In any event, the notice giver is responsible for ensuring that the event complies with all relevant legislation, including the avoidance of a statutory nuisance, and that the event complies with all health and safety requirements.

19.6 Further information on temporary event notices can be found on the Merton web site (www.merton.gov.uk/licensing), in leaflets and in the guidance.

20. Registered Clubs

20.1 Part 4 of the 2003 Act deals with registered clubs.

20.2 The Licensing Authority Merton can grant a Club Premises Certificate for the sale of alcohol and regulated entertainment to qualifying clubs.

20.3 There are various conditions that have to be complied with for a club to qualify e.g.

- Forty-eight hour wait before becoming a member; and
- Club having at least 25 members.
- There are also requirements about concerning the supply of financial information to members and the keeping of financial records. The club also has to be managed by an elected Management Committee.

20.4 The provisions with regards to making an application for the Club Certificate are similar to those for a premises licence.

20.5 Further information can be found on the Merton web site www.merton.gov.uk/licensing, in leaflets at public libraries and in the guidance issued by the Government.

21. Reviews and dealing with complaints about premises

21.1 After the grant of a premises licence or a club premises certificate, responsible authorities (e.g. police, fire brigade, environmental health) and other persons interested parties (e.g. residents living in the locality) may wish to make complaints about problems associated with crime and disorder, public safety, public nuisance or the protection of children.

21.2 The Licensing Act 2003 provides for a process whereby responsible authorities and/or other persons interested parties can make an application for a review of the licence and provide their written representations.



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- 21.3 Written representations may be ~~expanded-amplified~~ upon at a subsequent hearing or may stand in their own right. ~~However, generally, new r~~Representations in addition to those already made in writing may ~~not~~ be heard at a subsequent hearing. Therefore it is important that any representation made is clear, ~~comprehenisve, -cense~~ and to the point.
- 21.4 Furthermore, these representations must relate to particular premises for which a premises licence is already held and must be relevant to the promotion ~~of one of more~~ of the licensing objectives. The review process is not an opportunity to revisit the earlier representations made to the Licensing Authority when the original application for a premises licence was determined.
- 21.5 Representations from ~~other persons interested parties~~ will be considered by the Licensing Team to decide if they are frivolous, vexatious or repetitious. If it is determined that such representations ~~fall within one of these categories are either frivolous, vexatious or repetitious,~~ then ~~the~~ application for review ~~will~~ not be accepted.
- 21.6 A representation is repetitious when it is identical or substantially similar to a representation made on a previous review or when the application for the licence was itself determined, and a reasonable interval has not elapsed since that time. In considering whether a reasonable interval has elapsed, ~~the Licensing Authority~~Merton will have regard to whether operation of the premises has begun or changed since the previous representation was made.
- 21.7 On receiving applications for a review from responsible authorities and/or ~~interested other persons~~parties that are relevant, ~~the Licensing Authority~~Merton will arrange a hearing before the Licensing ~~S~~sub-committee in accordance with the regulations ~~made under attached to~~ the Licensing Act 2003.
- 21.8 In circumstances where there are complaints by ~~other persons interested parties, (e.g. residents)~~ ~~the Licensing Authority~~Merton will seek to encourage alternative methods of resolving the complaints before an application is made for a review. However this does not override the right of any ~~interested party~~person ~~to~~ seek a review of a licence or certificate.
- 21.9 In the first instance, ~~interested persons~~parties ~~ar~~ are encouraged to raise the complaint directly with the licensee or business concerned. Responsible authorities are also encouraged to give licence holders early warnings of their concerns and of the need for improvement.
- 21.10 ~~The Licensing Authority~~Merton will take a particularly serious view where the grounds for review are substantiated and relate to ~~the use of the licensed premises:~~
- ~~use of licensed premises~~ for the sale and distribution of drugs and the laundering of the proceeds of drugs crimes;
 - ~~use of licensed premises~~ for the sale and distribution of illegal firearms;
 - ~~for the~~ evasion of copyright in respect of pirated ~~or unlicensed~~ films and music;
 - ~~for the illegal purchase and consumption of alcohol by minors~~~~underage purchase and consumption of alcohol;~~
 - ~~use of licensed premises~~ for prostitution or the sale of unlawful pornography;



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- ~~use of licensed premises~~ for unlawful gambling;
- ~~use of licensed premises as~~ a base for organised criminal activity, particularly by gangs;
- ~~use of licensed premises~~ for the organisation of racist, homophobic or, sexual abuse or attacks;
- ~~use of licensed premises~~ for the sale or storage of smuggled tobacco and alcohol goods;
- ~~use of licensed premises~~ for the sale of stolen goods;
- for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter.
- where Police are frequently called to attend to incidents of crime and disorder;
- where there has been prolonged and/or repeated instances of public nuisance;
- where there are serious risks to public safety and the management is unable or unwilling to address these matters; and
- serious risks to children.

This is not an exhaustive list and only provided by way of example.

21.11 Where the Licensing Authority Merton considers that action under its statutory powers is necessary appropriate it may take any of the following steps:

- to take no action and/or issue a warning;
- issue a letter confirming an offence has been committed and agree a formal caution;
- in a Review to modify the conditions of the premises licence;
- in a Review to exclude a licensable activity from the scope of the licence;
- in a Review to remove the designated premises supervisor;
- in a Review to suspend the licence for not more than 3 months;
- ~~to issue a warning, formal caution;~~
- to prosecute; and
- in a Review to revoke the licence.

Review proceedings may take place in addition to criminal proceedings for any offence that arises out of the complaint that led to the review application. Review proceedings do not need to be delayed pending the outcome of those criminal proceedings.



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22. Administration, Exercise and Delegation of Functions

- 22.1 A scheme of delegations has been agreed by the Licensing Committee and published with this policy can be accessed on the website www.merton.gov.uk in the Council's Constitution.
- 22.2 The Licensing Committee may receive regular reports on decisions made by officers so that they maintain an overview of the situation.

Publication of the policy

The Licensing Policy is available on the Merton ~~web~~-site:- www.merton.gov.uk/licensing

The Licensing Policy will be available upon request in large type and audio. The Licensing Policy will be available upon request in the following languages:

Albanian
Arabic
Bengali
Chinese
Farsi
French
Greek
Gujarati
Hindi
Italian
Korean
Polish
Punjabi
Somali
Spanish
Tamil
Turkish
Urdu

The Council will endeavour to make the Licensing Policy available in other languages upon request.



Appendix 1 – Pool of Conditions

~~Conditions may only be imposed on licences and certificates where they are proportionate and necessary for the promotion of one or more of the four licensing objectives.~~

~~The pool of conditions from which this Licensing Authority may draw necessary and proportionate conditions in particular circumstances can be found with reference to the following documents:~~

- ~~• Code of Guidance issued under section 182 of the 2003 Act~~
- ~~• Model National and Standard Conditions for the Places of Public Entertainment and Associated Guidance ISBN 1 904031 110 (Entertainment Technology Press ABTT Publications)~~
- ~~• Alcohol Harm Reduction Strategy~~
- ~~• The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999) (“The Purple Book”) ISBN 07176 2453 6~~
- ~~• The Guide to Safety at Sports Grounds (The Stationery Office 1997) (“The Green Guide”) ISBN 011300095 2~~
- ~~• Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts~~
- ~~• The Street Arts Network~~
- ~~• The London District Surveyors Association’s “Technical Standards for Places of Public Entertainment” ISBN 0 9531229 2 4~~
- ~~• The Portman Group Code of Practice on the Naming Packaging and Promotion of Alcoholic Drinks.~~
- ~~• The Portman Group PASS Accreditation system – proof of age~~
- ~~• Safer Clubbing and the “Updated Drug Strategy”~~
- ~~• Health & Safety Executive (HSE)~~

~~The conditions are a pool from which this Licensing Authority can choose appropriate ones to suit the specific needs of an individual premises operation. They are not an exhaustive list and conditions not listed in the pool may be specifically tailored by the Licensing authority and attached to licences as appropriate.~~

~~In addition to the possible conditions described above the following are conditions that this Licensing Authority may also attach where it is necessary or appropriate:~~

- ~~(i) Where a regulated entertainment is specially presented for children, the Council may require the following arrangements when necessary in order to control their access and egress and to ensure their safety:
Age restrictions attached to children being admitted to any entertainment unless such child is accompanied by and is in the charge of a responsible adult person~~

Comment [GG14]: For reasons given earlier I think you should delete this Appendix 1 – replace with a Pool of Conditions rather than referring to other documents, some of which are otiose and irrelevant.



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- ~~• no child unless accompanied by an adult to be permitted in the front row of any balcony~~
- ~~• no standing to be permitted in any part of the auditorium during the performance~~
- ~~• an adult member of staff to be stationed in the vicinity of each of the exits from any level, subject to there being a minimum of one member of staff per 50 children or part thereof~~

~~In addition to the staff members required to be stationed at any exit or head of any staircase there shall be on duty no less than 2 other attendants who shall take charge of and safeguard young children who are not accompanied by a responsible adult and as far as conditions allow, shall arrange for such young children to sit together in groups~~

- ~~• attendants wearing a conspicuous white armband not less than 4" wide with the wording "CHILDRENS ATTENDANT" marked thereon~~
- ~~• Police checks of staff that are dealing with children for relevant offences that may make them unsuitable to be dealing with children.~~

~~(ii) The following are also conditions that may be attached with regards to prevention of harm to children~~

- ~~• Limitations on the hours when children may be present~~
- ~~• Limitations on ages below 18~~
- ~~• Limitations or exclusion when certain activities are taking place~~
- ~~• Requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult)~~
- ~~• Full exclusion of people under 18 from the premises when any licensable activities are taking place~~



Appendix 1 – Responsible Authorities Contact details

The Chief Officer of Police, PS P Sparham, Wimbledon Police Station, 15 Queens Road, London, SW19 8NN

London Fire & Emergency Planning Authority, Fire Safety Regulation: South West Area 4, London Fire Brigade, 169 Union Street, London, SE1 0LL

Planning Manager, 14th Floor Merton Civic Centre, London Road, Morden, SM4 5DX

Merton Local Safeguarding Children Board, 10th Floor Merton Civic Centre, London Road, Morden, SM4 5DX

Chief Inspector of Weights and Measures, Trading Standards Service, 14th Floor Merton Civic Centre, London Road, Morden, SM4 5DX

Environmental Health (Commercial) Manager, 14th Floor Merton Civic Centre, London Road, Morden, SM4 5DX

Environmental Health (Pollution) Manager, 14th Floor Merton Civic Centre, London Road, Morden, SM4 5DX

Environmental Health (Licensing) Manager, 14th Floor Merton Civic Centre, London Road, Morden, SM4 5DX

Director of Public Health, 3rd Floor Merton Civic Centre, London Road, Morden, SM4 5DX

Any other licensing authority (Local Council), other than the relevant licensing authority, in whose area part of the premises is situated. (This would only apply to premises located on the boundary between Merton, Wandsworth, Kingston, Croydon, Lambeth or Sutton)

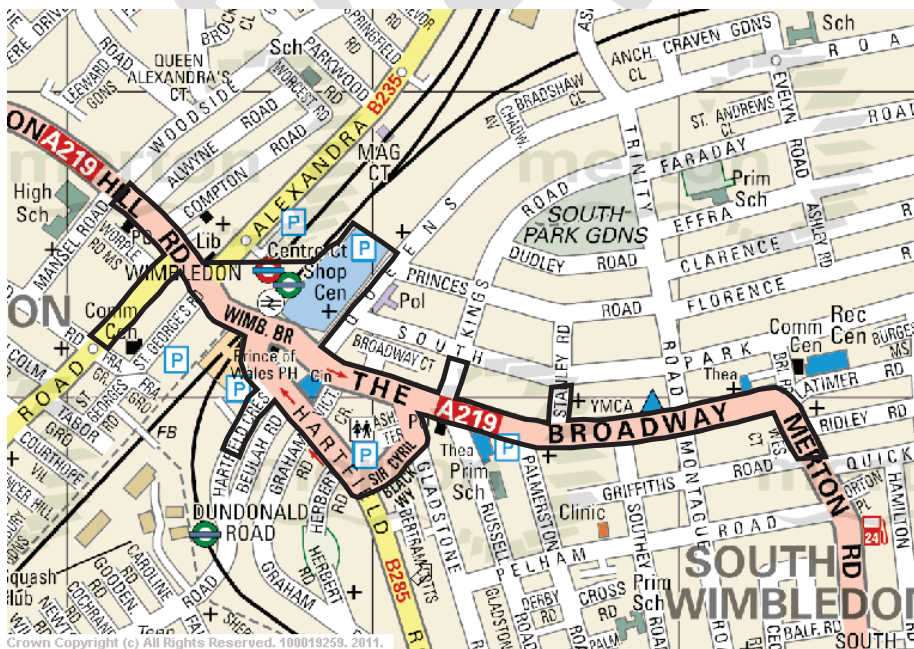
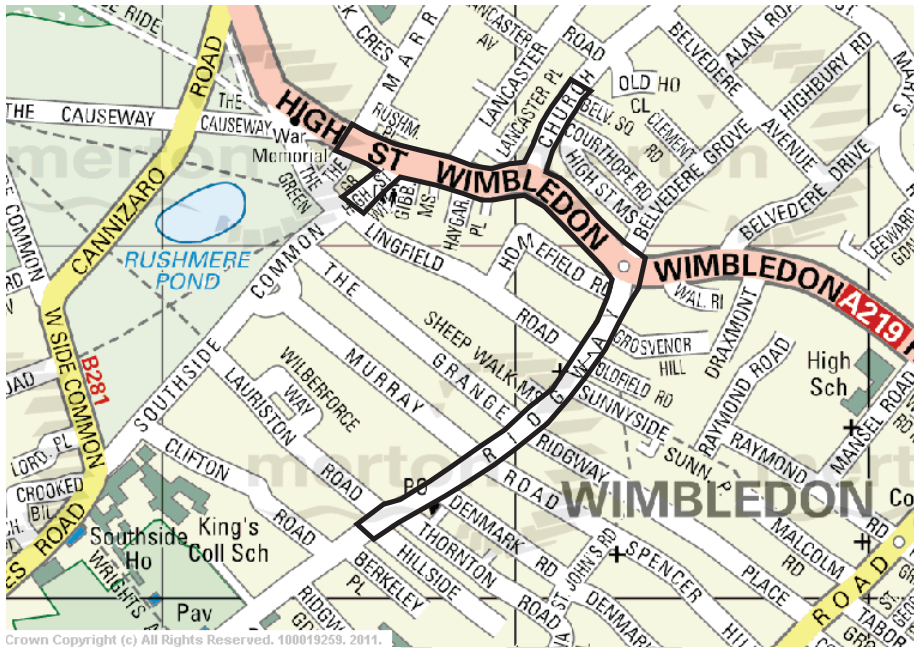
[Health & Safety at Work Act 1974 matters are already covered by your sending a copy of the application to the Environmental Health (Commercial) Manager]

The addresses and contact details above are subject to change and an up to date version is available on the website www.merton.gov.uk/licensing.

