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Merton Council

Licensing Committee

Membership

Nick Draper (Chair)

David Simpson CBE (Vice-Chair)

Agatha Mary Akyigyina OBE

Stan Anderson

Pauline Cowper

Nigel Benbow

Paul Kohler

Nick McLean

Mary Curtin

Joan Henry

Oonagh Moulton

Marsie Skeete

A meeting of the Licensing Committee will be held on:

Date: 6 February 2020

Time: 7.15 pm

Venue: Committee Rooms BC, Merton Civic Centre

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

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

This is a public meeting and attendance by the public is encouraged and welcomed. For more information about the agenda and the Licensing decision making process contact democratic.services@merton.gov.uk or telephone 020 8545 3357.

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Licensing Committee

6 February 2020

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Licensing Committee (Miscellaneous matters)

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.

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Agenda Item 3

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LICENSING COMMITTEE

9 OCTOBER 2019

(7.14 pm - 7.27 pm)

PRESENT Councillors Councillor Nick Draper (in the Chair),
Councillor David Simpson, Councillor Agatha Mary Akyigyina,
Councillor Stan Anderson, Councillor Nigel Benbow,
Councillor Paul Kohler, Councillor Nick McLean,
Councillor Mary Curtin, Councillor Joan Henry and
Councillor Oonagh Moulton

ALSO PRESENT David Ryan (Licensing Enforcement Officer) and Amy
Dumitrescu (Democratic Services Officer)

1 APOLOGIES FOR ABSENCE (Agenda Item 1)

Apologies for absence were received from Councillors Pauline Cowper and Marsie Skeete.

2 DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 2)

There were no declarations of pecuniary interest.

3 MINUTES OF THE PREVIOUS MEETING (Agenda Item 3)

RESOLVED: That the minutes of the meeting of 12 June 2019 were agreed as a correct record.

4 THE DESIGNATION OF PARTS OF THE HIGHWAY AS LICENCE STREETS FOR THE PURPOSES OF STREET TRADING (Agenda Item 4)

The Licensing Enforcement Officer presented the report on the designation of parts of the highway for the purposes of street trading. The report concerned five applications for the following:

- 1) An area of 3.2m x 1.9m outside The Adega, 77 The Broadway
Wimbledon SW19 1QE.
- 2) An area of 13.9m x 0.8m outside Morden Food Centre 17-19 Morden
Court Parade London Road Morden SM4 5HJ.
- 3) An area of 5.3m x 2m outside Turkish BBQ House 44 Aberconway
Road SM4.
- 4) An area of 11.1m x 1m outside Instagrab Pretzel 11-13 London Road
Morden SM4 5HT.

- 5) An area of 2.59m x 1.325m outside Greggs, 11 Fair Green Parade,
London Road, Mitcham, CR4 3NA

The Licensing Enforcement Officer advised that all five applicants were currently operating on temporary licences and there had been no issues. Morden Food Centre had an existing licence and therefore it was suggested that the previous designation could be rescinded if the new application was approved. The Committee agreed that this should be the case. In relation to Greggs, there had been one complaint relating to an A-board which had been dealt with but was a matter for the highways department and not a street trading offence.

In response to questions, the Licensing Enforcement Officer confirmed that all five applications had sufficient space for pedestrians.

RESOLVED:

That the Committee approved the applications for:

- 1) An area of 3.2m x 1.9m outside The Adega, 77 The Broadway
Wimbledon SW19 1QE.
- 3) An area of 5.3m x 2m outside Turkish BBQ House 44 Aberconway
Road SM4.
- 4) An area of 11.1m x 1m outside Instagrab Pretzel 11-13 London Road
Morden SM4 5HT.
- 5) An area of 2.59m x 1.325m outside Greggs, 11 Fair Green Parade,
London Road, Mitcham, CR4 3NA

That the Committee approved the application for 2) An area of 13.9m x 0.8m outside Morden Food Centre 17-19 Morden Court Parade London Road Morden SM4 5HJ and agreed to rescind the previous existing designation.

The Chair reminded Committee members that prior to the next Committee in February 2020, members should be submitting any ideas or evidence to be considered as part of the updated Licensing Policy as well as any responses in relating to improving the night-time economy in Merton.

Committee: Licensing Committee

Date: 6 February 2020

Wards: All

Subject: The Designation of part of the highway as licence streets for the purposes of Street Trading

Lead officer: Nick Steevens, Head of Regulatory Services Partnership

Lead member: Councillor Caroline Cooper-Marbiah, Cabinet Member for Commerce, Leisure and Culture

Contact officer: David Ryan, Licensing Enforcement Officer

Recommendation:

That committee resolves to grant the proposed designation.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. This report relates to a request for the designation of licence streets and summarises comments received through a consultation process with interested parties.

2 DETAILS

- 2.1. The Licensing Team has received an application from a trader interested in utilising the highway for the purposes of street trading.
- 2.2. This report concerns the application 1 new licence street designation.
 - 1) An area of 10.86m x 1.4m outside Megan's Deli High Street Wimbledon SW19 5DX.
- 2.3. Plans and photographs of the proposed area are included in Appendix B.
- 2.4. Street Trading is regulated by the London Local Authorities Act 1990 as amended.
- 2.5. All street trading is administered and regulated by the Council using this legislative framework. The London Local Authorities Act 1990 permits a street trading licence to be granted for "not less than six months and not more than three years". There are two types of street trading licence granted in the Borough. A permanent licence that is valid for 1 year and a temporary licence valid from 1 day to 6 months to facilitate market trading and temporary events. It is unlawful to trade on the street without a valid street trading licence.
- 2.6. A one year Street Trading Licence can only be granted for areas designated as licence streets.
- 2.7. Merton licences specific locations (pitches) within a street rather than the street as a whole. The designation of specific locations on the street as opposed to the entire street gives greater control to the Council in regulating street trading and its impact on the environment. Street trading licences are renewable annually.

2.8. Comprehensive regulations and standard conditions are in place to facilitate regulation and enforcement of street trading in the Borough and provide a framework for all aspects of trade. These regulations are included for information as Appendix C.

2.9. Street trading licence fees for the year 2019-2020 are shown in Appendix E.

3 ALTERNATIVE OPTIONS

3.1. The designation is refused.

3.2. The final designation can be reduced in size from the requested area.

3.3. A Temporary Licence can be issued where there are specific concerns requiring further assessment.

4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1. The consultation process and consultees are defined by the London Local Authorities Act 1990.

4.2. Notices were placed in the Local Guardian newspaper advising the public of the consultations and inviting representations. Copies of the notices are included in Appendix A.

4.3. As part of the consultation process comments were invited from both external and internal agencies.

4.4. Future Merton - Traffic and Highways:

Megan's Deli – No immediate concerns in keeping with local area. Highway clearances have been addressed with the reduction in size. We request monitoring of the site to ensure the A-boards do not extend outside of the designated area and block the highway.

4.5. The Licensing Team comments –

1. **Megan's Deli** – An area has been requested directly outside the restaurant for tables and chairs. The original application asked for 10.86m x 1.65m but due to restrictions on highway clearance it was recommended to the applicant they reduce down to 10.86m x 1.4m. By reducing the size of the area, the applicant complies with the clearance requirements set out by the Highways Department. There are several designations in place at neighbouring properties, and the area requested is in keeping with those sites. The operators have had the benefit of a Temporary Licence for a number of months. The service received one complaint in relation to the size of the site after the initial issuing of the Temporary Licence. The complaint was addressed by the aforementioned reduction in size. Recommendations have been given to the company regarding the installation of barriers around the seating area to better define it and improve the visual impact of the seating as per ongoing advice to new applications. It is felt there are no valid reasons to refuse the designation or the accompanying licence.

5 TIMETABLE

- 5.1. If granted, notice of a designation resolution must be published in a locally circulating newspaper for two consecutive weeks.
- 5.2. The first publication shall be no later than 28 days before the designation comes into force.
- 5.3. Most traders operate under Temporary licences during this time and start dates are agreed with officers under delegated authority to issue street trading licences.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

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

7 LEGAL AND STATUTORY IMPLICATIONS

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

- 7.7. The Committee would be expected to consider some of the following issues:
- highway safety,
 - highways obstruction,
 - street furniture or bus stop safety,
 - volume of traffic,
 - access for emergency services,
 - over use of area,
 - risk of danger to pedestrians and other road users with the presence of a trading unit/stall,
 - detriment or annoyance to residents from the proposed street trading
- 7.8. Each application must be considered on its own merits and be reasonable. In making a balanced and reasonable decision, it should be considered whether an 'unsightly' pitch or a site with an issue involving enough 'space', is sufficient reason to refuse a designating resolution. A decision could reasonably be made to address those issues through the conditions of the licence e.g. the trading days and times permitted.
- 7.9. The Council is legally obliged to consider all applications and to only refuse on the grounds set out in the London Local Authorities Act 1990 (as amended).
- 7.10. It should be noted that many representations received during the consultation phase relate to the type of trading and not the designation of a licence street to which Committee is concerned.
- 7.11. Under Section 24 (9) of the Act, after the Borough Council have considered those representations, they may if they think fit, pass such a resolution relating to the street.
- 7.12. Under section 24(3) of the Act, if a Borough Council passes a designating resolution, the designating of the street takes effect on the day specified in the resolution. This date must not be before the expiration of the period of one month beginning with the day on which the resolution is passed.
- 7.13. Under section 24(10) of the Act, the Borough Council has to publish a notice of the passing of such a resolution in a local newspaper circulating in their area on two consecutive weeks. Under section 24(11) of the Act, the first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of the designation.
- 7.14. The issuing of the street trading licence and associated conditions are to be taken by officers under delegated powers. The designation of licence streets has followed this process since the Act was enacted, with some sites previously designated under the Highways Act 1980.
- 8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**
- 8.1. It is important that the Council carefully considers all the representations made during the consultation process.

9 CRIME AND DISORDER IMPLICATIONS

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

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

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

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

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

12 BACKGROUND PAPERS

- 12.1. None.

APPENDIX A

LONDON BOROUGH OF MERTON

(hereinafter referred to as "the Council")

PART III OF THE LONDON LOCAL AUTHORITIES ACT 1990

(hereinafter referred to as "the Act")

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

TAKE NOTICE THAT pursuant to Section 24 of the Act, the Council has been requested to designate 1 area (hereinafter referred to as "the street") as a licence street, where street trading will be permitted subject to obtaining a Licence, and under Section 25 of the Act the Council has been requested to issue 2 Street Trading Licences.

- 1) An area of 10.86m x 1.65m outside Megan's Deli 86 High Street Wimbledon SW19 5DX. The Council has also been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of tables and chairs on the designated site 8am – 11pm Mon-Sat and 9am – 8pm Sun. **Reference WK/201905426**
- 2) The Council has been requested by Mr Supanno Yingviriyaya of Woodlodge, Lake Road SW19 to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of a vegan Thai food van on an existing pitch in St Marks Place Wimbledon 11am – 2.30pm Monday – Friday inclusive. **Reference WK/201906080**

If you wish to make representations to the Council regarding the designation of parts of the highway as licence streets or the issuing of street trading licences, you should write to the Council at **Licensing, London Borough of Merton, Civic Centre, London Road, Morden, Surrey, SM4 5DX** quoting the appropriate reference. Any representations made must clearly state the grounds and reach the Council before the 1st November 2019. The Council will consider all representations received before a final decision is made as to whether to designate parts of the street as a licence streets and whether to issue licences for street trading.

