

Licensing and Regulatory Committee Agenda

The 3 members highlighted in bold/underline below:

Cllr D King - Chairman

Cllr J L Thomas - Vice Chairman

Cllr P E Bulman

Cllr S J Catchpole

Cllr R R Foulger

Cllr D G Harrison

Cllr C Karimi-Ghovanlou

Cllr K S Kelly

Cllr K G Leggett MBE

Cllr M L Murrell

Cllr S M Prutton

Cllr N C Shaw

Date & Time:

Wednesday 29 September at 10 am

Place:

Trafford Room, Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich, NR7 0DU

Contact:

Dawn Matthews tel (01603) 430404 Email: committee.services@broadland.gov.uk

Website: www.broadland.gov.uk

PUBLIC ATTENDANCE:

If a member of the public would like to observe the meeting in person or to speak on an agenda item, please email your request to committee.services@broadland.gov.uk, no later than 5.00pm on Friday 24 September 2021. Please see further guidance on the options for public speaking at page 2 of this agenda.

Large print version can be made available

If you have any special requirements in order to attend this meeting, please let us know in advance.

Public Speaking and Attendance

All public speakers are required to register to speak at public meetings by the date / time stipulated on the relevant agenda. Requests should be sent to:

committee.services@broadland.gov.uk

Public speaking can take place:

- Through a written representation (which will be read out at the meeting)
- In person at the Council offices

Please note that the Council cannot guarantee the number of places available for public attendance but we will endeavour to meet all requests.

All those attending the meeting in person are invited to sign in on the QR code for the building and promptly arrive at, and leave the venue. Hand sanitiser are still provided and we would encourage you to observe social distancing. Further guidance on what to do on arrival will follow once your public speaking registration has been accepted.

AGENDA

- 1. To receive declarations of interest from members;**
(guidance and flow chart attached – page 4)
- 2. To report apologies for absence and to identify substitute members;**
- 3. To confirm the minutes of the meeting held 26 August 2021;**
(minutes attached – page 6)
- 4. Matters arising from the minutes;**
- 5. Licensing Act 2003 - to consider an application to vary a premises Licence -
Merchants of Spice II, 127 Yarmouth Road, Thorpe St Andrew, Norwich, NR7 0QY**
(procedure attached at page 13 and report attached at page 16)

DECLARATIONS OF INTEREST AT MEETINGS

When declaring an interest at a meeting Members are asked to indicate whether their interest in the matter is pecuniary, or if the matter relates to, or affects a pecuniary interest they have, or if it is another type of interest. Members are required to identify the nature of the interest and the agenda item to which it relates. In the case of other interests, the member may speak and vote. If it is a pecuniary interest, the member must withdraw from the meeting when it is discussed. If it affects or relates to a pecuniary interest the member has, they have the right to make representations to the meeting as a member of the public but must then withdraw from the meeting. Members are also requested when appropriate to make any declarations under the Code of Practice on Planning and Judicial matters.

<p>Have you declared the interest in the register of interests as a pecuniary interest? If Yes, you will need to withdraw from the room when it is discussed.</p>
<p>Does the interest directly:</p> <ol style="list-style-type: none"> 1. affect yours, or your spouse / partner's financial position? 2. relate to the determining of any approval, consent, licence, permission or registration in relation to you or your spouse / partner? 3. Relate to a contract you, or your spouse / partner have with the Council 4. Affect land you or your spouse / partner own 5. Affect a company that you or your partner own, or have a shareholding in <p>If the answer is "yes" to any of the above, it is likely to be pecuniary.</p> <p>Please refer to the guidance given on declaring pecuniary interests in the register of interest forms. If you have a pecuniary interest, you will need to inform the meeting and then withdraw from the room when it is discussed. If it has not been previously declared, you will also need to notify the Monitoring Officer within 28 days.</p>
<p>Does the interest indirectly affect or relate any pecuniary interest you have already declared, or an interest you have identified at 1-5 above?</p> <p>If yes, you need to inform the meeting. When it is discussed, you will have the right to make representations to the meeting as a member of the public, but you should not partake in general discussion or vote.</p>
<p>Is the interest not related to any of the above? If so, it is likely to be an other interest. You will need to declare the interest, but may participate in discussion and voting on the item.</p>
<p>Have you made any statements or undertaken any actions that would indicate that you have a closed mind on a matter under discussion? If so, you may be predetermined on the issue; you will need to inform the meeting, and when it is discussed, you will have the right to make representations to the meeting as a member of the public, but must then withdraw from the meeting.</p>

**FOR GUIDANCE REFER TO THE FLOWCHART OVERLEAF.
PLEASE REFER ANY QUERIES TO THE MONITORING OFFICER IN THE FIRST
INSTANCE**

DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF



LICENSING AND REGULATORY COMMITTEE

Minutes of a meeting of the Licensing and Regulatory Committee of Broadland District Council, held at the council offices on Thursday 26 August 2021 at 9:30am.

Committee Members Present: Councillors: D King – Chairman, S J Catchpole, D G Harrison, K S Kelly, K G Leggett MBE, M L Murrell, S M Prutton

Apologies for Absence: Councillor: J L Thomas

Other Members in Attendance: Councillor: J Leggett

Officers in Attendance: The Assistant Director – Regulatory (NH), the Licensing Team Leader (SH), the Licensing & Enforcement Officer (RS) and the Democratic Services Officer (JH)

1 DECLARATIONS OF INTEREST

No declarations of interest were received.

2 APOLOGIES FOR ABSENCE

Apologies for absence were received from Cllr J L Thomas.

3 MINUTES

The minutes of the meetings held on 28 August 2019, 23 September 2020, 29 October 2020, and 5 November 2020 were agreed as a correct record.

4 REVIEW OF THE COUNCIL'S HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE POLICY AND CONDITIONS – PRE-CONSULTATION

The Assistant Director – Regulatory introduced the report and explained that the draft revised Hackney Carriage and Private Hire Vehicle Policy and Conditions document was brought to the Committee for members' consideration in advance of an extended public consultation exercise. Member were advised that officers had sought to 'future-proof' the document for the next 5 years and anticipate both the business needs that could be supported alongside the need to protect the public.

The Licensing Team Leader advised members that there was a statutory requirement to review the Hackney Carriage and Private Hire Vehicle Policy by the end of the year with any changes to the policy put in place by 1 April 2022 and that the Committee were asked to consider the proposed changes to the policy before the public consultation began. She explained that a number of the changes proposed were in response to the Statutory Taxi and Private Hire Vehicle Standards document published by the Department for Transport in July 2020.

Members were then informed of the key changes to the policy, which were as follows:

DBS Update Service

All drivers would be requested to sign up for the DBS Update Service. 6 monthly checks with the DBS would be carried out on each driver. If a driver was not registered with the Update Service, they would be required to produce and pay for a full DBS enhanced disclosure every 6 months.

Dual Driver Licences

The Authority was considering introducing dual driver licences. This would mean that someone licensed to drive a Private Hire Vehicle would also be licensed to drive a Hackney Carriage. At present Broadland District Council did not have any licensed hackney carriage vehicles. However, should this change in the future, a licensing process for drivers would already be in place.

The Licensing Team Leader explained that the application process for each licence type was the same, so no additional resources would be required, she further explained that it was recognised as good practice to offer Dual Licenses.

Members queried the need of dual licenses, the benefit to drivers and potential cost of added new equipment to the vehicles. The Licensing Team Leader explained that the license would cover the individual; the vehicles would be used for either private hire or as a hackney carriage. She explained that this would allow drivers the flexibility to operate either type of vehicle. The Assistant Director – Regulatory added that, although there were no hackney

carriages at present, with the pace of new housing and an increasing population, there may be a need for hackney carriages in the Broadland District in the next 5yrs; offering dual licenses would enable the Council to 'future-proof' the policy.

After further discussion, where it was noted that there would be no additional costs, checks or standards required for issuing dual licenses, Members agreed to recommend that the Authority commence issuing dual licenses.

Immigration Status

Under the newly introduced EU Settlement Scheme applicants were required to demonstrate their immigration status at the time of application.

Medicals

The age at which a medical would be required annually would be increased from 60 to 65. This would align the Authority with the current medical requirements under the DVLA Group 2 scheme.

Good Standard of English

Applicants may be asked to demonstrate that they had a good standard of English (written and oral) at the time of application. At present, there was no specific language assessment; this would bring the Authority in line with the current Department for Transport Statutory Standards.

One member queried how this would be assessed and the Licensing Team Leader explained that the method of testing had not been confirmed at this stage, but that there were a number of providers available. Officers would also consider the method of testing used by neighbouring Authorities.

In response to a member's query, the Licensing Team Leader explained that the good standard of English test would only apply to new applicants and not existing drivers, however, should complaints be made about the standard of English of an existing driver, they may be required to take the test.

