

Merton Council

Licensing Sub-Committee

Membership

Councillors:

Philip Jones

David Simpson CBE

Linda Taylor OBE

A meeting of the Licensing Sub-Committee will be held on:

Date: 3 November 2016

Time: 10.30 am

Venue: Council Chamber, Merton Civic Centre, London Road, Morden, SM4 5DX

Agenda for this meeting

- 1 Appointment of Chair
- 2 Apologies for Absence
- 3 Declarations of Pecuniary Interest
- 4 Review - Best One Mini Market: 153 Streatham Road, CR4 2AG 1 - 22

Note on declarations of interest

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

This is a public meeting and attendance by the public is encouraged and welcomed. For more information about the agenda and the decision making process contact democratic.services@merton.gov.uk or telephone 020 8545 3616.

Press enquiries: press@merton.gov.uk or telephone 020 8545 3181

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www.merton.gov.uk/council/committee.htm?view=emailer

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Procedure to be followed at Licensing Hearing

1. The Chair will welcome all parties and all present will be introduced/introduce themselves
2. The Chair will confirm the sub-committee hearing procedures, a copy of which was included in the notice and agenda packs sent to all parties.
3. The Chair will ask the Legal Adviser to inform those present that the sub-committee had a briefing prior to the hearing to confirm the procedure and for clarification on any aspect of the application.
4. The Chair will ask Legal Adviser to confirm the process for questioning and whether there had been any requests for adjournments.
5. The Chair will ask the Licensing Officer if there are any technical issues they feel should be brought to their attention i.e. withdrawal of objector/agreed conditions (Note: If all objections are withdrawn then the Sub-Committee may go straight to point 14.
If all conditions are agreed by all parties then the Sub-Committee may go straight to point 14)
6. The Applicant will present their case. Questions can then be asked of the Applicant by the Responsible Authorities, the interested parties and members of the Sub-Committee.
7. The Responsible Authorities will present their case. Questions can then be asked of the Responsible Authorities by the Applicant, the interested parties, and members of the Sub-Committee.
8. Presentation by any interested party. Questions can then be asked of the interested party by the Applicants, the Responsible Authorities and members of the Sub-Committee.
9. The Chair will ask the Licensing Officer for any comments/ clarifications
10. The Chair will ask the Legal Adviser for any comments/clarifications
11. The Chair will invite closing statements by the responsible authorities
12. The Chair will invite closing statements by the interested parties
13. The Chair will invite closing statements by the Applicant
14. The Chair will announce that the Sub-Committee are retiring for private session. The Legal Officer and Clerk will be invited to also retire.
15. In closed session the Sub-Committee will make their decision. They may ask the Legal Officer for advice during this session.
16. The Sub Committee will return and re-open for public session.
17. The Chair will invite the Legal Officer to present the advice provided during private session.
18. The Sub-committee's decision will be read out either by the Chair or the Chair will invite the Legal Officer to do so.
19. The Chair will inform those present that all parties should receive a written copy of the decision notice within 5 working days, and then close the Hearing

Licensing Sub-Committee Report

Subject of hearing: **Best One Mini Market: 153 Streatham Road, CR4 2AG**

Date: **3 November 2016**

Time: **10.30 am**

Venue: **Merton Civic Centre, London Road, Morden, Surrey, SM4 5DX**

1. Special Policy Area (premises licences and club certificates)

- 1.1 The premises are in the special policy area. Accordingly the relevant section of Merton's Licensing Policy is particularly relevant to this application though the sub-committee is to have regard to the policy as a whole.

2. Type of hearing and powers of the sub-committee

- 2.1 The sub-committee is required to determine the application by taking such of the steps set out below as it considers necessary for the promotion of the licensing objectives.
- 2.2 In making their determination the sub-committee must have regard to the Licensing Act 2003, the licensing objectives, guidance issued by the Secretary of State and Merton's Licensing Policy.
- 2.3 Review of premises licence: s52
- (i) To modify the conditions of the licence
 - (ii) To exclude a licensable activity from the scope of the licence
 - (iii) To remove the designated premises supervisor
 - (iv) To suspend the licence for a period not exceeding three months
 - (v) To revoke the licence.
 - (vi) To grant or reject the application.

3. Hearing papers

- 3.1 The applications, notices and representations for determination by the sub-committee are contained in the hearing bundle (attached) together with any relevant existing licence. This includes any documents which must be sent to any of the parties to the hearing under Regulation 7(2) and Schedule 3 of The Licensing Act 2003 (Hearings) Regulations 2005. This bundle has been issued to all parties to the hearing and forms part of this report.