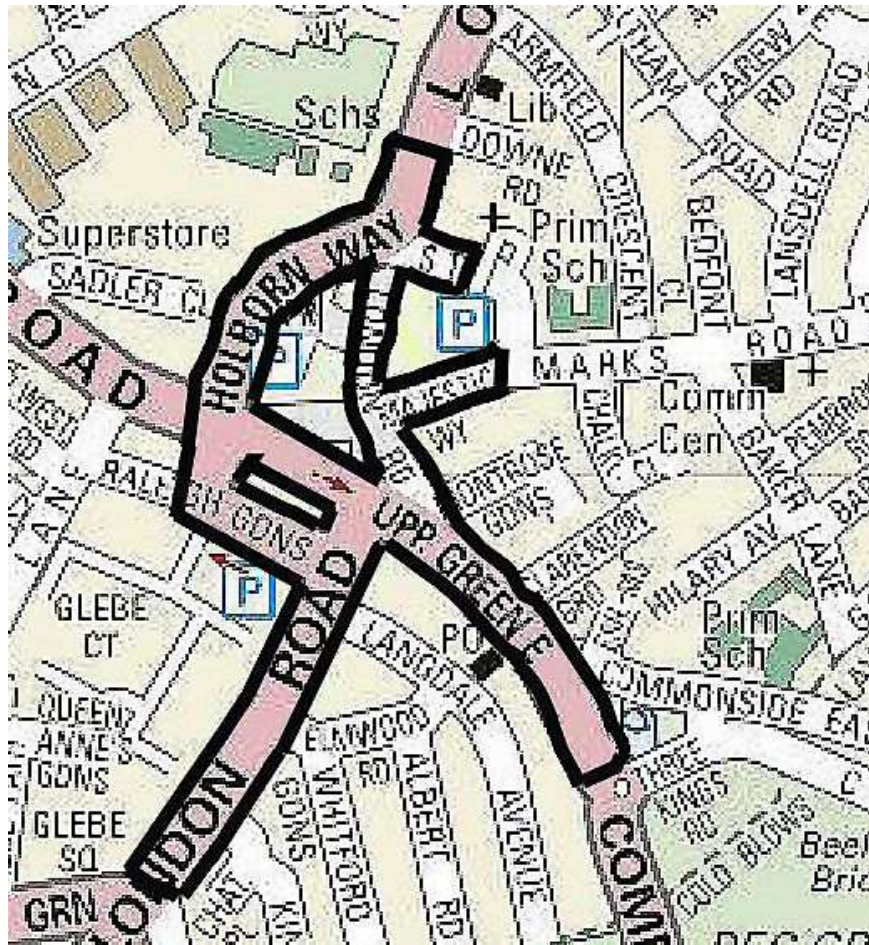


Appendix 2 – Maps showing Cumulative Impact Zone Boundaries

Comment [GG15]: Need to add Mitcham Town Centre map if approved as a CIP area.



APPENDIX "B" - Map Showing the Proposed Area to be Covered by the Mitcham Town Centre Cumulative Impact Zone.



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Committee: Licensing

Date: 24th February 2015

Agenda item: 5

Wards: All

Subject: The designation of parts of the highway for the purposes of Street Trading

Lead officer: Paul Foster

Lead member: Cllr. Judy Saunders

Forward Plan reference number:

Contact officer: John Hillarby

Recommendations:

- A. That committee resolves to designate the proposed areas.
-

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. This report relates to requests for licence street designations and summarises comments received through a consultation process with interested parties.

2 DETAILS

- 2.1. The Street Trading Service has received 2 applications from traders interested in utilising the highway for the purposes of street trading.
- 2.2. This report concerns applications for 2 new of licence streets designations.
- a) An extension of the area outside The Royal Surrey 9 Abbotsbury Road Morden SM4 5LH to 11.7m x 2m and
 - b) An area of 3.9m x 1.9m on the 'Island Site' opposite 54 High Street Wimbledon SW19 5AX.
- 2.3. Plans and photographs of the proposed areas are included in Appendix B.
- 2.4. For the purposes of this document the original report for item 2.2 (b) above has been reproduced and amended based on findings since the previous Licensing Committee. At the meeting on 27th November 2014 the Licensing Committee resolved to defer the decision in order to allow more information to be gathered on the effect of the trading on the surrounding area. More information was also required on the size and usage of the proposed area to be occupied by the van.
- 2.5. Concerning 2.2 (b) a question was also raised concerning the possibility of rescinding the designations in the area (without prejudice). This issue is dealt with in the separate report Rescinding Designations submitted to this Committee for this meeting.

- 2.6. Street Trading is regulated by the London Local Authorities Act 1990 as amended.
- 2.7. All street trading is administered and regulated by the Council using this legislative framework. The London Local Authorities Act 1990 permits a street trading licence to be granted for “not less than six months and not more than three years”. There are two types of street trading licence granted in the Borough. A permanent licence that is valid for 1 year and a temporary licence valid from 1 day to 6 months to facilitate market trading and temporary events. It is unlawful to trade on the street without a valid street trading licence.
- 2.8. A one year Street Trading Licence can only be granted for areas designated as licence streets.
- 2.9. Merton licences specific locations (pitches) within a street rather than the street as a whole. The designation of specific locations on the street as opposed to the entire street gives greater control to the Council in regulating street trading and its impact on the environment. Street trading licences are renewable annually.
- 2.10. Comprehensive regulations and standard conditions are in place to facilitate regulation and enforcement of street trading in the Borough and provide a framework for all aspects of trade. These regulations are included for information as Appendix C.
- 2.11. Street trading licence fees for the year 2014-2015 are shown in Appendix E.

3 ALTERNATIVE OPTIONS

- 3.1 Designations shall not be granted.
- 3.2 Temporary licences can be issued where there are specific concerns requiring further assessment.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. The consultation process and consultees are defined by the London Local Authorities Act 1990.
- 4.2. A notice was placed in the Local Guardian newspaper advising the public of the consultations and requesting comments. A copy of the notice is included in Appendix A.
- 4.3. Notices were attached to street furniture in the immediate vicinity of the proposed areas.
- 4.4. Electronic copies of the notices were also sent to all ward councillors, residents associations and interested parties as part of a Licensing group email.
- 4.5. As part of the consultation process comments were invited from both external and internal agencies such as, LBM Highways, LBM Planning and the Police.
- 4.6. **Ward Councillors Representations:** See representations below

4.7. **Street Trading Service comments –**

1) The Royal Surrey 1-9 Abbotsbury Road Morden. An extension to the existing designated area has been requested to make use of the entire window space to the right of the property. There is sufficient space on the highway outside the property to allow the placement of tables and chairs with out causing undue inconvenience to the public. The operators have been using the space under a temporary licence and no complaints have been received regarding its usage. We feel the area is a simple extension that will enable the trader to make use of the existing space without breaching the licence conditions relating to the size. The current licence fee paid for the site would cover the area requested. As there are no reasonable grounds for refusal we would recommend the designation of this area to allow the issuing of a new street trading licence.

2) The 'Island Site' – Background information: The proposed pitch is located on the Island Site where old public amenities were previously located. They were paved over in the late 1980's/early 1990's and a clear horse path was constructed. Following the enactment of the London Local Authorities Act in 1990 there were applications for, and the granting of, two licence street designations.

- Site 1 is used as a flower stall and was increased in size from 2.4m x 1.8m to 3.6m x 3.6m in 2012. The site has been in use since the 1990's.
- Site 2 is 1.83m x 1.55m and has been vacant for a number of years. This site was the subject of a previous application from another trader in January 2010 which was refused by Merton's General Purposes Committee. Concerns were raised about the proximity of the pitch to the horse path and the risk of littering. The proposed use of the pitch was a take away food kiosk.

The current application also concerns a food operator, Forno Viaggiante, in this instance using a Citroen H van converted to operate as a pizza van. The proposed pitch location differs from the previous application which sought to increase the size of the existing pitch. This application seeks a new pitch location with some overlap of the existing pitch. It is also rotated to place the serving side away from the horse path and towards the common. Details of the pitch locations are contained within Appendix B.

It can reasonably be expected that any trader operating would at some point have a queue. This queue would in turn cover part of the highway. Because the vehicle is turned away from the main direction of pedestrian and horse travel, any queue is formed away from the busiest sections of footway.

We believe the distance this current application has between its serving hatch and the horse path is such that no inconvenience will be caused to users of the path and no distractions will frighten the horses. Included in this report are pictures showing the level of clearance between the horse path and the site whilst in operation.

At the Licensing Committee on 27th November members raised queries regarding the size of the vehicle intended for use on the pitch and whether it would be in breach of the conditions of any licence by opening its awning

which forms part of the serving counter. This is an integral part of the vehicle itself and not a removable item. Under Section 11 (b & c) of Merton's Street Trading Regulations (Appendix C), a distance of 0.6m is permitted from the boundary of a pitch for an awning or roof extension unless otherwise specified by conditions on the licence.

The serving hatch of the pizza van extends to 0.84m and the extra 24cm could be considered under the conditions of the licence. Such conditions could be increasing the visibility of the hatch and ensuring no further extensions or additions are made to it.

In this instance this service would consider it appropriate to allow the serving hatch/canopy to extend outside of the pitch as we have done on other sites in the borough.

The operators of the business have been trading Friday – Sunday since July 2014 on a Temporary Licence so as to establish themselves and provide an opportunity to test the commercial environment. A complaint was received regarding the leaking of oil from the vehicle but the trader rectified the problem. No further complaints have been received during the entirety of the original temporary licence (July – November 2014) or the extension granted by Committee at the last meeting. On visiting the site officers have found no breaches of the conditions and the traders have maintained the area around the pitch as expected.

Tables and chairs that had been placed on the site for those waiting were immediately removed when requested.

Street Trading has been permitted at this site for many years and we feel the classic design of vehicle used does no detract from the character of the area or the surrounding buildings, some of which are listed, whilst others are of c.1960's design. Whilst appreciation for the open nature of this site is noted we are legally obliged to consider all applications and to only refuse on the grounds set out in the London Local Authorities Act 1990 (as amended). We do not feel the vehicle in question detracts or degrades the area in question..

Representations have been received regarding the application and as can be found in Appendix G, these comments are both for and against the requested type of trading. We have also received outside of the consultation process additional representations concerning the site. The Committee has permitted the inclusion of these representations as the intervening time between the November and February meetings was designed to better gauge the impact of the trading at the site.

A petition was received containing 230 signatures in support of the trader remaining on site. We feel this is a good gauge of the popularity of the trader as poor quality food and poor service would not enable them to trade successfully. Officers have also been told first hand by workers/residents on site of how much they wish them to remain.

We note that several of the representations received relate to the type of trading and licence conditions. Although a consideration in Committee's decision making process, the issuing of the licence and associated conditions are to be taken by officers under delegated powers. Any recommendations or conditions put forward by the committee, relating to the

issuing of the licence, can be taken up by officers before granting, in-so-far-as powers legally permit. This would enable officers to regulate and enforce the licence with the possibility of variation or revocation for breach of conditions.

Therefore the officer recommendation is to grant the designation.

5 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 5.1. The cost of placing notices in the local Guardian is accounted for in the licence application procedures in place.
- 5.2. Regulatory and enforcement costs will be met from within the street trading budget.
- 5.3. The collection of licence fees will assist the Councils ability to fund the necessary budget requirements for the provision of the service.

6 LEGAL AND STATUTORY IMPLICATIONS

- 6.1. Part III of the London Local Authorities Act 1990 (as amended), hereinafter in these implications referred to as the “Act”, regulates trading on the street and provides a statutory consultation framework.
- 6.2. Unless provided for in the Act, Section 23 states that it is unlawful for a person to engage in street trading in any licence street within a borough unless the person is authorised to do so by a street trading or a temporary licence.
- 6.3. Under section 21 of the Act, a street trading licence means a licence granted for no less than 6 months and no more than 3 years. Regulations made by the London Borough of Merton pursuant to section 27(3) of the Act prescribe that these types of licences are only granted for a year. Temporary licences are defined as licences granted for a single day or such period as may be specified in the licence not exceeding 6 months.
- 6.4. It would also be unlawful for street trading to take place if the street or part of the street that is being licensed for these purposes have not first been designated by resolution as a “licence street” pursuant to section 24 of the Act.
- 6.5. Section 24(4) to (8) of the Act prescribes the consultation process which has to be carried out before a resolution can be passed to designate a licence street and this process has been carried out by the Council. This includes the advertisement in a local newspaper, service of notice on the local Highway Authority, and receipt of the necessary consent from the local Highway Authority.
- 6.6. The officer recommendation in this report is for the Committee to grant both designations. The Committee should decide to grant or refuse the designations after considering the officer recommendations, representations that have been made and all relevant facts before them.
- 6.7. The Committee would be expected to consider some of the following issues:
 - highway safety,
 - highways obstruction,
 - street furniture or bus stop safety,
 - volume of traffic,
 - access for emergency services,

- over use of area,
- risk of danger to pedestrians and other road users with the presence of a trading unit/stall,
- detriment or annoyance to residents from the proposed street trading.

- 6.8. Each application must be considered on its own merits and be reasonable. In making a balanced and reasonable decision, it should be considered whether an 'unsightly' pitch or a site with an issue involving enough 'space', is sufficient reason to refuse a designating resolution. A decision could reasonably be made to address those issues through the conditions of the licence e.g. the trading days and times permitted.
- 6.9. The Council is legally obliged to consider all applications and to only refuse on the grounds set out in the London Local Authorities Act 1990 (as amended).
- 6.10. It should be noted that many representations received during the consultation phase relate to the type of trading and not the designation of a licence street to which Committee is concerned.
- 6.11. Under Section 24 (9) of the Act, after the Borough Council have considered those representations, they may if they think fit, pass such a resolution relating to the street.
- 6.12. Under section 24(3) of the Act, if a Borough Council passes a designating resolution, the designating of the street takes effect on the day specified in the resolution. This date must not be before the expiration of the period of one month beginning with the day on which the resolution is passed.
- 6.13. Under section 24(10) of the Act, the Borough Council has to publish a notice of the passing of such a resolution in a local newspaper circulating in their area on two consecutive weeks. Under section 24(11) of the Act, the first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of the designation.
- 6.14. The issuing of the street trading licence and associated conditions are to be taken by officers under delegated powers. The designation of licence streets has followed this process since the Act was enacted, with some sites previously designated under the Highways Act 1980.

7 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 7.1. It is important that the Council carefully considers all the representations made during the consultation process.

8 CRIME AND DISORDER IMPLICATIONS

- 8.1. Enforcement and advisory visits will be made regularly to the premises to ensure compliance with licence terms and conditions. The police are consulted on all applications for designations.

9 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 9.1. Failure to discharge its duties under the Act and make proper regulations to control street trading could damage the Council's reputation and expose it to the risk of judicial review.

10 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- Appendix A – Public Consultation Notice
- Appendix B - Plans and photographs of proposed areas
- Appendix C – Street Trading Regulations
- Appendix D – London Local Authorities Act 1990 Section 24 – Designation of Licence Streets
- Appendix E – Street Trading Licence Fees
- Appendix F – Representations
- Appendix G – Additional correspondence

11 BACKGROUND PAPERS

11.1. None.

Appendix A

Original designation notice (see 13)

LONDON BOROUGH OF MERTON

(hereinafter referred to as "the Council")

PART III OF THE LONDON LOCAL AUTHORITIES ACT 1990

(hereinafter referred to as "the Act")

Intention to designate parts of Merton as "licence streets" pursuant to the Act.

TAKE NOTICE THAT pursuant to Section 24 of the Act, the Council is seeking to designate 11 areas (hereinafter referred to as "the street") as licence streets where street trading will be permitted by the Council subject to obtaining a Street Trading Licence and 2 licences.

- 1) An area of 5.1m x 1.9m outside MJ Halal Meat 4 Langdale Parade Upper Green East Mitcham CR4 2PF. The Council has also been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of display stands holding fruit and vegetables on the designated site 8am – 7pm Monday – Sunday inclusive. **Reference WK/201313479**
- 2) The Council has been requested by Mrs Flavia Araujo-Wilkinson to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of a catering trailer/food stall in Hartfield Pathway (off of The Broadway) Wimbledon SW19 1QD 8am – 6pm Monday to Sunday inclusive. **Reference WK/201406367**
- 3) An area of 5.9m x 1m outside Rana Foods & Halal Meat 35 London Road Morden SM4 5HT. The Council has also been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of a fruit and vegetables stand on the designated site 9am – 9pm Monday – Sunday inclusive. **Reference WK/201401453**
- 4) An area of 6m x 1m outside Nordic Style Sweden 7 High Street London SW19 5DX. The Council has also been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of furniture on the designated site 9.30am – 5.30pm Monday – Sunday inclusive. **Reference WK/201401459**
- 5) An area of 4.6m x 2m outside Top Fashion Hair & Beauty, 2 Langdale Parade Upper Green East Mitcham CR4 2PF. The Council has also been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of display stands with hair and beauty related projects on the designated site 8.30am – 8pm Monday – Sunday inclusive. **Reference WK/201405389**
- 6) An area of 6m x 0.6m outside Madura Fancy & Giftware 60 London Road Morden Surrey SM4 5BE. The Council has also been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of display stands holding fruit and vegetables on the designated site 9am – 8pm Monday – Sunday inclusive. **Reference WK/201402656**
- 7) An area of 3.7m x 1m outside Brew 21 High Street London SW19 5DX. The Council has also been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of tables and chairs on the designated site 7am – 10pm Monday – Sunday inclusive. **Reference WK/201400400**

- 8) Two areas outside Monkeys, 244 Grand Drive, Raynes Park, London, SW20 9NE **a)** 3m x 1m directly outside the front window **b)** 2m x 1m outside the window on the corner of Grand Drive and Cannon Hill Lane. The Council has also been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of tables and chairs on the designated site 7.30am – 5pm Monday – Saturday inclusive. **Reference WK/201402304**
- 9) Two areas outside The Old Frizzle 74-78 The Broadway, Wimbledon, SW19 1RQ **a)** 11.8m x 0.59m directly outside the front windows and **b)** 6.74m x 0.73m outside the windows on Kings Road. The Council has also been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of tables and chairs on the designated site 11am – 10pm Monday to Thursday 10am – 10pm Friday and 10am – 9pm Sunday. **Reference WK/201405466.**
- 10) The Council has been requested by Mr Alexander Zimmermann to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of a catering trailer/food stall on Pitch 3 St Mark's Place Wimbledon SW19 to sell German street food 7am – 7pm Monday to Sunday inclusive. **Reference WK/201406369**
- 11) An area of 5m x 10m outside unit 6A The Piazza, The Broadway Wimbledon. The Council has also been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of tables and chairs for a patisserie on the designated site 8am – 8pm Monday – Saturday inclusive and Sunday 9am – 7pm. **Reference WK/201406474.**
- 12) An area of 6m x 2.5m outside 80 Morden Road and opposite Ravensbury Park Mitcham CR4 4PH. The Council has also been requested by Mr Ian Hurley to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of a food van on the designated site 6.30am – 4pm Monday – Saturday inclusive. **Reference WK/201406154**
- 13) **An area of 3.9m x 1.9m on the 'Island Site' opposite 54 High Street Wimbledon SW19 5AX. The Council has also been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of a pizza van on the designated site 10am – 8pm Monday – Sunday inclusive. Reference WK/201405612.**

If you wish to make representations to the Council regarding the designation of parts of the highway as licence streets or the issuing of street trading licences, you should write to the Council at **Trading Standards, London Borough of Merton, Civic Centre, London Road, Morden, Surrey, SM4 5DX** quoting the appropriate reference. Any representations made must clearly state the grounds and reach the Council before the 13th November 2014. The Council will consider all representations received before a final decision is made as to whether to designate parts of the street as a licence streets and whether to issue licences for street trading.

