

AGENDA

Meeting: Western Area Licensing Sub Committee
Place: Council Chamber - County Hall, Trowbridge BA14 8JN
Date: Thursday 6 August 2015
Time: 1.30 pm
Matter: Application for a Late Night Refreshment Licence - 1 Bratton Road, Westbury, Wiltshire, BA13 3EN

Please direct any enquiries on this Agenda to Fiona Rae, of Democratic Services, County Hall, Bythesea Road, Trowbridge, BA14 8JN. 01225 712681, fiona.rae@wiltshire.gov.uk

Press enquiries to Communications on direct lines (01225)713114/713115.

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Membership:

Cllr Desna Allen
Cllr Trevor Carbin

Cllr Sue Evans

Reserve Member

Cllr George Jeans

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AGENDA

1 **Election of Chairman**

To elect a Chairman for the meeting of the Sub Committee.

2 **Procedure for the Meeting** (*Pages 5- 12*)

The Chairman will explain the attached procedure for the members of the public present.

3 **Chairman's Announcements**

The Chairman will give details of the exits to be used in the event of an emergency.

4 **Declarations of Interest**

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.

5 **Licensing Application** (*Pages 13 - 16*)

To consider and determine an Application for a Premises Licence by Refki Ibsi in respect of 1 Bratton Road, Westbury, Wiltshire, BA13 3BN

5a **Appendix 1 - Premises Licence Application** (*Pages 17 - 44*)

5b **Appendix 2 - Relevant Representations** (*Pages 45 - 56*)

5c **Appendix 3 - Map of Relevant Representations** (*Pages 57 - 58*)

5d **Appendix 4 - Applicant Response** (*Pages 59 - 60*)

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LICENSING COMMITTEE

PROCEDURAL RULES FOR THE HEARING OF LICENSING ACT 2003 APPLICATIONS

1 Purpose

- 1.1 These rules have been prepared to facilitate proper consideration of licence applications, made under the Licensing Act 2003, by the Licensing Committee and its Sub Committees.
- 1.2 The rules set out a framework for how applications are to be heard and explain the role of the participants at the Hearing.

2 Definitions

- 2.1 The following definitions describe the participants at and the subject matter of a Hearing:

“Applicant” means the person who has submitted an Application for consideration by the Committee.

“Applicant’s Premises” means premises subject to the Application.

“Applicant’s Representative” means a person attending a Hearing to assist or represent an Applicant including a lawyer.

“Application” means an application for the Grant/Variation/Transfer/Review and any other decision to be made by the Committee/Sub-Committee in respect of a Licence.

“Chairperson” means the Member who is the Chairperson of the Committee for the particular Hearing.

“Committee” means the Council’s Licensing Committee and includes any Sub Committee of the Licensing Committee.

“Committee Lawyer” means the Council’s Lawyer (including an external Lawyer instructed by the Council’s Legal & Democratic Services Manager) who is present at a Hearing to advise the Chairperson and the Members.

“Committee Manager” means the Council’s Officer who is present at a Hearing to take minutes.

“Committee Report” means the Licensing Officer’s written report to the Committee concerning an Application, a copy of which has been previously made available to the Applicant or their Representative, a Responsible

Authority or their Representative or any person who has made a Relevant Representation or their Representative.

“Hearing” means a meeting of the Committee at which an Application is considered.

“Licence” means a Licence which the Committee has the power or duty inter alia to grant, transfer, suspend or revoke.

“Licensing Officer” means the Council’s Licensing Officer(s) who is/are present at a Hearing to present reports in respect of an Application and to give technical advice in respect of an Application to the Committee when requested.

“Licensing Authority” the Council in whose geographical area the subject matter of the Application relates to, and includes the Council’s Licensing Committee, any Sub Committee of the Licensing Committee and a Licensing Officer.

“Member” means a Member who is a Member of the Committee that is considering an Application.

“Person making a Relevant Representation” means a person who is present at a Hearing to make representations in respect of an Application and includes any person who is present to assist or make representations on behalf of that person including a Lawyer.

“Responsible Authority” means a person who is present at a Hearing to make representations in respect of an Application in their capacity as Responsible Authority and includes any person who is present to assist or make representations on behalf of the Responsible Authority including a Lawyer.

3 Key Principles

- 3.1 The principles of ‘natural justice’, and Article 6 ‘Right to a Fair Trial’, which is one of the Convention Rights in the Human Rights Act 1998, require that there is a fair Hearing of Applications.
- 3.2 Natural justice is an umbrella term for the legal standards of basic fairness. This will include that:
 - 3.2.1 the Applicant has an opportunity to make representations before a decision is made;
 - 3.2.2 those making representations have an opportunity to voice their representations before a decision is made;
 - 3.2.3 the Applicant has an adequate opportunity to consider and respond to any submissions made by a Responsible Authority/Authorities and/or any person/s who have made a Relevant Representation;

- 3.2.4 the Committee does not exclude an Applicant from a Hearing in order to consider submissions from a Responsible Authority/Authorities and/or any person/s who have made a Relevant Representation.
- 3.3 It is also fundamental that there is an orderly presentation of submissions at a Hearing so that the relevant issues are properly understood, evidence is tested and that oral statements made at the Hearing are accurately recorded.
- 3.4 Ultimately the Chairperson determines the application of these rules, having regard to any submissions being made by those present and in particular the Committee Lawyer.

4 The Hearing

- 4.1 The Hearing shall take place in public.
- 4.1.1 The Committee may exclude the public from all or part of the Hearing where it considers it to be in the public interest to do so and, in accordance with the Local Government (Access to Information) Act 1985, as amended. Public includes a party and any person assisting or representing a party.
- 4.1.2 The Committee may require any person attending the Hearing who, in its opinion, is behaving in a disruptive manner, to leave the Hearing and may:
- A refuse to permit them to return;
 - B permit them to return only on such conditions as the Committee may specify;
 - C in the event that a person is required to leave a Hearing that person may, before the end of the Hearing, submit to the Committee in writing any information which they would have given orally.
- 4.2 Prior to the Hearing commencing, the Chairperson shall advise the parties of the procedure it proposes to follow at the Hearing.
- 4.3 Where a party has previously requested permission for a person(s), other than their representative, to appear at the Hearing then the Committee shall consider whether to permit that request.
- 4.4 The Committee will allow the parties an equal maximum period of time in which to exercise their rights.
- 4.5 This equal maximum time may have been notified in advance of the Hearing;
- 4.6 Where there are a number of people who have attended the Hearing to make the same representation then the Committee would normally require that a spokesperson be appointed by them to make the representations on behalf of all of those who have made Relevant Representations .

5 Presentation of Submissions

- 5.1 The Chairperson will introduce the Application.
- 5.2 In the event that the Licensing Authority has given notice to a party requiring clarification on a point(s) then that party shall respond to the points raised by the Licensing Authority.
- 5.3 Submissions shall be made in the following order unless the Chairperson directs otherwise:
 - 5.3.1 The Licensing Officer will orally present the Committee Report and will in particular advise the Committee as to:
 - A the options available to it;
 - B the considerations that are relevant in reaching its decision.
 - 5.3.2 The Applicant (or the Applicant's Representative) will orally present its submission which may include:
 - A presenting their case in accordance with the papers, which will have been circulated with Agenda papers;
 - B confirming key information and answer pertinent questions; and
 - C calling witnesses in support of the Application (see paragraph 4.3).
 - 5.3.3 A Responsible Authority/Authorities and/or any person/s who have made a Relevant Representation will orally present their representations in turn which shall include:
 - A the grounds of the representation to the Application; and
 - B any condition(s) that the Responsible Authority/Authorities and/or any person/s who have made a Relevant Representation would be happy to have the Application granted subject to which would cause the representation to be withdrawn.

6 Questioning of Submissions

- 6.1 The Chairperson will regulate the order in which questions are asked by Members.
- 6.2 The Chairperson and Members, voiced through the Chairperson, may question any party following the completion of their submission.
- 6.3 The Chairperson will normally permit the Applicant, a Responsible Authority/Authorities or any person/s who have made a Relevant Representation to ask questions through them of the other parties.
- 6.4 The Chairperson may direct that questions which are not relevant to the Application or one of the four Licensing Objectives are not formally put or answered.

7 Documentation

- 7.1 No party shall present new documentation to the Committee at the Hearing other than with the consent of all of the other parties. This does not preclude the Licensing Officer from correcting errors, providing updated information or an extract from a local map showing the Applicant's Premises in the context of the surrounding premises and any person/s who have made a Relevant Representation . If any party is granted permission to present supplementary papers at the Hearing they shall provide at least 10 copies at the start of their submission.

8 Intervention

The Chairperson shall permit the following interventions at any point in the Hearing:

- 8.1 The Committee Lawyer to advise the Committee on issues of law, procedure and relevant considerations on decision making. If necessary, the Chairperson may require the Committee, the Committee Lawyer and the Committee Manager to leave the Hearing so that advice can be given.
- 8.2 The Committee Manager to advise the Committee on procedure generally, or to request that statements made are repeated for reasons of clarity and so that they can be properly recorded.
- 8.3 The Licensing Officer to seek to clarify statements that have been made in light of information held on their file.

9 Failure of Parties to Attend Hearing

- 9.1 If a party has informed the Licensing Authority that it does not intend to attend or be represented at a Hearing, the Hearing may proceed in its absence.
- 9.2 If a party has not indicated that it does not intend to attend or be represented at a Hearing and fails to attend or be represented at the Hearing then the Licensing Authority may:
- 9.2.1 where it considers it be necessary in the public interest, adjourn the Hearing to a specified date; or
- 9.2.2 hold the Hearing in the party's absence.
- 9.3 Where the Licensing Authority holds a Hearing in the absence of a party, it shall consider at the Hearing the application, representations or notice made by that party.