4. Legal advice to the sub-committee

- 4.1 A legal officer appointed by the South London Legal Partnership will attend the hearing to advise the sub-committee on statutory provision and legal matters.

5. Licensing Officer Comments

- 5.1 This matter arises from a review of the premises licence sought by the Metropolitan Police on grounds relating to the protection of children from harm. The grounds for the review are cited as 'selling alcohol to a person under 18' and 'breach of condition imposed on premises licence'.

5.2 One representation has been received from trading standards supporting the review.

For enquiries about this hearing please contact

Democratic Services

Civic Centre

London Road

Morden

SM4 5DX

Telephone: 020 8545 3616

Email: democratic.services@merton.gov.uk

Parties to the hearing

This document forms part of the notice of hearing.

The following are parties to the hearing having submitted relevant applications, notices or representations under the statutory provisions indicated:

Review Applicant	
Metropolitan Police	
Licence Holder	
Thangavelautham Nithiyakumar	
Statutory Authorities	
LB Merton Trading Standards	
Interested Parties	
None	

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



PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

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

I PC Russ STEVENS on behalf of the Commissioner of the Metropolitan Police

(Insert name of applicant)

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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Best One Mini Market 153 Streatham Road	
Post town Mitcham	Post code (if known)

Name of premises licence holder or club holding club premises certificate (if known) Nithiyakumar THANGAVELAUTHAM

Number of premises licence or club premises certificate (if known) LN/000000726

Part 2 - Applicant details

I am

Please tick yes

1) an interested party (please complete (A) or (B) below)

- | | |
|---|--------------------------|
| a) a person living in the vicinity of the premises | <input type="checkbox"/> |
| b) a body representing persons living in the vicinity of the premises | <input type="checkbox"/> |
| c) a person involved in business in the vicinity of the premises | <input type="checkbox"/> |
| d) a body representing persons involved in business in the vicinity of the premises | <input type="checkbox"/> |

2) a responsible authority (please complete (C) below) ☒

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

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

Please tick

Mr ☐

Mrs ☐

Miss ☐

Ms ☐

Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick yes

☐

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

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address PC Russ STEVENS Wimbledon Police Station 15 Queens Road Wimbledon SW19 8NN
Telephone number (if any) 02086493074
E-mail address (optional) Russ.Stevens@met.police.uk

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>

Please state the ground(s) for review (please read guidance note 1)

Selling Alcohol to an individual aged under 18.
Breach of condition imposed on Premises Licence.

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

On Thursday 1st September 2016 at 1450hrs, Police conducted a Test Purchase Operation at Best One Mini Market. Two 15 year old children (Volunteer Police Cadets) entered the shop premises and successfully purchased a bottle of Desperado strong Lager. They were not challenged as to their age and were not asked for any form of identification.

Licensing Officer PC Stevens entered the premises and spoke to the Designated Premises Supervisor and Premises Licence Holder Mr Nithiyakumar THANGAVELAUTHAM. The DPS stated that he was the only member of staff present and that he had made the sale, thinking that the customer had looked over 18 years old.

A Fixed Penalty Notice was issued for the offence of Selling Alcohol to an individual under 18 contrary to Sec 146 Licencing Act 2003.

Mr Thangavelautham presented his full copy of the Premises Licence for inspection and was found to be in breach of an additional condition imposed, "A minimum of two staff to be on duty at all times that the store is open for the sale of alcohol".

Please tick yes

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

If yes please state the date of that application

Day Month Year

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

Please tick yes

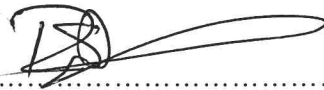
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

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

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature



Date



Capacity Police Licensing Officer

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

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) Russ.Stevens@met.police.uk

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.



LICENSING ACT 2003

Part A Premises licence

Premises licence number

LN/000000726

Part 1 - Premises details

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

**Best One Mini Market
153 Streatham Road
Mitcham
CR4 2AG**

Where the licence is time limited, the dates

Not applicable

The opening hours of the premises

Monday	06:00	-	23:00
Tuesday	06:00	-	23:00
Wednesday	06:00	-	23:00
Thursday	06:00	-	23:00
Friday	06:00	-	23:00
Saturday	06:00	-	23:00
Sunday	06:00	-	23:00

Sale & supplies of alcohol, whether these are on and/or off supplies

Off the premises

Licensable activities and permitted times authorised by the licence

Alcohol Sales

Off the premises

Monday	06:00	-	23:00
Tuesday	06:00	-	23:00
Wednesday	06:00	-	23:00
Thursday	06:00	-	23:00
Friday	06:00	-	23:00
Saturday	06:00	-	23:00
Sunday	06:00	-	23:00



Part 2

Name, (registered) address, telephone number of holder(s) of premises licence

Thangavelautham Nithiyakumar
9 Rialto Road
Mitcham
CR4 2LT

Registered number of holder, ie company number, charity number etc.