Dated this the 16th October 2014

LONDON BOROUGH OF MERTON

(hereinafter referred to as "the Council")

PART III OF THE LONDON LOCAL AUTHORITIES ACT 1990

(hereinafter referred to as "the Act")

Intention to designate parts of Merton as "licence streets" pursuant to the Act.

TAKE NOTICE THAT pursuant to Section 24 of the Act, the Council is seeking to designate 1 area (hereinafter referred to as "the street") as licence streets where street trading will be permitted by the Council subject to obtaining a Street Trading Licence and 1 street trading licence under Section 25 of the Act.

- 1) The Council has been requested by Mrs Emma Jenkins to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of a food van on a designated site in Wandle Way Mitcham CR4 6.00am – 3.30pm Monday – Friday inclusive. **Reference WK/201407301**

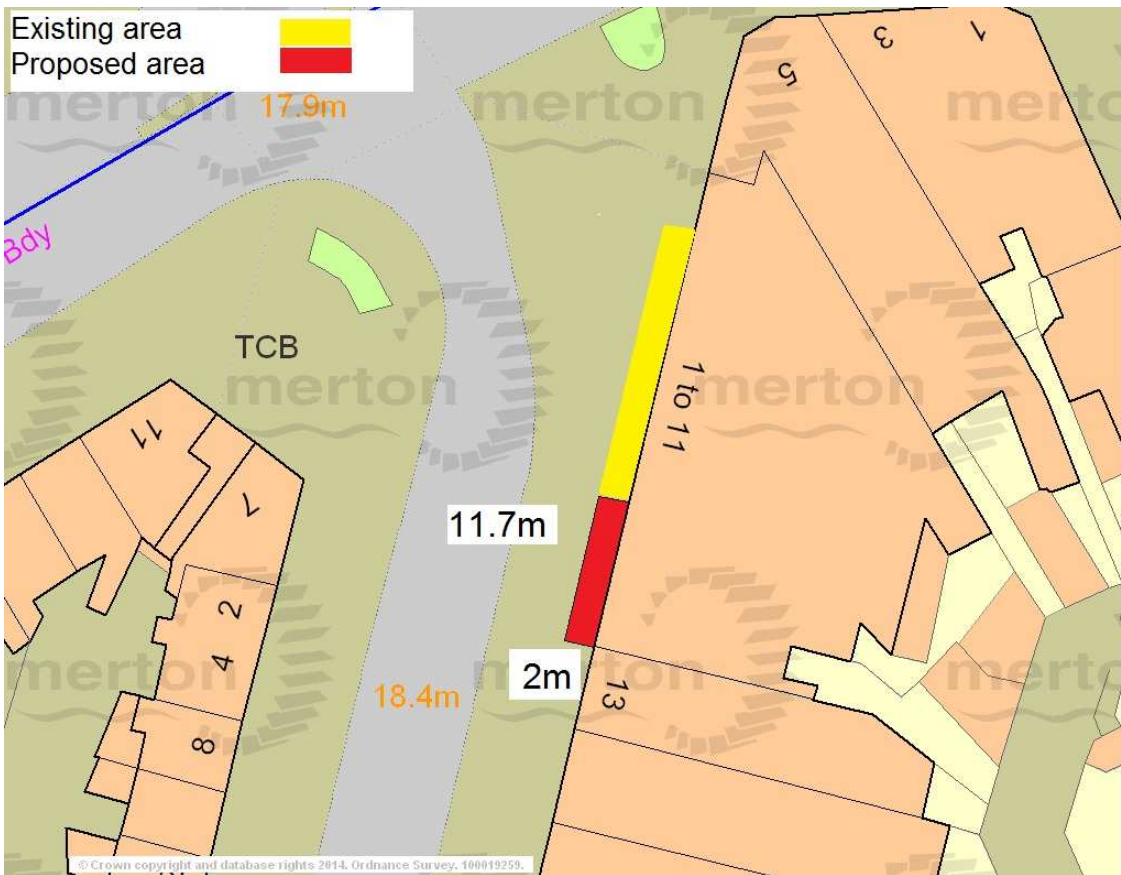
- 2) **An extension to the area outside The Royal Surrey 9 Abbotsbury Road Morden SM4 5LH. The Council has been requested to increase the designated area to the right of the main entrance to 11.7m x 2m and issue a street trading licence under Section 25 of the Act. If granted, tables and chairs will be permitted on the designated site 10am – 9.30pm Monday – Sunday inclusive. Reference WK/201312440**

If you wish to make representations to the Council regarding the designation of parts of the highway as licence streets or the issuing of street trading licences, you should write to the Council at **Trading Standards, London Borough of Merton, Civic Centre, London Road, Morden, Surrey, SM4 5DX** quoting the appropriate reference. Any representations made must clearly state the grounds and reach the Council before the 27th November 2014. The Council will consider all representations received before a final decision is made as to whether to designate parts of the street as a licence streets and whether to issue licences for street trading.

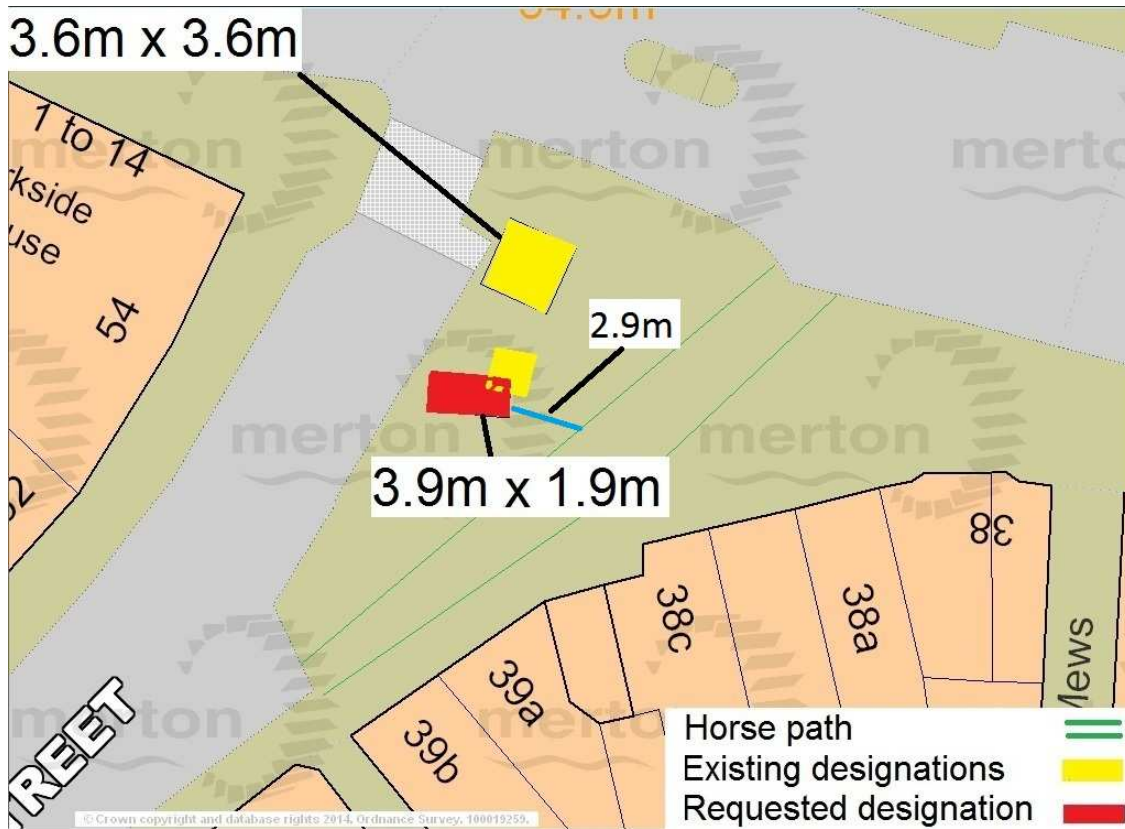
Dated this the 30th October 2014

Appendix B

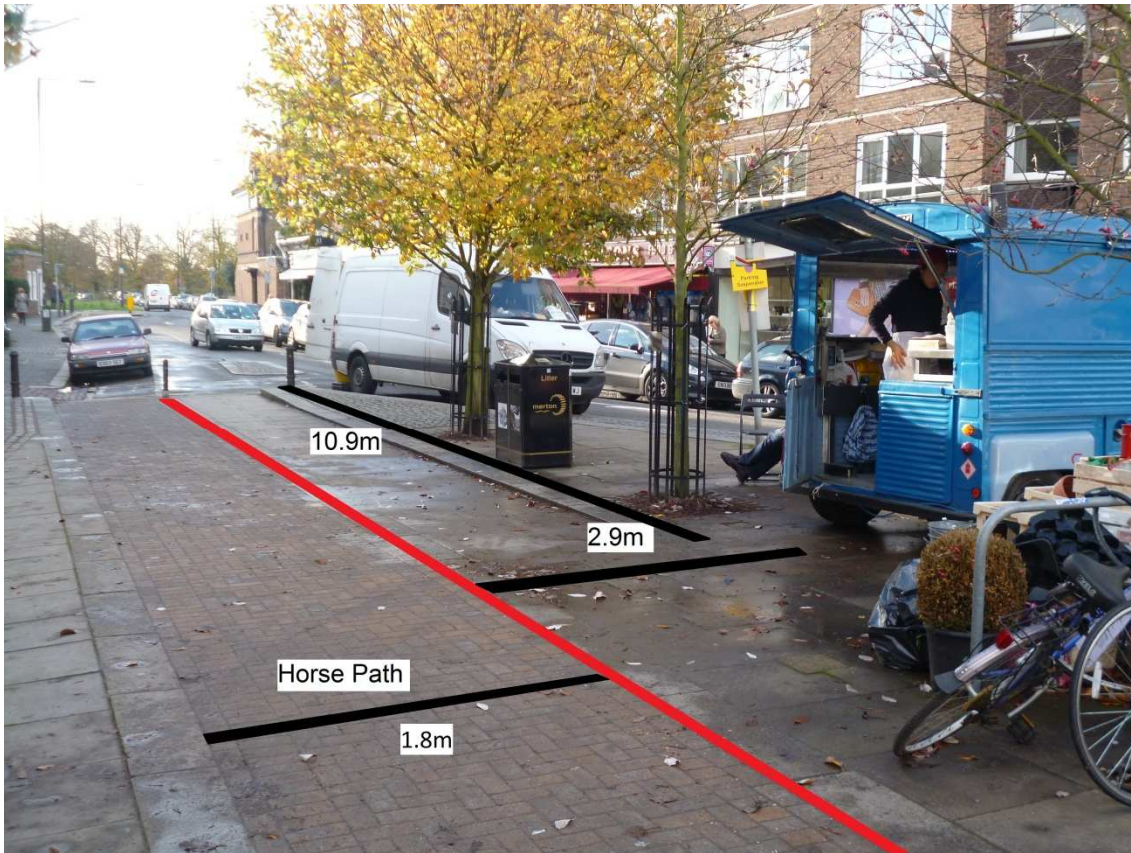
The Royal Surrey Abbotsbury Road Morden



'Island Site'



Trader in-situ



With the horse path in use



Photographs taken since the 27th November Licensing Committee meeting



Van with c.1960's architecture in the background



Appendix C

REGULATIONS MADE BY THE LONDON BOROUGH OF MERTON PURSUANT TO SECTION 27(3) OF THE LONDON LOCAL AUTHORITIES ACT 1990 PRESCRIBING STANDARD CONDITIONS APPLICABLE TO STREET TRADING LICENCES.

DEFINITIONS

In the Regulations unless the context otherwise requires, the following expressions shall have the same meanings that appear in Section 21(1) of the London Local Authorities Act 1990 as amended.

'Receptacle' includes a vehicle or stall and any basket, bag, box, vessel, stand, easel, board, tray or thing which is used (whether or not constructed or adopted for such use) as a container for or for the display of any article or thing or equipment used in the provision of any service.

'Street' includes:-

- (a) any road or footway;
- (b) any other area, not being within permanently enclosed premises, within 7 metres of any road or footway, to which the public have access without payment;
- (c) any part of such road, footway or area;
- (d) any part of any housing development provided or maintained by a Local Authority under Part II of the Housing Act 1985:

'Street Trading' means the selling or exposing or the offering for sale of any article (including a living thing) or the supplying or offering to supply any service in a street for gain or reward.

'Street Trading Licence' means a Licence granted under the Act and valid for the period specified therein being not less than six months and not more than three years.

'Temporary Licence' means a Licence granted under the Act valid for a single day or for such period as may be specified in the Licence not exceeding six months.

THE FOLLOWING ARE THOSE DEFINED BY THE COUNCIL

'The Act' means the London Local Authorities Act 1990 Part III as amended.

'The Council' means the London Borough of Merton.

'Advertisement' means any word, letter, model, sign, placard, board, notice, whether illuminated or not, in the nature, and employed wholly or partly for the purposes of, advertisement, announcement or direction and includes any hoarding or similar structure or any balloon used, or adapted for use for the display of advertisements, and references to the display of advertisement shall be constructed accordingly.

'Assistant'

(a) means a person employed by, and acting under the directions of a Licence Holder to assist him/her about the business of the stall, whether for reward or not and includes a person directed solely or otherwise to transport the Licence Holder's stall.

(b) where a Licence is granted outside a catering establishment or shop premises; 'assistant' shall also include any other employee, manager, secretary, director, partner, supervisor or the like who may from time to time or full time be involved in the street trading activity including those engaged in the completion of a transaction within the premises.

'Authorised Officer' means any officer of the Council authorised in writing by the Council's Director of Environment and Regeneration to carry out any function under the Act or these Regulations acting within the terms of such authorisation.

'Awning' includes a sheet of canvas or other material, used as a protection against the weather, which projects as an extension of the roof beyond the structure of the stall and includes parasols provided to tables outside catering establishments.

'Catering Establishment' means any premises used for the retail sale of food or drink for consumption on the premises, where the Council has licensed a site for tables and chairs to be provided for customers' use on the street.

'Child' means a person under compulsory school leaving age as in the Education Act 1996 or successor and includes a baby/child of pre-school age.

'Goods' means any goods, wares, or merchandise displayed for sale at a stall or Licensed Site.