Disability Awareness Training

Applicants would be required to complete an approved training session on disability awareness. This was not required at present and would bring the Authority in line with the current Department for Transport Statutory Standards.

Convictions Policy

The Convictions Policy had been updated to reflect the standard required by the Institute of Licensing's recently introduced Safe and Suitable document.

Second Badge for Drivers

It was proposed to issue all drivers with a second badge with the intention that the driver would wear one badge and the second badge would be displayed on the front console of the vehicle in view of passengers. This was recognised as good practice and the conditions were being updated to reflect this.

Members commented that a second badge would be better placed in the rear of the vehicle, where it could be more easily seen by passengers.

Notification of Arrest

All drivers would be required to notify the Licensing Team in the event that they were arrested. At present, the requirement was to notify the Team on receipt of a caution of conviction. This was recognised as good practice and the conditions were being updated to reflect this.

NR3 Database

Checks would be made to the National Anti-Fraud Network database (NR3) for refusals and revocations of Hackney Carriage or Private Hire Vehicle licences. This was in line with the current Department for Transport Statutory Standards.

Taxi Meters

It was proposed to introduce a requirement for all licensed hackney carriage vehicles to have a meter fitted. This was recognised as good practice and the conditions were being updated to reflect this.

One member queried why meters would only be included in hackney carriage vehicles and not private hire vehicles. The Licensing Team Leader explained that private hire vehicles were not permitted meters as they could only accept pre-booked fares, where the fare is pre-agreed. She explained that it was illegal for private hire vehicles to stand at taxi ranks or be hailed in the street. On the other hand, hackney carriages were only hailed by passengers in the street or at taxi ranks; meters were good practice for hackney carriages as they ensured consistent fares were charged across the District.

Basic DBS for HC Proprietors

Hackney carriage proprietors would be required to produce a satisfactory basic DBS disclosure at the time of application. This was in line with the current Department for Transport Statutory Standards.

Maximum age limit for vehicles

Vehicles over the age of 10 years from the date of first registration would not be considered for re-licensing. There would be a five-year lead-in period for this change and it was therefore proposed that this condition take effect from 1 April 2027. This was proposed as a way to improve the environmental

credentials of the fleet and reflect the Government's current greener travel initiatives.

LPG (Liquefied Petroleum Gas)

It was proposed to remove current conditions specific to LPG vehicles as it was not foreseen that there would be any further applications for LPG vehicles.

In response to a member's query, the Licensing Team Leader confirmed that there were currently no LPG vehicles in the fleet.

Executive Plate Policy

The circumstances under which the Authority issued an executive plate had been amended. This was recognised as good practice and the conditions were being updated to reflect this.

Limousine Policy

Further clarification in respect of the licensing of limousines had been included in the policy document. This was recognised as good practice and the conditions were being updated to reflect this.

CCTV Policy

Some further updates had been made to the policy in relation to the provision of CCTV in vehicles. This was in line with the current Department for Transport Statutory Standards.

Members queried whether the Council would make the provision of CCTV in vehicles mandatory in the future. The Licensing Team Leader explained that this was kept under review, but that at present there was no evidence for the need to make CCTV provision mandatory; she also highlighted the financial implications for drivers.

In response to further questions regarding GDPR of CCTV recordings, the Licensing Team Leader explained that at present the driver/operator was the data controller, but that if the Council made CCTV mandatory in all licenced vehicles then the Council would be the legal data controller for the whole fleet (around 350 vehicles).

Electric Vehicles

The authority wished to encourage the provision of electric vehicles and some further detail had therefore been included in the policy document. This was proposed as a way to improve the environmental credentials of the fleet and reflect the Government's current greener travel initiatives.

Members queried whether the updates to the policy would result in blanket approval of all electric vehicles and the Licensing Team Leader explained that

the current discretion regarding concerns of particular models would not be affected by the updated policy.

During discussions on non-petrol-powered vehicles, Members felt that the policy should not be limited to electric vehicles, as there had been advancements in other types of power. Members suggested that the policy wording be amended to “alternative non-hydrocarbon fuels”.

DBS Check for Operator Base Staff

All staff at the Operator base receiving and making bookings would be required to produce a basic DBS disclosure. This was a further requirement under the Department for Transport Statutory Standards.

Members queried whether the updated policy would allow for app-based companies such as Uber for operate in the District. The Licensing Team Leader explained that the policy would not stop them from operating in the District, and that companies such as Uber would have to comply with the Council’s policy.

In response to members’ questions on the cost of a taxi license, the Licensing and Team Leader clarified that Local Authorities could not make a profit from issuing licenses - only recoup the cost of issuing. She then outlined the current costs:

- 3yr License - £232.60
- Medical Assessment - £50
- Drivers Assessment - £80-100

The Assistant Director – Regulatory further clarified that a review was being undertaken regarding the current fees and charges.

After further discussion, it was, accordingly,

RESOLVED to

1. Note the draft Policy and Conditions, with comments outlined above to be considered in the consultation process;
2. Recommend that the Authority commence issuing dual licenses.

5 REVIEW OF GAMBLING STATEMENT OF PRINCIPLES (POLICY STATEMENT)

Members considered the report of the Licensing Team Leader, which presented the draft reviewed Statement of Principles for the Committee’s consideration in advance of a six-week consultation.

The Licensing Team Leader informed members that the Authority was required to review its Gambling Statement of principles every three years, with the current statement expiring in January 2022. If the Council did not review and approve an updated version of the Statement, it would be unable to accept new applications for gambling licenses nor carry out enforcement on current licensed premises. She further explained that there were no substantial changes proposed.

Members queried why the Council had not passed a 'no casino' resolution and whether this was something that could be left undecided. The Licensing Team Leader confirmed that there was no risk to the Council in leaving it unresolved and noted it was unchanged from previous policies.

In response to queries on visiting premises and resource levels within the team, the Licensing Team Leader confirmed that officers carried out visits to premises and, given the small number of licensed premises in the Broadland District, there was no strain on resources. The Assistant Director – Regulatory added that there was an intention to increase the inspection rate of licensed premises on a risk rated basis. He reassured members that resources within the team were continually monitored.

Members discussed the list of consultees and requested that the Citizens Advice Bureau also be consulted. The Licensing Team Leader confirmed that they would be added to the list of consultees.

After further discussion, it was, accordingly,

RESOLVED to

Note the draft Statement of Principles, with comments outlined above to be considered in the consultation process.

(The meeting concluded at 11:14am)

Chairman

QUASI-JUDICIAL PROCEDURE RULES

Hearings for licensing matters under the Licensing Act 2003 (“the act”) and the Licensing Act 2003 (Hearings) Regulations 2005 (“the regulations”)

When dealing with licensing matters, the rules of natural justice must be seen to be applied in that all parties must be afforded an equal opportunity to present their cases. Thus, when determining an application, the Licensing and Regulatory Committee (in these rules “the committee” unless the context requires otherwise) will be required to act in a judicial manner and to conduct the proceedings in accordance with the following rules. In these rules words and expressions not defined in the rules have the same meaning as they have in the act and the regulations.

1. Declarations of interest

- 1.1 The committee will receive any declarations of interest under the members’ code of conduct.

2. Apologies for absence

- 2.1 The committee will receive any apologies for absence.

3. Quorum

- 3.1 The committee shall comprise three members and a quorum shall be three.

4. Opening remarks by the chairman of the committee

- 4.1 The chairman will introduce those present at the hearing and will ensure those present understand the procedure to be followed.
- 4.2 The chairman will give brief details of the matter before the committee.
- 4.3 The committee shall determine the matter before them in accordance with this procedure.

5. Admission of the public

- 5.1 The hearing shall normally take place in public which expression includes:

- (1) any person assisting or representing a party,
- (2) any member of the council who is not a member of the committee making the determination and
- (3) any officer or legal advisor of the council.

- 5.2 The committee may exclude the public (except the committee officer and legal advisor) where it considers that the public interest in doing so outweighs the public interest in the hearing, or part of it, taking place in public.

- 5.3 The public will normally be excluded at the conclusion of the hearing when the committee is deliberating on the determination to be made.

6. Absence of parties

- 6.1 If a party has told the committee that they do not intend to attend or be represented at the hearing, the hearing may proceed in his absence.

- 6.2 If a party otherwise fails to attend or be represented the committee may
- (1) where necessary in the public interest, adjourn the hearing to a date specified by the committee before the adjournment, or
 - (2) conduct the hearing in the party's absence, considering the matter, representations or notice made by them.

7. **Documents**

- 7.1 The committee may take into account documentary or other information produced by a party in support of their case, representations or notice (as applicable). Such material should be provided to the committee before the hearing.
- 7.2 Documentary or other information provided by parties at the hearing may be considered by the committee provided that all other parties consent.