10 Closing Submissions

- 10.1 The Chairperson shall allow first, the Responsible Authority/Authorities and any person/s who have made a Relevant Representation to make a closing oral submission(s) and secondly invite the Applicant or the Applicant's Representative an opportunity to make an oral closing submission in support of the Application.

11 Decision

- 11.1 The Committee, the Committee Lawyer and the Committee Manager, shall retire so that the decision may be considered in private, and to consider any legal issues raised by the Members.
- 11.2 The decision, and reasons for the decision, of the Committee shall be communicated orally by the Chairperson to the parties after the Committee has deliberated in private on the Application.
- 11.3 Written reasons shall be provided soon after the deliberations of the Application and in any event within the statutory time limits.

Hearing Procedure Summary

1. The Democratic Services Officer will request nominations for a Chairman for the Hearing.
2. The Chairperson welcomes all those present and introduces the Application.
3. The Chairperson introduces the Applicant, Responsible Authority/Authorities and/or any person/s who have made a Relevant Representation.
4. The Chairperson outlines the Hearing Procedure.
5. The Licensing Officer presents the Committee Report.
6. The Applicant addresses the Sub Committee.
7. Questions to the Applicant by Responsible Authority/Authorities and/or any person/s who have made a Relevant Representation.
8. Questions to the Applicant by Members of the Sub Committee.
9. Comments by Responsible Authority/Authorities and/or any person/s who have made a Relevant Representation.
10. Questions by Applicant.
11. Questions to Responsible Authority/Authorities and/or any person/s who have made a Relevant Representation by Members of the Sub Committee.
12. Summing up by Parties who have made representations.
13. Summing up by Applicant.
14. Sub Committee retires with the Committee Lawyer and Committee Manager to consider its decision.
15. Sub Committee returns and the Lawyer gives a summary of any legal advice that may have been given to the Committee.
16. The Chairperson either gives the decision with reasons, or advises that it will be released in writing with reasons within the statutory time limits.

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WILTSHIRE COUNCIL

WESTERN AREA LICENSING SUB COMMITTEE

6 AUGUST 2015

Application for a Premises Licence; 1 Bratton Road, Westbury, BA13 3EN

1. Purpose of Report

- 1.1 To determine an application for a Premises Licence in respect of 1 Bratton Road, Westbury, BA13 3EN made by Mr Refki Ibisi

2. Background Information

- 2.1 An application for a Premises Licence in respect of 1 Bratton Road, Westbury has been made by Mr Refki Ibisi for which 5 relevant representations have been received.

- 2.2 Wiltshire Council (as the Licensing Authority) must hold a hearing to consider the application having regard to the representations. In accordance with Section 18 (3) of The Licensing Act 2003 the Licensing Sub Committee is required to take such of the steps listed in 2.4 below as it considers appropriate for the promotion of the licensing objectives. In considering the application and the relevant representations, the Sub Committee must also have regard to relevant Government guidance and the Council's Licensing Policy

- 2.3 The licensing objectives are:

- i) The Prevention of Crime and Disorder;
- ii) Public Safety;
- iii) The Prevention of Public Nuisance; and
- iv) The Protection of Children from Harm.

- 2.4 Such steps are:

- i) To grant the licence subject to such conditions as are consistent with those included in the operating schedule submitted with the application, modified to such extent as the Sub Committee considers appropriate for the promotion of the licensing objectives, together with any mandatory conditions required by the Licensing Act.
- ii) To exclude from the scope of the application any licensable activity.
- iii) To refuse to specify a person as the designated premises supervisor.
- iv) To reject the application.

- 2.5 On 12 June 2015 an application for a premises licence was received and accepted as a valid application.

2.6 The application as applied for is as follows:

Licensable Activity	Timings	Days
Provision of late night refreshment	23.00 – 00.00	Mon/Tue/Wed
	23.00 – 02.00	Thur/Fri/Sat
	23.00 – 23.30	Sun

A copy of the application from Mr Ibisi is attached as **Appendix 1**.

2.7 Background Information

- Environmental Protection & Control have issued a noise abatement notice in respect of the noise emanating from the extractor fan at 1 Bratton Road.
- There are 2 other venues in Westbury that have a premises licence for Late Night Refreshment:

New China Garden, (Westbury Market Place)	Tue/Wed/Thur/Sun Fri/Sat	23.30 00.00
The Olympia (Westbury Market Place)	Sun – Thur Fri/Sat	00.00 01.00

3. Consultation and Representations

3.1 The application process requires the application to be advertised, by the Applicant, in a local news publication within 10 working days, starting on the day after the authority receives it and for a public notice (on pale blue paper) to be posted on the premises. In addition the Licensing Authority advertises the application on its website, for a period of 28 consecutive days, starting the day after the authority receives the application.

3.2 During the consultation period 5 relevant representations have been received from 4 local residents and 1 from a Responsible Authority.

3.3 Representations Received

- Mr and Mrs Loudoun
- Mr and Mrs Dixon
- Mr and Mrs Ardrey
- Mr Garrett

3.4 Responsible Authorities

Environmental Protection & Control

3.5 A summary of the representations made is detailed in the table below:

Representation	Licensing Objective	Accepted	Comments
Mr and Mrs Loudoun	Public Nuisance	Yes	Noise and odour from the extractor fan. Increase in litter
Mr and Mrs Dixon	Public Nuisance	Yes	Noise and odour from the extractor fan. Increase in litter. Antisocial behaviour
Mr and Mrs Ardrey	Public Nuisance	Yes	Noise from extractor fan. Increase in litter. Antisocial behaviour
Mr Garrett	Public Nuisance	Yes	Noise and antisocial behaviour
Environmental Protection & Control	Public Nuisance	Yes	Statutory Noise nuisance caused by extractor fan

3.6 The relevant representations are attached as **Appendix 2**. Attached as **Appendix 3** is a plan which shows the locations from where representations have been made.

3.7 Mr Ibisi has responded to the representations. This response is attached in **Appendix 4**.

4. Legal Implications

4.1 This hearing is governed by the Licensing Act 2003 (Hearings) Regulations. These provide that hearings should be held in public unless the Licensing Authority considers that the public interest in excluding the public outweighs the public interest in the hearing taking place in public.

4.2 The Applicant, and all persons who have made representations have been informed of the date, time and location of the hearing and their right to attend and be represented.

4.3 At the hearing all those who have made representations are entitled to address the Sub Committee and to ask questions of another party, with the consent of the Sub Committee.

5. Officer Recommendations

- 5.1 Officers are not permitted to make a recommendation – the decision is to be reached by the members of the Licensing Sub Committee.

6. Right of Appeal

- 6.1 It should be noted that the Applicant and those persons who have made representations may appeal the decision made by the Licensing Sub Committee to the Magistrates Court. The appeal must be lodged with the Magistrates Court within 21 days of the notification of the decision.
- 6.2 In the event of an appeal being lodged, the decision made by the Licensing Sub Committee remains valid until any appeal is heard and any decision made by the Magistrates Court.
- 6.3 A Responsible Authority or any person may apply to the Licensing Authority for a Review of a Premises Licence. Whether or not a Review Hearing takes place is in the discretion of the Licensing Authority, but, if requested by a person other than a Responsible Authority it will not normally be granted within the first 12 months except for the most compelling circumstances.
-

Report Author:

Carla Adkins, Public Protection Officer – Licensing, 01249 706 438

23 July 2015

Background Papers Used in the Preparation of this Report

- **The Licensing Act 2003**
- **The Licensing Act (Hearings) Regulations 2005**
- **Guidance issued under Section 182 of the Licensing Act 2003**
- **Wiltshire Council Licensing Policy**

Appendices

- 1 Application for a premises licence**
- 2 Representations**
- 3 Plan locating premises and representations**

**Application for a premises licence to be granted
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 Refki IBISI
(Insert name(s) of applicant)

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description			
<u>NO 1 BRATTON ROAD</u>			
Post town	<u>WESTBURY</u>	Post code	<u>BA13 3EN</u>
Telephone number at premises (if any)			
Non-domestic rateable value of premises		£	

Part 2 - Applicant Details

Please state whether you are applying for a premises licence as
Please tick yes

- | | | |
|---|-------------------------------------|-----------------------------|
| a) an individual or individuals * | <input checked="" type="checkbox"/> | please complete section (A) |
| b) a person other than an individual * | | |
| i. as a limited company | <input type="checkbox"/> | please complete section (B) |
| ii. as a partnership | <input type="checkbox"/> | please complete section (B) |
| iii. as an unincorporated association or | <input type="checkbox"/> | please complete section (B) |
| iv. other (for example a statutory corporation) | <input type="checkbox"/> | please complete section (B) |
| c) a recognised club | <input type="checkbox"/> | please complete section (B) |
| d) a charity | <input type="checkbox"/> | please complete section (B) |

- e) the proprietor of an educational establishment please complete section (B)
- f) a health service body please complete section (B)
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England please complete section (B)
- h) the chief officer of police of a police force in England and Wales please complete section (B)

* If you are applying as a person described in (a) or (b) please confirm:

Please tick yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a
 - o statutory function or
 - o a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr <input checked="" type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname IBISI			First names REFKI		
I am 18 years old or over				<input checked="" type="checkbox"/> Please tick yes	
Current postal address if different from premises address		12 BRATTON ROAD			
Post Town	WESTBURY		Postcode	BA13 3EN	
Daytime contact telephone number					
E-mail address (optional)					

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		

I am 18 years old or over		<input type="checkbox"/> Please tick yes	
Current postal address if different from premises address			
Post Town		Postcode	
Daytime contact telephone number			
E-mail address (optional)			

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name
Address
Registered number (where applicable)
Description of applicant (for example, partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

Part 3 Operating Schedule

When do you want the premises licence to start?