Dated this the 4th October 2019

Appendix B

1.1 Megan's Deli 86 High Street SW19



1.2 Front view of proposed site



1.3 Proposed site showing available space for pedestrians



Appendix C

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



DEFINITIONS

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

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

'Street' includes:-

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

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

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

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

THE FOLLOWING ARE THOSE DEFINED BY THE COUNCIL

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

'The Council' means the London Borough of Merton.

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

'Assistant'

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

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

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

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

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

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

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

'Harassment' includes but is not limited to:-

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

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

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

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

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

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

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

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

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

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

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

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

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

GENERAL

The grant of a Street Trading Licence shall not be deemed to give any approval or consent which may be needed under any Bye-law, enactment, or Regulation other than under the Act.

The stall, trade, business, activity etc. shall comply and be conducted in a manner that conforms with other relevant legislation enforced by the Local Authority or other Agencies. These include but are not limited to General Health and Safety, Food Safety, Trading Standards, Fire Prevention, and Highways Regulations.

INFORMATION

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

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

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

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

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

1. INSURANCE

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

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

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

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

2. DAYS AND TIMES

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

3. DISPLAY OF NAMES

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

4. CHARGES AND FEES

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

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

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

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

5. LICENCE AND INSPECTION OF LICENCE ETC.

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

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

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

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

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

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

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

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

6. POSITION

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

- (b) The Licence Holder shall not cause or permit stalls, goods, receptacles; (except refuse containers under Regulation 16c) to project whether grounded or suspended beyond the licensed site or to be placed or to stand anywhere else in the street.
- (c) In respect of catering establishments, tables and chairs shall not be placed or used outside of the site defined in the Licence. This may be denoted by the Council marking the boundary by White Lines or other means.
- (d) The Licence Holder or Assistant shall inspect the licensed site whilst in use at least every hour to ensure that tables and chairs are not outside of the licensed area.
- (e) If the licensed site is obstructed by roadworks or other hazard the Licence Holder may consult an Authorised Officer of the Council or failing that a Police Officer in uniform and produce their Licence. Temporary trading elsewhere whilst the obstruction persists shall be at the discretion of the Officer consulted. The name of the Council Officer or the number of the Police Officer must be noted by the Licence Holder.

7. SIZE

- (a) The Licence Holder shall not place or cause to be placed on the street, a stall that exceeds the dimensions prescribed in the Street Trading Licence.
- (b) Stalls shall not exceed the dimensions unless prescribed in the Street Trading Licence.
- (c) Market stalls shall not exceed 3 metres by 3 metres (10 feet by 10 feet) or other dimension as specified in the Street Trading Licence.
- (d) The dimensions of all stalls prescribed in Licences shall include any towing bar or bracket or the like that remains projecting from the stall whilst trading is being conducted.
- (e) Displays outside shop premises shall not exceed the size prescribed in the Street Trading Licence. The Council will take into account any private forecourt and the available depth of footway.
- (f) In respect of catering establishments the number of tables and chairs on the street shall not exceed the numbers prescribed in the Licence.
- (g) The sizes of tables and chairs and parasols shall not exceed those prescribed in the Licence.

8. PERMITTED GOODS AND SERVICES

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

9. DEALING WITH THE PUBLIC

- (a) Licence Holders and their assistant shall ensure that the public are treated fairly and with courtesy.
- (b) Licence Holders are responsible to ensure that assistants are competent, courteous and helpful.
- (c) Admission or service shall not be refused to any person on the grounds of gender, race, ethnic origin or the grounds of sexual orientation.
- (d) The Licence Holder shall not use or permit any activity, omissions or practice in the conduct of the business that will cause harassment to any person on the grounds of their disability, skin colour, religion, gender, age, sexual orientation and so on.
- (e) The serving of customers shall not take place in the road.

- (f) A Licence Holder or assistant offering a service shall make clear the nature and cost of that service by way of a notice on the stall or within the licensed area.
- (g) All goods shall be clearly marked with a price, and where appropriate an indication of the unit quantity in which they are being offered for supply.
- (h) Where the licensed site is in the road or adjacent, scales and cash registers shall be placed on the stall at the furthest point from passing vehicular traffic.
- (i) The customer should clearly be able to view the goods being weighed, measured etc. before they confirm their intention to purchase.
- (j) In respect of goods selected by customers from displays outside shops the requirement in Regulation 8(i) shall be carried out within the shop premises.
- (k) A Licence Holder or assistant shall not use a megaphone or amplification equipment or a loud voice to shout out the price of goods etc. in order to attract customers.
- (l) Radios or other audio equipment shall not be used in or around the licensed site other than by written agreement of the Council.

10. RECEPTACLES & CONSTRUCTION OF STALL

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

11. ROOFING OF STALLS ETC.

- (a) The distance between ground level and any support of the roof, awning or supports of the stall or goods suspended from any of these, shall be at least 2.4m unless otherwise specified in the Licence.
- (b) A Licensed Street Trader shall not permit the awning or roof of the stall to project outside the area of the pitch, save as provided in Regulation 11(c).
- (c) The awning or roof of a stall may project over the footway for a distance not exceeding 0.6 metres from the boundary of the pitch unless otherwise specified or restricted by a further condition of the Licence.
- (d) The roof or awning shall be safely constructed and must not shed water over customers or passers by.

(e) No awning other than a parasol may be used as part of a stall for displays outside catering establishments.

(f) A Street Trader, or his Assistant, shall immediately remove any Awning on the instruction of an Authorised Officer or a police constable and shall, in any case, remove any Awning outside the permitted hours for Street Trading.

12. ELECTRICITY SUPPLY ETC.

(a) The only connection between stalls in the street and other premises shall be for the purposes of electric lighting and power for the operation of electronic scales, measuring equipment and cash registers and the testing of electrical goods or other agreed services; and any such electrical or other connections shall be readily detachable and the detailed arrangements agreed with the Council. No connection shall be made with any other stall.

(b) Where the Council provides an electrical supply system to the stall, the trader shall pay to the Council upon demand the installation costs and for the supply and maintenance of the service and equipment.

(c) All electric power supplies shall have the appropriate consent from the Council before seeking installation from the Electricity Board.

(d) All electrical wiring and components shall comply with the basic Electricity Board Specification and be earthed and insulated accordingly.

(e) All electrical cables that are suspended over the public footway shall have a minimum clearance of 2.4 metres from the footway surface, and 5.1 metres from the surface of the roadway.

(f) Any suspended lighting shall be safely protected and shall not expose the public, Licence Holder or assistants to any form of risk.

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

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

13. GENERATORS

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

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

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

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

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

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

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

14. LOADING AND UNLOADING

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

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

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

15. REMOVAL OF STALLS ETC.

- (a) Licence Holders and their assistants shall remove stalls, goods, tables and chairs and anything else under their control as directed for so long as may be necessary.
 - (i) In the event of an emergency and this shall include any public demonstration, congregation or disorder in the area, whether or not instructed by an Authorised Officer of the Council or Police Officer;
 - (ii) In the exercise of the Council's powers and duties which include the maintenance of the licensed site, to enable its re-marking and to check whether the stall is capable of being removed in accordance with these Regulations and
 - (iii) To enable statutory undertakings to maintain their services;
 - (iv) In order to accommodate customers confined to wheelchairs outside catering establishments the Licence Holder or assistants shall remove any surplus chairs, for the time being, to the place of storage
- (b) Stalls, goods, tables and chairs etc. shall be removed from the public highway to the place of storage, as stated on the application form, or such other alternative place subsequently agreed by the Council in writing, within 30 minutes of the time prescribed on the Licence for the end of trading on that day.
- (c) A Licence Holder electing to cease trading before the time denoted in the Licence shall remove the stall, goods, tables and chairs at that time to the place of storage.
- (d) A Licence Holder in respect of shop premises shall remove the stall(s) and goods on the cessation of trading and before closing the shop premises.
- (e) Where at an approved Street Festival the stall is hired or provided by the organiser or the agent, the Licence Holder shall be responsible for its erection, suitability, stability, dismantling and safe and prompt removal.
- (f) A Licence Holder upon production of Proof of Ownership may claim from the Council within 14 days of it coming into the Council's possession and without penalty (providing that it is not otherwise this subject of Legal Proceedings or a Seizure Order) anything that:-

- (i) not being within a licensed site was removed by an Officer of the Council because in their opinion it was a hazard or the like to the public;
- (ii) otherwise came into the Council possession and was identified as possibly being associated with the activity of Street Trading.

16. PROVISION OF STALL BY THE COUNCIL

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

17. REFUSE

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

18. ATTENDANCE BY LICENCE HOLDER

- (a) Traditional Licence Holders must be in attendance throughout the whole or part of the day that the stall is set up for trading unless engaged on the following:-
 - (i) A meal break or visit to the toilet.
 - (ii) Sickness of short duration.
 - (iii) Hospital, dental or doctor's appointment.
 - (iv) Occasional attendance at the office of an accountant, tax inspector, bank or Council cash office.
 - (v) On holiday.
 - (vi) Or for any other sufficient reason that may be approved by the Council from time to time.
- (b) In respect of displays outside shops and catering establishments the Licence Holders usual place of work shall be within the premises.

- (c) At approved Street Festivals the Licence Holder shall be in attendance at the stall throughout the event save that prescribed in 18(a)(i).
- (d) No Licence Holder shall sub-let the stall or any part of the stall or the licensed site, or install a manager to operate the Licence.
- (e) A Licence Holder if required by an Authorised Officer and/or Solicitor to the Council shall furnish the Council with a Medical Certificate obtained at the Licence Holders own expense or other documentary evidence to support the reasons for any continual or repetitive absences.

19. NAMES OF ASSISTANTS AND RESTRICTION OF EMPLOYMENT ETC.

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

20. ADMINISTRATION

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

Appendix D

London Local Authorities Act 1990 Section 24

Designation of licence streets

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

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

Provided that a borough council shall—

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

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

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

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

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

(5) This subsection applies—

- (a) where the resolution relates to a street which is owned or maintainable by a relevant corporation; and
- (b) where the resolution designates as a licence street any street maintained by a highway authority; and in subsection (4) above “necessary consent” means—
 - (i) in the case mentioned in paragraph (a) above, the consent of the relevant corporation; and

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

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

(a) British Railways Board;

(b) London Regional Transport;

* * * * *

(d) Network Rail Infrastructure Limited; and

(e) Transport for London.