'Harassment' includes but is not limited to:-

- (a) Violence or threats of violence towards any person;
- (b) Abusive or insulting words or behaviour;
- (c) Damage or threats of damage to property belonging to another person;
- (d) Writing threatening, abusive or insulting graffiti;
- (e) Any act or omission calculated to interfere with the peace or comfort of any person or to inconvenience such person;
- (f) Refusal to serve or permit access to a stall, licensed site, premises or services.

'Licence' means a valid Street Trading Licence or a valid Temporary Licence.

'Licence Holder' means any person who is licensed for street trading under Part III of the London Local Authorities Act 1990 as amended.

'Licensed Site' means a place in any authorised street at which street trading may be engaged in by a Licence Holder, and includes any temporary alternative place approved by the Council or a duly authorised Officer of the Council.

'Loading and Unloading' includes stocking or replenishing goods at a Licensed site, vehicle or receptacle.

'Refuse' includes empty and discarded receptacles and any waste material.

'Stall' means the structure for which the Council grants a Licence for goods or services to be displayed thereon or from which services are provided.

'Street Furniture' includes seating facilities provided by the Council for public use, bollards, stanchions, railings, the walling of flower beds and any structure owned by a statutory undertaking or the like.

'Undressing the Stall' means removing goods and receptacles and any other things thereon in part or in whole or dismantling or adjusting any part of the stalls' structure.

'Approved Street Festivals' means those street festivals whereby the Council may issue temporary Street Trading Licences.

'Displays Outside Shop Premises' means where the Council has granted a Licence to display goods from a stall or licensed site on the footway immediately outside the shop premises.

'Refreshment Stalls' includes coffee stalls and those selling foodstuffs capable of immediate consumption.

'Traditional Stalls' includes those licensed to sell garments, hardware and raw foodstuffs.

GENERAL

The grant of a Street Trading Licence shall not be deemed to give any approval or consent which may be needed under any Bye-law, enactment, or Regulation other than under the Act. The stall, trade, business, activity etc. shall comply and be conducted in a manner that conforms with other relevant legislation enforced by the Local Authority or other Agencies. These include General Health and Safety, Food Safety, Trading Standards and Fire Prevention and Highways Regulations.

INFORMATION

(i) Headings inserted in these regulations are for the purpose of convenience only and shall not in any way affect the meaning or construction thereof.

(ii) Where in these conditions there is reference to the consent or agreement of the Council such consent or agreement may be given on such terms and conditions and subject to such restrictions as may be so specified.

(iii) These conditions may be dispensed with or modified by the Council in any individual case by means of a Licence Variation in accordance with the statutory requirements.

(iv) If a trader wishes any of the terms of a Licence to be varied or the Council's agreement under these rules, application must be made in writing to the Council in accordance with the statutory requirements.

(v) These regulations replace the regulations previously approved by the Council.

1. INSURANCE

(a) The Licence Holder shall take out third party insurance cover with a minimum liability of at least two million pounds.

(b) In respect of Licences granted for the display of goods outside shop premises and tables and chairs outside catering establishments this may be incorporated in an insurance policy of the business.

(c) Satisfactory evidence of such insurance must be produced to the Council before a Licence will be granted or renewed.

(d) Evidence of such insurance shall also be produced by a Licence Holder on demand to an Authorised Officer of the Council or a Police Officer.

2. DAYS AND TIMES

A Street Trader shall only engage in Street Trading on the days of the week and during the times specified in the Licence or otherwise authorised by the Council except that there shall be no trading on Christmas Day. Markets do not operate on Sundays and Public Holidays.

3. DISPLAY OF NAMES

Licence Holders except in respect of displays of goods outside shop premises and tables and chairs outside catering establishments shall prominently display a sign with their surname or family name and licensed Site or Licence Number on the stall. Additionally they may exhibit a trading name or title.

4. CHARGES AND FEES

(a) Charges for a Street Trading Licence shall be payable to the Council annually in advance. A Street trading licence will be valid for 12 months. Fees and charges will be set by the Council from time to time. In making any payment the Street Trader shall ensure that the appropriate invoice and account numbers are recorded.

(b) Charges for a Temporary Licence shall be payable each day in advance or for such periods as shall be specified in the Temporary Licence. An Authorised Officer shall decide the charges in accordance with the rates set by the Council from time to time.

(c) A Street Trader shall pay all charges for any Licence in force that has been issued at his request whether or not he engages in Street Trading.

(d) In accordance with Section 32(1) of the Act a fee shall be paid for the grant or renewal of a Street Trading Licence, but not a Temporary Licence, and for any variation of a Licence at the request of the Street Trader.

5. LICENCE AND INSPECTION OF LICENCE ETC.

(a) Licence Holders shall produce their Licence for Inspection when requested to do so by an Authorised Officer of the Council or Police Officer.

(b) In respect of displays outside shop premises and catering establishments the Licence shall be exhibited within the premises in the safe vicinity of the entrance so that it can be seen by an Authorised Officer of the Council or Police Officer.

(c) Where the Council has issued a Certificate of Variation to a Licence that shall be produced and displayed with the Licence.

(d) All other Licence Holders in their absence shall ensure that the Licence is retained on the stall so that it can be produced by an assistant on demand to an Authorised Officer of the Council or Police Officer.

(d) If alcoholic beverages are consumed at a licensed site, the Licence Holder or Assistant shall produce on demand, where appropriate, licenses that are required by the Licensing Act 2003 to an Authorised Officer of the Council or Police Officer.

(e) Once issued to a Street Trader a Licence shall remain in force until the expiry date indicated therein or until revoked by the Council in accordance with the Act.

(f) Where, in accordance with Section 26 of the Act, the holder of a Street Trading Licence has nominated a relative as his successor and that holder dies then the nominated successor may continue to engage in Street Trading within the terms of that Licence for a maximum period of 28 days provided that successor pays any charges due.

(g) On the death or retirement through age or ill health of a Licence holder, the Council may issue a Licence to a nominated relative to trade from the Licensed Pitch shown in that Licence in accordance with Section 26 of the Act. For the purposes of Section 26 of the Act a person shall be treated as being related to another if the latter is the wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half daughter of the former and shall be deemed to be so related notwithstanding that he is so related only through illegitimacy or in consequence of an adoption.

6. POSITION

(a) The Licence Holder shall only use the licensed site prescribed in the Licence (which may be marked or denoted on the ground by means of white lines, contrasting paving or other device by the Council) unless the circumstances under 6(e) shall arise.

(b) The Licence Holder shall not cause or permit stalls, goods, receptacles; (except refuse containers under Regulation 16c) to project whether grounded or suspended beyond the licensed site or to be placed or to stand anywhere else in the street.

(c) In respect of catering establishments, tables and chairs shall not be placed or used outside of the site defined in the Licence. This may be denoted by the Council marking the boundary by White Lines or other means.

(d) The Licence Holder or Assistant shall inspect the licensed site whilst in use at least every hour to ensure that tables and chairs are not outside of the licensed area.

(e) If the licensed site is obstructed by roadworks or other hazard the Licence Holder may consult an Authorised Officer of the Council or failing that a Police Officer in uniform and produce their Licence. Temporary trading elsewhere whilst the obstruction persists shall be at the discretion of the Officer consulted. The name of the Council Officer or the number of the Police Officer must be noted by the Licence Holder.

7. SIZE

(a) The Licence Holder shall not place or cause to be placed on the street, a stall that exceeds the dimensions prescribed in the Street Trading Licence.

(b) Stalls shall not exceed the dimensions unless prescribed in the Street Trading Licence.

(c) Market stalls shall not exceed 3 metres by 3 metres (10 feet by 10 feet) or other dimension as specified in the Street Trading Licence.

(d) The dimensions of all stalls prescribed in Licences shall include any towing bar or bracket or the like that remains projecting from the stall whilst trading is being conducted.

(e) Displays outside shop premises shall not exceed the size prescribed in the Street Trading Licence. The Council will take into account any private forecourt and the available depth of footway.

(f) In respect of catering establishments the number of tables and chairs on the street shall not exceed the numbers prescribed in the Licence.

(g) The sizes of tables and chairs and parasols shall not exceed those prescribed in the Licence.

8. PERMITTED GOODS AND SERVICES

(a) Only those goods or services specified in the Licence may be displayed, used, provided or offered for sale.

(b) In respect of displays outside shop premises, cash registers, scales and other measuring devices shall be contained within the shop and not brought onto the street, licensed site or the stall.

- (c) No advertisement shall be displayed on a stall or licensed site which relates to any goods or services other than those offered for sale or provided on the stall or licensed site.
- (d) A Street Trader shall not cause or permit a nuisance to be created by noise or smell emitted from the Licensed Pitch or type of display.

9. DEALING WITH THE PUBLIC

- (a) Licence Holders and their assistant shall ensure that the public are treated fairly and with courtesy.
- (b) Licence Holders are responsible to ensure that assistants are competent, courteous and helpful.
- (c) Admission or service shall not be refused to any person on the grounds of gender, race, ethnic origin or the grounds of sexual orientation.
- (d) The Licence Holder shall not use or permit any activity, omissions or practice in the conduct of the business that will cause harassment to any person on the grounds of their disability, skin colour, religion, gender, age, sexual orientation and so on.
- (e) The serving of customers shall not take place in the road.
- (f) A Licence Holder or assistant offering a service shall make clear the nature and cost of that service by way of a notice on the stall or within the licensed area.
- (g) All goods shall be clearly marked with a price, and where appropriate an indication of the unit quantity in which they are being offered for supply.
- (h) Where the licensed site is in the road or adjacent, scales and cash registers shall be placed on the stall at the furthest point from passing vehicular traffic.
- (i) The customer should clearly be able to view the goods being weighed, measured etc. before they confirm their intention to purchase.
- (j) In respect of goods selected by customers from displays outside shops the requirement in Regulation 8(i) shall be carried out within the shop premises.
- (k) A Licence Holder or assistant shall not use a megaphone or amplification equipment or a loud voice to shout out the price of goods etc. in order to attract customers.
- (l) Radios or other audio equipment shall not be used in or around the licensed site other than by written agreement of the Council.

10. RECEPTACLES & CONSTRUCTION OF STALL

- (a) Only those receptacles approved by the Council shall be used by the Licence Holder and assistants. Stalls shall not be formed by the use of old milk crates and the like and other receptacles notified to the Licence Holder by letter.
- (b) Goods must not be placed directly on the street unless specified in the Licence.
- (c) Where the Council has licensed the display of bulky furniture or the like outside shop premises on the street a suitable trolley to remove the goods shall be maintained within the shop.
- (d) Stalls shall be constructed so as not to become unbalanced or otherwise unstable.
- (e) Stalls shall be maintained in good order and free from protruding nails or other hazards likely to cause injury or damage to a person or their clothing.
- (f) No stall, part of the stall, accessory, table or chair shall be used if it is likely to damage the street.
- (g) A Licence Holder or assistant shall not bolt or otherwise secure temporarily or permanently anything to the street or street furniture.
- (h) Sites licensed for the displays of goods outside shop premises shall not incorporate any form of seating facility, nor may any seating be used or provided by the Licence Holder or assistant immediately outside the licensed site or elsewhere in the street other than on a private forecourt associated with the business.
- (i) Other Licence Holders shall not provide or use any form of seating facility outside of the licensed site (other than street furniture provided by the Council for public use) unless they

have the written consent of the Council. Such permission may restrict their use to the Licence Holder and assistants and prescribe the number of seats, their construction, size, and positioning together with other conditions.

11. ROOFING OF STALLS ETC.

- (a) The distance between ground level and any support of the roof, awning or supports of the stall or goods suspended from any of these, shall be at least 2.4m unless otherwise specified in the Licence.
- (b) A Licensed Street Trader shall not permit the awning or roof of the stall to project outside the area of the pitch, save as provided in Regulation 11(c).
- (c) The awning or roof of a stall may project over the footway for a distance not exceeding 0.6 metres from the boundary of the pitch unless otherwise specified or restricted by a further condition of the Licence.
- (d) The roof or awning shall be safely constructed and must not shed water over customers or passers by.
- (e) No awning other than a parasol may be used as part of a stall for displays outside catering establishments.
- (f) A Street Trader, or his Assistant, shall immediately remove any Awning on the instruction of an Authorised Officer or a police constable and shall, in any case, remove any Awning outside the permitted hours for Street Trading.

12. ELECTRICITY SUPPLY ETC.

- (a) The only connection between stalls in the street and other premises shall be for the purposes of electric lighting and power for the operation of electronic scales, measuring equipment and cash registers and the testing of electrical goods or other agreed services; and any such electrical or other connections shall be readily detachable and the detailed arrangements agreed with the Council. No connection shall be made with any other stall.
- (b) Where the Council provides an electrical supply system to the stall, the trader shall pay to the Council upon demand the installation costs and for the supply and maintenance of the service and equipment.
- (c) All electric power supplies shall have the appropriate consent from the Council before seeking installation from the Electricity Board.
- (d) All electrical wiring and components shall comply with the basic Electricity Board Specification and be earthed and insulated accordingly.
- (e) All electrical cables that are suspended over the public footway shall have a minimum clearance of 2.4 metres from the footway surface, and 5.1 metres from the surface of the roadway.
- (f) Any suspended lighting shall be safely protected and shall not expose the public, Licence Holder or assistants to any form of risk.
- (g) In respect of displays outside shop premises and catering establishments, mains electrical power may be supplied from the permanent premises to the trading area providing that all equipment and wiring shall be placed, installed, maintained and operated in accordance with the provisions of the Health and Safety at Work, etc. Act 1974 and all other relevant Regulations.
- (h) In all such cases an automatic circuit breaker must be installed within the premises between the point of supply and the equipment in the trading area.

13. GENERATORS

- (a) Electrical generators shall not be used at displays outside shop premises and catering establishments.

- (b) When mobile electrical generators are permitted they shall be so positioned that:-
- (i) they do not present a danger to the public, and
 - (ii) they do not present a fire or similar hazard risk to the stall or goods displayed thereon, or to persons engaged on or about the stall, and
 - (iii) they do not cause any noise or fume nuisance, and
 - (iv) any inflammable fuel is stored away from the stall in a container and position approved by the Council.
- (c) Heat producing equipment shall be so placed within the licensed site as to offer maximum safety to the public. The position of any equipment in relation to other goods and materials shall be agreed with the Council in writing.

14. LOADING AND UNLOADING

- (a) Any cart, barrow, trolley or similar conveyance owned or hired by the Licence Holder or assistant shall not be used except for the purpose of loading, unloading and transporting goods.
- (b) Loading and unloading shall be restricted to twenty minutes and resumption shall not occur until a further hour has elapsed.
- (c) Loading and unloading must not be continually interrupted by the serving of a customer.
- (d) The cart, barrow or trolley or similar conveyance used for replenishing or moving goods shall be stored on the Licence Holder's vehicle or at the storage facilities or in respect of displays outside shop premises within the shop premises and not on the street.
- (e) Loading or unloading shall be abandoned for any duration ordered by an Authorised Officer of the Council or Police Officer if in their opinion the activity obstructs pedestrian flow or causes any other form of obstruction or nuisance.
- (f) The Licensed Street Trader or his assistant shall not use a vehicle for loading or unloading at or near the licensed site unless it can lawfully be there.
- (g) Licence Holders or assistants shall replenish displays outside shop premises from stocks held within the shop premises and not directly from any vehicle.
- (h) A Street Trader, or his Assistant, shall ensure that there is no undue obstruction of vehicular or pedestrian traffic whilst re-stocking the Licensed Pitch or loading and unloading Goods or other articles used for or in the course of Street Trading. When, in the opinion of an Authorised Officer or a police constable, there is likely to be undue obstruction of vehicular or pedestrian traffic the Street Trader, or his Assistant, shall immediately cease re-stocking, loading or unloading and within 15 minutes clear any Goods or other articles used for or in the course of Street Trading or for re-stocking, loading or unloading from any position in the Street other than within the Licensed Pitch.
- (i) A Street Trader, or his Assistant, shall not place, keep or use a vehicle at or near his Licensed Pitch in contravention of any legal parking or loading restrictions nor shall a Street Trader, or his Assistant, place, keep or use a vehicle at or near his Licensed Pitch which does not display a current disc showing that any road tax, or similar, has been paid.