Day	Month	Year
12	06	2015

If you wish the licence to be valid only for a limited period, when do you want it to end?

Day	Month	Year
1	1	1

Please give a general description of the premises (please read guidance note1)

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

What licensable activities do you intend to carry on from the premises?

(Please see sections 1 and 14 of the Licensing Act 2003 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment

Please tick yes

- 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 entertainment facilities:

- i) making music (if ticking yes, fill in box I)
- j) dancing (if ticking yes, fill in box J)
- k) entertainment of a similar description to that falling within (i) or (j) (if ticking yes, fill in box K)

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

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

In all cases complete boxes N, O and P

Late night provision of
take away food.

A

Plays Standard days and timings (please read guidance note 6)			Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 3)	Both	<input type="checkbox"/>
Tue					
Wed			State any seasonal variations for performing plays (please read guidance note 4)		
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 5)		
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 6)			<u>Will the exhibition of films take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	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 3)		
Mon					
Tue					
Wed			<u>State any seasonal variations for the exhibition of films</u> (please read guidance note 4)		
Thur					
Fri					
			<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 5)		
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 6)			Please give further details (please read guidance note 3)
Day	Start	Finish	
Mon			
Tue			State any seasonal variations for indoor sporting events (please read guidance note 4)
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 5)
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 6)			Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick (please read guidance note 2)	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 3)		
Tue					
Wed			State any seasonal variations for boxing or wrestling entertainment (please read guidance note 4)		
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 5)		
Sat					
Sun					

E

Live music Standard days and timings (please read guidance note 6)			Will the performance of live music take place indoors or outdoors or both – please tick (please read guidance note 2)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)			
Mon						
Tue						
Wed			State any seasonal variations for the performance of live music (please read guidance note 4)			
Thur						
Fri			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 5)			
Sat						
Sun						

F

Recorded music Standard days and timings (please read guidance note 6)			Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Day	Start	Finish			
Mon			Please give further details here (please read guidance note 3)		
Tue					
Wed			State any seasonal variations for the playing of recorded music (please read guidance note 4)		
Thur					
Fri			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 (please read guidance note 5)		
Sat					
Sun					

G

Performances of dance Standard days and timings (please read guidance note 6)			Will the performance of dance take place indoors or outdoors or both – please tick (please read guidance note 2)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)			
Mon						
Tue			State any seasonal variations for the performance of dance (please read guidance note 4)			
Wed						
Thur			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 5)			
Fri						
Sat						
Sun						

H

<p>Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 6)</p>			<p><u>Please give a description of the type of entertainment you will be providing</u></p>		
Day	Start	Finish	<p><u>Will this entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 2)</p>	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<p><u>Please give further details here</u> (please read guidance note 3)</p>		
Wed					
Thur			<p><u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u> (please read guidance note 4)</p>		
Fri					
Sat			<p><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 5)</p>		
Sun					

Provision of facilities for making music Standard days and timings (please read guidance note 6)			<u>Please give a description of the facilities for making music you will be providing</u>			
			<u>Will the facilities for making music be indoors or outdoors or both – please tick</u> (please read guidance note 2)			Indoors
			Outdoors			<input type="checkbox"/>
			Both			<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)			
Mon						
Tue						
Wed			<u>State any seasonal variations for the provision of facilities for making music</u> (please read guidance note 4)			
Thur						
Fri						
Sat			<u>Non standard timings. Where you intend to use the premises for provision of facilities for making music at different times to those listed in the column on the left, please list</u> (please read guidance note 5)			
Sun						

J

Provision of facilities for dancing Standard days and timings (please read guidance note 6)			Will the facilities for dancing be indoors or outdoors or both – please tick (see guidance note 2)	Indoors <input type="checkbox"/>
				Outdoors <input type="checkbox"/>
				Both <input type="checkbox"/>
			<u>Please give a description of the facilities for dancing you will be providing</u>	
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)	
Mon				
Tue				
Wed				
Thur				
Fri				
Sat				
Sun			<u>State any seasonal variations for providing dancing facilities</u> (please read guidance note 4)	
			<u>Non standard timings. Where you intend to use the premises for the provision of facilities for dancing entertainment at different times to those listed in the column on the left, please list</u> (please read guidance note 5)	

K

Provision of facilities for entertainment of a similar description to that falling within i or j Standard days and timings (please read guidance note 6)			<u>Please give a description of the type of entertainment facility you will be providing</u> 		
Day	Start	Finish	<u>Will the entertainment facility be indoors or outdoors or both – please tick</u> (please read guidance note 2)	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 3)		
Wed					
Thur			<u>State any seasonal variations for the provision of facilities for entertainment of a similar description to that falling within i or j</u> (please read guidance note 4)		
Fri					
Sat			<u>Non standard timings. Where you intend to use the premises for the provision of facilities for entertainment of a similar description to that falling within i or j at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sun					

L

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	4pm	12	Please give further details here (please read guidance note 3)	Both	<input type="checkbox"/>
Tue	4pm	12		take away	
Wed	4pm	12	State any seasonal variations for the provision of late night refreshment (please read guidance note 4)		
Thur	4pm	2am		N/A	
Fri	4pm	2am	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 5)		
Sat	4pm	2am			
Sun	4pm	11.30			

M

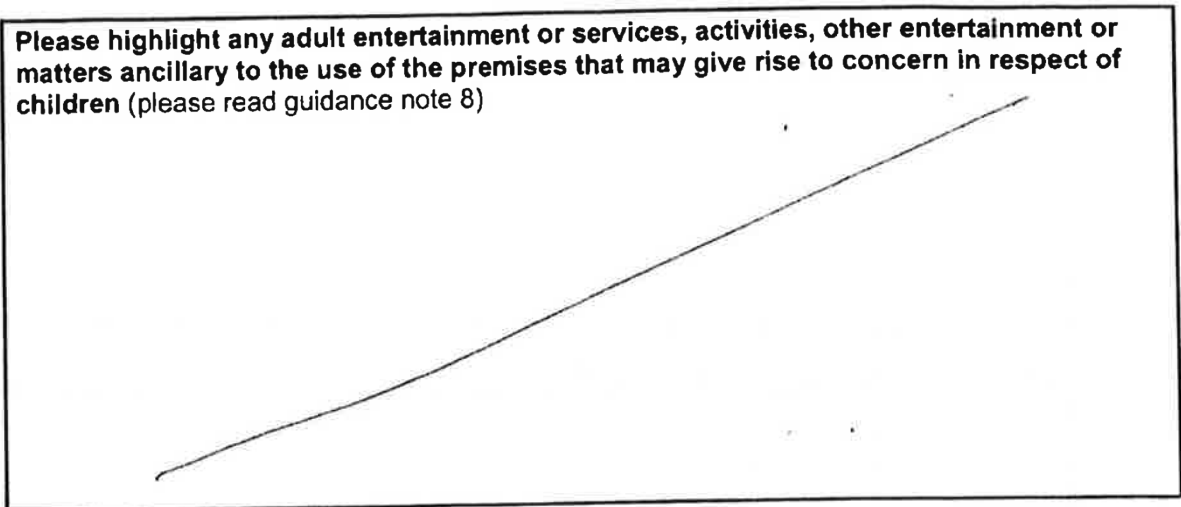
Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption (Please tick box) (please read guidance note 7)	On the premises <input type="checkbox"/>
				Off the premises <input type="checkbox"/>
Day	Start	Finish	Both <input type="checkbox"/>	
Mon			State any seasonal variations for the supply of alcohol (please read guidance note 4)	
Tue				
Wed				
Thur			Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 5)	
Fri				
Sat				
Sun				

State the name and details of the individual whom you wish to specify on the licence as premises supervisor

Name	
Address	
Postcode	
Personal Licence number (if known)	
Issuing licensing authority (if known)	

N

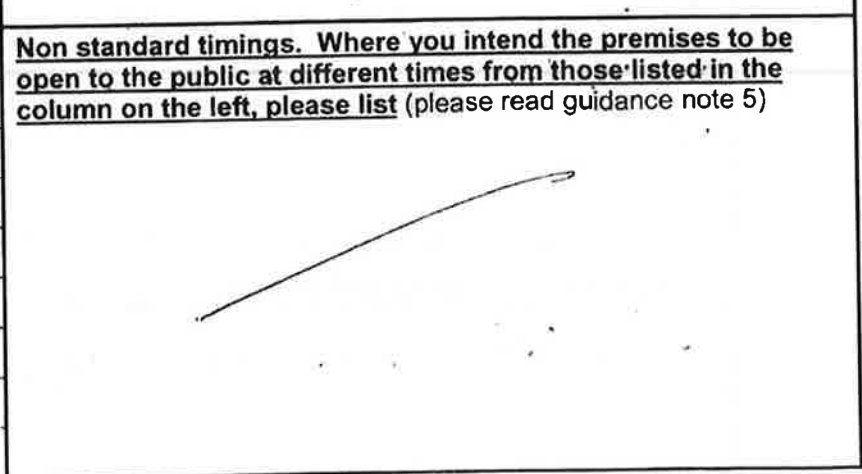
Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)



O

Hours premises are open to the public Standard days and timings (please read guidance note 6)			State any seasonal variations (please read guidance note 4)
Day	Start	Finish	
Mon	4pm	12	
Tue	4pm	12	
Wed	4pm	12	
Thur	4pm	2am	
Fri	4pm	2am	
Sat	4pm	2am	
Sun	4pm	11:30	

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 5)



P Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e) (please read guidance note 9)

see below.