8. **Report from licensing officer**

- 8.1 The licensing officer or his representative will present their report on the matter to be determined by the committee.
- 8.2 Members of the committee may ask questions of the licensing officer.
- 8.3 The applicant/licence holder or their representative may ask questions of the licensing officer.
- 8.4 The other parties or their representatives may then ask questions of the licensing officer.

9. **The applicant's case**

- 9.1 The applicant/licence holder or his representative will be asked to speak in support of their application.
- 9.2 The applicant/licence holder or their representative may call witnesses.
- 9.3 The committee may then ask questions of the applicant/licence holder or their witnesses.
- 9.4 The other parties or their representatives may then question the applicant/licence holder, their representative or witnesses.
- 9.5 The applicant/licence holder or their representative will be invited to respond to any new point arising from the questions.

10. **The representations of other parties to the hearing**

- 10.1 The representations of the other parties to the hearing will then be considered in turn by the committee in the order determined by the committee and in accordance with the following procedure:
- 10.2 The other parties will be invited to speak in support of their representations.
- 10.3 The other parties or their representatives may call witnesses.
- 10.4 The committee may then ask questions of the other parties or their witnesses.
- 10.5 The applicant/licence holder or their representative may then question the other parties, their representatives or witnesses.

- 10.6 The other parties or their representatives will be invited to respond to any new points arising from the questions.
11. **Closing statements**
- 11.1 Closing statements will then be made in the following order:
- (1) the parties who made representations or their representatives;
 - (2) the applicant/licence holder or their representative.
12. **The committee's decision**
- 12.1 The committee will then consider its decision. This will normally take place in the absence of the public.
- 12.2 During the decision making process, the committee may seek the advice and guidance of its legal advisor.
- 12.3 When it has made a determination the committee will announce its decision in public with a summary of the reasons.
- 12.4 A detailed decision with reasons shall follow no later than five days after the hearing.

LICENSING ACT 2003

APPLICATION TO VARY A PREMISES LICENCE

**Merchants of Spice II, 127 Yarmouth Road, Thorpe St Andrew, Norwich,
NR7 0QY**

Report Author(s): Sarah Harris
Licensing Team Leader
01603 430580
sarah.harris@broadland.gov.uk

Portfolio: Environmental Excellence

Ward(s) Affected: Thorpe St Andrew

Purpose of the Report:

This report details an application to vary a Premises Licence.

Recommendations:

The Committee must take such steps as it considers necessary for the promotion of the licensing objectives:

Grant the application.

Modify the conditions of the licence, altering or omitting or adding to them.

Reject the whole or part of the application.

1. Summary

- 1.1 The Committee is requested, in accordance with the delegation of licensing functions contained in the Broadland District Council Statement of Licensing Policy, to consider an application to vary a Premises Licence in respect of The Merchants of Spice II, 127 Yarmouth Road, Thorpe St Andrew, Norwich, NR7 0QY.

2. Background

- 2.1 An application has been received from Shakh Affsor Ali.
- 2.2 The application consists of the following proposals as contained within the Operating Schedule received from the applicant:

Licensable Activity:

J. Supply of alcohol (for consumption both on and off the premises)

Monday to Sunday 12.00 to 22.00

Hours apply to new garden area only. Application is for off sales to also be added to the restaurant (indoors) part of the premises (in accordance with hours stated on current premises licence).

- 2.3 The effect of the above statement is that, subject to the variation being granted, the premises would also be licensed for off sales of alcohol from the inside restaurant, Monday to Saturday 10.00 to 23.00 and Sunday from 12.00 to 22.30.
- 2.4 It is proposed the outside area will open as follows:
- Monday 12.00 to 22.00*
Tuesday to Sunday 12.00 to 23.00
- 2.5 The application outlines the steps the applicant intends to take to promote the four licensing objectives, copy attached at **Appendix One**.
- 2.6 A copy of the current licence for the premises is attached at **Appendix Two**.
- 2.7 A plan showing the location of The Merchants of Spice II and the surrounding area is attached at **Appendix Three**.
- 2.8 Under the Business and Planning Act 2020, the Government has permitted premises licensed for the sale of alcohol for consumption on the premises, to also sell alcohol for consumption off the premises. This is a temporary provision which is in place until 30 September 2021.
- 2.9 The effect of this legislation is that The Merchants of Spice II is able to serve alcohol from the restaurant to customers located in the garden area without the need for any changes to the current licence. However, as a longer term measure,

the licence will require the proposed variation to allow for alcohol to be served in the garden. In addition, if the restaurant wishes to set up an outside bar this would not be covered by the current licence. The purpose of this application is therefore to incorporate these changes into the premises licence on a permanent basis.

3. Relevant Representations

3.1 All relevant representations have to relate to one or more of the Licensing Objectives:

The Prevention of Crime and Disorder

The Protection of Children from Harm

The Prevention of Public Nuisance

Public Safety

3.2 The responses from the Responsible Authorities are as follows:

Police – no representations received

Environmental Health (Community Protection) – representations received

Health and Safety – no representations received

Fire Officer – no representations received

Planning Officer – no representations received

Norfolk Local Safeguarding Children Board – no representations received

Public Health Norfolk – no representations received

Licensing Authority – no representations received

3.3 A copy of the representation received from Environmental Health (Community Protection) is attached at **Appendix Four.**

4. Other persons

4.1 Representations have been received from other persons. Please see **Appendix Five for details of the representations. Representations have been received both in objection to and in support of the application.**

4.2 All representations have been detailed in full. The Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018 edition) recommends the benefit

of the doubt about any aspect of the representation should be given to the person making the representation. Committee will wish to carefully consider the representations and take into account only those matters which are relevant to the subject area of the representation.

5. Proposed action

- 5.1 The Committee must determine this application with a view to promoting the Licensing Objectives.
- 5.2 In making its decision, the Committee must have regard to guidance issued under Section 182 of the Licensing Act 2003 (as amended April 2018) and the Council's Licensing Policy. The Committee, when considering the Licensing Policy, will in particular wish to have regard to those sections of the Council's Licensing Policy detailed at **Appendix Six**. The Committee must also have regard to all of the representations made and the evidence placed before it.

6. Issues and risks

- 6.1 **Resource Implications** – The Council could incur costs in officer and legal representative time if a person is aggrieved by the decision of the Committee and pursues an appeal to the Magistrates' Court.
- 6.2 **Legal Implications** – There are no legal implications other than the issues detailed at 6.1 and 6.3.
- 6.3 **Equality Implications** – There are human rights implications associated with this matter. The interests of the applicant have to be balanced against the interests and protection of the wider community. Any actions proposed in respect of the application, must be proportionate to the matter under consideration, the decision making process must be transparent and all parties must be given full opportunity to make representations. The Committee is therefore required to balance the interests of the applicant against the interests of the community and decide where the balance should lie.
- 6.4 **Environmental Impact** – In making their determination Committee is requested to ensure that the principles of the prevention of public nuisance licensing objective are upheld.
- 6.5 **Crime and Disorder** – In making their determination Committee is requested to ensure that the principles of the prevention of crime and disorder licensing objective are upheld.
- 6.6 **Risks** – In making its determination, failure to take into consideration the relevant legislation, guidance and the Council's Licensing Policy may leave the Committee's decision open to challenge.

7. Recommendations

- 7.1 The Committee must take such steps as it considers necessary for the promotion of the licensing objectives:

Grant the application.

Modify the conditions of the licence, altering or omitting or adding to them.

Reject the whole or part of the application.

Appendices:

1. Copy of the application
2. Copy of existing premises licence
3. Plan showing location of the premises and surrounding area
4. Representation received from Environmental Health
5. Representations received from interested parties
6. Relevant sections of the Council's Licensing Policy

Appendix One



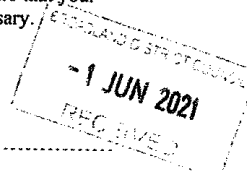
**Broadland District Council, Thorpe Lodge, 1 Yarmouth Road,
Thorpe St Andrew, Norwich, NR7 0DU**

Application to vary a premises licence under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

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



I/We Shakh Affsor Ali

(Insert name(s) of applicant)

being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number

196443/25905

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description

The Merchants of Spice II
127 Yarmouth Road
Thorpe St Andrew

Post town Norwich

Postcode NR7 0QY

Telephone number at premises (if any)

Non-domestic rateable value of premises

Part 2 – Applicant details

Daytime contact telephone number	
E-mail address (optional)	
Current postal address if different from premises address	
Post town Norwich	Postcode

Part 3 - Variation

Please tick as appropriate

Do you want the proposed variation to have effect as soon as possible?