None

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Thangavelautham Nithiyakumar
9 Rialto Road
Mitcham
CR4 2LT

Issuing authority and licence number of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

London Borough of Merton LN 2005 0140

ANNEX 1 TABLE OF MANDATORY CONDITIONS UNDER THE LICENSING ACT 2003

- 1.** 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.
- 2.** That every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- 3.** Where one or more individuals must be at the premises to carry out a security activity, each such individual must be licensed by the Security Industry Authority by a licence granted under the Private Security Industry Act 2001 or entitled to carry out that activity by virtue of section 4 of the Private Security Industry Act 2001.
- 4.** (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.
- 5.** 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.
- 6.** For the purposes of the condition set out in paragraph 1—
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - (b) “permitted price” is the price found by applying the formula—

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

where—

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
 - (i) the holder of the premises licence,



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

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

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

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

Annex 2
Conditions consistent with the Operating Schedule

NONE

Annex 3
Conditions attached after a hearing by the licensing authority

1. Every item of alcohol for sale is marked with a sticker bearing the unique code VW06 identifiable under ultra violet light.
2. A minimum of two staff to be on duty at all times that the store is open for the sale of alcohol.

Annex 4

Premises Plan: Drawing 'HDM 100606/B' of 23/06/2006.



LICENSING ACT 2003

Part B Premises licence summary

Premises licence number

LN/000000726

Part 1 - Premises details

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

**Best One Mini Market
153 Streatham Road
Mitcham
CR4 2AG**

Where the licence is time limited, the dates

Not applicable

The opening hours of the premises

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Sale & supplies of alcohol, whether these are on and/or off supplies

Off the premises

Licensable activities and permitted times authorised by the licence

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Off the premises

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Part 2

Name, (registered) address, telephone number of holder(s) of premises licence

Thangavelautham Nithiyakumar
9 Rialto Road
Mitcham
CR4 2LT

Registered number of holder, ie company number, charity number etc.

None

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

Thangavelautham Nithiyakumar

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ENVIRONMENT AND REGENERATION DEPARTMENT

Chris Lee- Director

Mr Barry Croft
Licensing Manager
Merton Civic Centre
Morden
Surrey
SM4 5DX

Public Protection & Development Division
Commercial & Trading Standards Service
London Borough of Merton
Merton Civic Centre
London Road
Morden SM4 5DX

Direct Line: 020 8545 4098
Fax: 020 8545 4025
My Ref :
Please Ask For: S.Fletcher
Your Ref: wk.201605989
Date: 05 October 2016

Dear Sir

Nithiyakumar Thangavelautham

Best One Mini Market, 153 Streatham Rd, Mitcham, CR4 2AG

I have received a copy of an application for a premises licence review under the Licensing Act 2003 dated 5th September 2016 from Russ Stevens The Police Licensing Officer.

London Borough of Merton's Trading Standards Section (local weights and measures authority) is a responsible authority under the Act.

Alcohol misuse by young people is a strong contributory factor in a wide range of anti-social behaviour and criminal offences affecting our community. Such behaviour can include public order offences (often anti-social in nature, these can involve disorderly groups of young people who can be rowdy, threatening and abusive to residents), criminal damage and minor and serious assaults. The Trading Standards Service is committed to preventing the sale of age restricted products to young people and fully supports this review application on the basis of the following licensing objectives-

- a. The prevention of crime and disorder
- b. The prevention of public nuisance, and
- c. The protection children from harm.

The Licensing Sub-Committee may wish to consider whether or not it is appropriate for all staff serving alcohol in the shop to attend an accredited 'Do You Pass' training course that provides practical advice and guidance on how to prevent the sale of age restricted products to young people. The Trading Standards Service provides such a course free of charge to local businesses. Additionally it may also be considered appropriate for the DPS or a personal licence holder to be on duty at the serving counter of the shop at all times that

alcohol is available for sale.

I hope that this representation will assist the Sub-Committee when considering this matter.

Yours faithfully

S.Fletcher

Stewart Fletcher
Fair Trading Officer (Trading Standards)