b) The prevention of crime and disorder

CCTV

c) Public safety

all staff trained in licensing
CCTV

d) The prevention of public nuisance

signs asking patrons to leave
quietly and ~~to~~ respect neighbours

e) The protection of children from harm

all children must be accompanied

Please tick yes

- I have made or enclosed payment of the fee
- I have enclosed the plan of the premises
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I have enclosed the consent form completed by the individual I wish to be premises supervisor, if applicable
- I understand that I must now advertise my application
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 4 – Signatures (please read guidance note 10)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 11). **If signing on behalf of the applicant please state in what capacity.**

Signature	
Date	
Capacity	Manager

For joint applications signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent. (please read guidance note 12). **If signing on behalf of the applicant please state in what capacity.**

Signature	
Date	
Capacity	

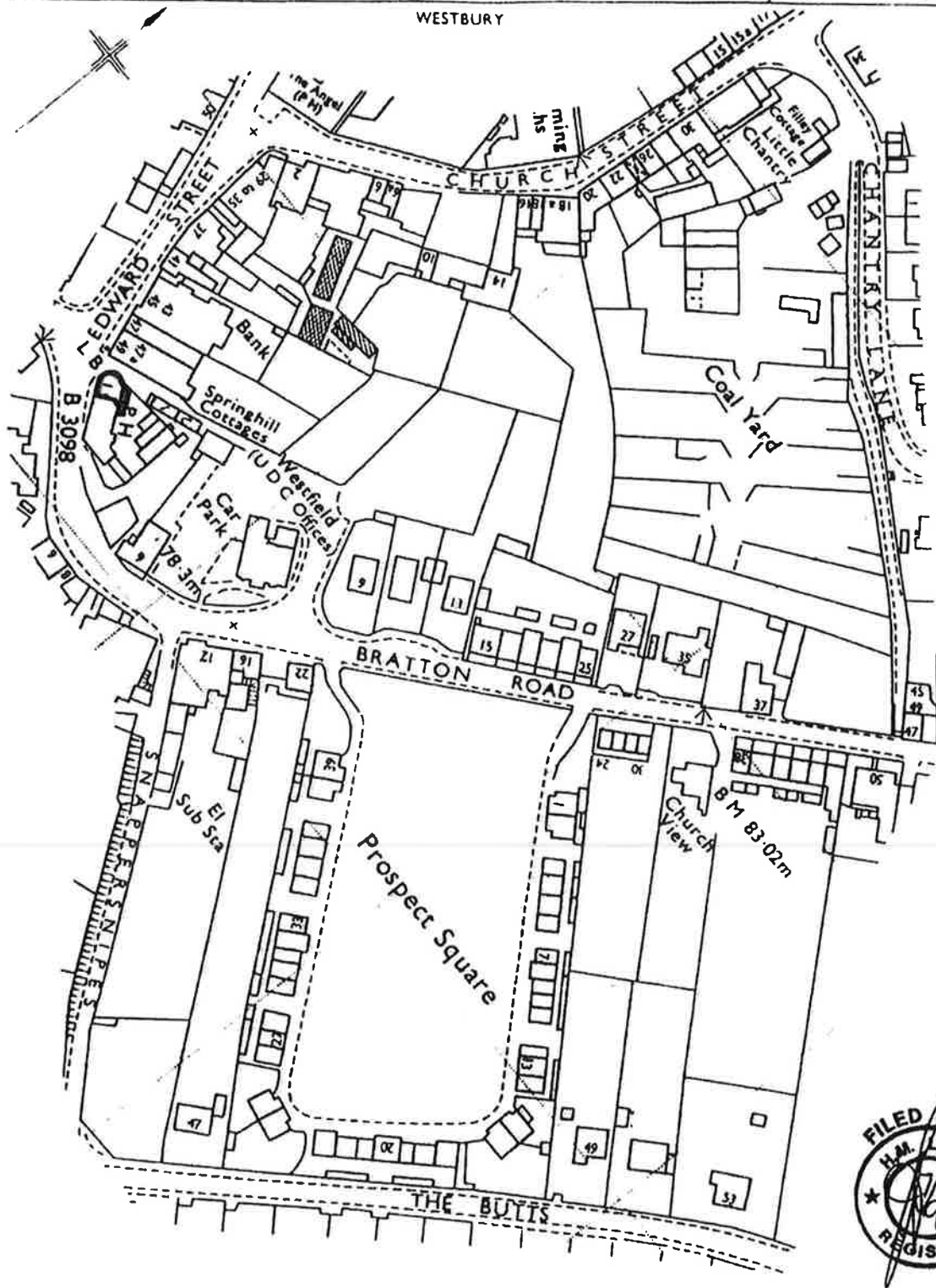
Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13)

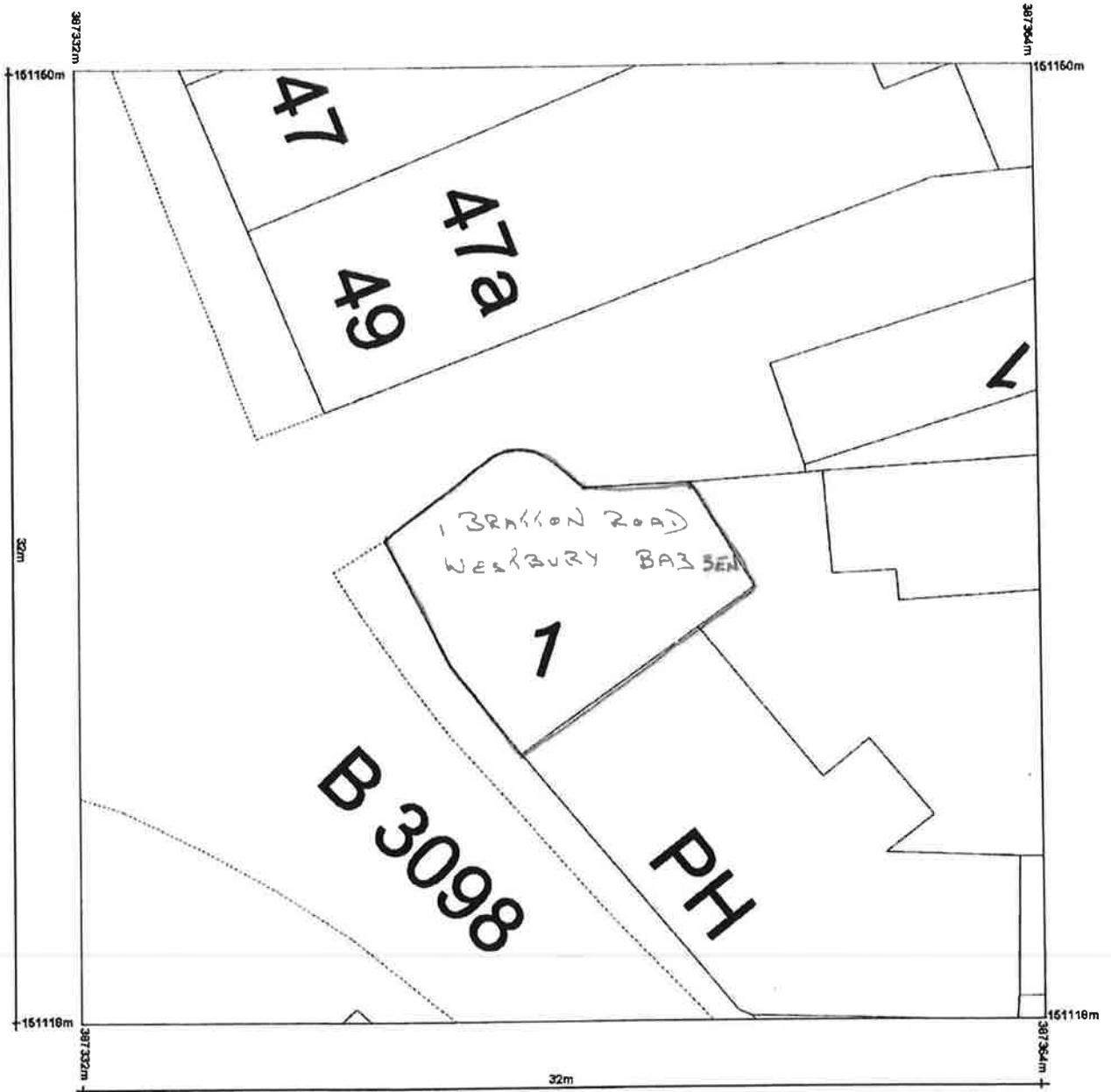
Post town		Post code	
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail your e-mail address (optional)			

Notes for Guidance

1. Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies you must include a description of where the place will be and its proximity to the premises.
2. Where taking place in a building or other structure please tick as appropriate. Indoors may include a tent.
3. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
4. For example (but not exclusively), where the activity will occur on additional days during the summer months.
5. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
6. Please give timings in 24 hour clock (e.g. 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.
7. If you wish people to be able to consume alcohol on the premises please tick on, if you wish people to be able to purchase alcohol to consume away from the premises please tick off. If you wish people to be able to do both please tick both.
8. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups, the presence of gaming machines.
9. Please list here steps you will take to promote all four licensing objectives together.
10. The application form must be signed.
11. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
12. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
13. This is the address which we shall use to correspond with you about this application.

H.M. LAND REGISTRY		TITLE NUMBER	
		WT102957	
ORDNANCE SURVEY PLAN REFERENCE	ST8751	SECTION L	Scale 1/1250 Enlarged from 1/2500
COUNTY WILTSHIRE	DISTRICT WEST WILTSHIRE	© Crown copyright 1988	





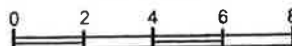
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The representation of a road, track or path is no evidence of a right of way.