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

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

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

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

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

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

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

Appendix E

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

NOTICE IS HEREBY GIVEN UNDER SECTION 32 OF THE ABOVE NAMED ACT OF THE STREET
TRADING LICENCE FEES FOR THE FORTHCOMING YEAR
VALID FROM 1ST April 2019 – 31ST March 2020

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

Administrative Fees

Street Trading Licence Application Fee	£106
Licence Street Designation & Street Trading Licence App. Fee	£212
Renewal Licence Processing Fee	£32
Variation of existing Licence or Registration	£79
Market Trader Registration Fee	£32

Forecourt or Tables & Chairs Licence

Up to 1 sq m	£111
Over 1 sq m up to 6 sq m	£657
Over 6 sq m up to 12 sq m	£969
Over 12 sq m up to 18 sq m	£1,282
Over 18 sq m	£1,877

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

Up to 1 sq m	£9
Over 1 sq m up to 6 sq m	£55
Over 6 sq m up to 12 sq m	£81
Over 12 sq m up to 18 sq m	£107
Over 18 sq m	£156

Remote Pitch Annual Licence (catering van, individual stall etc.)	£1,472
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Market Fees (Temporary Licence per pitch per trading day)

Regular Market	£12
Regular Market food stalls	£15
Casual Market	£21
Casual Market food stalls	£26

Specialist Market Fee (min. ten stalls/pitches for up to 4 days or part thereof)	£546
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Other Temporary Licences

Daily	£57
Weekly	£284
Monthly	£1137
Temporary Licence Extension (only available to existing annual licence holders, subject to conditions)	£100

Appendix F
Representations
None

Committee: Licensing Committee

Date: 6 February 2020

Wards: All

Subject: Draft Statement of Licensing Policy 2021- 2026, including proposed Cumulative Impact Assessment

Lead officer: Chris Lee, Director of Environment and Regeneration

Lead member: Cllr Caroline Cooper-Marbiah, Cabinet Member for Commerce, Leisure & Culture

Contact officer: Helen Clark, Commercial Services Manager, London Boroughs of Merton, Richmond upon Thames and Wandsworth Joint Regulatory Services Partnership and Guy Bishop Senior Lawyer Litigation and Planning Team.

Recommendation:

- A. That the Licensing Committee approves, for preliminary consultation, the draft recommended Statement of Licensing Policy 2021-2026 as laid out in Appendix A.
 - B. That the Licensing Committee approves the review of the existing Cumulative Impact Zones in light of the introduction of legislation in 2018 governing Cumulative Impact Policies
 - C. That the Licensing Committee approves the data streams to be explored to establish a robust evidence base for adoption of a Cumulative Impact Assessment for the Borough.
-

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 There is a statutory requirement under section 5 (1) of the Licensing Act 2003 (as amended) for the Council to review and re-publish its Statement of Licensing Policy every five years.
- 1.2 As of the 6th April 2018, Cumulative Impact Assessments (CIA) were introduced into legislation by the Policing and Crime Act 2017. The Act sets out what a licensing authority must do in order to introduce a Cumulative Impact Policy, including collecting, publishing and consulting on the evidential basis for its policy and the requirement to review the CIA (including public consultation) every three years. A Cumulative Impact Assessment must be included as part of the Authority's Licensing Policy. It is, therefore, proposed to carry out a full review of the evidential base for the existing Cumulative Impact Zones for Mitcham Town Centre, Wimbledon Town Centre and Wimbledon Village. The proposed data streams that will be used as a basis for the Cumulative Impact Assessment is laid out in the body of the report at paragraph 2.3

2. DETAILS

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

There is a statutory requirement under the Licensing Act 2003 for the Council to review and re-publish its Statement of Licensing Policy every five years. The requirement to review and re-publish the Council's Statement of Licensing Policy was extended from three to five years by an amendment to the Licensing Act 2003 brought about by the Police Reform and Social Responsibility Act 2011. The current Statement of Licensing Policy will expire on 6th January 2021

Attached at Appendix A is the draft proposed Licensing Policy Statement 2021-2026 for members to consider. The Policy Statement has been drawn up based on the existing Policy and having regard to changes in legislation and Government Guidance.

The proposed Policy has been reviewed by the Senior Lawyer and legal advisor to the Licensing Sub-Committee.

Following this meeting it is proposed that officers of the Licensing Authority liaise with Responsible Authorities before the start of the public consultation period. This will enable officers to discuss the proposed changes to the Council's Statement of Licensing Policy, and to take into consideration points a Responsible Authority may want to present for consideration. Officers will also engage with Members, particularly those representing the areas covered by the current Cumulative Impact Policy. All comments and points raised by the Responsible Authorities or Councillors will be brought before a meeting of the Licensing Committee on the 9th June 2020. This will enable members to consider any final changes or proposed amendments before the start of the public consultation period.

Details of the responsible authorities are as follows:

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

If agreed at the June Licensing Committee, the draft Statement of Licensing Policy will be circulated for public consultation starting on the 15th June 2020. It is recommended that the public consultation period shall last for a minimum period of twelve weeks (three months).

Following the end of the public consultation period, officers of the Licensing Authority will collate comments received. Details of the comments received and any suggested changes to the draft Statement of Licensing Policy will be made available to members for discussion at a meeting before the Licensing Committee on a date yet to be confirmed. Following this meeting if Committee members agree to the proposed amendments to the draft

Statement of Licensing Policy, the Licensing Committee shall recommend adoption by Full Council that will formally adopt the revised Policy

2.2 Proposed amendments to the existing policy

The draft proposed policy largely mirrors the existing Policy. The opportunity has been taken:

- (i) to remove sections that merely re-iterate legislation, instead referring the reader to the appropriate websites;
- (ii) to add a new Glossary at the start of the Policy that explains terminology contained within the body of the Policy;
- (iii) to try to make the Policy clearer to read by making drafting changes;
- (iv) to expand the section profiling the borough and referring the reader to the Council's website to gain more information about the Council's policies and strategies;
- (v) to expand the matters that applicants are urged to consider when drawing up their operating schedules to reflect the representations commonly received from the Metropolitan Police and/or trading standards.
- (v) to add a new Appendix confirming delegations of licensing decisions and functions.
- (vi) to refer to the development of a set of model conditions that will be published on the Council's website.

However, it is proposed to introduce two new additions to the Policy:

- (i) To allow an applicant to show a film that has not been classified by the British Board of Film Classification if they present special circumstances to do so. In such circumstances the film must, instead, be classified by licensing officers of the Council. In all such cases at least 2 months' notice must be given and the applicant must pay a fee.
- (ii) The Policy now urges applicants to apply for a Temporary Event Notice at least two months in advance of the event to allow time for the police and Council officers to investigate whether there may be issues that could then be addressed in plenty of time for the event to be advertised with confidence.

2.3 Cumulative Impact

Cumulative impact is described as the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area. Initially there was no statutory basis for a Council to introduce a cumulative impact policy, instead relying on Government Guidance which stated that a significant number of licensed premises concentrated in one area was a proper matter for the Authority to take into account when developing its policy statement. This allowed an Authority to adopt a specific 'cumulative impact' policy for particular areas of their borough if they considered that the number, type or density of licensed premises in one area was high or exceptional and serious problems of nuisance or disorder could occur outside or some distance from premises.

With effect from the 6th April 2018, cumulative impact assessments were introduced into legislation by the Policing and Crime Act 2017. The legislation states that a licensing authority may publish a document ("a cumulative impact

assessment”) stating that the licensing authority considers that the number of licenced premises in one or more parts of its area described in the assessment is such that it is likely that it would be inconsistent with the authority’s duty to uphold the licensing objectives to grant any further authorisations in respect of premises in that part or those parts. A cumulative impact assessment must set out the evidence for the authority’s opinion. Cumulative impact assessments may relate to all relevant authorisations or only to authorisations of a kind described in the assessment e.g. for premises selling alcohol for consumption off the premises only.

The Act sets out what a licensing authority must do in order to publish a cumulative impact assessment, including publishing the evidential basis for its opinion, the requirement to consult and with whom and the need to review the cumulative impact assessments (including public consultation) every three years. The evidence underpinning the publication of the CIA must be suitable as a basis for a decision to refuse an application or impose conditions.

The evidence of cumulative impact on the promotion of the licensing objectives needs to relate to the particular problems identified in the specific area to be covered by the CIA. The Secretary of State’s Guidance provides a list of Information which licensing authorities may be able to draw on when considering whether to publish a CIA including:

- local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;
- statistics on local anti-social behaviour offences;
- health-related statistics such as alcohol-related emergency attendances and hospital admissions;
- environmental health complaints, particularly in relation to litter and noise;
- complaints recorded by the local authority, which may include complaints raised by local residents or residents’ associations;
- residents’ questionnaires;
- evidence from local and parish councillors;
- evidence obtained through local consultation;
- trends in licence applications by types and terminal hours;
- Capacities of licensed premises
- Underage drinking statistics.

The Licensing Authority is required to consult on its proposed CIA with the following:

- the chief officer of police for the area;
- the fire and rescue authority for the area;
- each local authority’s Director of Public Health in England (DPH);
- persons/bodies representative of local premises licence holders;
- persons/bodies representative of local club premises certificate holders;
- persons/bodies representative of local personal licence holders; and
- persons/bodies representative of businesses and residents in its area.

Previously, the adoption of a Cumulative Impact Policy created a ‘rebuttable presumption’ that applications for new or variation premises licences or club premises certificates (for premises within the cumulative impact area) would be

refused unless the applicant could demonstrate that the granting of the application would not have a negative cumulative impact on one or more of the licensing objectives. However, the Policing and Crime Act 2017 does not stipulate how the cumulative impact assessment should be used once published. Consequently, the requirements for determining new or variation applications are the same in areas with a cumulative impact assessment as they are elsewhere. But the licensing authority, responsible authorities and others can have regard to any assessment when deciding whether to make a representation to the Licensing Committee.

There are currently 3 Cumulative Impact Areas or Zones (CIZ) in the borough: Mitcham Town Centre, Wimbledon Town Centre and Wimbledon Village. The CIZ's for Wimbledon Town Centre and Wimbledon Village were first adopted in 2005. The CIZ for Mitcham Town Centre was introduced in 2016 and relates to the sale of alcohol for consumption off the premises only. Maps showing the extent of the CIZ's are attached at Appendix B

As previously stated there must be robust evidential basis for the decision to publish a CIA and this evidential basis must be open to scrutiny as part of the consultation process. Areas where a CIA is applied but is unsupported by evidence are liable to challenge by licence holders or applicants where decisions are refused on the basis of cumulative impact and such decisions are less likely to be upheld. Although the CIZ's have been reviewed over the years as part of the review of the Council's Licensing Policy, a full evidence gathering process has not been carried out for some years in relation to the Wimbledon Town Centre and Wimbledon Village CIZ's. In view of this it is proposed to carry out a full review of the existing Cumulative Impact Zones. It is proposed that the review will include a call for evidence from Responsible Authorities, seeking evidence from them on matters of crime and disorder, anti-social behaviour, health impacts including alcohol related emergency attendances and hospital admissions and environmental health complaints (particularly in relation to litter and noise). It is proposed that the following data sets be explored where possible::

- Licensed Premises Data: Where they are and what they are licensed for
Source: Merton Council records
- Violence against person (VAP) Data: Distribution of VAP Offences in Merton
Source: Police data extracted from CRIS and mapped
- Ambulance data – assaults and alcohol related call outs Data: where an ambulance was required - looking at high demand locations in Merton and the time when ambulance was required. Source: LAS data and mapped
- Rowdy or Inconsiderate Behaviour Data: Alcohol related ASB calls to police
Source: calls received by Police for Rowdy & Inconsiderate Behaviour
- Relationship between deprivation and alcohol related mortality rates Data: Rates of alcohol related mortality rates and levels of deprivation
Source: Multiple deprivation for Merton by Lower Super Output Area (LSOA).