15. REMOVAL OF STALLS ETC.

- (a) Licence Holders and their assistants shall remove stalls, goods, tables and chairs and anything else under their control as directed for so long as may be necessary.
- (i) In the event of an emergency and this shall include any public demonstration, congregation or disorder in the area, whether or not instructed by an Authorised Officer of the Council or Police Officer;
 - (ii) In the exercise of the Council's powers and duties which include the maintenance of the licensed site, to enable its re-marking and to check whether the stall is capable of being removed in accordance with these Regulations and

- (iii) To enable statutory undertakings to maintain their services;
- (iv) In order to accommodate customers confined to wheelchairs outside catering establishments the Licence Holder or assistants shall remove any surplus chairs, for the time being, to the place of storage
- (b) Stalls, goods, tables and chairs etc. shall be removed from the public highway to the place of storage, as stated on the application form, or such other alternative place subsequently agreed by the Council in writing, within 30 minutes of the time prescribed on the Licence for the end of trading on that day.
- (c) A Licence Holder electing to cease trading before the time denoted in the Licence shall remove the stall, goods, tables and chairs at that time to the place of storage.
- (d) A Licence Holder in respect of shop premises shall remove the stall(s) and goods on the cessation of trading and before closing the shop premises.
- (e) Where at an approved Street Festival the stall is hired or provided by the organiser or the agent, the Licence Holder shall be responsible for its erection, suitability, stability, dismantling and safe and prompt removal.
- (f) A Licence Holder upon production of Proof of Ownership may claim from the Council within 14 days of it coming into the Council's possession and without penalty (providing that it is not otherwise this subject of Legal Proceedings or a Seizure Order) anything that:-
 - (i) not being within a licensed site was removed by an Officer of the Council because in their opinion it was a hazard or the like to the public;
 - (ii) otherwise came into the Council possession and was identified as possibly being associated with the activity of Street Trading.

16. PROVISION OF STALL BY THE COUNCIL

- (a) The Licence Holder shall use any stall provided by the Council.
- (b) Where the Council provides, (lends, hires or lets) the stall, the Licence Holder shall be responsible for its care and safe custody and must not wilfully or otherwise cause to it any damage.
- (c) The stall must either be on the licensed site, in the storage unit or in the course of being transported to and fro. It shall not be used for street trading or any other purpose elsewhere.
- (d) The stall when not in use shall be placed within the storage unit provided by the Council.
- (e) The Licence Holder shall secure the unit by the use of padlocks or other locking devices approved by the Council.
- (f) The Licence Holder shall keep the storage unit free from accumulations of refuse.
- (g) The Licence Holder shall make the storage unit available for inspection by an authorised Officer of the Council and to enable its general maintenance.

17. REFUSE

- (a) In respect of traditional sites the Licence Holder and assistants shall ensure that all refuse arising as a result of the activities shall be placed in suitable covered containers provided by the Licence Holder exclusively for that purpose.
- (b) Such refuse containers shall be kept as clean as is reasonably practicable.
- (c) Refuse containers shall be sited in a location agreed with the Council. They shall be emptied whenever necessary into any vehicle, container, compactor, or place provided by the Council for that purpose.
- (d) Licence Holders and their assistants, in respect of footway displays outside shop premises and catering establishments shall ensure that any refuse arising from the external activities is properly stored and disposed of as part of the shop business.
- (e) No refuse shall be allowed to accumulate or be placed in the street.

- (f) No vehicle shall be used for the storage of such refuse.
- (g) The Licence Holder shall produce on demand to an Authorised Officer of the Council, proof of a contract for the disposal of trade refuse.
- (h) In respect of catering establishments the licence holder shall also remove from tables any used and discarded receptacles.

18. ATTENDANCE BY LICENCE HOLDER

- (a) Traditional Licence Holders must be in attendance throughout the whole or part of the day that the stall is set up for trading unless engaged on the following:-
 - (i) A meal break or visit to the toilet.
 - (ii) Sickness of short duration.
 - (iii) Hospital, dental or doctor's appointment.
 - (iv) Occasional attendance at the office of an accountant, tax inspector, bank or Council cash office.
 - (v) On holiday.
 - (vi) Or for any other sufficient reason that may be approved by the Council from time to time.
- (b) In respect of displays outside shops and catering establishments the Licence Holders usual place of work shall be within the premises.
- (c) At approved Street Festivals the Licence Holder shall be in attendance at the stall throughout the event save that prescribed in 18(a)(i).
- (d) No Licence Holder shall sub-let the stall or any part of the stall or the licensed site, or install a manager to operate the Licence.
- (e) A Licence Holder if required by an Authorised Officer and/or Solicitor to the Council shall furnish the Council with a Medical Certificate obtained at the Licence Holders own expense or other documentary evidence to support the reasons for any continual or repetitive absences.

19. NAMES OF ASSISTANTS AND RESTRICTION OF EMPLOYMENT ETC.

- (a) The Licence Holder shall notify the Council of the names of any assistants within seven days of their commencement. This shall be by letter or on a form prescribed by the Council.
- (b) The Licence Holder shall give any other information regarding assistants as required by the Council.
- (c) A Licence Holder shall not have as an assistant any child in the business of street trading including the putting out or stocking of receptacles, clearance of refuse, attending a stall or any related activity.
- (d) A Licence Holder and assistant shall not bring or have care and control of a child whilst the business is being set up, operated or dismantled.
- (e) The failure of an Assistant to comply with the conditions of the Street Trading Licence held by the employer shall be deemed to be a failure by the Licence Holder.

20. ADMINISTRATION

- (a) Licence Holders and assistants must give every reasonable assistance to Council Officers and their contractors in carrying out their duties.
- (b) A Licence shall cease to have effect (*other than being revoked or having expired or on the death of the trader*) only upon it being surrendered by the Licence Holder in exchange for a written receipt at the Council's Trading Standards Office.
- (c) A Licence Holder making application for the renewal of a Licence shall bring the completed application form and prescribed fee to the Council Officer by appointment. The

three photographs prescribed in the Act if not already forwarded by the Licence Holder shall be handed to the Officer at this time.

(d) A Licence Holder having appeared before a committee of the Council where, although there were sufficient grounds to revoke the Licence it was decided to deal with the matter by way of a Warning Letter shall acknowledge receipt of the Warning Letter by signing and dating and returning one copy of the letter to the Council in the envelope provided within 21 days of its receipt.

(e) Licence Holders shall notify the Council in writing of any change of their title, name or home address as soon as it occurs.

(f) The sending of letters and Notices from the Council by the General Postal Service to the last notified address by the Licence Holder shall be taken by the Council as proper and good service of documents.

(g) All notifications (*excluding payments of weekly/monthly charges*) given by the Licence Holder to the Council shall be to the Council's address as it appears on the Licence or that subsequently amended and notified in writing to the Licence Holder.

Appendix D

London Local Authorities Act 1990 Section 24

Designation of licence streets

24 (1) If a borough council consider that street trading should be licensed in their area they may from time to time pass any of the following resolutions:—

(a) a resolution (in this Part of this Act referred to as a “designating resolution”) designating any street within the borough as a “licence street”;

(b) a resolution specifying in relation to any such street or any part of a street any class or classes of articles, things or services which they will, or other than which they will not, prescribe in any street trading licence granted by them in respect of that street; and may from time to time by subsequent resolution rescind or vary any such resolution:

Provided that a borough council shall—

(a) before passing a designating resolution, consult with the Commissioner of Police of the Metropolis on their proposal; and

(b) before rescinding or varying a designating resolution, consult with the licence holders trading in the street in question, or a body or bodies representative of them, on their proposal.

(2) At the appointed day for the purposes of this Part of this Act in a borough, the streets prescribed by any licences granted by the council of the borough in pursuance of powers contained in any of the enactments referred to in column (2) of Schedule 2 to this Act and then in force shall be deemed to have been designated as licence streets under a designating resolution.

(3) If a borough council pass a designating resolution the designation of the street shall take effect on the day specified in the resolution (which must not be before the expiration of the period of one month beginning with the day on which the resolution is passed).

(4) A borough council shall not pass a resolution or rescind or vary a resolution under this section unless—

(a) they have published notice of their intention to do so in a local newspaper circulating in their area;

(b) they have served a copy of the notice on the highway authority for that street (unless they are that highway authority); and

(c) where subsection (5) below applies, they have obtained the necessary consent.

(5) This subsection applies—

(a) where the resolution relates to a street which is owned or maintainable by a relevant corporation; and

(b) where the resolution designates as a licence street any street

maintained by a highway authority;

and in subsection (4) above “necessary consent” means—

(i) in the case mentioned in paragraph (a) above, the consent of the relevant corporation; and

(ii) in the case mentioned in paragraph (b) above, the consent of the highway authority.

(6) The following are relevant corporations for the purposes of this section:—

(a) British Railways Board;

(b) London Regional Transport;

* * * * *

(d) Network Rail Infrastructure Limited; and

(e) Transport for London.

(7) The notice referred to in subsection (4) above shall—

(a) contain a draft of the resolution to which it relates; and

(b) state that representations relating to it may be made in writing to the borough council within such period, not less than 28 days after the publication of the notice, as may be specified in the notice.

(8) As soon as practicable after the expiry of the period specified under subsection (7) above, the borough council shall consider any representations relating to the proposed resolution which they have received before the expiry of that period.

(9) After the borough council have considered those representations, they may if they think fit, pass such a resolution relating to the street as is mentioned in subsection (1) above.

(10) The borough council shall publish notice of the passing of such a resolution in a local newspaper circulating in their area on two consecutive weeks.

(11) The first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of the designation.

Appendix E

LONDON BOROUGH OF MERTON LONDON LOCAL AUTHORITIES ACT 1990 PART III (as amended) (STREET TRADING)

NOTICE IS HEREBY GIVEN UNDER SECTION 32 OF THE ABOVE NAMED ACT OF THE
STREET TRADING LICENCE FEES FOR THE FORTHCOMING YEAR
VALID FROM 1ST April 2014 – 31ST March 2015

Unless otherwise stated all fees are for a period of 1 year.

Administrative Fees

New Street Trading Licence Application Fee	£50
Renewal Licence Processing Fee	£25
Variation of existing Licence	£75
Market Trading Registration Fee	£25

Forecourt, and Tables and Chairs Licence

Up to 1 sq m	£103
Over 1 sq m up to 6 sq m	£578
Over 6 sq m up to 12 sq m	£867
Over 12 sq m up to 18 sq m	£1,156
Over 18 sq m	£1,735

Temporary Monthly Licence for Forecourt, and Tables and Chairs where a full application is being processed.

Up to 1 sq m	£8.50
Over 1 sq m up to 6 sq m	£48
Over 6 sq m up to 12 sq m	£72
Over 12 sq m up to 18 sq m	£96
Over 18 sq m	£145

Other Pitches

Remote pitch not on a market e.g. catering van	£1,360
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Market Fees (Temporary Licence per pitch per trading day)

Regular Market	£12
Casual Market	£20

Specialist Market Fee (minimum ten stalls/pitches for up to 4 days or part thereof)
£515

Other Temporary Licences (up to 2 months in any year)

Daily	£52.50
Weekly	£263
Monthly	£1051

These fees are calculated to reflect the reasonable costs of the Council in administering street trading in the borough.

Street Trading

London Borough of Merton
Merton Civic Centre
London Road
Morden SM4 5DX
Appendix F
Representations

The Island Site Wimbledon Village

Email from Ward representative Cllr Bowcott

Dear David,

Thank you for calling me back yesterday. I think that there are two issues with the open space opposite the Rose and Crown. One seems to be that there is an existing yet small and unutilised trading pitch and the other is that it is an 'open space' at the entry point to the Village. I think that it is a shame that we should have considered the area as suitable for street trading at all but having done so we must be careful. Space can be important in itself and it doesn't have to be leased off to the detriment of an important local amenity. Space rather than clutter is what is needed here. The site is a 'gateway' and as tranquil as the A219 can be. It is adorned by a listed building and used by riders on horseback. Why would it need a pizza van?

Clearly I value the sense of space. I certainly deplore the idea of hot food sales anywhere on this site and believe that there is no hour of any day on which a mobile pizza van would be appropriate in this location. I am also confident that this is the view of a significant number of local residents.

Regards

Cllr John Bowcott

Peek Crescent
Wimbledon
London SW19

Trading Standards 11 November 2014
London Borough of Merton
Merton Civic Centre
London Road
Morden
Surrey SM4 5DX

By Post and Email

Dear Sirs

Designation Consultation/Street Trading Licence Issue Request
Dated 16 October 2014
Ref WK/201405612

In relation to the above application my wife and I live at X Peek Crescent close to Wimbledon Village and the site of the above street trading request.

We object to both the designation of the site for street trading and the grant of the licence to a pizza van on the following grounds:

1. The site is one of the few open spaces remaining in Wimbledon Village and is critical to its attractiveness. Filling it fully with street trading on a permanent basis would fundamentally alter for the worse the nature of the Village
2. The current shops are already under significant economic pressure as evidenced by the number of vacant premises in the Village. The designation of further trading space would put them under increased and unnecessary pressure
3. If the Trading Licence is granted we do not believe any retail food trading should be allowed on the site on the basis of
 - a. hygiene (the site is adjacent to a designated horse track between the stables and Wimbledon Common)
 - b. Unfair competition with existing food retail outlets in the Village
 - c. Inconvenience to local residents – smell and litter
 - d. A total reversal of previous Council policy

Resident (details supplied)
Peek Crescent

PARKSIDE RESIDENTS' ASSOCIATION

Burghley Road
Wimbledon
London SW19

Trading Standards
London Borough of Merton
Merton Civic Centre
London Road
Morden
Surrey
SM4 5DX

10 November 2014

By Post and Email

Dear Sirs

Designation Consultation/Street Trading Licence Issue Request
Dated 16 October 2014
Ref WK/201405612

The membership area of this Association includes Marryat Road which adjoins Wimbledon High St and a number of other roads including Peek Crescent and Parkside Avenue which are in the vicinity of the High St. Our members take a keen interest in safeguarding the amenities of Wimbledon Village for the benefit of the local community.

The above application relates to a) the designation for street trading of an area 3.9m x 1.9m on the "Island Site" opposite 54 High St Wimbledon SW19 5AX and

b) (if the designation is made) the issue of a street trading licence under S25 of the Act (as defined in the Consultation) which if granted would allow the placing of a pizza van on the designated site 10am-8pm Monday – Sunday inclusive.

We object to both the designation of the Site and the grant of the licence. Our reasons are:

1. The Island Site serves as a visual gateway from the Village to Wimbledon Common and from the Common into the Village. Part of the site, closest to the A219 and directly opposite The Rose & Crown has already been designated for street trading and is in use as a florists on a part time basis. The remainder, including the application area, is attractive open space with strategic planting and hard landscaping which is available for pedestrian use. As such it contributes to a sense of spaciousness appropriate to the Conservation Area status of the Village as a whole. There is also a path for the Village Stables' horses taking daily exercises to and from the Common whose presence adds to the overall amenity in the Village. We do not believe that any additional designation for trading is justified because this would only serve to clutter the open space, compromising the attractive views from the High Street to the Common beyond and from the Common into the Village, in particular Eagle House which is a Grade II* listed building. The horse path would also appear to be adversely affected.
2. There are already a large number of vacant retail units in the Village. Turnover of occupiers seems high with many businesses struggling to maintain a High Street presence. Another retail outlet is unnecessary and arguably would put more pressure on existing outlets struggling to attract custom.
3. If despite the above comments, the designation is granted, we do not believe that a pizza van (or any other takeaway food use) is appropriate. There is already a disproportionately high number of cafes and restaurants in the Village with opportunities to purchase food, hot or cold, to takeaway. There is no need for another such outlet.
4. A van selling pizza will encourage littering, not just in the vicinity of the van but also on the Common where collection of the volume of litter regularly left by visitors in the Rushmere area is already a considerable burden for the Commons authorities. There are flats in all the buildings surrounding the site and their amenities are likely to be affected by smells etc as the pizza is cooked. Vermin will also be attracted to litter containing food scraps and waste. This is unacceptable in a public open space.
5. Previous applications for the sale of food on this site have been refused. We can see no reason to depart from precedent.