☒ Yes

☐
No

If not, from what date do you want the variation to take effect?

DD		MM		YYYY			
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Do you want the proposed variation to have effect in relation to the introduction of the late night levy? (Please see guidance note 1)

☐ Yes

☒ No

Please describe briefly the nature of the proposed variation (Please see guidance note 2)

We propose to operate a beer garden in the back garden at the restaurant. It will be 10 tables with electric heating canopy.

We would like to add sales of alcohol for consumption off the premises to both the restaurant (indoors on current premises licence) and new garden area.

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend:

Part 4 Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

Provision of regulated entertainment (Please see guidance note 3) **Please tick all that apply**

- a) plays (if ticking yes, fill in box A) ☐
- b) films (if ticking yes, fill in box B) ☐
- c) indoor sporting events (if ticking yes, fill in box C) ☐
- d) boxing or wrestling entertainment (if ticking yes, fill in box D) ☐
- e) live music (if ticking yes, fill in box E) ☐
- f) recorded music (if ticking yes, fill in box F) ☐
- g) performances of dance (if ticking yes, fill in box G) ☐
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H) ☐

Provision of late night refreshment (if ticking yes, fill in box I)

☐

Supply of alcohol (if ticking yes, fill in box J)

☒

In all cases complete boxes K, L and M

A

Plays Standard days and timings (please read guidance note 8)			Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			Please give further details here (please read guidance note 5)		
Tue					
Wed			State any seasonal variations for performing plays (please read guidance note 6)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list (please read guidance note 7)		
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 8)			<u>Will the exhibition of films take place indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 5)		
Mon					
Tue					
Wed					
Thur			<u>State any seasonal variations for the exhibition of films</u> (please read guidance note 6)		
Fri					
Sat					
Sun					
			<u>Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		

C

Indoor sporting events Standard days and timings (please read guidance note 8)			Please give further details (please read guidance note 5)
Day	Start	Finish	
Mon			
Tue			State any seasonal variations for indoor sporting events (please read guidance note 6)
Wed			
Thur			Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list (please read guidance note 7)
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 8)			Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Day	Start	Finish		Both	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 5)		
Tue					
Wed			State any seasonal variations for boxing or wrestling entertainment (please read guidance note 6)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list (please read guidance note 7)		
Sat					
Sun					

E

Live music Standard days and timings (please read guidance note 8)			<u>Will the performance of live music take place indoors or outdoors or both – please tick (please read guidance note 4)</u>	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here (please read guidance note 5)</u>		
Mon					
Tue					
Wed			<u>State any seasonal variations for the performance of live music (please read guidance note 6)</u>		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list (please read guidance note 7)</u>		
Sat					
Sun					

F

Recorded music Standard days and timings (please read guidance note 8)			Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<u>Please give further details here</u> (please read guidance note 5)		
Tue					
Wed			<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 6)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Sat					
Sun					

G

Performances of dance Standard days and timings (please read guidance note 8)			Will the performance of dance take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Day	Start	Finish		Both	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 5)		
Tue					
Wed			State any seasonal variations for the performance of dance (please read guidance note 6)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list (please read guidance note 7)		
Sat					
Sun					

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 8)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	<u>Will this entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<u>Please give further details here</u> (please read guidance note 5)		
Wed					
Thur			<u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u> (please read guidance note 6)		
Fri					
Sat			<u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Sun					

1

Late night refreshment Standard days and timings (please read guidance note 8)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Day	Start	Finish		Both	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 5)		
Tue					
Wed			State any seasonal variations for the provision of late night refreshment (please read guidance note 6)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list (please read guidance note 7)		
Sat					
Sun					

3

KK

L

Hours premises are open to the public Standard days and timings (please read guidance note 8)			State any seasonal variations (please read guidance note 6)
Day	Start	Finish	
Mon	12.00	22.00	
Tue	12.00	23.00	Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 7) These hours apply to the new garden area only.
Wed	12.00	23.00	
Thur	12.00	23.00	
Fri	12.00	23.00	
Sat	12.00	23.00	
Sun	12.00	23.00	

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

M Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 11)

b) The prevention of crime and disorder

We have hired extra staff who keep an eye on the customers.

c) Public safety

d) The prevention of public nuisance

We don't have any jazz or band or loud music. In future we will only have background music just on the table for ambience.

e) The protection of children from harm

Please tick as appropriate

- I have enclosed the premises licence ☐
- I have enclosed the relevant part of the premises licence ☐

If you have not ticked one of these boxes, please fill in reasons for not including the licence or part of it below

Reasons why I have not enclosed the premises licence or relevant part of premises licence.

Checklist:

Please tick to indicate agreement

- I have made or enclosed payment of the fee; or ☒
- I have not made or enclosed payment of the fee because this application has been made in relation to the introduction of the late night levy. ☐
- I have sent copies of this application and the plan to responsible authorities and others where applicable. ☒
- I understand that I must now advertise my application. ☒
- I have enclosed the premises licence or relevant part of it or explanation. ☒
- I understand that if I do not comply with the above requirements my application will be rejected. ☒

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 5 – Signatures (please read guidance note 12)

Signature of applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent (please read guidance note 13). If signing on behalf of the applicant, please state in what capacity.

Signature	
Date	
Capacity	

Where the premises licence is jointly held, signature of 2nd applicant (the current premises licence holder) or 2nd applicant's solicitor or other authorised agent (please read guidance note 14). If signing on behalf of the applicant, please state in what capacity.

Signature	
Date	
Capacity	

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 15)

Post town		Post code	
Telephone number (if any)			

4-2 Studios

EXISTING CONTOUR 2.5m
EXISTING ASH 40m
EXISTING ASH 50m

Fine Laminated Areas.

CUT BACK OVERHANGS ON TERRACES DRAINAGE - 3 STOPS

14x12 m Neo.
RADIANT HEATING (50-60°C)

- INTERIOR FINISHING:
On floor change Brass + timber COATING.

PROPOSED GARDEN SITTING AREA AT MERCHANTS OFFICES

Town Garden = 890 m².
Town Sitting Area = 175 m².