- Environmental Health Noise Complaints Data: Environmental health noise complaints regarding licensed premises Source: Merton Council
- Complaints about licensed premises Data: Source: Merton Council, Metropolitan Police
- Underage sale data Source: Merton Council
- Annual residents survey and Community Safety Survey
- Children and Young Persons Survey
- Information from Ward Councillors

Members are asked to agree that the above data sets be used to draw up a Cumulative Impact Assessment for the Borough which will then be subject to public consultation and to consider whether any additional information should be sought.

3. CONSULTATION UNDERTAKEN OR PROPOSED

- 3.1 It is proposed that a further report be brought before the Licensing Committee in June 2020 with a finalised draft Licensing Policy, including the proposed Cumulative Impact Assessment. A twelve week (three month) public consultation will then be undertaken on the proposed Statement of Licensing Policy and proposed Cumulative Impact Assessment

4. TIMETABLE

- 4.1 Draft Statement of Licensing Policy to be used for public consultation to be brought before the Licensing Committee meeting on 9th June 2020
- 4.2 Public consultation to start on 15th June 2020. Public consultation to last for a twelve week period.
- 4.3 Comments received during the public consultation period and the final draft of the Statement of Licensing Policy to be submitted before the Licensing Committee on the 15th October 2020.
- 4.4 Statement of Licensing Policy to go to Full Council meeting for adoption on the 18th November 2020.

5. FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 5.1 None for the purposes of this report.

6. LEGAL AND STATUTORY IMPLICATIONS

- 6.1 None for the purposes of this report.

7. HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 7.1 These are statutory functions and are applied globally.

8. CRIME AND DISORDER IMPLICATIONS

- 8.1 The service has a statutory duty to contribute to the reduction of crime and disorder within the London Borough of Merton under Section 17 Crime and

Disorder Act 1988. The prevention of crime and disorder is also one of the licensing objectives as defined in the Licensing Act 2003 and in the Council's current Statement of Licensing Policy.

By examining issues raised such as the possible adoption of a Cumulative Impact Assessment covering specific areas of the borough the licensing authority is contributing to that commitment.

9. RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

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

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

- Appendix A – Draft Statement of Licensing Policy 2021-2026
- Appendix B - Maps showing the current Cumulative Impact Zones.

11. BACKGROUND PAPERS - THE FOLLOWING DOCUMENTS HAVE BEEN RELIED ON IN DRAWING UP THIS REPORT BUT DO NOT FORM PART OF THE REPORT.

11.1 The Licensing Act 2003; and

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

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LONDON BOROUGH OF MERTON



STATEMENT OF LICENSING POLICY

Approved on
Published on
In effect from:

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Appendix 1	Responsible Authority Contact Details
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<i>The Council</i>	The London Borough of Merton Council
<i>The Licensing Authority</i>	The capacity in which the Council acts when performing its roles and duties set out in the Licensing Act 2003. This capacity is delegated to officers in certain situations and circumstances detailed in the Policy.
<i>Licensing Sub-Committee</i>	The 3 member committee appointed from the pool of the 12 member Licensing Committee to consider applications for Premises Licences, Club Premises Certificates, and their variations and reviews or other Types of Licences or applications.
<i>The Act thereunder.</i>	The Licensing Act 2003 and all Regulations made
<i>Secretary of State's Guidance</i>	The Guidance issued by the Home Office under section 182 Licensing Act 2003
<i>Other Person</i>	Any persons wishing to make representations on an application or to apply for or make representations on a review
<i>Cumulative Impact Assessment</i>	A special policy in which the Licensing Authority sets out that the number of premises within a certain area or areas is such that their cumulative impact (as opposed to the impact of any particular one premises) adversely affects the promotion of the licensing objectives. The CIAs arise under 5A of the Licensing Act 2003.
<i>Relevant representation</i>	The Licensing Authority may only consider relevant representations (objections) in determining applications. Relevant Representations are defined in the Act as being those that: <ul style="list-style-type: none"> ● are about the likely effect of the grant of the premises licence on the promotion of the licensing objectives ● are made by any other person or responsible authority within the prescribed time period following an application ● are not frivolous or vexatious (in the opinion of the Licensing Authority or the Licensing Sub-Committee).
<i>Designated Premises Supervisor (DPS) hold</i>	A person specified on the licence as the supervisor of the premises licensed for the sale of alcohol. The DPS must hold a personal licence.
<i>Personal Licence</i>	A licence granted by a Licensing Authority to an individual, authorising that individual to sell, or authorise the sales of, alcohol.
<i>Operating schedule out</i>	The part of an application form in which the applicant sets

their proposed activities, the times which they wish to operate and the steps they propose to promote the licensing objectives.

Licensable activities

Activities for which authorisation is required under the Act:

- the sale by retail of alcohol,
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club,
- the provision of regulated entertainment, and
- the provision of late night refreshment.

Regulated entertainment

The provision of regulated entertainment is defined as any of the following activities that takes place in the presence of an audience for the entertainment of that audience and are provided with a view to profit:

- **Boxing or wrestling** including mixed martial arts (this does not include Greco-Roman or Freestyle wrestling)
- **An exhibition of a film** (this does not include live feed television i.e. sporting events)
- **Adult entertainment** (for example lap-dancing)
- **Playing of recorded music**
 - Between 11pm and 8am
 - At any time when the audience numbers are over 500 people
- **Unamplified live music**
 - Between 11pm and 8am
- **Amplified live music** (including karaoke):
 - Between 11pm and 8am
 - At any time when the audience numbers are over 500 people
- **Performance of dance**
 - Between 11pm and 8am
 - At any time when the audience numbers are over 500 people
- **Performance of a play**
 - Between 11pm and 8am
 - At any time when the audience numbers are over 500 people
- **Indoor Sporting Events**
 - Between 11pm and 8am
 - At any time when the audience numbers are over 1000 people
- **Entertainment of a similar description** to that falling within the performance of live music, playing of recorded music or performance of dance

Responsible Authority

Means the:

- the Chief Officer of Police
- the Fire Authority
- the Public Health authority
- the Enforcing Authority within the meaning given by section 18 of the Health and Safety at Work etc. Act 1974,
- the Local Planning Authority within the meaning given by the Town and Country Planning Act 1990
- the Local Authority by which statutory functions are

exercisable in relation to minimising or preventing the risk of pollution of the environment or of harm to human health,

- a body which—
 - represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and
 - is recognised by the licensing authority for that area for the purposes of this section as being competent to advise it on such matters,
- the relevant licensing authority and any other licensing authority in whose area part of the premises is situated
- the Primary Care Trust or Local Health Board for any area in which the premises are situated
- the Trading Standards Authority,
- the Secretary of State for the Home Office,
- any Licensing Authority (other than the relevant licensing authority) in whose area part of the premises is situated,
- in relation to a vessel:
 - a Navigation Authority (within the meaning of section 221(1) of the Water Resources Act 1991) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is, or is proposed to be, navigated at a time when it is used for licensable activities,
 - the Environment Agency,
 - the British Waterways Board, or
 - the Secretary of State.

The contact details for Responsible Authorities are provided in Appendix 1

1. Introduction

1.1 Merton Council is the Licensing Authority under the Licensing Act 2003 (“the Act”) responsible for processing, authorising the grant of and regulating premises licences, club premises certificates, temporary event notices and personal licences in respect of the sale or supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment within the Borough.

1.2 For the purposes of this policy, reference to Merton is in relation to its function as a licensing authority unless otherwise specified.

1.3 The Act requires the Licensing Authority to carry out its functions under the Act with a view to promoting the following four licensing objectives:

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

Each of these licensing objectives is of equal importance

1.4 These are the only matters that can be taken into account by the Authority when determining an application and any conditions attached to a licence must be lawful, appropriate and proportionate to achieve them.

1.5 Where no representations are received about an application it is the duty of the Licensing Authority to grant the licence or certificate subject only to conditions that are consistent with the operating schedule and any mandatory conditions prescribed in the Act.

1.6 Under the Act, the Licensing Authority is required to publish a Statement of Licensing Policy with respect to the exercise of its licensing functions and to review it at least every five years. This is the fifth policy published by Merton and will take effect from the 6th January 2021. It has been prepared in accordance with Section 5 of the Licensing Act 2003 and having regard to the Government Guidance issued under Section 182 of the Licensing Act 2003 by the Home Secretary in April 2018.

1.7 The licensing policy is an integral element of the Council’s strategic objectives of making Merton a healthier place for all, promoting a high quality safe urban and suburban environment, providing new homes and infrastructure through physical regeneration and effective use of space, making Merton an exemplary borough in mitigating and adapting to climate change and reducing pollution, making it a well-connected and accessible borough and ensuring it is a prosperous borough with a strong economy.

1.8 In formulating the licensing policy the Licensing Authority has had regard to the Council’s Community Plan, the local strategies and plans of the four associated Thematic Partnerships; the Merton Children and Young People Partnership, the Health and Wellbeing Board; the Community Safety Partnership and the Sustainable Communities and Transport partnership as well as planning, cultural, tourism and equality strategies and seeks to

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complement the aim of those strategies. Further information can be found on the Council's website at:

<http://www.merton.gov.uk/council/plansandpolicies.htm>

- 1.9 The Council recognises the links between excessive alcohol consumption and poor health. In addition, alcohol is associated with a wide range of criminal offences including drink driving, being drunk and disorderly, criminal damage, assault and domestic violence. In young people, alcohol is associated with anti-social behaviour and teenage conception. Whilst public health is not a licensing objective and cannot be taken strictly into account when deciding applications, The Director of Public Health is a Responsible Authority under the Act and is able to make representations in its own right or through supporting other representations. The Public Health team is able to bring data and evidence from the health sector into the licensing process in order to support the promotion of the licensing objectives, in particular the prevention of crime and disorder and the protection of children from harm.
- 1.10 The Council also recognises that in a modern and vibrant society the licensable activities covered by the Act require a responsive and flexible system that balances the interests of commerce and its customers with the rights of residents to enjoy their homes and locality without being unreasonably disturbed. One of the purposes of this Policy is to ensure that local people and visitors to the Borough will have better opportunities to enjoy their leisure time safely without fear of violence, intimidation or disorder. Another intention of the policy is to ensure that local residents are not unreasonably disturbed, whether in the street or at home, by activities within licensed premises or by customers arriving at, or leaving, licensed premises.
- 1.11 An effective Licensing Policy, alongside other initiatives, can work towards promoting positive aspects of the licensed economy, such as increasing the leisure industry provision for the community, encouraging regeneration of town centres and providing communal hubs, as well as controlling the negative impacts which affect residents, such as an increase in noise, nuisance, anti- social behaviour and crime and disorder.