The representation of features as lines is no evidence of a property boundary.

Scale 1:200



Metres

Supplied by: Getmapping
Centre Coordinates: 387348 , 151134
OS Licence Number: 1000030848

Corner Takeaway, 1 Bratton Road, Westbury BA13 3EN

List of Equipment;

Front area;

- Display unit for cold drinks
- Display unit for hot food
- Double deep fat fryer
- Donna Kebab x 2
- Chicken pressure fryer
- Pizza conveyor oven
- Double griddle
- Pizza refrigerated sauce & vegetables with triple fridge underneath
- Chicken preparation table
- Electric pizza moulder
- Dough machine
- Large upright refrigerator

Back Section;

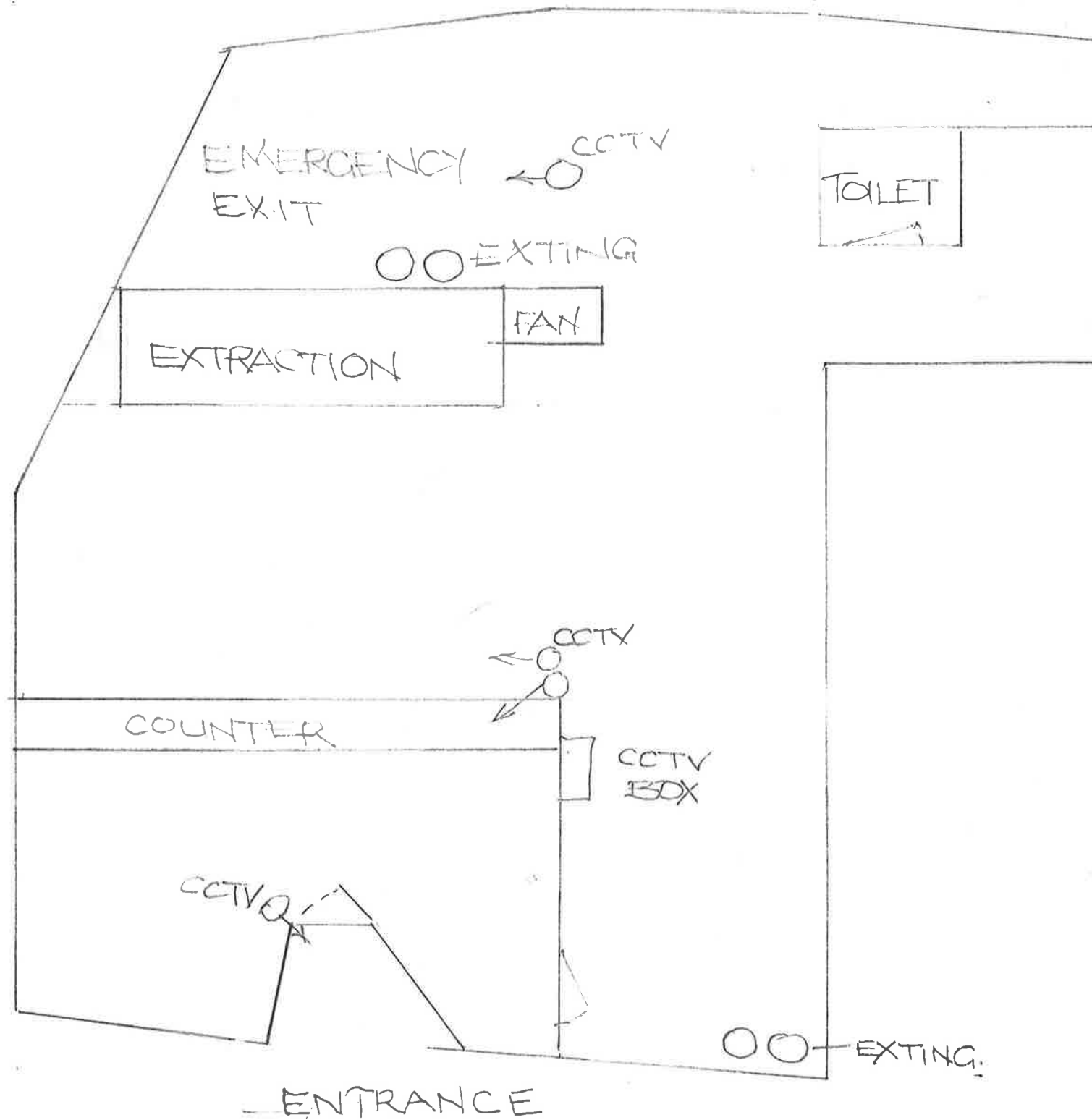
- 3 x Chest freezers
- 2 x Upright fridges
- Large wash up area

Fire Equipment;

- 2 x CO²
- 1 x Water
- 1 x Foam
- 1 x Fire Blanket

Security Equipment;

- 4 x Overhead cameras
- 1 x Recorder and Screen



Scale: 15cm – 1.5 m

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19 JUN 2015

Mr J and Mrs K Loudoun
The Castle
Bratton Road
Westbury
Wiltshire
BA13 3EN

17 June 2015

Environmental Health
Licensing Section
Wiltshire Council

To whom it may concern

Ref: Provision of late night refreshment at 1 Bratton Road, Westbury

I want to complain and reject the application for an extension of licence in the strongest possible terms. The presence of a fast food outlet has caused a deleterious effect to all surrounding residential properties. There are three areas of concern, the smell, the noise and the impact on environmental health. Since opening, the impact has been sustained and unrelenting. The impact can be categorised into those that have a direct impact on the health and well being of the local community. The shop currently opens from 1400 daily with a roar from the fan at the rear of the property which sits directly over my property and provides a sustained source of noise and disgusting smells. On no occasion has the owner of the shop made any attempt to reduce the noise or the exhaust fumes.

The smell now permeates my house and severely restricts my ability to air dry washing during the day. In affect, the fumes have halved our ability to use our garden for drying purposes. I vehemently object to the shop in the first instance, but to increase the hours will add to the smell through the night and cause a persistent smell in our house. We need an opportunity to fumigate.

Since opening the noise has been unbearable. It starts at 1330 Monday-Saturday and 1530 on Sundays and does not stop until at least midnight. The shop appears to be open until midnight currently and I am perplexed as to why they are applying for an extended licence as they appear to be open beyond 2300 anyway. The noise impact is broken into three areas; the fan impact at the rear of the building, the noise and vibration in my home and the late night noise from the shop.

The fan operates from 1330 and persists until at least 2359. There is a constant noise in our back garden that has gotten worse as the fan has been used. It is loud enough to prevent a conversation in the garden and forces us to be louder in an effort to overcome the noise. This creates an upward spiral of noise that impacts both our family and no doubt our neighbours. I would like to petition for the shop to close preferably, or failing that, I would like to petition for the fan to be rebuilt so that the smell and noise is severely abated - the fan should eject into the lane and not over my property.

The second issue is the noise within my house. The fan creates a low level 'hum' that can be heard in my home as soon as the fan operates. It is most acute upstairs in our bedroom. This has forced us to wear ear plugs and re-arrange our bedroom to mitigate the impact. We are already suffering sleep loss due to the noise and to increase their hours and therefore the noise further will have a serious affect on my family's mental health through lack of sleep. In addition, there is a vibration that can be felt in the master bedroom as the fan vibrates through our floorboards which adds to the noise intrusion.

Finally, the late night noise has become an issue. The owners park across the street on a neighbouring property and regularly leave the car running, shout and smoke outside. They have no consideration for the residents that live near by.

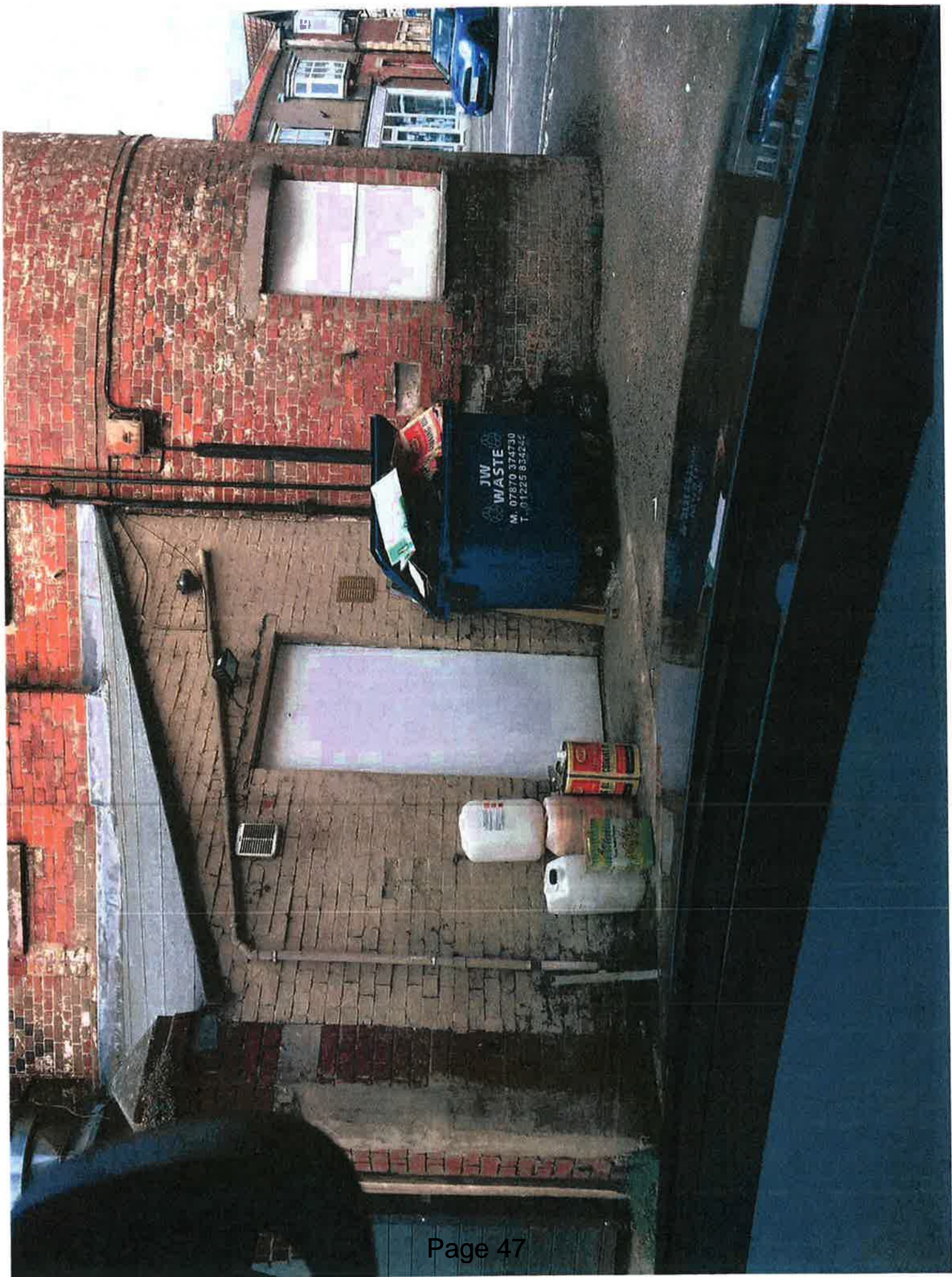
We feel trapped in our own home with the operation of the shop. We are unable to avoid the impact of the shop in our house or in our garden. It is incredibly intrusive. We are now unable to open the windows to fumigate the house or cool it down during the day, and unable to open them at night due to the noise at the front. We are trapped.