Yours faithfully

Mrs S Cooke
Chairman

**Lingfield Road
Wimbledon Village
SW19
13th November 2014**

Trading Standards
London Borough of Merton

Dear Sirs

**Trading Licence Issue Request
ref: WK/201405612**

1. Having been abroad, my wife and I have only just become aware of this application and that objections to it are required by today.
2. We have therefore been unable to consult our neighbours here in Lingfield Road or to formulate a detailed objection.
3. Nevertheless, we do object to this application, strongly.
4. We support all the points made in the letter to you from the Chairman of Parkside Residents' Association.
5. Point 1 in that letter is particularly relevant for those who, like us, live at the Common end of [details supplied]. The High Street past the island site is our principal access to the village and Parkside, both on foot and by car. Already the site is littered with various paraphernalia, including the flower stall, street furniture and so forth, including the occasional addition of the pizza van.
6. It is clear that that van already represents a significant escalation of that clutter, even on the presently permitted part-time basis.
7. If the presence of the van was to be permitted in effect permanently it is inevitable that:
 - (i) the sightline for traffic emerging from beside the van would be compromised;
 - (ii) "creep" would be encouraged so that the van site would become a fixture, with tables and chairs, signs and associated clutter.
8. The granting of a licence to sell alcohol at that site would add a whole extra dimension to the problem, and would effectively create an open-air street bar, with all of the problems attending that, not least for those who would have to pass by it, whether on foot or by car.
9. The inevitable rowdiness, or even the simple agglomeration of additional people at the site would be likely to upset horses from Wimbledon Village stables as they pass by, usually four times a day, often with young, inexperienced riders so risking hazard to them and other street users.
10. In summary, the granting of the proposed application would lead to further, and unnecessary, degradation of what was intended to be an attractive open space, the creation of a potential accident black spot, and the wholly unnecessary further proliferation of street food in the village.

For these reasons my wife (who has seen and approved this letter) and I object to this application.

Yours truly

Name and address details supplied.

Appendix G

Additional representations received after the formal closure of the consultation in November 2014. Due to Committee's decision to delay a final resolution until February 2015, we received extra representations. Documents received have been placed in this appendix to help inform the Committee.

From:

Sent: 16 January 2015 18:40

To: EHCommercial

Subject: letter of support for mobile artisan pizza van license

16-01-2015.

London Borough of Merton Environment and Health Department.

Please confirm receipt of this email and that it will be forwarded to the correct department/ persons responsible.

I would like to write a letter of support for the council to maintain the license for the artisan mobile pizza van that operates on the pedestrian foot area opposite the Rose and Crown pub, Wimbledon Village on Fridays-Sundays.

I understand that a resident within the vicinity has made complaint that the above mentioned business causes a degree of smoke pollution well as increased waste pollution from its operation and would like its license revoked.

I own and live at number **[details supplied]** High St SW19 which is within 50 mtrs of the business in question as well as having a direct sight line over its operation.

I strongly disagree that this business causes any level of smoke pollution that could be deemed as a negative contribution to the surrounding area and there is rarely any visible increase in waste pollution either.

Firstly, can the council please publicise the identity and the address of person making the complaint as well as provide substantiating evidence to support the content of their complaint.

Secondly, In my opinion, this particular business is a very welcome addition to the village. It is an artisan mobile pizza van that has been converted from a classic war period Citroen van installed with a classic wood burning oven. I would find it hard to believe that anyone with an ability to appreciate aesthetics can complain about its appearance.

Given the proximity I live to its operational position I can assure you that the mild smell of smoke and cooking pizzas is far less intrusive and actually far more appealing than that of any of the numerous cafes and restaurants that are located around the village.

In an attempt to reverse the "slow death of the High St independent retailers" which I believe is council initiative, these types of independent businesses should be encouraged and promoted rather than be considered for removal based on the unfounded opinions of 1 or 2 anonymous residents.

Can you please consider my opinion on this matter prior to the councils decision which I believe will be in late Feb 2015.

Sincerely

Name and address supplied

January 2015

Telephone message left by resident and business operator of forty years in the Village. 'I understand some people wish to see this pizza van removed. I would very much like to see the pizza van stay and believe it is a good addition to the Village and would like my comments noted. Should you need any thing further from me please get in contact on... **Name and details supplied.**

Belvedere Estate Residents Association

BERA

**Wimbledon
London
SW19**

10th January 2015

Trading Standards
London Borough of Merton
Merton Civic Centre
London Road
Morden
Surrey SM4 5DX

By Email

Dear Sirs

Street Trading

The Island Site in Wimbledon Village High Street

Dear Sirs,

I understand that at a meeting of the Licensing Committee held on 27th November a temporary licence was granted for Street Trading by a Pizza Van on the above site. This Association, whose membership is drawn from the Belvedere Estate and the Lancaster Roads, was unaware of the application until it was too late to submit comments. We understand that the matter will come before the Committee again on 24th February and I wish on behalf of BERA to register our strongly held objections to any further extension of this licence.

The Island Site is on a corner of the High Street near to the Common, visually attractive and of important amenity value. Our objections are manifold:

- a pizza van generates smell and smoke; there are residences nearby
- there is an inevitable addition to the litter in the street and on the common
- in our view this represents unfair competition with the vendors of food (including pizzas) who rent premises in the High Street at substantial cost
- this would be a serious detraction from the visual attraction of the Site
- there is a path for horses across the Site from the nearby stables
- the Site is opposite a Grade II listed building

We urge you to deny any extension of the licence.

Yours faithfully,

RVJ Chadder

For the Belvedere Estate Residents Association

10 January 2015

Trading Standards
London Borough of Merton
Merton Civic Centre
London Road
Morden SM4 5DX

Re: Area of 3.9m x 1.9m on the 'Island Site' Opposite 54 High Street, Wimbledon SW19 5AX

Gentlemen,

Minutes from the Licensing Committee Meeting of 27 November 2014 relating to the Island Site opposite 54 High Street Wimbledon SW19 5AX clearly set out the committee's concerns regarding restrictions on the open space that this particular application represents. There were also questions regarding the exact dimensions of the space. As such, the committee deferred determination of the application and agreed to reconsider it on 24 February 2015.

I fully support the concerns regarding encroachment on the open space, which is an essential feature of this particular area of Wimbledon Village. The open space makes an

important contribution to the local character and serves as a gateway to both Wimbledon Village and Wimbledon Common. The site is opposite a Grade II listed building and is also used for horse access to Wimbledon Common. If approved, this application may well be the first of a number of applications for uses that are not consistent with the objectives of this open space in strategic planning terms. Furthermore, I understand that the applicant requires an extension of the current space that has been designated, which represents yet further encroachment on the open space.

Additionally, the commercial implications of allowing take-away food from stalls in the village are extremely important and approval of this application would set a dangerous precedent in allowing further expansion of take-away food and drink establishments, which clearly do not conform with the character of Wimbledon Village. It would also represent unfair competition to the restaurants, cafes and bars in the village and could therefore instigate a general trend for food and drink establishments to re-locate in the open spaces, under more attractive commercial terms.

I therefore urge the committee to both reject the application and de-designate this space.

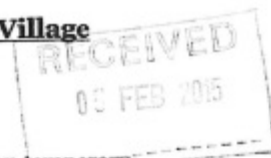
Yours faithfully,

Name and address supplied

Officers have also received a petition signed by 230 people supporting the designation of the pitch and the issuing of a licence. The coversheet for the petition is reproduced below.

Petition To FORNO VIAGGIANTE to trade at Wimbledon Village

Cause of Petition:



We, Forno Viaggiante Pizzeria, have been trading at High Street since mid July 2014 on temporary trading license. Thankfully we have gained regular customers here in the last 6months and are very happy to be trading at our spot.

However, there were a few issues raised at the Wimbledon Village Committee Meeting held on 24th November 2014 regarding our operation and our license is now at a risk of being taken away.

Our customers and friends of Wimbledon Village, we need your support now. Please sign this petition and help us continue trading here!

We will submit this form to Merton Council by 24th February 2015, when the next Wimbledon Village Residents Committee Meeting is commenced.

Thank you for your cooperation, we believe this will make a real difference!

Details of Lead Petitioner

Name: GIANCARLO LAMARI

We, the undersigned, want the MERTON COUNCIL to give FORNO VIAGGIANTE PIZZERIA a permanent permission to trade at High Street, Wimbledon Village.

Petition contains 230 signatures and will be available for inspection at the Licensing Committee meeting on 24th February 2015.

Committee: Licensing

Date: 24th February 2015

Agenda item: 6

Wards: All

Subject: The rescinding of licence streets designations.

Lead officer: Paul Foster

Lead member: Cllr. Judy Saunders

Forward Plan reference number:

Contact officer: John Hillarby

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. This report relates to a request from members for further information on the rescinding of licence street designations in a specific area, but with a view to how the process could be applied to the Borough as a whole.

2 DETAILS

- 2.1. Street Trading in Merton is regulated by the London Local Authorities Act 1990 as amended.
- 2.2. Merton designates specific licence street locations (pitches) within a street rather than the street as a whole. This gives greater control to the Council in regulating street trading and its impact on the local environment.
- 2.3. Comprehensive regulations are in place to facilitate regulation and enforcement of street trading in the borough and provide a framework for all aspects of trade. These regulations are included for information as Appendix C.

3 LEGAL AND STATUTORY IMPLICATIONS

- 3.1. Part III of the London Local Authorities Act 1990 (as amended), hereinafter in these implications referred to as the "Act", regulates trading on the street and provides a statutory consultation framework.
- 3.2. It is unlawful for street trading to take place if the street or part of the street that is being licensed for these purposes has not first been designated by resolution as a "licence street" pursuant to section 24 of the Act.
- 3.3. Section 24(4) to (8) of the Act prescribes the consultation process required before a resolution can be passed to designate a licence street – see Appendix D. This includes the advertisement in a local newspaper, service of notice on the local Highway Authority, and receipt of the necessary consent from the local Highway Authority. A copy of the notice template can be found in Appendix A.
- 3.4. As part of the consultation process comments are invited from both external and internal agencies such as, LBM Highways, LBM Planning and the Police.

- 3.5. Electronic copies of notices are also sent to all ward councillors, residents associations and interested parties as part of a Licensing group email.
- 3.6. The decision rests with the Committee to grant or refuse designations after considering the officer recommendations, representations that have been made and all relevant facts before them.
- 3.7. Under Section 24 (9) of the Act, after the borough council have considered those representations, they may if they think fit, pass such a resolution relating to the street.
- 3.8. Under section 24(3) of the Act, if a borough council passes a designating resolution the designating of the street takes effect on the day specified in the resolution. This date must not be before the expiration of the period of one month after the day on which the resolution is passed.
- 3.9. Under section 24(10) of the Act, the borough council has to publish a notice of the passing of such a resolution in a local newspaper circulating in their area on two consecutive weeks. Under section 24(11) the first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of the designation.
- 3.10. Under section 24 of the Act, the borough council can rescind a designation by subsequent resolution. The consideration of an application for the rescinding of a designating resolution requires the need for consultation with the Police, consent of the Highways Authority, and the submission of representations within the 28 day notice period, to mirror the original resolution application. It also requires the Committee to consider whether it is fit to rescind the designating resolution.
- 3.11. Detailed consideration would be required in circumstances where a trader had been responsibly conducting a business on the designated pitch without complaint or issue and committee were minded to remove the designation. It could be questioned whether the operator may have a legitimate expectation that their pitch/site/use will continue, with renewal for another period. The removal of the designation would prevent the business from continuing to trade and effectively end a viable business with established customer base at the location.
- 3.12. A challenge could be mounted if the Council has not fulfilled its responsibilities towards the traders operating in a designated area.

4 SPECIFIED LOCATION

- 4.1. The 'Island Site' is located on High Street in Wimbledon Village where public amenities were previously located. They were paved over in the late 1980's/early 1990's and a horse path was constructed. Following the enactment of the London Local Authorities Act in 1990 there were applications for, and the granting of, two licence street designations. The designations listed below are shown in Appendix B:
 - a) Site 1 was designated at 2.4m x 1.8m. The site has been in use since the 1990's and has been operated by several different traders during that time. The primary use of the site is as a flower stall. An application was submitted by the current licence

holder for the site to increase in size to 3.6m x 3.6m in 2012 which was subsequently granted by committee.

- b) Site 2 is 1.83m x 1.55m and has been vacant for a number of years. This site was the subject of a previous application from the then licence holder in January 2010 which was refused by Merton's General Purposes Committee. Concerns were raised about the proximity of the pitch to the horse path and the risk of littering. The proposed use of the pitch was a take away food kiosk.

4.2. Several designations have also been granted for tables and chairs and forecourt street trading licences for shops and cafes in the immediate vicinity of the 'Island site' pitches.

4.3. Street Trading has been permitted on these site for almost 25 years.

5 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

5.1. The cost of placing notices in the local Guardian is accounted for in the licence application procedures in place.

5.2. Regulatory and enforcement costs are met from within the street trading budget.

5.3. As a zero cost service, the licence fees collected are the sole source of the street trading budget. The removal of any sites would greatly impact the provision of service by reducing the Councils ability to fund the necessary budget requirements.

6 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

6.1. It is important that the Council carefully considers all the representations made during the consultation process.

7 CRIME AND DISORDER IMPLICATIONS

7.1. Enforcement and advisory visits are made to designated sites to ensure compliance with licence terms and conditions. The police are consulted on all applications for designations.

8 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

8.1. Failure to discharge its duties under the Act and make proper regulations to control street trading could damage the Council's reputation and expose it to the risk of judicial review.

9 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- Appendix A – Public consultation notice template
- Appendix B -- Plans and photographs of Island site designations
- Appendix C – Street Trading Regulations
- Appendix D – London Local Authorities Act 1990 Section 24 – Designation of Licence Streets

10 BACKGROUND PAPERS

10.1. None.

Appendix A

LONDON BOROUGH OF MERTON

(hereinafter referred to as "the Council")

PART III OF THE LONDON LOCAL AUTHORITIES ACT 1990

(hereinafter referred to as "the Act")

Intention to designate parts of Merton as "licence streets" pursuant to the Act.

TAKE NOTICE THAT pursuant to Section 24 of the Act, the Council is seeking to designate an area (hereinafter referred to as "the street") as a licence street where street trading will be permitted by the Council subject to obtaining a Street Trading Licence.