2. Profile of the Borough

- 2.1 Merton is an outer London borough situated to the south west of central London, neighbouring the boroughs of Croydon, Kingston, Lambeth, Sutton and Wandsworth. Comprising of 20 wards, the borough of Merton covers an area of approximately 14.7 square miles and has a population at 2018 of just over 209,000 residents, projected to increase to 222,717 by 2025 and 232,473 by 2030. Merton is well connected with both central London and neighbouring boroughs, with 15 mainline stations and 28 bus routes. Wimbledon is a central transport hub in the South London area while the suburban station at Mitcham Eastfields connects the east of the borough. Both the District and Northern underground lines run through the borough while the Tramlink provides connections between Wimbledon and Croydon via Mitcham and Morden.
- 2.2 The Borough is predominantly a residential area. Its properties are both wide ranging in character and often of a high quality. The borough has five main commercial centres; Colliers Wood, Mitcham, Morden, Raynes Park and Wimbledon. The busiest of these areas is Wimbledon (comprising the Town Centre and Village, the former being approximately twice the size of the

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latter), and has the highest density of leisure and entertainment venues in the Borough.

- 2.3 At present, the Council is responsible for the licensing of just under 500 premises including pubs, bars, restaurants, registered clubs, nightclubs and late night takeaways. Other premises including cultural venues and shops are also licensed. Some licensed premises are in residential areas. A greater number are located in the town centres which are often on a single main road with commercial uses backing onto residential streets. Town centre buildings may contain flats on their upper floors and customers of licensed premises often park their vehicles in residential streets.

3. Types of Licences

- 3.1 The types of licences and authorisations available under the Licensing Act 2003 include:

- premises licences;
- club premises certificates;
- temporary events notices (standard and late);
- provisional statements; and
- personal licences in respect of the sale and/or supply of alcohol.

4. The Policy

- 4.1 This Statement of Licensing Policy serves 4 main purposes:

- To guide elected Members sitting on the Licensing Committee and Sub-Committees on the boundaries and powers of the Licensing Authority and to provide them with guidance when making decisions. Members should be able to test any application against the criteria set out in this Policy.
- To inform and assist potential applicants for a licence of the expectations of the Licensing Authority and factors that will be considered when making licensing decisions;
- To inform and assist responsible authorities and other persons (including residents and residents' bodies) of the parameters under which the licensing authority will make licence decisions, and therefore how their needs and concerns can be addressed; and
- To inform a Court of Law of the policy considerations taken into account by the Licensing Authority when making a decision if it is challenged.

- 4.2 However, every application will be considered on its individual merits, taking into account all relevant matters.

- 4.3 The main activities which require a licence under the provisions of The Act and which are covered by this policy statement include:

- The sale by retail of alcohol;
- The supply of alcohol on behalf of a club to, or to the order of, a member of the club;

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- The provision of entertainment to the public or to members of a club and their guests (regulated entertainment); and
- The supply of any hot food or drink between 23.00 hours and 05.00 hours.;

4.4 There are a number of exemptions to the above and details of these are set out in full in Schedule 1 of the Licensing Act 2003.

4.5 Main Principles

The following are the main principles underpinning this Policy:

- Nothing in this Policy restricts any person from making an application under this Act;
- Each application will be judged on its individual merits, having regard to this Policy, the Secretary of State's Revised Guidance issued under section 182 of the Licensing Act 2003 and the law of England and Wales;
- Nothing in this Policy restricts the right of any person to make relevant representations in response to an application or to seek a review of a premises licence or club premises certificate because of a matter arising at the premises in connection with any of the four licensing objectives;
- As well as responsible authorities, any person, body or business is entitled to make representations to the licensing authority in relation to applications for the grant, variation, or review of a premises licence or a club premises certificate, regardless of their geographical proximity to the premises. Appropriate weight will be given to all relevant representations by persons unless they are deemed frivolous, vexatious or repetitious by an officer of the Licensing Authority or the Licensing Sub-Committee;
- Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of those responsible for the individual premises or places. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in the London Borough of Merton.
- Conditions will only be imposed on a licence or other authorisation if they are appropriate for the promotion of the licensing objectives and are proportionate. Since licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events, any conditions attached will be focused on matters that are within the control of individual licence holders (i.e. the premises and its vicinity).
- Conditions will be tailored to the size, type, location, characteristics and activities taking place at the premises concerned and will be determined on a case-by-case basis.

Standardised conditions will be avoided, although selection may be made from pools of conditions. All conditions must be expressed in unequivocal, enforceable, and unambiguous terms. The Authority is currently developing a pool of model conditions which will be uploaded onto the Council's website on completion.

- The Licensing Authority expects applicants and licence holders to have due regard to the promotion of the licensing objectives and to take active measures to contribute to this aim. The operating schedule should be used to set out a detailed explanation of how applications will promote each of the four licensing objectives. The Licensing Authority would particularly encourage active involvement in best practice initiatives such as challenge 25 proof of age scheme, local pubwatch initiatives. We would also expect all people applying for a licence to install and maintain a good quality close circuit television (CCTV) system in the interests of public safety and security.

- 4.6 The Licensing Authority will monitor the effect of its licensing policy upon the Council's overall objectives and will amend the policy if it is seen to be having a negative impact upon related priorities. In any event the policy will be reviewed no later than five years after the current policy has been adopted by the Council. The Cumulative Impact Assessment will be reviewed every 3 years.

5. Consultation

- 5.1 Before publishing the policy, the Council will consult with stakeholders and interested parties. The consultation will be carried out over a period of 12 weeks commencing on the Xth2020.
- 5.2 Section 5(3) of The 2003 Act requires that the following must be consulted:
The Borough's Chief Officer of Police;
The Fire and Rescue Authority;
The local authority's Director of Public Health;
Persons/bodies representative of local premises licence holders;
Persons/bodies representative of local club premises certificates holders;
Persons/bodies representative of local personal licences holders; and
Persons/bodies representative of businesses and residents in the area.
- 5.3 The following organisations or individuals will also be consulted:
Safer Merton;
British Transport Police;
Local Accident & Emergency Hospital Departments;
The Musician's Union & Equity;
Local Children's Safeguarding Board;
The Area Forums;
All Ward Councillors; and
Local Pubwatch organisations and local business organisations.
- 5.4 In addition, the Policy will be available on the Internet on the London Borough of Merton's web site (www.merton.gov.uk/licensing).

- 5.5 In determining this Policy appropriate weight will be given to the views of the persons and bodies consulted.

6. Duplication

- 6.1 This Policy seeks to avoid duplication with other regulatory regimes so far as is possible. This policy statement is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators in respect of employees or members of the public (e.g. Health & Safety at Work etc. Act 1974, Environmental Protection Act 1990, disability discrimination and equality legislation, building regulations, anti-social behavior and crime legislation and fire safety legislation).
- 6.2 Conditions will only be attached to licences if they are appropriate for the promotion of the licensing objectives and are proportionate. If a requirement is already imposed by other legislation, it will not generally be considered to be appropriate in the context of licensing law. However, the fact that a matter is covered by other legislation does not always mean that a condition will not be appropriate for the purposes of licensing. It may be that current legislation or regulations might not cover the particular circumstances that arise out of the type of activity at specific premises. In those situations, it may be appropriate for conditions to be attached that reflect those particular circumstances. However, the licensing authority will not seek to duplicate a condition which is already provided for under other legislation.

7. Promotion of Equality

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

8. Live Music, Theatre & Dancing

- 8.1. In its role of implementing local authority cultural strategies, the Council recognises the need to encourage and promote live music, dance and theatre for the wider cultural benefit of the community. The Council is particularly concerned to increase cultural opportunities for children.
- 8.2. When considering applications for such events and the imposition of conditions on licences or certificates, the Licensing Authority will carefully balance the cultural needs with the promotion of the licensing objectives.
- 8.3. Consideration will be given to the particular characteristics of any event, including the type, scale and duration of the proposed entertainment, especially where limited disturbance only may be caused.

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- 8.4. As a Local Authority, the London Borough of Merton, has been granted premises licences for a number of properties and sites owned by the Council. The granting of such premises licences means that those individuals or organisations who may wish to use these venues to provide regulated entertainment have been relieved of the requirement to apply for a licence or other authorisation. Further information can be found at www.merton.gov.uk
- 8.5. The Licensing Authority will monitor the impact of licensing on regulated entertainment, particularly music and dancing, to ensure that inappropriate restrictions are not being placed on the development of entertainment activities in the Borough.

9. Cumulative Impact

- 9.1 The Secretary of State's Guidance advises that the cumulative impact of a significant number or saturation of licensed premises concentrated in one area can be such as to give rise to serious problems of crime, disorder and/or public nuisance and is a proper matter to take into account when developing its policy statement. An Authority may produce a cumulative impact assessment (CIA) for a particular area if there is a clear evidential basis to do so and following consultation. Section 5A of the Licensing Act 2003 (as amended by the Policing and Crime Act 2017) permits the Authority to consider that the number of authorisations in the area described in the assessment is such that it is likely that it would be inconsistent with the authority's duty under section 4(1) to grant any further relevant authorisations in respect of premises in that area provided it is accompanied by evidence.
- 9.2 At its meeting on xxxxx, the Licensing Committee agreed to consult on the adoption of a Special Policy on Cumulative Impact for a total of x locations within the Borough.
- 9.2. The Cumulative Impact Assessment will be provided at Appendix 3 to this Policy.
- 9.3. Applicants should be aware that in publishing a CIA a licensing authority is setting down a strong statement of intent about its approach to considering applications for the grant or variation of premises licences or club premises certificates in the area described. Having published a CIA an Authority must have regard to the assessment when determining or revising its statement of licensing policy. The CIA does not, however, change the fundamental way that licensing decisions are made. It is therefore open to the licensing authority to grant an application where it considers it is appropriate and where the applicant can demonstrate in the operating schedule that they would not be adding to the cumulative impact.
- 9.4. Applications in areas covered by a CIA should therefore give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives. Where relevant representations are received and a licensing authority decides to grant an application it will need to provide the applicant, the chief officer of police and all parties who made relevant representations with reasons for granting the application and this should include any reasons for departing from their own policy.

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- 9.5. This special policy cannot be used at a review hearing as a ground for revoking an existing licence or certificate when relevant representations are received about problems with those premises.
- 9.6. The special policy relating to cumulative impact does not include provisions relating to any specific terminal hour in a particular area. The Council does not intend to attempt to fix a terminal hour in any area which may undermine a key purpose of the 2003 Act.
- 9.7. The Authority will consider whether there is a need for any additional special policies on cumulative impact where representations from responsible authorities and/or other parties are received. In doing so, the Authority will consider whether the evidence demonstrates that the cumulative effect of a number of premises in a given area is adversely affecting the licensing objectives, e.g. with regard to the prevention of crime and disorder and public nuisance objectives.
- 9.8. In any event, the Cumulative Impact Assessment will be reviewed every three years to assess whether it is needed any longer or whether it needs expanding or contracting.
- 9.9. The Authority recognises that the absence of a Special Policy on Cumulative Impact does not prevent any Responsible Authority or other person from making representations on the basis that an application would, if granted, give rise to or exacerbate negative cumulative impact.
- 9.10. The matter of 'need' (whether there is a need for another premises in a given area) is not a matter for consideration of the Authority, and will therefore not form part of the decision making process.