In an environmental sense I am deeply concerned that the shop is allowed to continue. Since living in my property we have never had an issue with rats. Since the shop has opened we now regularly have rats in our garden (evidence is contained in the attached picture). The shops waste management is very poor and has attracted the rats. We have to regularly clear them from our garden as cats have killed them. I wish to formally complain and report the shop about its waste management. In addition, I would like to report the dangerous material they are leaving in the street. To the rear of the shop they have left containers marked "corrosive", a large metal oil can with an exposed sharp lid that has been cut open and a plastic bottle which they pour their oil into daily. I would like to report illegal dumping of commercial waste. Please see the attached date stamped photos as evidence. To increase their hours will only exacerbate the issue, increase the rubbish and cause a greater environmental impact. I would also add that they have dumped commercial waste in the communal parking area to the rear of 47A and 49A which may also be an environmental health hazard. On one occasion, they used our (and others) domestic waste bin to remove their commercial waste though I can not substantiate this and have no evidence to corroborate it.

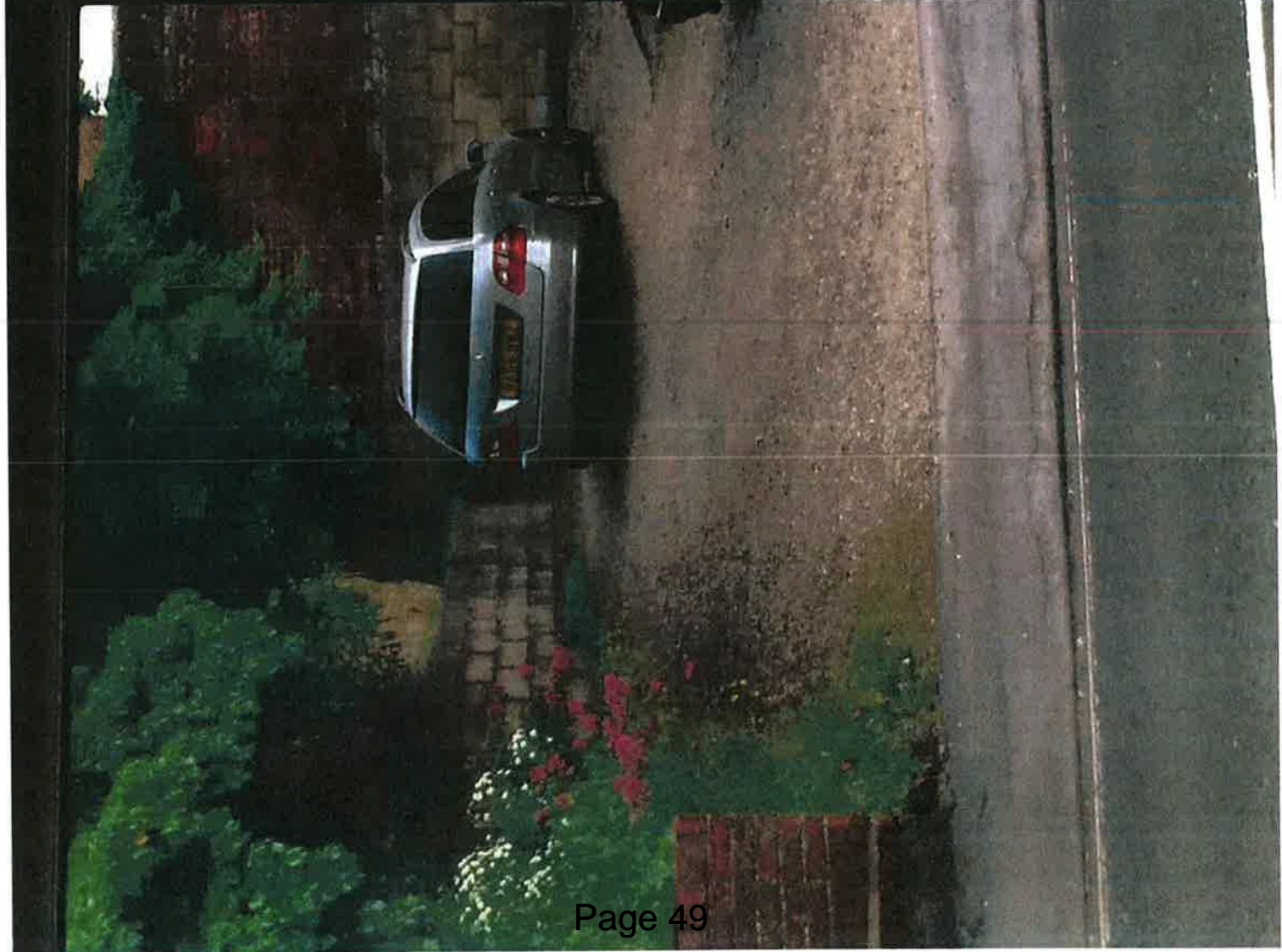
The shop's sphere of deleterious influence is far reaching. Its location is inappropriate and its operation has a far-reaching impact in terms of our mental health, the local environmental health and the air and noise pollution. I would argue that rather than allowing the shop to increase its hours, it should be closed for the communal good.

Yours faithfully

Mr and Mrs Loudoun









Application no: WK 2015 15281

Mr & Mrs N. Dixon

June 24th 2015.

2, Bratton Road, Westbury, Wilts.

BA13 3EN.

Carla Adkins, Environmental Health Licensing Section,
County Hall, Bythesea Road, Trowbridge, Wilts, BA148JN.

Dear Carla Adkins.

We are writing with reference to the application by Mr Refki Ibsi for the grant of a premises licence for 1 Bratton Road, Westbury, Wilts, BA13 3EN.

We would like to voice objection to this proposed provision of late night refreshment.

Our property lies directly opposite this food takeaway, and since its opening a few weeks ago, we have been troubled by the unpleasant cooking smells from this premises which pervade our garden, and house, when our windows are open. This is seriously spoiling our enjoyment of being in the garden, and is intruding on our home.

The takeaway lies at the busy junction of Bratton Road and Edward Street, so any cars drawing up and waiting outside the takeaway not only cause a traffic hazard on this bend, but are also illegally parked.

We understand that Mr Ibsi proposes to extend his trading hours to 2am on three nights of the week, and to midnight on three other nights. We feel this would be unacceptable to us, as we believe that this provision for late night trading will potentially cause an increase in noise, anti social behaviour, litter, and smells, all of which will negatively impact on our lives, especially at such a late hour.

We have had experience of this being the case when the property was previously a takeaway some years ago.

Yours sincerely,

Mr & Mrs N. Dixon.

26 JUN 2015

Application no: WK 2015 15281

June 25, 2015

Mr and Mrs Craig Ardrey
Odd Fellows Hall
Bratton Road
Westbury, Wilts. BA13 3EN

Carla Adkins, Environmental Health Licensing Section
County Hall, Bythesea Road, Trowbridge, Wilts., BA14 8JN

Dear Ms. Adkins,

We are writing in reference to the application by Mr Refki Ibsi for the grant of premises license for 1 Bratton Road, Westbury, Wilts, BA13 3EN. We would like to voice our objection to this proposed provision of late night refreshment.

Our property is located around the corner of the takeaway and our garden is overlooked by the rear of their property. The primary concerns are:

1. The takeaway extractor fan creates noise pollution in the garden and can be heard through our rear windows even when closed.
2. Cars waiting at the takeaway on Edward Street park illegally and block access to our rear drive.
3. There has been an increase in litter on our property.

The proposed request to extend the opening hours of the takeaway would only succeed in increasing what is already a considerable nuisance. It is also feared that as nothing else would be open in Westbury at those late hours the takeaway would be a magnet for anti-social behaviour.