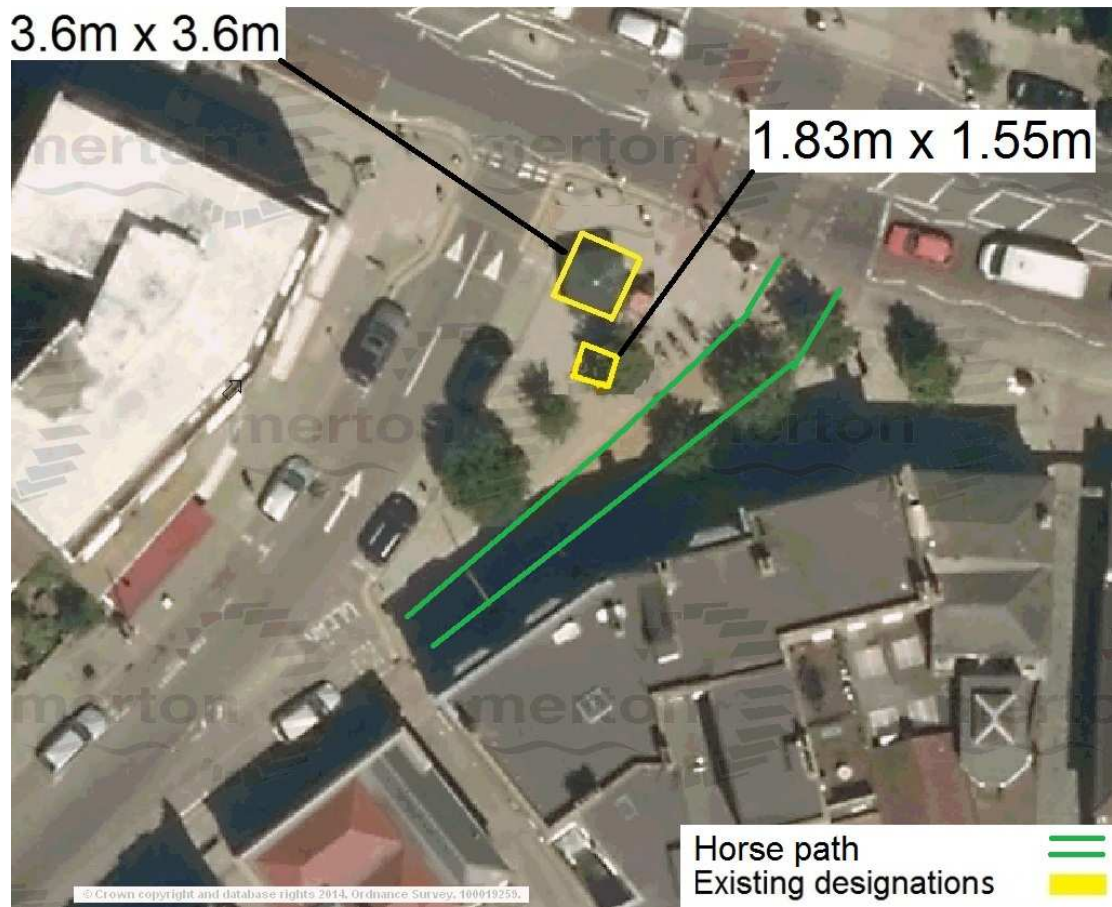
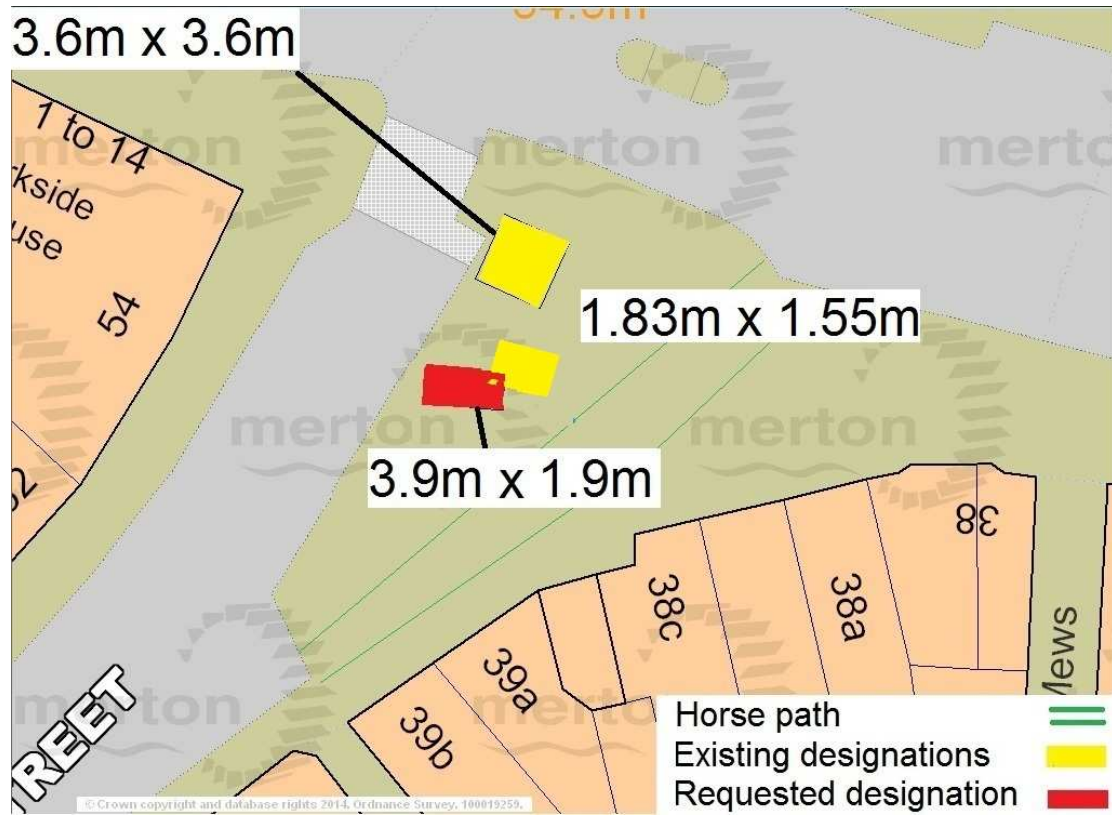
- 1) An area of Xm x Xm outside ADDRESS. The Council has also been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of display stands holding fruit and vegetables on the designated site Xam – Xpm Monday – Sunday inclusive. **Reference WK/**

If you wish to make representations to the Council regarding the designation of parts of the highway as licence streets or the issuing of street trading licences, you should write to the Council at **Trading Standards, London Borough of Merton, Civic Centre, London Road, Morden, Surrey, SM4 5DX** quoting the appropriate reference. Any representations made must clearly state the grounds and reach the Council before the DATE. The Council will consider all representations received before a final decision is made as to whether to designate parts of the street as a licence streets and whether to issue licences for street trading.

Dated this the DATE

Appendix B

'Island Site'



Appendix C

REGULATIONS MADE BY THE LONDON BOROUGH OF MERTON PURSUANT TO SECTION 27(3) OF THE LONDON LOCAL AUTHORITIES ACT 1990 PRESCRIBING STANDARD CONDITIONS APPLICABLE TO STREET TRADING LICENCES.

DEFINITIONS

In the Regulations unless the context otherwise requires, the following expressions shall have the same meanings that appear in Section 21(1) of the London Local Authorities Act 1990 as amended.

'Receptacle' includes a vehicle or stall and any basket, bag, box, vessel, stand, easel, board, tray or thing which is used (whether or not constructed or adopted for such use) as a container for or for the display of any article or thing or equipment used in the provision of any service.

'Street' includes:-

- (a) any road or footway;
- (b) any other area, not being within permanently enclosed premises, within 7 metres of any road or footway, to which the public have access without payment;
- (c) any part of such road, footway or area;
- (d) any part of any housing development provided or maintained by a Local Authority under Part II of the Housing Act 1985:

'Street Trading' means the selling or exposing or the offering for sale of any article (including a living thing) or the supplying or offering to supply any service in a street for gain or reward.

'Street Trading Licence' means a Licence granted under the Act and valid for the period specified therein being not less than six months and not more than three years.

'Temporary Licence' means a Licence granted under the Act valid for a single day or for such period as may be specified in the Licence not exceeding six months.

THE FOLLOWING ARE THOSE DEFINED BY THE COUNCIL

'The Act' means the London Local Authorities Act 1990 Part III as amended.

'The Council' means the London Borough of Merton.

'Advertisement' means any word, letter, model, sign, placard, board, notice, whether illuminated or not, in the nature, and employed wholly or partly for the purposes of, advertisement, announcement or direction and includes any hoarding or similar structure or any balloon used, or adapted for use for the display of advertisements, and references to the display of advertisement shall be constructed accordingly.

'Assistant'

(a) means a person employed by, and acting under the directions of a Licence Holder to assist him/her about the business of the stall, whether for reward or not and includes a person directed solely or otherwise to transport the Licence Holder's stall.

(b) where a Licence is granted outside a catering establishment or shop premises; 'assistant' shall also include any other employee, manager, secretary, director, partner,

supervisor or the like who may from time to time or full time be involved in the street trading activity including those engaged in the completion of a transaction within the premises.

'Authorised Officer' means any officer of the Council authorised in writing by the Council's Director of Environment and Regeneration to carry out any function under the Act or these Regulations acting within the terms of such authorisation.

'Awning' includes a sheet of canvas or other material, used as a protection against the weather, which projects as an extension of the roof beyond the structure of the stall and includes parasols provided to tables outside catering establishments.

'Catering Establishment' means any premises used for the retail sale of food or drink for consumption on the premises, where the Council has licensed a site for tables and chairs to be provided for customers' use on the street.

'Child' means a person under compulsory school leaving age as in the Education Act 1996 or successor and includes a baby/child of pre-school age.

'Goods' means any goods, wares, or merchandise displayed for sale at a stall or Licensed Site.

'Harassment' includes but is not limited to:-

- (a) Violence or threats of violence towards any person;
- (b) Abusive or insulting words or behaviour;
- (c) Damage or threats of damage to property belonging to another person;
- (d) Writing threatening, abusive or insulting graffiti;
- (e) Any act or omission calculated to interfere with the peace or comfort of any person or to inconvenience such person;
- (f) Refusal to serve or permit access to a stall, licensed site, premises or services.

'Licence' means a valid Street Trading Licence or a valid Temporary Licence.

'Licence Holder' means any person who is licensed for street trading under Part III of the London Local Authorities Act 1990 as amended.

'Licensed Site' means a place in any authorised street at which street trading may be engaged in by a Licence Holder, and includes any temporary alternative place approved by the Council or a duly authorised Officer of the Council.

'Loading and Unloading' includes stocking or replenishing goods at a Licensed site, vehicle or receptacle.

'Refuse' includes empty and discarded receptacles and any waste material.

'Stall' means the structure for which the Council grants a Licence for goods or services to be displayed thereon or from which services are provided.

'Street Furniture' includes seating facilities provided by the Council for public use, bollards, stanchions, railings, the walling of flower beds and any structure owned by a statutory undertaking or the like.

'Undressing the Stall' means removing goods and receptacles and any other things thereon in part or in whole or dismantling or adjusting any part of the stalls' structure.

'Approved Street Festivals' means those street festivals whereby the Council may issue temporary Street Trading Licences.

'Displays Outside Shop Premises' means where the Council has granted a Licence to display goods from a stall or licensed site on the footway immediately outside the shop premises.

'Refreshment Stalls' includes coffee stalls and those selling foodstuffs capable of immediate consumption.

'Traditional Stalls' includes those licensed to sell garments, hardware and raw foodstuffs.

GENERAL

The grant of a Street Trading Licence shall not be deemed to give any approval or consent which may be needed under any Bye-law, enactment, or Regulation other than under the Act. The stall, trade, business, activity etc. shall comply and be conducted in a manner that conforms with other relevant legislation enforced by the Local Authority or other Agencies. These include General Health and Safety, Food Safety, Trading Standards and Fire Prevention and Highways Regulations.

INFORMATION

(i) Headings inserted in these regulations are for the purpose of convenience only and shall not in any way affect the meaning or construction thereof.

(ii) Where in these conditions there is reference to the consent or agreement of the Council such consent or agreement may be given on such terms and conditions and subject to such restrictions as may be so specified.

(iii) These conditions may be dispensed with or modified by the Council in any individual case by means of a Licence Variation in accordance with the statutory requirements.

(iv) If a trader wishes any of the terms of a Licence to be varied or the Council's agreement under these rules, application must be made in writing to the Council in accordance with the statutory requirements.

(v) These regulations replace the regulations previously approved by the Council.

1. INSURANCE

(a) The Licence Holder shall take out third party insurance cover with a minimum liability of at least two million pounds.

(b) In respect of Licences granted for the display of goods outside shop premises and tables and chairs outside catering establishments this may be incorporated in an insurance policy of the business.

(c) Satisfactory evidence of such insurance must be produced to the Council before a Licence will be granted or renewed.

(d) Evidence of such insurance shall also be produced by a Licence Holder on demand to an Authorised Officer of the Council or a Police Officer.

2. DAYS AND TIMES

A Street Trader shall only engage in Street Trading on the days of the week and during the times specified in the Licence or otherwise authorised by the Council except that there shall be no trading on Christmas Day. Markets do not operate on Sundays and Public Holidays.

3. DISPLAY OF NAMES

Licence Holders except in respect of displays of goods outside shop premises and tables and chairs outside catering establishments shall prominently display a sign with their surname or family name and licensed Site or Licence Number on the stall. Additionally they may exhibit a trading name or title.

4. CHARGES AND FEES

(a) Charges for a Street Trading Licence shall be payable to the Council annually in advance. A Street trading licence will be valid for 12 months. Fees and charges will be set by the Council from time to time. In making any payment the Street Trader shall ensure that the appropriate invoice and account numbers are recorded.

(b) Charges for a Temporary Licence shall be payable each day in advance or for such periods as shall be specified in the Temporary Licence. An Authorised Officer shall decide the charges in accordance with the rates set by the Council from time to time.

(c) A Street Trader shall pay all charges for any Licence in force that has been issued at his request whether or not he engages in Street Trading.

(d) In accordance with Section 32(1) of the Act a fee shall be paid for the grant or renewal of a Street Trading Licence, but not a Temporary Licence, and for any variation of a Licence at the request of the Street Trader.

5. LICENCE AND INSPECTION OF LICENCE ETC.

(a) Licence Holders shall produce their Licence for Inspection when requested to do so by an Authorised Officer of the Council or Police Officer.

(b) In respect of displays outside shop premises and catering establishments the Licence shall be exhibited within the premises in the safe vicinity of the entrance so that it can be seen by an Authorised Officer of the Council or Police Officer.

(c) Where the Council has issued a Certificate of Variation to a Licence that shall be produced and displayed with the Licence.

(d) All other Licence Holders in their absence shall ensure that the Licence is retained on the stall so that it can be produced by an assistant on demand to an Authorised Officer of the Council or Police Officer.

(d) If alcoholic beverages are consumed at a licensed site, the Licence Holder or Assistant shall produce on demand, where appropriate, licenses that are required by the Licensing Act 2003 to an Authorised Officer of the Council or Police Officer.

(e) Once issued to a Street Trader a Licence shall remain in force until the expiry date indicated therein or until revoked by the Council in accordance with the Act.

(f) Where, in accordance with Section 26 of the Act, the holder of a Street Trading Licence has nominated a relative as his successor and that holder dies then the nominated successor may continue to engage in Street Trading within the terms of that

Licence for a maximum period of 28 days provided that successor pays any charges due.

(g) On the death or retirement through age or ill health of a Licence holder, the Council may issue a Licence to a nominated relative to trade from the Licensed Pitch shown in that Licence in accordance with Section 26 of the Act. For the purposes of Section 26 of the Act a person shall be treated as being related to another if the latter is the wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half daughter of the former and shall be deemed to be so related notwithstanding that he is so related only through illegitimacy or in consequence of an adoption.

6. POSITION

(a) The Licence Holder shall only use the licensed site prescribed in the Licence (which may be marked or denoted on the ground by means of white lines, contrasting paving or other device by the Council) unless the circumstances under 6(e) shall arise.

(b) The Licence Holder shall not cause or permit stalls, goods, receptacles; (except refuse containers under Regulation 16c) to project whether grounded or suspended beyond the licensed site or to be placed or to stand anywhere else in the street.

(c) In respect of catering establishments, tables and chairs shall not be placed or used outside of the site defined in the Licence. This may be denoted by the Council marking the boundary by White Lines or other means.

(d) The Licence Holder or Assistant shall inspect the licensed site whilst in use at least every hour to ensure that tables and chairs are not outside of the licensed area.

(e) If the licensed site is obstructed by roadworks or other hazard the Licence Holder may consult an Authorised Officer of the Council or failing that a Police Officer in uniform and produce their Licence. Temporary trading elsewhere whilst the obstruction persists shall be at the discretion of the Officer consulted. The name of the Council Officer or the number of the Police Officer must be noted by the Licence Holder.

7. SIZE

(a) The Licence Holder shall not place or cause to be placed on the street, a stall that exceeds the dimensions prescribed in the Street Trading Licence.

(b) Stalls shall not exceed the dimensions unless prescribed in the Street Trading Licence.

(c) Market stalls shall not exceed 3 metres by 3 metres (10 feet by 10 feet) or other dimension as specified in the Street Trading Licence.

(d) The dimensions of all stalls prescribed in Licences shall include any towing bar or bracket or the like that remains projecting from the stall whilst trading is being conducted.

(e) Displays outside shop premises shall not exceed the size prescribed in the Street Trading Licence. The Council will take into account any private forecourt and the available depth of footway.

(f) In respect of catering establishments the number of tables and chairs on the street shall not exceed the numbers prescribed in the Licence.

(g) The sizes of tables and chairs and parasols shall not exceed those prescribed in the Licence.

8. PERMITTED GOODS AND SERVICES

- (a) Only those goods or services specified in the Licence may be displayed, used, provided or offered for sale.
- (b) In respect of displays outside shop premises, cash registers, scales and other measuring devices shall be contained within the shop and not brought onto the street, licensed site or the stall.
- (c) No advertisement shall be displayed on a stall or licensed site which relates to any goods or services other than those offered for sale or provided on the stall or licensed site.
- (d) A Street Trader shall not cause or permit a nuisance to be created by noise or smell emitted from the Licensed Pitch or type of display.