10. Policies supporting each of the licensing objectives

- 10.1 It is expected that prior to making any application under the Act, applicants will have undertaken a full risk assessment of the impact of their activities on the promotion of the licensing objectives. Thereafter, applicants are expected to submit a detailed operating schedule as part of the application, setting out the steps they intend to take to promote the licensing objectives with conditions to mitigate their activities. National guidance places an expectation upon applicants to give thorough consideration to the local area when making applications. An Applicant attending with or including a written set of conditions will assist the Authority in considering an application.
- 10.2 The following is intended to help applicants by setting out criteria and considerations that they should have in mind when drawing up their operating schedule.
- 10.3 The policy covers a wide range of premises including theatres, cinemas, public houses/bars, restaurants, shops/off-licences and fast food outlets/take-aways. Consequently, not all the considerations within the policy apply, or apply to the same degree, to all premises. However, applicants should have regard to the criteria when drawing up their operating schedules as these are the matters which responsible authorities and other persons are likely to consider when deciding to make representations on an application or whether to call for a Review. It also draws the attention of applicants to matters that are likely to be the subject of proposed conditions

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designed to promote the licensing objectives that may be attached to a licence where relevant representations have been made.

- 10.4 The statutory licensing functions are primarily concerned with the regulation of premises and temporary events, in promoting the licensing objectives. Where appropriate conditions will focus on:
- Matters within the control of the individual licensee or those granted relevant permissions; and
 - The direct impact the activity will have on members of the public living, working or engaged in normal activity in the area concerned and on those visiting the premises.
- 10.5 Applicants are reminded that the Licensing Act 2003 provides that where an operating schedule (or club operating schedule) has been submitted with an application and no relevant representations have been received, the premises licence or club premises certificate must be granted subject only to such conditions as are consistent with the operating schedule accompanying the application and any mandatory conditions required by the Licensing Act 2003.
- 10.6 Therefore, it is important that all operating schedules should be precise and clear about the measures that are proposed to promote each of the licensing objectives.
- 10.7 It is also important for the applicant to ensure that the steps suggested by the operating schedule are realistic and within the control of the applicant and management of the premises. If a premises licence or club premises certificate is granted with conditions attached that require the implementation of such steps, a failure to comply with the condition would amount to a criminal offence.
- 10.8 Whether licence conditions are drawn from the applicant's operating schedule or imposed by the Licensing Sub Committee they:
- Must promote the licensing objectives;
 - Must be precise and enforceable;
 - Must be unambiguous and clear in what they intend to achieve;
 - Should not duplicate other statutory requirements;
 - Must be tailored to the individual type, location and characteristics of the premises and/or events concerned;
 - Cannot seek to manage behavior of customers once they are beyond the management/control of the licence holder and their staff, but may impact on the behavior of customers in the immediate vicinity of the premises as they enter or leave;
 - Should be written in a prescriptive format.
- 10.9 Conditions drawn from the applicant's operating schedule will, therefore, be interpreted in accordance with the intention of the applicant and will not simply replicate the wording in the operating schedule.
- 10.10 Applicants for new premises licences/club operating schedules and those seeking variations to existing premises licences are advised to consult with the following organisations before preparing their schedules or at the earliest possible stage in order to avoid disputes:

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

11. The Prevention of Crime and Disorder

11.1. The Authority recognizes that licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a significant source of crime and disorder. Therefore, whether the premises make, or are likely to make, a significant contribution to the levels of crime and disorder and whether the operating schedule adequately addresses the likelihood of crime and disorder occurring as a result of the grant of the application is a key consideration.

11.2 Under section 17 of the Crime and Disorder Act 1998, the London Borough of Merton, as a Local Authority, has a duty to exercise its functions with due regard to the likely effect of the exercise of those functions on crime and disorder in the Borough and the need to do all that it reasonably can to prevent crime and disorder. The prevention of crime and disorder is one of the four licensing objectives that this Authority has a duty to promote.

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

- i. the levels of crime and disorder in and around the venue;
- ii. the level of compliance with conditions on the existing licence;
- iii. whether Closed Circuit Television (CCTV) is installed, the positioning of the cameras, the length of time that images will be retained and whether CCTV images will be provided to the police and Council officers in a timely fashion on reasonable request.
- iv. the measures to be put in place to prevent underage drinking e.g. 'Challenge 25' requiring the production of photo identity cards, documented training procedures to ensure staff are fully trained in age verification (including regular refresher training, use of till prompts in shops, warning notices regarding ID, the use of refused sale records.
- v. the measures proposed to prevent the consumption or supply of illegal drugs, including search procedures, design of premises, monitoring of toilets, surrender and seizure procedures;
- vi. the measures proposed to discourage binge drinking and drunkenness and to promote responsible drinking including the sale or use of low % ABV alcohol or alcohol below a certain % ABV;

- vii. the measures proposed to prevent violence on the premises, including the threat of violence to staff and the use of polycarbonate drinking vessels to avoid injury to staff and customers;
- viii. whether door supervisors are to be provided and, if so, how many and the hours of employment;
- ix. measures to be put in place to react to any situations of disorder should they occur;
- x. in the case of premises selling alcohol on the premises, any measures to be put in place to prevent glass or bottles from being taken into the street;
- xi. any steps that are to be taken to reduce thefts from patrons using the premises;
- xii. any steps that are to be taken to reduce the risk of spiking of drinks; .and
- xiii. for new applications, the extent to which the layout has been designed to minimise crime and disorder;

11.4. This Authority will expect an applicant's operating schedule to satisfactorily address these issues from the design of the premises through to the daily operation of the business.

11.5. This Authority, where appropriate, will consider attaching additional conditions to licences to deter and prevent crime and disorder both inside and within the locality of the premises.

11.6. This Authority also recognises that there are a number of other mechanisms available to address the impact of crime and disorder and anti-social behavior in the borough. These include:

- ongoing measures to create a safe and clean environment in partnership with local businesses, transport operators and other Council Departments;
- designation of the Borough as a place where alcohol may not be consumed publicly where people are causing, or likely to cause, a nuisance;
- regular liaison with local Metropolitan Police on law enforcement issues regarding disorder and anti-social behaviour, including the issue of fixed penalty notices, prosecution of those selling alcohol to people who are drunk; confiscation of alcohol from adults and children in designated areas and instantly closing down licensed premises or temporary events on the grounds of likely or imminent disorder, or excessive noise nuisance from the premises;

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- the power of the police, other responsible authorities, Ward Councillors or a local resident, as well as operators of local businesses, to seek a Review of the licence or certificate.

12. Public Safety

- 12.1. The Licensing Act 2003 covers a wide range of premises that require the authorisation of a premises licence or a club premises certificate, including, cinemas, concert halls, theatres, nightclubs, public houses, cafes/restaurants and fast food outlets/takeaways and one off large scale outdoor events.
- 12.2. These types of premises present the potential for a variety of safety concerns, some of which are common to all premises and others that may be unique to specific operations. It is essential that premises are constructed or adapted and operated so as to address potential and identified risks and safeguard occupants against them.
- 12.3. In determining licence applications where relevant representations have been made, it will be the policy of the Authority to consider the adequacy of measures proposed to protect public safety having regard to all the circumstances of the case. In particular, the authority may consider the following:
- i. Whether the premises already have a licence specifying the maximum capacity for the premises and, if not, whether the applicant has assessed the maximum safe capacity having regard to means of escape in case of emergency, toilet provision and overcrowding in compliance with the Regulatory Reform (Fire Safety) Order 2005;
 - ii. Whether specific measures have been identified to ensure the safety of indoor sporting events and boxing/wrestling/mixed martial arts events e.g. seating arrangements, provision of stewards, appropriate medical facilities, provision of staff adequately trained in rescue and life safety procedures (water based events);
 - iii. What measures are to be implemented to ensure that special effects, temporary electrical installations, temporary decorations and temporary fittings are safe;
 - iv. Where different events are to take place on site, whether it is proposed that event specific management documents outlining the proposed management structure, responsibilities and contact details for each individual event, together with details of the organization, control, monitoring and review mechanisms be produced and submitted to the appropriate responsible authorities in advance of the event;
 - v. Proposals relating specifically to theatres, cinemas and concert halls regarding number of attendants required, standing and seating in gangways, consumption of drinks, safety of scenery and ceilings, provision of safety curtains, fixing of seating and minimum lighting levels;

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- vi. Whether provisions are in place to ensure that premises users safely leave the premises, including providing information on local taxi companies and ensuring adequate lighting levels outside the premises; and
 - vii. The steps the applicant has taken or proposes to take to comply with the following publications as they relate to the particular licensable activity: -
 - Technical Standards for Places of Entertainment;
 - The Purple Guide to Health Safety and Welfare at Music and Other Events – published by the Events Industry Forum, accessible (for a fee) via the website <https://www.thepurpleguide.co.uk/>
 - Managing Crowds Safely, second edition (HSE 2014) ISBN 978 0 7176 1834 7;
 - The Guide to the Safety at Sports Grounds 6th Edition ISBN 978 1 9164583 0 7
 - Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances;
- 12.4 This Authority will expect the applicant's operating schedule to fully address these issues. Applicants are advised to seek advice from relevant authorities, before preparing and submitting their application, plans and supporting documents.
- 12.5 This Authority where appropriate, will consider attaching additional conditions to licences to address public safety matters.

13. The Prevention of Public Nuisance

- 13.1 Licensed premises, especially those operating late at night and in the early hours of the morning, may cause a range of public nuisances impacting on people living, working or sleeping in the locality of the premises. The concerns primarily relate to noise nuisance, light pollution and noxious smells.
- 13.2 The Authority recognises that it is necessary to actively protect residents, members of the public and businesses in the locality of licensed premises from disturbances linked to licensed premises or their customers that amount to a public nuisance. Such a nuisance can impact on the quality of life of residents and the ability of other businesses to operate effectively. The applicant must demonstrate within their operating schedule how they intend to promote the licensing objective relating to the prevention of public nuisance.
- 13.3 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community.
- 13.4 In determining licence applications where relevant representations have been made, it will be the policy of the Authority to consider the adequacy of measures proposed to promote avoidance of public nuisance having regard to all the circumstances of the case. In particular, the authority may consider the following:

- i. The steps the applicant has taken or proposes to take to prevent:
 - noise and vibration escaping from the premises, including from music, noise from ventilation equipment and human voices;
 - disturbance by customers arriving at or leaving the premises;
 - queuing, either by pedestrian or vehicular traffic;
 - Disposal/collection of empty bottles;
 - Loading and unloading of equipment e.g. sound systems, scenery, lighting.