1:10 Ramp
Resin Bonded Surface

Ventilator Scoopings + Lead Handover

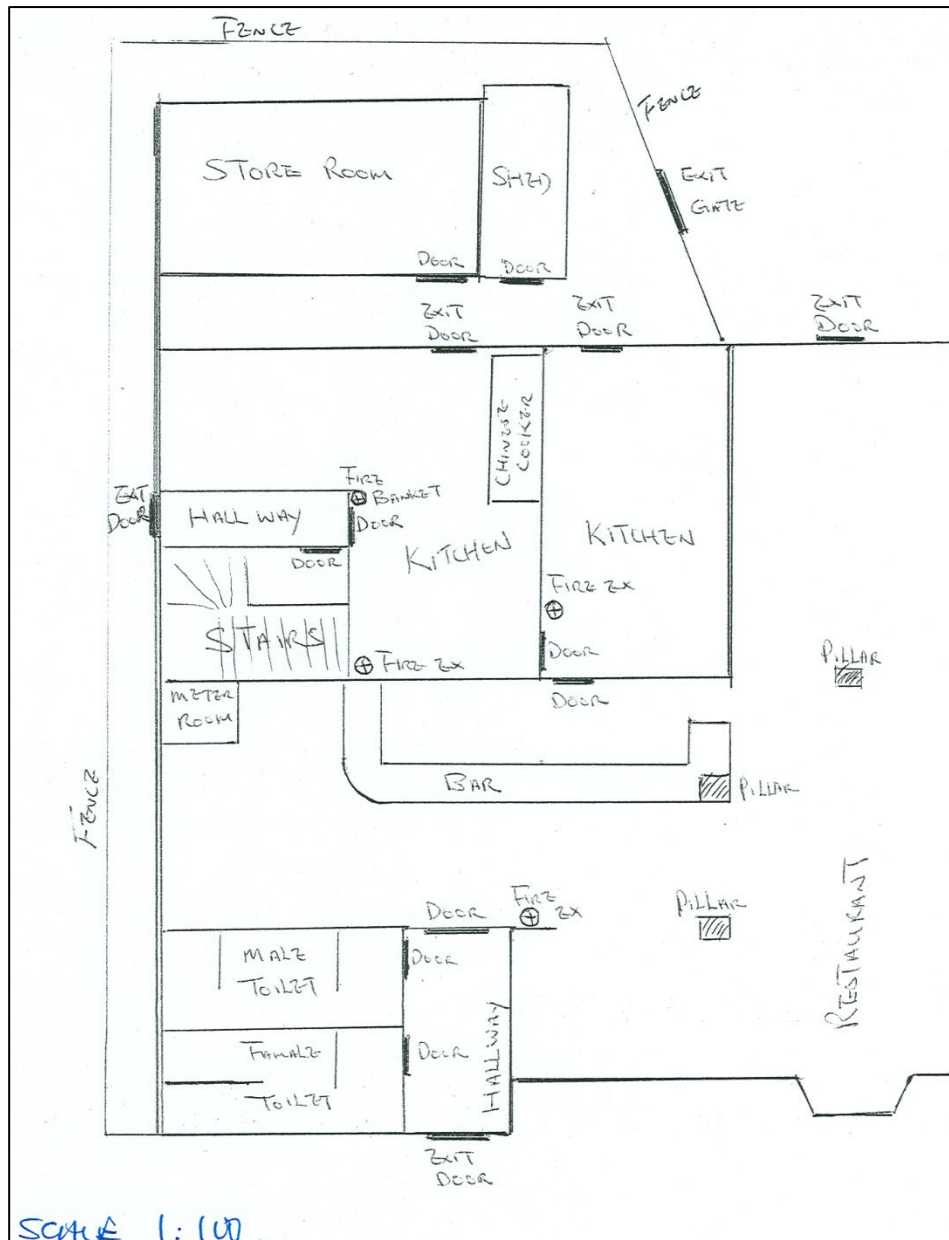
PLANT SCAPES SDCS - 7/3/21

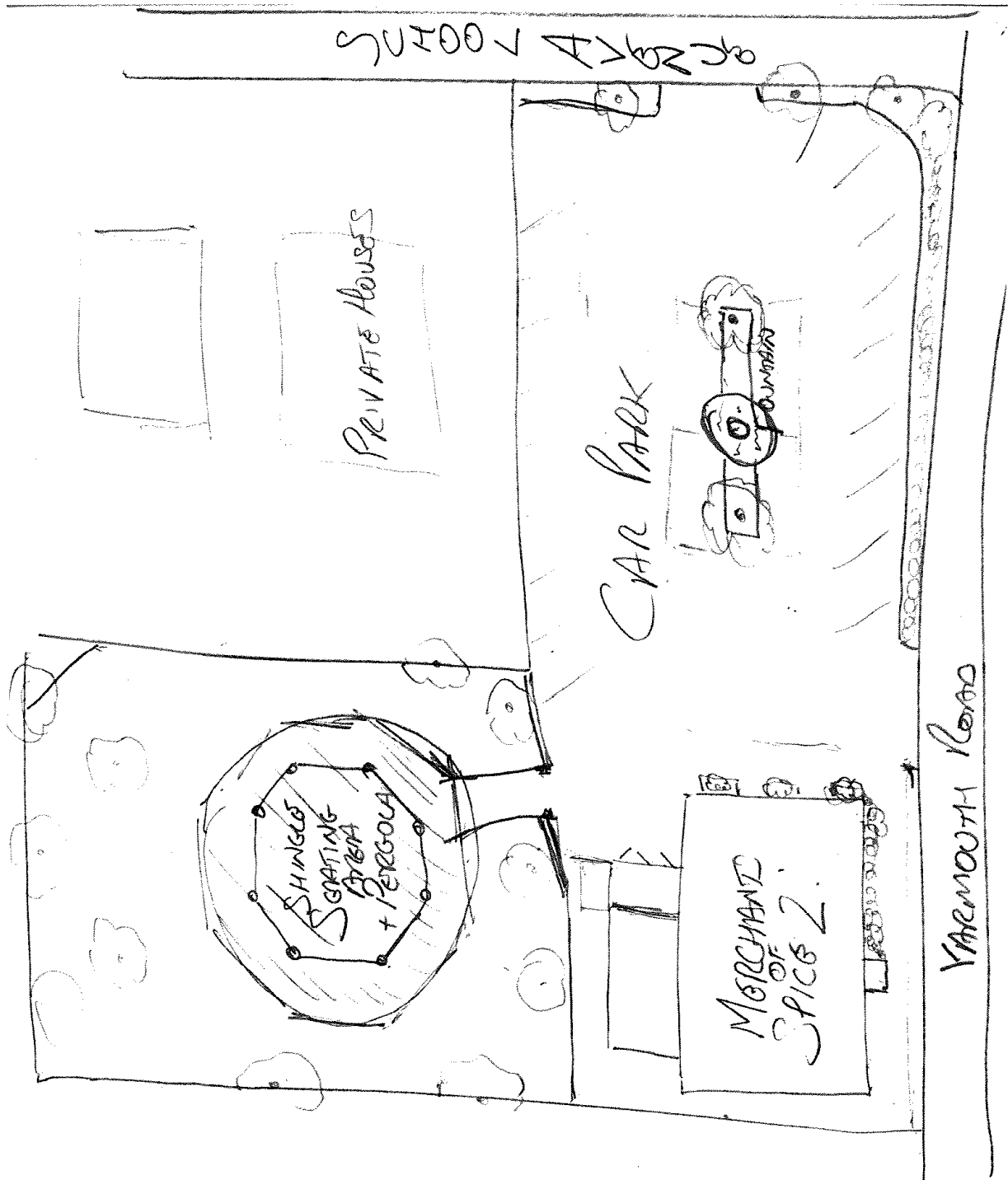
EXISTING CONTOUR 2.5m
EXISTING ASH 40m
EXISTING ASH 50m

1:10 Ramp
Resin Bonded Surface

Ventilator Scoopings + Lead Handover

PLANT SCAPES SDCS - 7/3/21





Appendix Two

Premises Licence Number: 196443 / 25905

Part 1 – Premises Details

Postal address of the premises, or if none, ordnance survey map reference or description.

Merchants of Spice II
127 Yarmouth Road
Thorpe St Andrew

Post Town

Norwich

Post code

NR7 0QY

Telephone number

(01603) 708181

Where the Licence is time limited the dates

This premises licence is not time limited.

Licensable activities authorised by the licence

Supply of Alcohol

The times the licence authorises the carrying out of licensable activities

Supply of Alcohol

Monday: 10.00 to 23.00
Tuesday: 10.00 to 23.00
Wednesday: 10.00 to 23.00
Thursday: 10.00 to 23.00
Friday: 10.00 to 23.00
Saturday: 10.00 to 23.00
Sunday: 12.00 to 22.30

Supper Hours Certificate in force (One extra hour for the sale of alcohol in the specified area plus 30 minutes "drinking up time")

Good Friday, 1200 to 2230
Christmas Day, 1200 to 1500 and 1900 to 2230
New Year's Eve, except on a Sunday, 1000 to 2300
New Year's Eve on a Sunday, 1200 to 2230
New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

The opening hours of the premises

There is no restriction on the hours the premises may be open to the public for **non-licensable activities**.

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

On the Premises

Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence.

Shakh Affsor Ali, 7 Silvo Road, Norwich, NR8 5EL

Telephone Number**E-mail (where relevant)****Registered number of holder, for example company number, charity number (where applicable)****Name, address and telephone number of Designated Premises Supervisor where the premises licence authorises the supply of alcohol.**

Nishant Murria

Telephone Number**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol.**

Personal Licence Number
Issuing Authority

17/00152/PERS
Norwich City Council

Annex 1 – Mandatory conditions

Supply of alcohol

1. Where a premises licence authorises the supply of alcohol, the licence must include the following conditions.
2. The first condition is that no supply of alcohol may be made under the premises licence:
 - a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
3. The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Additional Mandatory Conditions

1. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) 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).

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

3. (1) 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.

(2) 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.

(3) 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.

4. 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.”

Premises Licence

(1) 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.

(2) In this condition:—

(a) “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;

(b) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(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 under such a licence;

(d) “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

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

(3) Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny.

(4) Where the permitted price 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.

Annex 2 – Conditions consistent with the operating schedule

General - all objectives

Embedded restrictions in the Licensing Act 1964 and Children's Act 1933 excepting restrictions superceded by the granting of this licence.

Conversion of existing licence

This Licence has been granted upon the conversion, under Schedule 8 to the Licensing Act 2003, of the existing justices' licence and such rights and restrictions that apply thereto and hereby incorporated into this licence, subject to any terms herein to the contrary and/or any limitation or restriction imposed by the Licensing Act 2003 or any subsequent amendment thereto.

Portman Prove it scheme or one of comparable standard to be implemented.

To continue operating Portman proof of age scheme.

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

The application for this premises licence was not subject to a hearing by the licensing authority.

Annex 4 – Plans

Note: Plans may not be to the scale specified in the drawing.

Part B
Premises Licence Summary

Premises Licence Number: **196443/25905**

Premises Details

Merchants of Spice II
127 Yarmouth Road
Thorpe St Andrew

Post Town
Norwich

Post code
NR7 0QY

Telephone number
(01603) 708181

Where the Licence is time limited the dates

This premises licence is not time limited.