9. DEALING WITH THE PUBLIC

- (a) Licence Holders and their assistant shall ensure that the public are treated fairly and with courtesy.
- (b) Licence Holders are responsible to ensure that assistants are competent, courteous and helpful.
- (c) Admission or service shall not be refused to any person on the grounds of gender, race, ethnic origin or the grounds of sexual orientation.
- (d) The Licence Holder shall not use or permit any activity, omissions or practice in the conduct of the business that will cause harassment to any person on the grounds of their disability, skin colour, religion, gender, age, sexual orientation and so on.
- (e) The serving of customers shall not take place in the road.
- (f) A Licence Holder or assistant offering a service shall make clear the nature and cost of that service by way of a notice on the stall or within the licensed area.
- (g) All goods shall be clearly marked with a price, and where appropriate an indication of the unit quantity in which they are being offered for supply.
- (h) Where the licensed site is in the road or adjacent, scales and cash registers shall be placed on the stall at the furthest point from passing vehicular traffic.
- (i) The customer should clearly be able to view the goods being weighed, measured etc. before they confirm their intention to purchase.
- (j) In respect of goods selected by customers from displays outside shops the requirement in Regulation 8(i) shall be carried out within the shop premises.
- (k) A Licence Holder or assistant shall not use a megaphone or amplification equipment or a loud voice to shout out the price of goods etc. in order to attract customers.
- (l) Radios or other audio equipment shall not be used in or around the licensed site other than by written agreement of the Council.

10. RECEPTACLES & CONSTRUCTION OF STALL

- (a) Only those receptacles approved by the Council shall be used by the Licence Holder and assistants. Stalls shall not be formed by the use of old milk crates and the like and other receptacles notified to the Licence Holder by letter.
- (b) Goods must not be placed directly on the street unless specified in the Licence.
- (c) Where the Council has licensed the display of bulky furniture or the like outside shop premises on the street a suitable trolley to remove the goods shall be maintained within the shop.
- (d) Stalls shall be constructed so as not to become unbalanced or otherwise unstable.
- (e) Stalls shall be maintained in good order and free from protruding nails or other hazards likely to cause injury or damage to a person or their clothing.

- (f) No stall, part of the stall, accessory, table or chair shall be used if it is likely to damage the street.
- (g) A Licence Holder or assistant shall not bolt or otherwise secure temporarily or permanently anything to the street or street furniture.
- (h) Sites licensed for the displays of goods outside shop premises shall not incorporate any form of seating facility, nor may any seating be used or provided by the Licence Holder or assistant immediately outside the licensed site or elsewhere in the street other than on a private forecourt associated with the business.
- (i) Other Licence Holders shall not provide or use any form of seating facility outside of the licensed site (other than street furniture provided by the Council for public use) unless they have the written consent of the Council. Such permission may restrict their use to the Licence Holder and assistants and prescribe the number of seats, their construction, size, and positioning together with other conditions.

11. ROOFING OF STALLS ETC.

- (a) The distance between ground level and any support of the roof, awning or supports of the stall or goods suspended from any of these, shall be at least 2.4m unless otherwise specified in the Licence.
- (b) A Licensed Street Trader shall not permit the awning or roof of the stall to project outside the area of the pitch, save as provided in Regulation 11(c).
- (c) The awning or roof of a stall may project over the footway for a distance not exceeding 0.6 metres from the boundary of the pitch unless otherwise specified or restricted by a further condition of the Licence.
- (d) The roof or awning shall be safely constructed and must not shed water over customers or passers by.
- (e) No awning other than a parasol may be used as part of a stall for displays outside catering establishments.
- (f) A Street Trader, or his Assistant, shall immediately remove any Awning on the instruction of an Authorised Officer or a police constable and shall, in any case, remove any Awning outside the permitted hours for Street Trading.

12. ELECTRICITY SUPPLY ETC.

- (a) The only connection between stalls in the street and other premises shall be for the purposes of electric lighting and power for the operation of electronic scales, measuring equipment and cash registers and the testing of electrical goods or other agreed services; and any such electrical or other connections shall be readily detachable and the detailed arrangements agreed with the Council. No connection shall be made with any other stall.
- (b) Where the Council provides an electrical supply system to the stall, the trader shall pay to the Council upon demand the installation costs and for the supply and maintenance of the service and equipment.
- (c) All electric power supplies shall have the appropriate consent from the Council before seeking installation from the Electricity Board.
- (d) All electrical wiring and components shall comply with the basic Electricity Board Specification and be earthed and insulated accordingly.
- (e) All electrical cables that are suspended over the public footway shall have a minimum clearance of 2.4 metres from the footway surface, and 5.1 metres from the surface of the roadway.
- (f) Any suspended lighting shall be safely protected and shall not expose the public, Licence Holder or assistants to any form of risk.

(g) In respect of displays outside shop premises and catering establishments, mains electrical power may be supplied from the permanent premises to the trading area providing that all equipment and wiring shall be placed, installed, maintained and operated in accordance with the provisions of the Health and Safety at Work, etc. Act 1974 and all other relevant Regulations.

(h) In all such cases an automatic circuit breaker must be installed within the premises between the point of supply and the equipment in the trading area.

13. GENERATORS

(a) Electrical generators shall not be used at displays outside shop premises and catering establishments.

(b) When mobile electrical generators are permitted they shall be so positioned that:-

(i) they do not present a danger to the public, and

(ii) they do not present a fire or similar hazard risk to the stall or goods displayed thereon, or to persons engaged on or about the stall, and

(iii) they do not cause any noise or fume nuisance, and

(iv) any inflammable fuel is stored away from the stall in a container and position approved by the Council.

(c) Heat producing equipment shall be so placed within the licensed site as to offer maximum safety to the public. The position of any equipment in relation to other goods and materials shall be agreed with the Council in writing.

14. LOADING AND UNLOADING

(a) Any cart, barrow, trolley or similar conveyance owned or hired by the Licence Holder or assistant shall not be used except for the purpose of loading, unloading and transporting goods.

(b) Loading and unloading shall be restricted to twenty minutes and resumption shall not occur until a further hour has elapsed.

(c) Loading and unloading must not be continually interrupted by the serving of a customer.

(d) The cart, barrow or trolley or similar conveyance used for replenishing or moving goods shall be stored on the Licence Holder's vehicle or at the storage facilities or in respect of displays outside shop premises within the shop premises and not on the street.

(e) Loading or unloading shall be abandoned for any duration ordered by an Authorised Officer of the Council or Police Officer if in their opinion the activity obstructs pedestrian flow or causes any other form of obstruction or nuisance.

(f) The Licensed Street Trader or his assistant shall not use a vehicle for loading or unloading at or near the licensed site unless it can lawfully be there.

(g) Licence Holders or assistants shall replenish displays outside shop premises from stocks held within the shop premises and not directly from any vehicle.

(h) A Street Trader, or his Assistant, shall ensure that there is no undue obstruction of vehicular or pedestrian traffic whilst re-stocking the Licensed Pitch or loading and unloading Goods or other articles used for or in the course of Street Trading. When, in the opinion of an Authorised Officer or a police constable, there is likely to be undue obstruction of vehicular or pedestrian traffic the Street Trader, or his Assistant, shall immediately cease re-stocking, loading or unloading and within 15 minutes clear any Goods or other articles used for or in the course of Street Trading or for re-stocking, loading or unloading from any position in the Street other than within the Licensed Pitch.

(i) A Street Trader, or his Assistant, shall not place, keep or use a vehicle at or near his Licensed Pitch in contravention of any legal parking or loading restrictions nor shall a Street Trader, or his Assistant, place, keep or use a vehicle at or near his Licensed Pitch which does not display a current disc showing that any road tax, or similar, has been paid.

15. REMOVAL OF STALLS ETC.

(a) Licence Holders and their assistants shall remove stalls, goods, tables and chairs and anything else under their control as directed for so long as may be necessary.

(i) In the event of an emergency and this shall include any public demonstration, congregation or disorder in the area, whether or not instructed by an Authorised Officer of the Council or Police Officer;

(ii) In the exercise of the Council's powers and duties which include the maintenance of the licensed site, to enable its re-marking and to check whether the stall is capable of being removed in accordance with these Regulations and

(iii) To enable statutory undertakings to maintain their services;

(iv) In order to accommodate customers confined to wheelchairs outside catering establishments the Licence Holder or assistants shall remove any surplus chairs, for the time being, to the place of storage

(b) Stalls, goods, tables and chairs etc. shall be removed from the public highway to the place of storage, as stated on the application form, or such other alternative place subsequently agreed by the Council in writing, within 30 minutes of the time prescribed on the Licence for the end of trading on that day.

(c) A Licence Holder electing to cease trading before the time denoted in the Licence shall remove the stall, goods, tables and chairs at that time to the place of storage.

(d) A Licence Holder in respect of shop premises shall remove the stall(s) and goods on the cessation of trading and before closing the shop premises.

(e) Where at an approved Street Festival the stall is hired or provided by the organiser or the agent, the Licence Holder shall be responsible for its erection, suitability, stability, dismantling and safe and prompt removal.

(f) A Licence Holder upon production of Proof of Ownership may claim from the Council within 14 days of it coming into the Council's possession and without penalty (providing that it is not otherwise this subject of Legal Proceedings or a Seizure Order) anything that:-

(i) not being within a licensed site was removed by an Officer of the Council because in their opinion it was a hazard or the like to the public;

(ii) otherwise came into the Council possession and was identified as possibly being associated with the activity of Street Trading.

16. PROVISION OF STALL BY THE COUNCIL

(a) The Licence Holder shall use any stall provided by the Council.

(b) Where the Council provides, (lends, hires or lets) the stall, the Licence Holder shall be responsible for its care and safe custody and must not wilfully or otherwise cause to it any damage.

(c) The stall must either be on the licensed site, in the storage unit or in the course of being transported to and fro. It shall not be used for street trading or any other purpose elsewhere.

(d) The stall when not in use shall be placed within the storage unit provided by the Council.

- (e) The Licence Holder shall secure the unit by the use of padlocks or other locking devices approved by the Council.
- (f) The Licence Holder shall keep the storage unit free from accumulations of refuse.
- (g) The Licence Holder shall make the storage unit available for inspection by an authorised Officer of the Council and to enable its general maintenance.

17. REFUSE

- (a) In respect of traditional sites the Licence Holder and assistants shall ensure that all refuse arising as a result of the activities shall be placed in suitable covered containers provided by the Licence Holder exclusively for that purpose.
- (b) Such refuse containers shall be kept as clean as is reasonably practicable.
- (c) Refuse containers shall be sited in a location agreed with the Council. They shall be emptied whenever necessary into any vehicle, container, compactor, or place provided by the Council for that purpose.
- (d) Licence Holders and their assistants, in respect of footway displays outside shop premises and catering establishments shall ensure that any refuse arising from the external activities is properly stored and disposed of as part of the shop business.
- (e) No refuse shall be allowed to accumulate or be placed in the street.
- (f) No vehicle shall be used for the storage of such refuse.
- (g) The Licence Holder shall produce on demand to an Authorised Officer of the Council, proof of a contract for the disposal of trade refuse.
- (h) In respect of catering establishments the licence holder shall also remove from tables any used and discarded receptacles.

18. ATTENDANCE BY LICENCE HOLDER

- (a) Traditional Licence Holders must be in attendance throughout the whole or part of the day that the stall is set up for trading unless engaged on the following:-
 - (i) A meal break or visit to the toilet.
 - (ii) Sickness of short duration.
 - (iii) Hospital, dental or doctor's appointment.
 - (iv) Occasional attendance at the office of an accountant, tax inspector, bank or Council cash office.
 - (v) On holiday.
 - (vi) Or for any other sufficient reason that may be approved by the Council from time to time.
- (b) In respect of displays outside shops and catering establishments the Licence Holders usual place of work shall be within the premises.
- (c) At approved Street Festivals the Licence Holder shall be in attendance at the stall throughout the event save that prescribed in 18(a)(i).
- (d) No Licence Holder shall sub-let the stall or any part of the stall or the licensed site, or install a manager to operate the Licence.
- (e) A Licence Holder if required by an Authorised Officer and/or Solicitor to the Council shall furnish the Council with a Medical Certificate obtained at the Licence Holders own expense or other documentary evidence to support the reasons for any continual or repetitive absences.

19. NAMES OF ASSISTANTS AND RESTRICTION OF EMPLOYMENT ETC.

- (a) The Licence Holder shall notify the Council of the names of any assistants within seven days of their commencement. This shall be by letter or on a form prescribed by the Council.
- (b) The Licence Holder shall give any other information regarding assistants as required by the Council.
- (c) A Licence Holder shall not have as an assistant any child in the business of street trading including the putting out or stocking of receptacles, clearance of refuse, attending a stall or any related activity.
- (d) A Licence Holder and assistant shall not bring or have care and control of a child whilst the business is being set up, operated or dismantled.
- (e) The failure of an Assistant to comply with the conditions of the Street Trading Licence held by the employer shall be deemed to be a failure by the Licence Holder.

20. ADMINISTRATION

- (a) Licence Holders and assistants must give every reasonable assistance to Council Officers and their contractors in carrying out their duties.
- (b) A Licence shall cease to have effect (*other than being revoked or having expired or on the death of the trader*) only upon it being surrendered by the Licence Holder in exchange for a written receipt at the Council's Trading Standards Office.
- (c) A Licence Holder making application for the renewal of a Licence shall bring the completed application form and prescribed fee to the Council Officer by appointment. The three photographs prescribed in the Act if not already forwarded by the Licence Holder shall be handed to the Officer at this time.
- (d) A Licence Holder having appeared before a committee of the Council where, although there were sufficient grounds to revoke the Licence it was decided to deal with the matter by way of a Warning Letter shall acknowledge receipt of the Warning Letter by signing and dating and returning one copy of the letter to the Council in the envelope provided within 21 days of its receipt.
- (e) Licence Holders shall notify the Council in writing of any change of their title, name or home address as soon as it occurs.
- (f) The sending of letters and Notices from the Council by the General Postal Service to the last notified address by the Licence Holder shall be taken by the Council as proper and good service of documents.
- (g) All notifications (*excluding payments of weekly/monthly charges*) given by the Licence Holder to the Council shall be to the Council's address as it appears on the Licence or that subsequently amended and notified in writing to the Licence Holder.

Appendix D

London Local Authorities Act 1990 Section 24

Designation of licence streets

24 (1) If a borough council consider that street trading should be licensed in their area they may from time to time pass any of the following resolutions:—

- (a) a resolution (in this Part of this Act referred to as a “designating resolution”) designating any street within the borough as a “licence street”;
- (b) a resolution specifying in relation to any such street or any part of a street any class or classes of articles, things or services which they will, or other than which they will not, prescribe in any street trading licence granted by them in respect of that street; and may from time to time by subsequent resolution rescind or vary any such resolution:

Provided that a borough council shall—

- (a) before passing a designating resolution, consult with the Commissioner of Police of the Metropolis on their proposal; and
- (b) before rescinding or varying a designating resolution, consult with the licence holders trading in the street in question, or a body or bodies representative of them, on their proposal.

(2) At the appointed day for the purposes of this Part of this Act in a borough, the streets prescribed by any licences granted by the council of the borough in pursuance of powers contained in any of the enactments referred to in column (2) of Schedule 2 to this Act and then in force shall be deemed to have been designated as licence streets under a designating resolution.

(3) If a borough council pass a designating resolution the designation of the street shall take effect on the day specified in the resolution (which must not be before the expiration of the period of one month beginning with the day on which the resolution is passed).

(4) A borough council shall not pass a resolution or rescind or vary a resolution under this section unless—

- (a) they have published notice of their intention to do so in a local newspaper circulating in their area;
- (b) they have served a copy of the notice on the highway authority for that street (unless they are that highway authority); and
- (c) where subsection (5) below applies, they have obtained the necessary consent.

(5) This subsection applies—

- (a) where the resolution relates to a street which is owned or maintainable by a relevant corporation; and
- (b) where the resolution designates as a licence street any street maintained by a highway authority;

and in subsection (4) above “necessary consent” means—

- (i) in the case mentioned in paragraph (a) above, the consent of the relevant corporation; and
- (ii) in the case mentioned in paragraph (b) above, the consent of the highway authority.

(6) The following are relevant corporations for the purposes of this section:—

- (a) British Railways Board;
- (b) London Regional Transport;
- * * * * *
- (d) Network Rail Infrastructure Limited; and
- (e) Transport for London.

(7) The notice referred to in subsection (4) above shall—

- (a) contain a draft of the resolution to which it relates; and
- (b) state that representations relating to it may be made in writing to the borough council within such period, not less than 28 days after the publication of the notice, as may be specified in the notice.

(8) As soon as practicable after the expiry of the period specified under subsection (7) above, the borough council shall consider any representations relating to the proposed resolution which they have received before the expiry of that period.

(9) After the borough council have considered those representations, they may if they think fit, pass such a resolution relating to the street as is mentioned in subsection (1) above.

(10) The borough council shall publish notice of the passing of such a resolution in a local newspaper circulating in their area on two consecutive weeks.

(11) The first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of the designation.

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