This could include proposals to keep doors and windows closed, provision of a noise limiter on amplification equipment, the provision of acoustic lobbies, the provision of bottle crushers within the premises or other suitable method to prevent noise from emptying of bottles from the premise's refuse container into the refuse collector's container late at night; delivery and collection times avoiding night and early mornings, use of CCTV, employment of registered door supervisors.
- ii. the availability of public transport in the locality (including taxis and private hire vehicles) for patrons;
- iii. The steps the applicant has taken or proposes to take to prevent disturbance by patrons using gardens, patios, external balconies or associated open spaces, whether for licensable activities or for ancillary purpose such as smoking or consuming alcohol;
- iv. The measures proposed to prevent littering or glass dispersal in the immediate vicinity or to clear up any litter that does occur;
- v. the siting of external lighting, including security lighting;
- vi. The proposed operating hours of the premises, including those of the external areas;
- vii. Whether the operation is subject to a statutory notice served under Section 80 of the Environmental Protection Act 1990;
- viii. The steps the applicant will take to prevent patrons congregating immediately around off licences/supermarkets to consume their purchases;
- ix. Whether suitable and sufficient toilet provision has been made for customers' use;
- x. the steps the applicant intends to take to prevent the generation of odour, e.g. from the preparation of food, smell of cigarette smoke.
- xi. The steps the applicant intends to take to prevent the generation of noise or crime and disorder arising from any Outside Large Scale Event and compliance with any Strategy or Noise Management policy that the Council shall publish and/or the Noise Council's Code of Practice on Environmental Noise Control at Concerts.

- 13.5 This Authority will expect the applicant's Operating Schedule to fully address these issues. Applicants are advised to seek advice from relevant authorities, before preparing and submitting their application, plans and supporting documents.
- 13.6 This Authority, where appropriate, will consider attaching additional conditions to licences to address public safety matters

14. The Protection of Children from Harm

- 14.1 Access to licensed premises may present a risk of physical, moral or psychological harm to children, therefore the Licensing Authority expects applicants to consider measures to protect children from harm where relevant to the type of premises and activities involved.
- 14.2 The Licensing Authority recognises the Safeguarding Children Board as being competent to act as the responsible authority in relation to the protection of children from harm objective and can make relevant representations. As a responsible authority, the applicant is required to copy details of their applications to the Safeguarding Children Board when an application is made.
- 14.3 The wide range of premises that require a licence means that children and young persons may visit many of these, sometimes on their own, for food and/or entertainment.
- 14.4 It is an offence under the Act to sell alcohol to children (under 18). There is a further specific offence of persistently selling alcohol to children if sales are made on 2 or more occasions within 3 months. Unaccompanied children under 16 should not be on 'premises being used exclusively or primarily for supply of alcohol for consumption on those premises' e.g. pubs, bars and nightclubs. In addition, unaccompanied children under the age of 16 should not be allowed on licensed premises between midnight and 5am. Outside these hours, this offence does not prevent the admission of unaccompanied children under 16 to various types of premises where the consumption of alcohol is not the exclusive or primary activity at those venues. It should also be noted that between 5am and midnight the offence would not necessarily apply to many restaurants, hotels, cinemas and those pubs where the main activity is the consumption of both food and drink.
- 14.5 Where licences cover the sale of alcohol, the Licensing Authority expects strict controls to be in place to prevent underage sales. Measures that should be considered by applicants to manage this include refusal logs, training of staff on use of identification and age verification schemes.
- 14.6 Subject to the provisions of the Licensing Act 2003 and any licence or certificate conditions, admission will always be at the discretion of those managing the premises. The Licensing Authority will not attach conditions requiring the admission of children.
- 14.7 The Licensing Authority will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them.

- 14.8 In determining licence applications where relevant representations have been made, it will be the policy of the Authority to consider the adequacy of measures proposed to ensure the prevention of harm to children having regard to all the circumstances of the case. In particular, the authority will consider the following:
- i. whether there have been convictions of the current management for serving alcohol to minors or where there is a reputation for underage drinking;
 - ii. whether there is a strong element of gambling on the premises (but not, for e.g. the simple presence of a small number of fruit machines, slot machines or any other cash prize gaming machines);
 - iii. whether it is intended to provide entertainment of an adult or sexual nature, the hours when such entertainment is to take place and the proximity to schools, youth clubs, places of religious worship or other premises where significant numbers of children are likely to attend;
 - iv. whether the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided;
 - v. whether or not children are to be admitted to the premises and, if so, whether restrictions are to be applied regarding age or times that children will be allowed access or the parts of the premises they may access;
 - vi. whether there is a requirement for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult);
 - vi. measures to be put in place to prevent access to children where restrictions are to be applied due to the adult nature of entertainment;
 - vi. whether regard is paid to industry codes of good practice on the labelling and display of alcoholic drinks such as the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks.

14.9 Children and films.

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

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

14.12 If an applicant wishes to show a film which has not been classified by the BBFC then it will be for the applicant to present special circumstances

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justifying a departure from this policy. The Authority may agree to the showing of the film having first established its suitability for children and the applicant must adhere to any age restrictions imposed. In all such cases at least 2 months' notice must be given in order for the Authority to address the application and advise the age restriction that will apply in that instance. The applicant must pay a fee to the Authority for the classification of a film by them.

- 14.13 Applicants for licences in relation to premises showing film exhibitions will be expected to address arrangements for preventing children from viewing age-restricted films, trailers and advertisements in their operating schedules.
- 14.14 A mandatory condition set out in the Act requires that where a licence authorises the exhibition of films the admission of children to any exhibition of film must be restricted in accordance with the BBFC (or licensing authority) classification.
- 14.15 Children and Public Entertainment.
- 14.16 Many children go to see and/or take part in an entertainment arranged especially for them, for example children's film shows and dance or drama school productions.
- 14.17 In determining licence applications where relevant representations have been made, it will be the policy of the Authority to consider the adequacy of measures proposed to safeguard children whilst they are on the premises and, in particular the authority may consider the following:
- i. In the case of regulated entertainment specially presented to children, the arrangements that will be put in place to ensure the safety of children during access and egress and during the duration of the entertainment, and in particular:
 - (i) the number and positioning of adult staff,
 - (ii) whether restrictions are to be put in place preventing children from sitting in the front row of any balcony unless accompanied by an adult and/or preventing children from standing in any part of the auditorium during the performance
 - ii. Whether age restrictions are to be put in place preventing children being admitted to any entertainment unless accompanied by and in the charge of a responsible adult;
 - iii. Where children are taking part in the entertainment, the arrangements that will be put in place to assure their safety.
- 14.18 This Authority will expect the applicant's Operating Schedule to fully address these issues. Applicants are advised to seek advice from relevant authorities, before preparing and submitting their application, plans and supporting documents.
- 14.19 This Authority will consider attaching additional conditions to licences to prevent harm to children where representations have been received and it is appropriate to do so.

15. Tourism, Employment, Planning & Building Control

- 15.1 Planning, Building Control and the Licensing functions will be properly separated in order to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice-versa. This is designed to allow flexibility if planning or licensing hours or conditions are amended.
- 15.2 However, it should be noted that under the Licensing Act 2003, the local Planning Authority is a “responsible authority” that must be notified of licensing applications and is entitled to make representations to the Licensing Authority in relation to the application for the grant, variation or review of a premises licence or club premises certificate.

16. Licensing Hours

- 16.1 In the Secretary of State’s Guidance, the Government acknowledges that different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make such decisions based on their local knowledge and in consultation with other responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application
- 16.2 Fixed trading hours within designated areas (Zoning) will not be adopted in this Authority. One reason for this is that it could lead to significant movements of people to areas within the Borough at particular times either seeking premises or going to premises that have longer opening hours and provide either alcohol and/or other regulated entertainment. This movement of people may give rise to a concentration of disturbance and noise.
- 16.3 All applications will be considered on their merits. Where representations have been received, in considering whether to restrict licensing hours in order to promote the licensing objectives, the Licensing Authority will consider the following matters (amongst others):
- whether the licensed activity is likely to result in an increase in crime, disorder or anti-social behaviour in the area;
 - whether the licensed activity is likely to lead to a public nuisance disturbing residents or other businesses in the vicinity, particularly late at night, and what measures will be put in place to prevent it;
 - whether there will be an increase in any cumulative adverse effect from the activity on local residents or other businesses in the vicinity; and
 - the level of public transport accessibility to and from the premises for the hours requested, or whether other effective

methods of dispersal will be put in place that will prevent the licensing objectives being undermined.

17. Shops, Stores and Supermarkets

17.1 Shops, stores and supermarkets will normally be permitted to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours. e.g. police representations relating to crime and disorder and/or representations relating to public nuisance.

18. Enforcement

18.1 It is essential that the requirements of the Licensing Act 2003 are enforced to ensure that the licensing objectives are met within the Borough. To this end, the Council will work closely with the Metropolitan Police and other agencies to ensure the efficient deployment of resources.

18.2 Enforcement visits will be targeted as follows:

- To known problem areas/premises
- To high risk premises/events;
- To premises where it is believed that trading is taking place without the necessary licence/club premises certificate or licensing conditions are not being met; and
- To premises where complaints have been received.

18.3 This will ensure that resources are deployed to high risk and problem premises that require the greatest attention. In turn a lighter touch will be adopted in respect of low risk premises. However, ad hoc compliance visits may be carried across the borough to ensure that statutory requirements are not being breached. In particular, test purchases will be carried out to ensure that alcohol is not being sold to children. All such test purchasing will be carried out in accordance with The Code of Practice on Age Restricted Products, published by the Department of Business Innovation and Skills. The Code can be accessed here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/299373/13-537-code-of-practice-age-restricted-products.pdf

18.4 The Council's Environmental Services, Trading Standards and Licensing Services have adopted an enforcement policy. The aim of the policy is to ensure that the services apply enforcement guidelines in a consistent manner and is open and clear about the standards which it applies. The Policy is founded on the Government's Regulators Compliance Code and can be accessed at https://www2.merton.gov.uk/enforcement_policy-4.pdf

18.5 Enforcement decisions will be taken in line with the principles contained in the Enforcement Policy and having regard to the Code of Crown Prosecutors.

19. Applications for Personal Licences to Sell or Supply Alcohol

19.1 In order to obtain a personal licence under Part 6 of the Licensing Act 2003 the applicant:

- Must be aged 18 years or over;

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- Must be entitled to work in the UK;
- Must possess a licensing qualification accredited by the Secretary of State (or one which is certified as if it is such a qualification or is considered equivalent) or is a person of a description prescribed by the Secretary of State by regulations;
- must not have forfeited a personal licence within five years of his or her application;
- has not been convicted of a relevant offence or foreign offence (requiring the production of a Disclosure and Barring Service check);
- has paid the appropriate fee to the Council.

19.2 The Metropolitan Police and/or Home Office may make representations where the applicant has been convicted of a relevant offence or foreign offence. In such cases, in making their decision, the Licensing Authority will consider the seriousness and relevance of the conviction(s), the period that has elapsed since the offences(s) were committed and any mitigating circumstances.

19.3 Applicants with unspent criminal convictions for relevant offences set out in the Licensing Act 2003 are strongly advised to first discuss their intended application with the Police and/or Home Office before making an application.