Licensable activities authorised by the licence

Supply of Alcohol

The times the licence authorises the carrying out of licensable activities

Supply of Alcohol

Monday: 10.00 to 23.00
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Thursday: 10.00 to 23.00
Friday: 10.00 to 23.00
Saturday: 10.00 to 23.00
Sunday: 12.00 to 22.30

Supper Hours Certificate in force (One extra hour for the sale of alcohol in the specified area plus 30 minutes "drinking up time")

Good Friday, 1200 to 2230
Christmas Day, 1200 to 1500 and 1900 to 2230
New Year's Eve, except on a Sunday, 1000 to 2300
New Year's Eve on a Sunday, 1200 to 2230

New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

The opening hours of the premises

There is no restriction on the hours the premises may be open to the public for **non-licensable activities**.

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

On the Premises

Name, (registered) address of holder of premises licence

Shakh Affsor Ali, 7 Silvo Road, Norwich, NR8 5EL

Registered number of holder, for example company number, charity number (where applicable)**Name of designated premises supervisor where the premises licence authorises for the supply of alcohol**

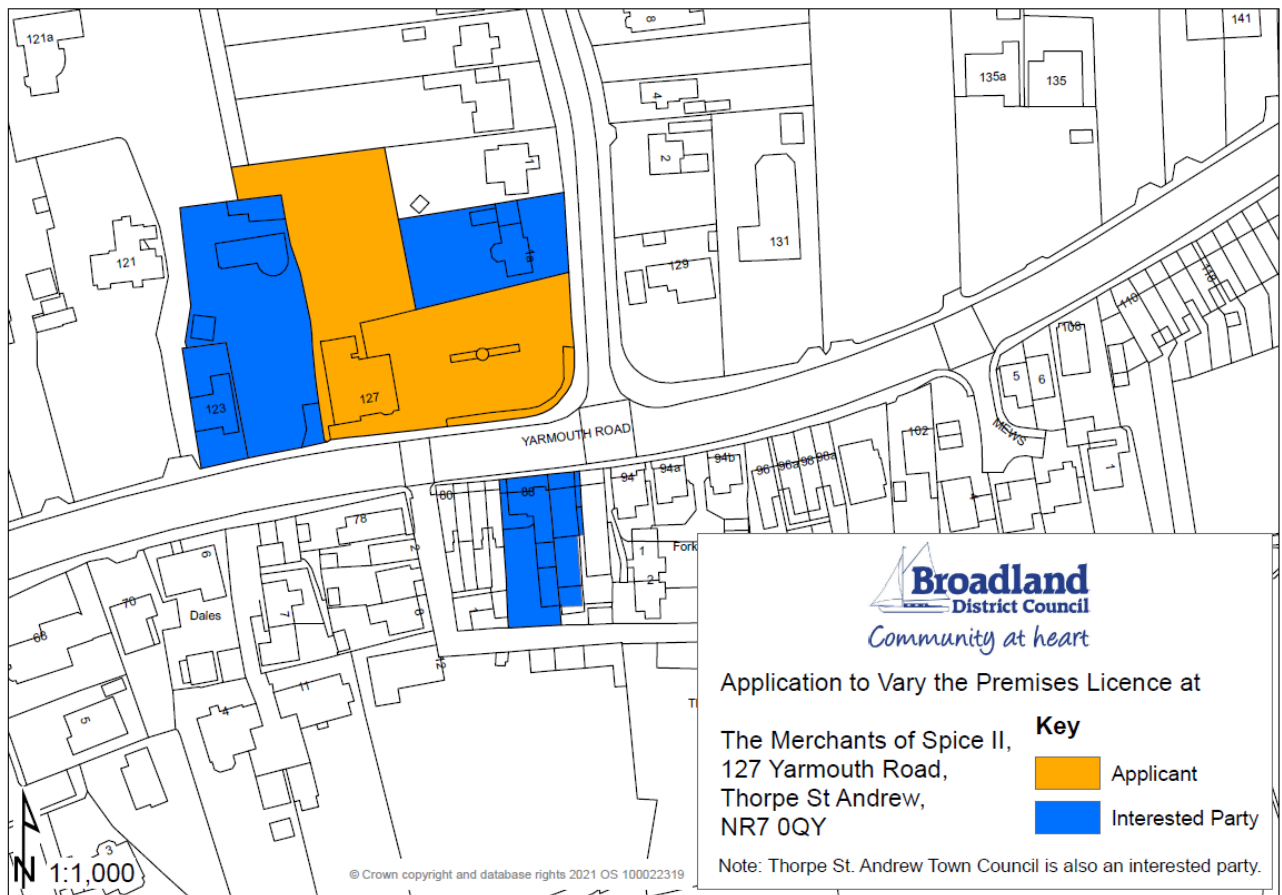
Nishant Murria

State whether access to the premises by children is restricted or prohibited

Any restriction or prohibition (if any) relating to access to the premises by children are those that existed under such authorisation(s) as applied to the premises prior to their conversion to a premises licence, under Schedule 8 to the Licensing Act 2003.

(Access to the premises by children may also be restricted or prohibited by other statutory provisions, including the provisions of the Licensing Act 2003.)

Appendix Three



Appendix Four

Good afternoon,

Thank-you for consulting Environmental Protection with regard to an application under the Licensing Act 2003 from Shakh Affsor Ali for a Premises Licence Variation in respect of The Merchants of Spice II, 127 Yarmouth Road, Thorpe St Andrew, Norwich.

Having reviewed the application, I note that the application proposes:

- To use an outdoor area at the rear of the property for the supply of alcohol between 12:00hrs and 22:00hrs Monday to Sunday.
- To have the outdoor area at the rear of the property open to the public between 12:00hrs and 22:00hrs Monday and 12:00hrs and 23:00hrs Tuesday to Sunday.
- That outdoor area would contain 10 tables and an electric heating canopy.
- To allow off-sales from the licenced property.

I would not object to the off-sales from these licenced premises from the areas currently licenced. However, as the proposed outdoor area at the rear of the property shares a boundary with an adjoining residential garden I would anticipate that noise from patrons using the outdoor area will have an unacceptable impact on the residents of the neighbouring dwelling. This impact would not be mitigated by the measures put forward in the application form for the prevention of public nuisance.

Having regard to the above we would object to this application.

Regards,

Adrian.

Adrian Nicholas
Senior Community Protection Officer

Appendix Five

Merchants of Spice II - 127 Yarmouth Road

Representation concerning the application to vary licence From Mr and Mrs Brown - 125 Yarmouth Road

We have lived at Forge Cottage, 125 Yarmouth Road for more than 40 years. Initially, in 1980 the neighbouring property was the Red Lion - a local pub with an old fashioned pub garden. It was managed by a landlord who, together with his family, lived on the premises. We co-existed as neighbours without any difficulties for over a decade. When this landlord retired the premises were managed by a succession of individuals and we witnessed a slow but steady deterioration - the premises attracting an increasingly rowdy crowd. The secluded nature of the garden encouraged an unpleasant range of anti-social behaviour which included loud, late night noise, foul language, vomit in our drive and underwear in the hedge.

We also experienced damage to our property. Children would get into the pub garden and from there, behind our outbuildings and onto the low sloping roof of the old forge. We have lost roof tiles, had holes gouged through the roof, found broken fences and broken windows.

Towards the end of the 1990's after numerous incidents and constant complaints the license for the Red Lion was revoked and the pub was closed. By the start of 2000 the premises were re-opened with new tenants but now as a restaurant **with the licence restricted to indoor premises only**. Since this time the tenancy has changed hands twice more until the present tenant set up his business about 4 years ago. Each tenant has managed the premises without creating any problems, providing an asset to the local neighbourhood. Throughout this time the garden has never been open for public use and has remained a quiet, private area. For the last 20 years we have once again co-existed with our neighbours without any difficulties.

This changed in April when the relaxation to licensing regulations gave temporary permission for outside use once again. Having extensive grounds our neighbour had a number of options for outdoor seating. We were however very dismayed when he chose the most expensive and radical option - reduced the existing garden to a flat surface before installing a central section for outdoor dining.

Our property is adjacent to and shares a 120 foot boundary with the Merchant of Spice II. But where the restaurant is close to the road with the garden at the rear, we have the reverse layout. Not only is our house set towards the back but, at the closest point, is less than 3 feet away from the boundary. This means that our cottage is now within a few meters of the newly constructed dining area.



Because of covid we were prepared to tolerate a bit of inconvenience for a temporary period. However the levels of disruption and distress caused by this arrangement have had a very unwelcome impact and we are strongly opposed to any application to alter the restrictions that have been in place for the last 20 years.

Our representation against this proposal is as follows:

Protection of children and Public safety

No known issues

Crime and disorder

It has been our experience that when the rear garden at 127 gives easy and open access to the public it can result in damage to our property.