Best Regards,

Mr and Mrs Craig Ardrey

7 JUL 2015

MICHAEL J GARRETT

BERESWELL COTTAGE
6, BRATTON ROAD,
WESTBURY,
WILTS. BA 13 3EN

Application no: WK 2015 15281
5 July 2015

Carla Adkins, Environmental Health Licensing Section,
County Hall, Bythesea Road, Trowbridge Wilts, BA148JN

Dear Carla Adkins

I am writing with reference to the application by Mr Refki Ibisi for the grant of a premises Licence for 1 Bratton road , Westbury, Wilts BA133EN.

I would like to voice objection to this proposed provision of late night refreshment.

I understand that Mr Ibisi proposes to extend his trading hours to 2am on three nights of the week, this is much to late and not fair for the families who live near by. There will be more noise and antisocial behaviour as we have experienced before when the property was a takeaway a few years ago.

Yours sincerely,

Michael J Garrett

Public Protection Services

To: Carla Adkins Licensing Officer

From: Damaris Broad Environmental Health Officer

Ref: WK/201515281

Date: 08th July 2015

Subject: Premises License Application for the Corner Food Shop, 1a Bratton Road, Westbury

I would like to make a representation against application for the above mentioned premises license in respect of the level noise of emanating from the kitchen extraction system.

1a Bratton Road is a semi-detached property; the paired property being in residential use. The enclosed garden to the attached residential property includes the area behind the takeaway, so that the takeaway premises and flat above it are positioned right next to the residential garden. The flue is situated on the roof to the back of the takeaway, and sits above the residential garden. The enclosed garden of the residential property is overlooked by other residential properties, so the extract system is very close to people's homes and gardens. (appendix1)

On visiting to assess the noise following a complaint, when stood in the public car park at Westfield House (to the rear of the properties on Bratton Road, with Oddfellows Hall in between) which is approximately 33 meters, the extraction system could be heard. Although the noise was only witnessed inside of one property, due to the extraction's location amongst residential properties and the noise level produced, and representations raised by residents in my professional opinion it is a public nuisance.

Noise from the kitchen extraction has been assessed as the cause of a statutory noise nuisance as defined by section 79(g) of the Environmental Protection Act 1990. To be a statutory nuisance, noise must interfere with a person's enjoyment of their property and occur on a frequent basis. The level of the noise is taken into consideration and whether the 'average person' would find the situation unreasonable. Once a statutory nuisance is established, Environmental Health Officers are obliged by the legislation to serve an abatement notice that requires the person responsible to abate the nuisance. Reasonable time has to be given for compliance with an abatement notice, in this case 12 weeks is being considered for a reasonable timescale for compliance.

Due to noise from the extraction system being a statutory nuisance, and a public nuisance, I would request that the license be refused until the abatement notice is complied with, and the request for a late license reconsidered once the noise has been suitably reduced.

Damaris Broad
Environmental Health Officer
Tel. 01225 716686

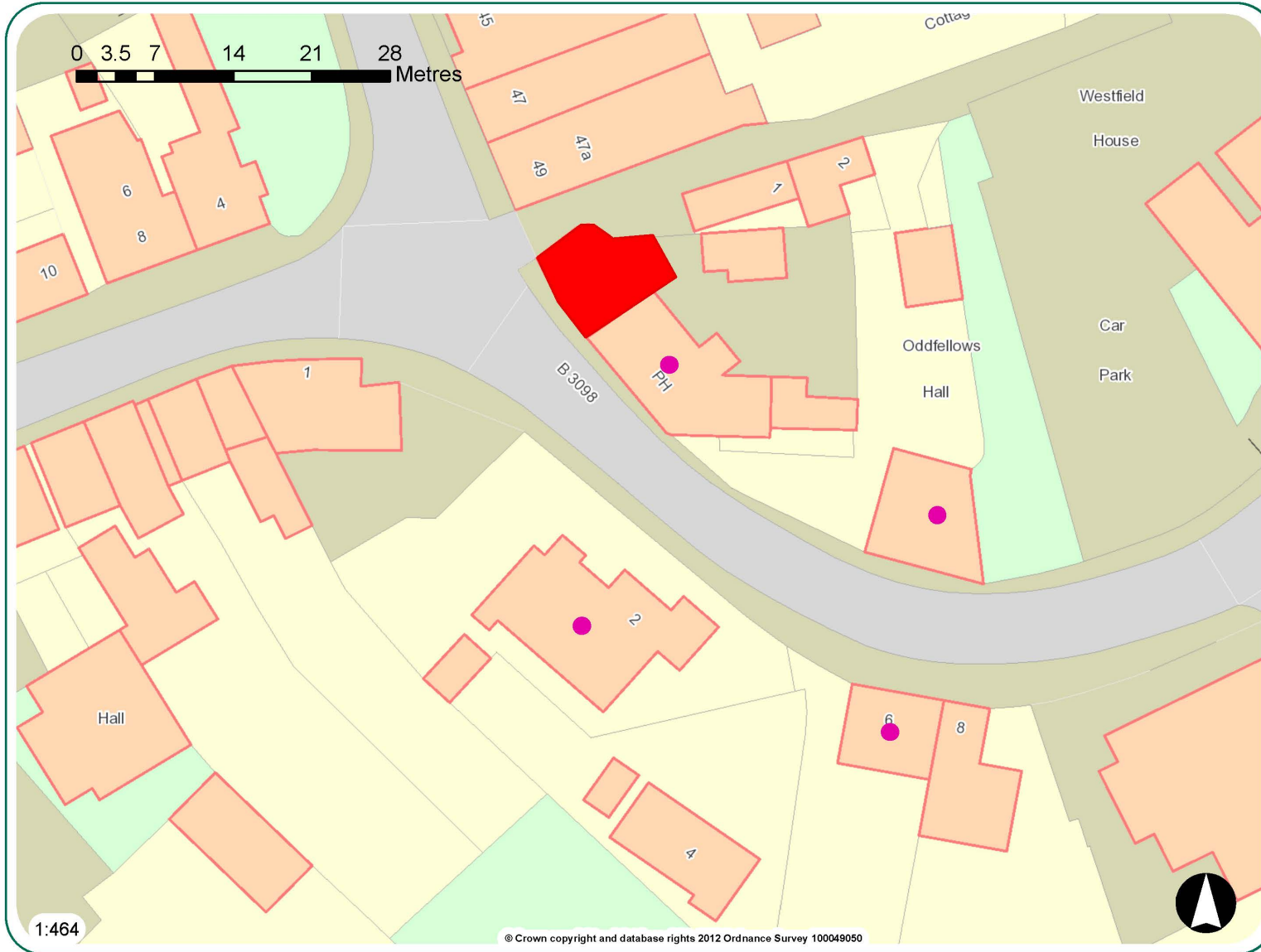
Email: damaris.broad@wiltshire.gov.uk

Appendix 1
1a Bratton Road Westbury
Applicant property marked with blue dot.



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1 Bratton Road, Warminster - Representations - July 2015



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22 JUL 2015

20th July 2015

Corner Take Away
1 Bratton Road
Westbury
Wiltshire
BA13 3EN

Carla Adkins
Wiltshire Council
Public Protection Officer - Licensing
County Hall
Bythesea Road
Trowbridge
BA14 8JN

Dear Ms Adkins,

Re: Complaint of alleged noise nuisance from kitchen extraction

In reply to your letter dated 22nd June, regarding the kitchen extraction at the above premises. I disagree with the noise complaints, but I have called in an extraction engineer to hopefully remedy the noise issue. During this visit I will examine the extending of the flu above roof level so that any fumes will be dispersed of in a much greater area. Also making sure the noise issue is also diminished.

I find the complaints vindictive as the site had been a burger bar for almost 20 years before I bought it, and the business had been operating until 3am. No complaints were ever received to my knowledge and belief during their time of operation.

I do not know any details of the type of extraction or the company that carried out the original installation.

I have tried to contact you via telephone on several occasions but have not managed to get through.

I hope this answers your concerns relating to the noise.

Yours sincerely

Niam Ismali
For & on behalf of Mr R Ibisi

c.c. Carla Adkins, Public Protection Officer - Licensing

20th July 2015

Corner Take Away
1 Bratton Road
Westbury
Wiltshire
BA13 3EN

Carla Adkins
Public Protection Officer – Licensing
Wiltshire Council
Bythesea Road
Trowbridge

Dear Ms Adkins

Re: Representation received, objecting to my application, for a premises licence.

The picture of the rat could have been taken anywhere! I have looked around and cannot find any area to match the photo!

I have spoken to my staff, and told them to keep the area tidy at all times.

With reference to the photo taken of my car near bins and a pile of rubbish, I would like to clarify that other than parking my car in this area, for which I have permission, I have no connection with this area what so ever.

The owners of 1 Westbury Road, (opposite) have given me permission to park by the side of their house.

Re; breach of licensing act. When I had posted my application I presumed that I could trade as per the previous owner. He had been trading at this site for some 20 years and who had remained open until the early hours of the morning every day.

I have ceased trading on Sundays and close at 11pm every day!

I will be contacting the people who have made representation to explain to them measures I am taking to address their concerns.

I am bemused by the vitriolic attacks that have been made against me.

Yours sincerely

Niam Ismali
For & on behalf of Mr R Ibsi

c.c. Damaris Broad, Environmental Officer, Mr & Mrs Dixon, Mr & Mrs Loudoun and Mr & Mrs Ardrey.

LICENSING COMMITTEE

PROCEDURAL RULES FOR THE HEARING OF LICENSING ACT 2003 APPLICATIONS

1 Purpose

- 1.1 These rules have been prepared to facilitate proper consideration of licence applications, made under the Licensing Act 2003, by the Licensing Committee and its Sub Committees.
- 1.2 The rules set out a framework for how applications are to be heard and explain the role of the participants at the Hearing.