19.4 A personal licence is valid for an indefinite period. A designated premises supervisor must hold a personal licence.

19.5 Further information about personal licences can be found on the London Borough of Merton's website (www.merton.gov.uk/licensing)

20. Temporary Event Notices

20.1 The system of permitted temporary activities is intended as a light touch process and, as such, the carrying on of licensable activities does not have to be authorised by the licensing authority by way of an application. Instead, a person wishing to hold such an event must give notice to the licensing authority of the event (a temporary event notice (TEN)). A number of limitations apply to temporary event notices and these are laid out in more detail on our website (www.merton.gov.uk/licensing).

20.2 If the Licensing Authority receives a standard or late Temporary Event Notice ("TEN") and there are no representations made against it by the Police or Environmental Health services, then the Licensing Authority is obliged to issue the TEN subject to the statutory limits being complied with. Only the Police and Environmental Health team can object to a TEN and can do so in relation to any or all of the licensing objectives.

20.3 A **standard** TEN must be given to the licensing authority no later than 10 working days before the day on which the event period begins, and must be accompanied by the prescribed fee. An objection to a standard TEN must be made up to 3 working days following receipt by the Police or Environmental Health services. If an objection is made to a standard TEN then the objection will be considered at a hearing and the licensing sub-committee will consider whether to issue a counter-notice that does not permit the event occurring.

20.4 A **late** TEN must be given to the licensing authority no later than 5 working days, but no earlier than 9 working days, before the day on which the event period begins, and must be accompanied by the prescribed fee. If the Police

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or Environmental Health services object to a late TEN then the event will not be able to go ahead and a counter notice will be issued without a hearing taking place. This notice must be issued at least 24 hours before the event is due to take place.

- 20.5 The working days run from the day after the notice is received by the Licensing Authority, as the day the notice is received is deemed to be day zero. Public holidays and weekends are not counted, as they are not working days. For example, if a TEN was served on Tuesday, 13 November, the working days would begin to run from Wednesday, 14 November to Tuesday, 27 November and the event could be no earlier than Wednesday, 28 November.
- 20.6 When considering an objection to a TEN the Licensing Authority may attach conditions to a standard TEN, where it is appropriate for the promotion of the licensing objectives, but only if the conditions to be applied are already on a Premises Licence or Club Premises Certificate relating to the premises where the event will take place.
- 20.7 In any event, the person submitting the TEN is responsible for ensuring that the event complies with all relevant legislation, including the avoidance of a statutory nuisance, and that the event complies with all health and safety requirements.
- 20.8 Although the statutory procedure requires only ten working days' notice of a temporary event (or 5 in the case of a late TEN) the Council would urge applicants to apply at least 2 calendar months before the event is due to take place. This will allow time for the Police and Council to investigate whether there are any issues relating to any of the licensing objectives in plenty of time for the organiser to advertise the event with confidence.

21. Registered Clubs

- 21.1 Part 4 of the 2003 Act deals with registered clubs.
- 21.2 The Licensing Authority can grant a Club Premises Certificate for the sale of alcohol and regulated entertainment to qualifying clubs.
- 21.3 There are various conditions that have to be complied with for a club to qualify e.g.: Forty–eight hour wait before becoming a member and the Club having at least 25 members.
- 21.4 There are also requirements concerning the supply of financial information to members and the keeping of financial records. The club also has to be managed by an elected Management Committee.
- 21.5 The provisions with regards to making an application for the Club Certificate are similar to those for a premises licence.
- 21.6 Further information can be found on the Merton web site www.merton.gov.uk/licensing and in the guidance issued by the Government.

22 Representations

22.1 Responsible Authorities and any other person have the right to make representations where applications for new licences or variations are being sought and to receive appropriate consideration of their representations. Representations can be made in opposition to, or in support, of an application. Irrelevant, frivolous or vexatious representations will be disregarded. A representation may be considered to be irrelevant if:

- It does not relate to one of the four licensing objectives;
- It does not directly relate to a particular premises;
- It relates to commercial considerations alone
- It relates to matters already considered by the Council's Planning Committee (or during subsequent Appeal) or, should more properly have been considered by that Committee.

22.2 A representation may be considered frivolous or vexatious if:

- It arises from a dispute between rival business; or
- It relates to matters already considered, and dismissed, by a Court

22.3 Where relevant representations are received to an application, a copy of the representation, including the name and address of the person making representation, must be forwarded to the applicant. Where the representation has been made by e-mail, this will include the email details unless the representation is provided as an attachment. However, it is recognized that in exceptional cases those making representations may have a genuine and well-founded fear of intimidation if they raise objection to an application. In such cases, the Licensing Authority may decide to remove some personal details from the representation, but leaving minimal details such as street name or general location within a street before forwarding to the applicant. Such action will only be taken rarely and only where the Licensing Authority are satisfied that the concerns are well founded following such a request. Copies of representations will be posted on the Council's website (with personal details redacted) together with the relevant report if the matter is to be considered by the Licensing Sub Committee.

22.4 All licence applications received under the Act are published on Merton's website (www.merton.gov.uk/licensing)

23. Reviews and dealing with complaints about premises

23.1 The Licensing Act 2003 provides for a process whereby responsible authorities and/or other persons can make an application for a review of the licence.

23.2 However, in the first instance, responsible authorities and other persons may wish to make complaints about a premises if it is failing to comply with the licensing objectives. The Licensing Authority will seek to encourage alternative methods of resolving complaints before an application is made for a review. However, this does not override the right of any person to seek a Review of a Premises Licence or Certificate.

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- 23.3 In the first instance, persons are encouraged to raise the complaint directly with the licensee or business concerned. Responsible authorities are also encouraged to give licence holders early warnings of their concerns and of the need for improvement.
- 23.4 The Review application and any other representations received may be amplified upon at a hearing to consider the Review or may stand in their own right. However, generally, new matters not included in the original Review/Representation will not be admissible at the hearing. Therefore, it is important that the original Review application and any other Representations made are clear, comprehensive, and to the point.
- 23.5 Furthermore, these representations must relate to particular premises for which a premises licence is already held and must be relevant to the promotion of one or more of the licensing objectives. The review process is not an opportunity to revisit earlier representations made to the Licensing Authority when the original application for a premises licence was determined.
- 23.6 A request for a review will be disregarded if it is considered irrelevant, vexatious, frivolous or repetitious.
- 23.7 A representation is repetitious when it is identical or substantially similar to a representation made on a previous review or when the application for the licence was itself determined, and a reasonable interval has not elapsed since that time. A reasonable time will be considered to be 12 months save in compelling circumstances such as whether operation of the premises has begun or changed significantly since the previous representation was made.
- 23.8 The Licensing Authority will take a particularly serious view where the grounds for review are substantiated and relate to the use of the licensed premises:
- for the sale and distribution of drugs and the laundering of the proceeds of drugs crimes;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music;
 - for the illegal purchase and consumption of alcohol by minors;
 - for prostitution or the sale of unlawful pornography;
 - for unlawful gambling;
 - as a base for organised criminal activity, particularly by gangs;
 - for the organisation of racist, homophobic or sexual abuse or attacks;
 - for the sale or storage of smuggled tobacco and alcohol;
 - for the sale of stolen goods;
 - for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
 - where Police are frequently called to attend to incidents of crime and disorder;
 - where there has been prolonged and/or repeated instances of public nuisance;
 - where there are serious risks to public safety and the management is unable or unwilling to address these matters; and
 - serious risks to children.

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

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

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

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

24. Administration, Exercise and Delegation of Functions

24.1 The Council is involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.

24.2 In order to provide a speedy, efficient and cost-effective service to all involved in the licensing process, the Committee has delegated certain decisions and functions to Sub-Committees.

24.3 Further, with many of the decisions and functions being purely administrative, the grant of non-contentious applications has been delegated to Council officers.

24.4 In view of the tight timescales involved in the processing of Minor Variation applications, this function has been delegated to Council officers. In all cases, officers will assess the Minor Variation application and where it is felt that the variation could have an adverse effect on any of the four licensing objectives they will consult with the relevant Responsible Authority(ies). If the licensing officer, or any of the Responsible Authorities have concerns about the application or it seeks to extend the licence or substantially vary the premises, appoint a new DPS or add any time or late night alcohol sales, it will be refused and a recommendation made to the applicant to submit a full variation application under section 34 of The Act.

24.5 Appendix 2 sets out the delegation of decisions and functions to the Licensing Committee, Sub-Committee and officers.

25 Publication of the policy

25.1 The Licensing Policy is available on the Merton website:
www.merton.gov.uk/licensing

Licensing Policy

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

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

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

Appendix 1 – Responsible Authorities Contact details

Authority	Contact Details
Metropolitan Police	The Licensing Officer, Wimbledon Police Station, 15 Queens Road, London, SW19 8NN
London Fire Authority	Fire Safety Regulation: South West Area 4, London Fire Brigade, 169 Union Street, London, SE1 0LL
The Local Planning Authority	Planning Manager, Merton Civic Centre, London Road, Morden, SM4 5DX
Responsible Authority for Noise and Environmental Pollution	Environmental Health (Pollution) Manager, Merton Civic Centre, London Road, Morden, SM4 5DX
Health and Safety (Local Authority Enforced Premises)	Environmental Health (Commercial) Manager, Merton Civic Centre, London Road, Morden, SM4 5DX
Health and Safety (HSE enforced businesses)	HM Inspector of Health and Safety FOD London Division Health and Safety Executive Rose Court 2 Southwark Bridge London SE1 4LW
Trading Standards	Chief Inspector of Weights and Measures, Trading Standards Service, Merton Civic Centre, London Road, Morden, SM4 5DX Trading.standards@merton.gov.uk
Protection of Children from Harm	Merton Local Safeguarding Children Board, Merton Civic Centre, London Road, Morden, SM4 5DX

Public Health	Director of Public Health, Merton Civic Centre, London Road, Morden, SM4 5DX
The Licensing Authority	Environmental Health (Licensing) Manager, Merton Civic Centre, London Road, Morden, SM4 5DX licensing@merton.gov.uk
Secretary of State for the Home Office	Home Office Immigration Enforcement Alcohol Licensing Team Lunar House 40 Wellesley Road Croydon CR9 2BY Email: Alcohol@homeoffice.gsi.gov.uk

Appendix 2 - Delegation of licensing decisions and functions

Matter to be Dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		If a police objection	If no objection made
Application for premises licence/club premises certificate		If relevant representations made	If no relevant representations made
Application for provisional statement		If relevant representations made	If no relevant representations made
Application to vary premises licence/club premises certificate		If relevant representations made	If no relevant representations made
Application to vary a designated premises supervisor		If a police objection	All other cases
Request to be removed as a designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application for interim authority		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of an objection to a temporary event notice		All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition		If a police objection	All other cases
Decision on whether to consult other responsible authorities on minor variation application			All cases
Determination of a minor variation			All cases
To raise representations on behalf of the Licensing Authority as a Responsible Authority			All cases



Appendix 3 – Cumulative Impact Assessment published as a separate document