There has always been the occasional disturbance with arguments in the car park or drivers departing in a loud and noisy manner. These are generally infrequent and short lived.

As a restaurant popular with groups of young men out together for a beer and a curry this can create a noisy, boisterous crowd where any conversation includes a lot of swearing. This is mostly done in a good humoured way - although on one occasion it seemed to revolve around traffic offences. We would however prefer not to have to listen to such coarse language.

Recently there was one incident of drinkers brazenly trying to negotiate a discount - refusing to pay and refusing to leave the premises. This appears to have been resolved amicably as the young women left in high spirits but it meant that the garden was an hour late in closing.

None of these individual incidents were major issues although taken together add to the levels of disturbance that an expanded business can cause to neighbours.

Public Nuisance

The continual noise from the diners and smells from the kitchens have had a significant and detrimental impact - all of which is as a direct result of setting up an outside dining area at such close proximity to our house. In addition to catering for couples, families and groups the grounds have also been used for corporate entertainment and as a wedding venue.

Noise

Meter readings show sound levels that are commensurate with a noisy restaurant, ie 80 - 90 decibels

The sporadic bursts of laughter / shouting / chanting / cheering is particularly irritating. It is continuous and repetitive lasting any time from 6 o'clock through to 10 o'clock six nights a week.

Conversations are audible if we are in the garden. Ditto if we are in the house with windows open.

Some of the language is offensive and although the swearing is not aggressive it is unpleasant to hear repetitive profanity.

Singing, cheering, shrieking etc can be heard indoors through double glazing.

Popular with families the screaming of exuberant or tired children is another source of disturbance. One group of youngsters rolling around on the ground, fighting, screaming and throwing gravel.

The possibility that background music might become an additional problem is very depressing. Hours of looped music - even at low levels - would be tortuous and even if not technically loud, it would make for a raised volume in the table conversations.

Smells

Strong smells of Indian spices, garlic and curry etc 6 days a week. It is powerful and pervasive - particularly near the joint boundary.

The restaurant's kitchen door is propped open from mid afternoon till late evening. Being a few feet from the boundary this increases the constant smells pouring out over our property.

If our windows are opened the smell invades our house.

Cooking starts around 3 pm every afternoon and continues throughout the evening.

Lighting

When the tenant set up the outside eating area in March this year lighting was installed into the garden including:-

Powerful up lighting into the trees at the end of the garden

Lighting for the access path from the carpark

Overhead lighting on the tall pergola covering the seating area

Designed for commercial business it is more powerful than any domestic installation and is both intrusive and excessive for a quiet residential neighbourhood.

Hygiene

Early this year we had occasion to dispose of a dead rat which we found near our joint boundary.

All these disturbances are a direct result of the outdoor, licensed dining area. Since an application for a permanent licence was lodged we have now followed advice to contact the Council's environmental protection team and have given notice of these issues.

While there may be some way to resolve the nuisance from smells the disturbance caused by noise cannot be resolved while the proximity of the dining area is so close to our property. We have attempted to minimise the noise by adding extra insulation to the roof but it had minimal impact. If we could be at a similar distance as other neighbours it would be less of an issue. For example, when a marquee was set up on the hard standing in the car park the noise for us was more of a background irritation. This however would simply transfer the problem on to another household as I understand the owner of the nearest property was as distressed by that disturbance as we are by the activities in the garden.

Throughout this process we have remained on friendly terms with our neighbour although have agreed to differ about this application. The Merchant of Spice has always been and remains a thriving small business. For his part the manager has seen an opportunity to expand his business and increase his fortunes. For our part we feel that any expansion would be at our expense as it would destroy all the tranquil pleasures of living in this home and this neighbourhood.

Summary

We were prepared to tolerate short term levels of disruption during the emergency measure.

The levels of disruption we have experienced over the summer months have had a direct, significant and detrimental impact.

The licensing authority previously revoked the license for these premises and the premises have subsequently only been available with a restricted license for indoor premises only.

The restrictions imposed on the current license show that the licensing authority has previously identified the garden area as unsuitable for the consumption of alcohol.

The present tenants would have taken on this property in the full knowledge of these conditions.

For the last 20 years this area has been a peaceful, quiet residential neighbourhood.

It is our opinion that any decision to extend the current license would alter the tranquility of this neighbourhood in a significant way

We would be dismayed and aggrieved if the council decided to overturn the decision taken by the former licensing authority.

Mr and Mrs Brown

Objection

Whilst the beer garden has been in operation under covid relaxation I have accepted these are difficult times for business and endured its operation.

However the expansion of the beer garden operation is a step too far.

I understand they will be operating an outside bar siting unknown as not shown on plan. With it will come an increase in noise and increased hours per the application creating a statutory nuisance, I see no justification to increase the hours from 10.00 to 11.00 PM with drinking up time and clearance of tables going well beyond this in a quiet residential area.

I also object to the odours created when roasting off their spices and cooking for increased numbers I can only assume they had their kitchen door open which is in line with my property at 123 yarmouth road. On one weekend it was so bad I thought I had a collapsed drain as whole house stank even with doors and windows closed. A gentle aroma in garden is probably unavoidable but not invading the house.

The ambient music is another feature which will add to noise pollution as customers are liable to speak louder to be heard over the music increasing the volume all told in a normally quiet area.

Please ensure my views are heard at the meeting and I wish to be informed of the date and the outcome.

Mary White
123 yarmouth Road
Thorpe St Andrew.

Merchants of Spice II Yarmouth Road Thorpe St Andrew Norwich

Premises licence number 196443/25905

Application to vary premises licence

(Edited to remove name, address and location details)

I am writing to make representations and an objection on the application to vary the above premises licence.

The last time the land was used for the consumption of food and drink was about 20 years ago when used as The Red Lion pub. The pub had a live jazz and blues band play (only inside) the premises on a Sunday and Thursday evening. The Merchants of Spice II is a popular restaurant and I believe trade will get back to normal levels and probably more when Covid restrictions are fully lifted.

I am aware at least one councillor is a regular customer of the restaurant and am reassured a declaration of any interest has to be given prior to any consideration of this application.

I have considered my representations and objection along the lines of the four main areas considered in an application:

Public safety

I would like to bring to the attention of the council two large trees at the north west and north east of the land. These trees are about 30 metres high and are diseased with Ash die back. I consider they pose a risk to anyone using or working on the land and importantly customers standing under the overhanging branches or tree fall line.

The proposed bar will be within the fall line of both trees should they be damaged in winds which will be stronger during the forthcoming autumn and winter period.

A representative of Broadland DC has previously informed me this is potential Health and Safety issue for the business to deal with. I consider it is also relevant for the licensing authority to be made aware and record as well as consider the risk.

I understand there are no plans to remove the trees or any of the branches. I would suggest an independent assessment be made of the two trees by your tree services colleagues at the council.

Protection of children from harm

No representations. Whilst children have used the restaurant and garden I have no comments or concerns about safeguarding.

Crime and disorder

No representations. The Merchants of Spice II in my opinion is well run. I have heard the

odd argument in the car park after closing but this is rare and is not as far as I am concerned an issue.

Public nuisance

The current use of the land to serve food and alcohol creates some noise and the manager who I have a good neighbour relationship with accepted this would be the case prior to the land being cleared and made ready for use a few months ago.

The recent and current situation is the premises open until 10pm in the garden area. Broadly speaking the ambient noise has been acceptable with only one or two exceptions of loud noise from customers. This is I believe in significant part is because the garden closes at 10pm.

There is now additional light pollution from lights strung across poles in the beer garden and I do not believe this to be excessive. The lights are turned off at 10pm.

The manager has previously shared with me his plan to have small speakers with music on each table. If as quiet background music that in my mind will be acceptable but if at a medium volume it will lead to diners and drinkers having to talk louder over the music as well as music being heard at my home.

Keeping the garden open until 11pm will result in not only further but louder noise. At the moment customers leave at a reasonable time (10pm) both for the restaurant and residential neighbours.

Under current conditions car doors can be heard closing and bottles from the restaurant being emptied into larger containers but I do not consider it to be excessive. With additional customers (from the garden) using the current car park the noise will increase.

If the garden can be used until 11pm for drinking as well as food the car park is more likely to be full. It is most likely cars will park on School Avenue with doors being shut, people talking and engines started. It is not realistic to consider all customers will leave at 11pm prompt especially as some will be more intoxicated after an additional hours drinking.

I note the application does not provide any mitigation factors that will be put in place against the four headings above. I would ask the decision making authority seeks reassurance and records how the applicant intends to keep noise to an acceptable level.

Work in changing and developing the land for eating and drinking has been completed and although there has been an increase in noise a finish time as current of 10pm does not seem unreasonable. If the garden is open until 11pm there will be two sittings with the last more likely to be very noisy owing to the later time and likelihood of people having consumed more alcohol.