2 Definitions

- 2.1 The following definitions describe the participants at and the subject matter of a Hearing:

“Applicant” means the person who has submitted an Application for consideration by the Committee.

“Applicant’s Premises” means premises subject to the Application.

“Applicant’s Representative” means a person attending a Hearing to assist or represent an Applicant including a lawyer.

“Application” means an application for the Grant/Variation/Transfer/Review and any other decision to be made by the Committee/Sub-Committee in respect of a Licence.

“Chairperson” means the Member who is the Chairperson of the Committee for the particular Hearing.

“Committee” means the Council’s Licensing Committee and includes any Sub Committee of the Licensing Committee.

“Committee Lawyer” means the Council’s Lawyer (including an external Lawyer instructed by the Council’s Legal & Democratic Services Manager) who is present at a Hearing to advise the Chairperson and the Members.

“Committee Manager” means the Council’s Officer who is present at a Hearing to take minutes.

“Committee Report” means the Licensing Officer’s written report to the Committee concerning an Application, a copy of which has been previously made available to the Applicant or their Representative, a Responsible

Authority or their Representative or any person who has made a Relevant Representation or their Representative.

“Hearing” means a meeting of the Committee at which an Application is considered.

“Licence” means a Licence which the Committee has the power or duty inter alia to grant, transfer, suspend or revoke.

“Licensing Officer” means the Council’s Licensing Officer(s) who is/are present at a Hearing to present reports in respect of an Application and to give technical advice in respect of an Application to the Committee when requested.

“Licensing Authority” the Council in whose geographical area the subject matter of the Application relates to, and includes the Council’s Licensing Committee, any Sub Committee of the Licensing Committee and a Licensing Officer.

“Member” means a Member who is a Member of the Committee that is considering an Application.

“Person making a Relevant Representation” means a person who is present at a Hearing to make representations in respect of an Application and includes any person who is present to assist or make representations on behalf of that person including a Lawyer.

“Responsible Authority” means a person who is present at a Hearing to make representations in respect of an Application in their capacity as Responsible Authority and includes any person who is present to assist or make representations on behalf of the Responsible Authority including a Lawyer.

3 Key Principles

- 3.1 The principles of ‘natural justice’, and Article 6 ‘Right to a Fair Trial’, which is one of the Convention Rights in the Human Rights Act 1998, require that there is a fair Hearing of Applications.
- 3.2 Natural justice is an umbrella term for the legal standards of basic fairness. This will include that:
 - 3.2.1 the Applicant has an opportunity to make representations before a decision is made;
 - 3.2.2 those making representations have an opportunity to voice their representations before a decision is made;
 - 3.2.3 the Applicant has an adequate opportunity to consider and respond to any submissions made by a Responsible Authority/Authorities and/or any person/s who have made a Relevant Representation;

- 3.2.4 the Committee does not exclude an Applicant from a Hearing in order to consider submissions from a Responsible Authority/Authorities and/or any person/s who have made a Relevant Representation.
- 3.3 It is also fundamental that there is an orderly presentation of submissions at a Hearing so that the relevant issues are properly understood, evidence is tested and that oral statements made at the Hearing are accurately recorded.
- 3.4 Ultimately the Chairperson determines the application of these rules, having regard to any submissions being made by those present and in particular the Committee Lawyer.

4 The Hearing

- 4.1 The Hearing shall take place in public.
 - 4.1.1 The Committee may exclude the public from all or part of the Hearing where it considers it to be in the public interest to do so and, in accordance with the Local Government (Access to Information) Act 1985, as amended. Public includes a party and any person assisting or representing a party.
 - 4.1.2 The Committee may require any person attending the Hearing who, in its opinion, is behaving in a disruptive manner, to leave the Hearing and may:
 - A refuse to permit them to return;
 - B permit them to return only on such conditions as the Committee may specify;
 - C in the event that a person is required to leave a Hearing that person may, before the end of the Hearing, submit to the Committee in writing any information which they would have given orally.
- 4.2 Prior to the Hearing commencing, the Chairperson shall advise the parties of the procedure it proposes to follow at the Hearing.
- 4.3 Where a party has previously requested permission for a person(s), other than their representative, to appear at the Hearing then the Committee shall consider whether to permit that request.
- 4.4 The Committee will allow the parties an equal maximum period of time in which to exercise their rights.
- 4.5 This equal maximum time may have been notified in advance of the Hearing;
- 4.6 Where there are a number of people who have attended the Hearing to make the same representation then the Committee would normally require that a spokesperson be appointed by them to make the representations on behalf of all of those who have made Relevant Representations .

5 Presentation of Submissions

- 5.1 The Chairperson will introduce the Application.
- 5.2 In the event that the Licensing Authority has given notice to a party requiring clarification on a point(s) then that party shall respond to the points raised by the Licensing Authority.
- 5.3 Submissions shall be made in the following order unless the Chairperson directs otherwise:
 - 5.3.1 The Licensing Officer will orally present the Committee Report and will in particular advise the Committee as to:
 - A the options available to it;
 - B the considerations that are relevant in reaching its decision.
 - 5.3.2 The Applicant (or the Applicant's Representative) will orally present its submission which may include:
 - A presenting their case in accordance with the papers, which will have been circulated with Agenda papers;
 - B confirming key information and answer pertinent questions; and
 - C calling witnesses in support of the Application (see paragraph 4.3).
 - 5.3.3 A Responsible Authority/Authorities and/or any person/s who have made a Relevant Representation will orally present their representations in turn which shall include:
 - A the grounds of the representation to the Application; and
 - B any condition(s) that the Responsible Authority/Authorities and/or any person/s who have made a Relevant Representation would be happy to have the Application granted subject to which would cause the representation to be withdrawn.

6 Questioning of Submissions

- 6.1 The Chairperson will regulate the order in which questions are asked by Members.
- 6.2 The Chairperson and Members, voiced through the Chairperson, may question any party following the completion of their submission.
- 6.3 The Chairperson will normally permit the Applicant, a Responsible Authority/Authorities or any person/s who have made a Relevant Representation to ask questions through them of the other parties.
- 6.4 The Chairperson may direct that questions which are not relevant to the Application or one of the four Licensing Objectives are not formally put or answered.

7 Documentation

- 7.1 No party shall present new documentation to the Committee at the Hearing other than with the consent of all of the other parties. This does not preclude the Licensing Officer from correcting errors, providing updated information or an extract from a local map showing the Applicant's Premises in the context of the surrounding premises and any person/s who have made a Relevant Representation . If any party is granted permission to present supplementary papers at the Hearing they shall provide at least 10 copies at the start of their submission.

8 Intervention

The Chairperson shall permit the following interventions at any point in the Hearing:

- 8.1 The Committee Lawyer to advise the Committee on issues of law, procedure and relevant considerations on decision making. If necessary, the Chairperson may require the Committee, the Committee Lawyer and the Committee Manager to leave the Hearing so that advice can be given.
- 8.2 The Committee Manager to advise the Committee on procedure generally, or to request that statements made are repeated for reasons of clarity and so that they can be properly recorded.
- 8.3 The Licensing Officer to seek to clarify statements that have been made in light of information held on their file.

9 Failure of Parties to Attend Hearing

- 9.1 If a party has informed the Licensing Authority that it does not intend to attend or be represented at a Hearing, the Hearing may proceed in its absence.
- 9.2 If a party has not indicated that it does not intend to attend or be represented at a Hearing and fails to attend or be represented at the Hearing then the Licensing Authority may:
- 9.2.1 where it considers it be necessary in the public interest, adjourn the Hearing to a specified date; or
- 9.2.2 hold the Hearing in the party's absence.
- 9.3 Where the Licensing Authority holds a Hearing in the absence of a party, it shall consider at the Hearing the application, representations or notice made by that party.

10 Closing Submissions

- 10.1 The Chairperson shall allow first, the Responsible Authority/Authorities and any person/s who have made a Relevant Representation to make a closing oral submission(s) and secondly invite the Applicant or the Applicant's Representative an opportunity to make an oral closing submission in support of the Application.

11 Decision

- 11.1 The Committee, the Committee Lawyer and the Committee Manager, shall retire so that the decision may be considered in private, and to consider any legal issues raised by the Members.
- 11.2 The decision, and reasons for the decision, of the Committee shall be communicated orally by the Chairperson to the parties after the Committee has deliberated in private on the Application.
- 11.3 Written reasons shall be provided soon after the deliberations of the Application and in any event within the statutory time limits.

Hearing Procedure Summary

1. The Democratic Services Officer will request nominations for a Chairman for the Hearing.
2. The Chairperson welcomes all those present and introduces the Application.
3. The Chairperson introduces the Applicant, Responsible Authority/Authorities and/or any person/s who have made a Relevant Representation.
4. The Chairperson outlines the Hearing Procedure.
5. The Licensing Officer presents the Committee Report.
6. The Applicant addresses the Sub Committee.
7. Questions to the Applicant by Responsible Authority/Authorities and/or any person/s who have made a Relevant Representation.
8. Questions to the Applicant by Members of the Sub Committee.
9. Comments by Responsible Authority/Authorities and/or any person/s who have made a Relevant Representation.
10. Questions by Applicant.
11. Questions to Responsible Authority/Authorities and/or any person/s who have made a Relevant Representation by Members of the Sub Committee.
12. Summing up by Parties who have made representations.
13. Summing up by Applicant.
14. Sub Committee retires with the Committee Lawyer and Committee Manager to consider its decision.
15. Sub Committee returns and the Lawyer gives a summary of any legal advice that may have been given to the Committee.
16. The Chairperson either gives the decision with reasons, or advises that it will be released in writing with reasons within the statutory time limits.

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