I object to any variation beyond 10pm based on noise.

The current arrangement of selling food and drink until 10pm in a residential area seems to be reasonable for all.

I would be grateful if you can acknowledge receipt of this correspondence.

6 September 2021

Good Morning,

Last night, the Town Council discussed the Merchants of Spice II licensing application.

The Town Council voted to support the application, but have requested that the hours of the garden being accessible to the public be reduced to 10pm in line with the hours of alcohol service.

Best wishes

Thomas

Dr Thomas Foreman
Town Clerk
Thorpe St Andrew Town Council

Hi Claire

From the discussion which took place the Councillors were mindful of the impact on local residents and sought to prevent public nuisance from people outside where voices will carry, and be more noticeable beyond 10pm.

Best wishes

Thomas

Dear licensing,

Reference application for Beer Garden, Merchants of spice 11, Yarmouth Rd.

I am writing in support of the above application. The garden is a big improvement on the wilderness which was there previously. In the past few months I have not witnessed any disturbance, noise, excessive numbers or anything to raise concerns or indicate that this should not be approved.

The occupiers are very much part of the community and allow residents to use their car park plus parents parking at school drop off and collection times and parents of children attending the local beaver and scout groups.

I have lived directly opposite the car park for the past 38 years and welcome the increased trade and activity for a local business which fully respect their position within a residential area and part of the community.

Thank you,
John

Cllr John Fisher (Broadland District Councillor)

Good Evening,

We thought we would take the opportunity to pass on our support for 'The Merchants of Spice II' in their wish to make use of their rear garden.

We live dead opposite them and initially wondered what was going on when the workman were buzzing around. Well, We probably don't need to tell you that they have done a great job in absolutely transforming the place. For something that is in our direct line of sight it is a vast improvement from the forgotten, overrun jungle that was there before. We have had our windows wide open for much of the summer and are unable to recollect a single time we've actually heard anything from the gardens.

As proud residents of Thorpe st Andrew we are grateful that the team at the Merchants have made such an investment in our neighbourhood and We hope their restaurant will remain a jewel in Thorpe's Crown for many years to come.

Given their valuable support to our community by offering free and available parking during the school terms to parents of Hillside School, We would like to see the local residents get behind them and wish them all the best for the future.

Regards

Mr & Mrs Pointer
90 Yarmouth rd
Thorpe at Andrew
Norwich
NR7 0QZ

To whom it may concern,

We write in support of The Merchants of Spice 2 application on Yarmouth Road Norwich.

We live at 1a School Avenue and our gardens back onto each other.

Since the garden has been open we have had no cause for complaint, the noise levels are negligible. We always have bedroom windows open at night and the Merchants garden does not disturb us.

We were kept informed during both the planning and building of the garden and we found the whole process to be very fair. It has transformed a very tatty area into a lovely summer seating garden.

Many thanks
Tony and Jutta Grimmer.

Appendix Six

BROADLAND DISTRICT COUNCIL LICENSING ACT 2003

Licensing Policy

Main Principles of the Policy

- 2.1 Nothing in the 'Statement of Policy' will:
- undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits; and/or
 - override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.
- 2.2 Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the 2003 Act, and conditions may be attached to licences, certificates and permissions that will cover matters which are within the control of individual licensees.
- 2.3 When considering these conditions, the Council will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned. To this end, Town/Parish Councils will be notified of all Premises Licence and Club Premises Certificate applications received.
- 2.4 The Council acknowledges that the licensing function cannot be used for the general control of anti-social behaviour by individuals once they are beyond the direct control of the licensee of any premises concerned.
- 2.5 In this respect, the Council recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including:
- pre-existing planning controls;
 - 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 District as places where alcohol may not be consumed publicly;
 - regular liaison with 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 disorder, or likelihood of disorder, or excessive noise from the premises;
 - the power of the Police, other responsible authority, or a local resident or business to seek a review of the licence or certificate.

4 Crime Prevention

- 4.1 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems.
- 4.2 The Council will expect Operating Schedules to satisfactorily address these issues, as appropriate, from the design of the premises through to the daily operation of the business.
- 4.3 Applicants are recommended to seek advice from Council Licensing Officers and Police, as well as taking account, as appropriate, of local planning and transport policies and tourism, cultural and crime prevention strategies, when preparing their plans and Schedules.
- 4.4 The Licensing Authority would encourage applicants and current licence holders to consider the use of toughened or plastic glasses when serving drinks to members of the public, particularly where they are to be consumed in beer gardens, at outside events or in premises where a risk assessment may indicate the use of toughened or plastic glasses would be of benefit in complying with the public safety licensing objective.
- 4.5 In addition to the requirements for the Council to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the district. The Licensing Authority also acknowledges powers contained within the Violent Crime Reduction Act 2006.
- 4.6 Where relevant representations are received the Council will consider attaching conditions to licences and permissions to deter and prevent crime and disorder both inside and immediately outside the premises. These may include conditions drawn from the Model Pool of Conditions relating to Crime and Disorder. The Council may also consider attaching a condition, where relevant representations are received, requiring a 'safe dispersal policy for customers' which would address:
 - Dispersing customers over an extended period;
 - Ensuring customers leave the premises in an orderly fashion and without bottles or glasses;
 - Offering a Neighbours' Charter to businesses and residents;
 - Placing marshals in high visibility jackets outside premises to promote order and speedy dispersal; and
 - Sending out a 'Rubbish Patrol' following closure in a designated area around the premises.

5 Public Safety

- 5.1 The 2003 Act covers a wide range of premises that require licensing, including, cinemas, concert halls, theatres, nightclubs, public houses, village halls, cafés/restaurants and fast food outlets/takeaways.
- 5.2 Each of these types of premises present a mixture of risks, with many common to most premises and others unique to specific operations. It is essential that premises are

constructed or adapted and operated so as to acknowledge and safeguard occupants against these risks.

- 5.3 The Council will expect Operating Schedules to satisfactorily address these issues, as appropriate, and applicants are advised to seek advice from Council Health and Safety Officers and the County Fire Officer before preparing their plans and Schedules.
- 5.4 Where relevant representations are received the Council will consider attaching conditions to licences and permissions to promote safety and these may include conditions drawn from the Model Pool of Conditions relating to 'Public Safety'.
- 5.5 Whenever security operatives/door supervisors are employed at licensed premises to carry out any security function they must be licensed by the Security Industry Authority (SIA). Competent and professional door supervisors are key to public safety at licensed premises and the provision of door supervisors is an action point for the leisure industry to consider in the Home Office Alcohol Harm Reduction Strategy. If a licensee directly employs security operatives he/she will need to be licensed by the SIA as a supervisor/manager.

6 Prevention of Nuisance

- 6.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the premises.
- 6.2 The concerns mainly relate to noise nuisance, light pollution and noxious smells and due regard will be taken on the impact these may have. The Council will expect Operating Schedules to satisfactorily address these issues, as appropriate. Applicants are advised to seek advice from the Council's Health and Safety and Pollution Control Officers before preparing their plans and Schedules.
- 6.3 Where relevant representations are received the Council will consider attaching conditions to licences and permissions to prevent public nuisance and these may include conditions drawn from the Model Pool of Conditions or local conditions relating to 'Public Nuisance' where relevant representations have been received.

7 Children

Access to Licensed Premises

- 7.1 The wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, for food and/or entertainment. The 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. In all other cases it will be left to the discretion of the licensee.
- 7.2 The Council has a statutory obligation to ensure robust mechanisms are in place for safeguarding arrangements under Section 11 of the Children Act 2004. Therefore the Council will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to individual premises. The following are examples of premises that will raise concern:

- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
 - Where there have been convictions for serving alcohol to minors or with a recorded history for underage drinking.
 - With a known association with drug taking or dealing.
 - Where there is a strong element of gambling on the premises.
 - Where entertainment of an adult or sexual nature is commonly provided.
- 7.3 The Council will consider any of the following options when dealing with a licence application where limiting the access of children is considered necessary to prevent harm to children:
- Limitations on the hours when children may be present.
 - Limitations on the parts of premises to which the children might be given access.
 - Limitations on ages below 18.
 - Limitations or exclusion when certain activities are taking place.
 - Requirements for an accompanying adult.
 - Full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 7.4 No conditions will be imposed requiring that children be admitted to any premises and, where no limitation is imposed, this will be left to the discretion of the individual licensee.
- 7.5 The 2003 Act details a number of offences designed to protect children in licensed premises and the Council will work closely with the Police to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children.
- 7.6 Applicants may wish to consider including a statement within their operating schedule detailing how they will prevent underage drinking at their premises. This may be incorporated within the applicant's proof of age policy.