

AGENDA

LICENSING SUB COMMITTEE

FRIDAY, 25 APRIL 2025

12.30 PM

**LADY ALICE LAMBTON ROOM,
BOATHOUSE, WISBECH**

Committee Officer: Linda Albon
Tel: 01354 622424
e-mail: memberservices@fenland.gov.uk

- 1 To appoint a Chairman for this Sub Committee
- 2 Members to declare any personal and prejudicial interests under the Local Code of Conduct in respect of any item to be discussed at the meeting.

CONFIDENTIAL - ITEMS COMPRISING EXEMPT INFORMATION


To exclude the public (including the press) from a meeting of a committee it is necessary for the following proposition to be moved and adopted: "that the public be excluded from the meeting as appendices to the report involve the disclosure of exempt information as defined in the paragraphs 1, 2 and 7 of Part I of Schedule 12A of the Local Government Act 1972 (as amended) as indicated."

- 3 APPLICATION FOR THE REVIEW OF A PREMISES LICENCE MADE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - THE ITALIAN AFFAIR (Pages 3 - 40)

Tuesday, 15 April 2025

Members: Councillor G S Gill, Councillor A Hay and Councillor Dr H Nawaz

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Agenda Item No:	3	
Committee:	LICENSING	
Date:	25th April 2025	
Report Title:	APPLICATION FOR THE REVIEW OF A PREMISES LICENCE MADE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 – THE ITALIAN AFFAIR	

Appendices B, D and E of this report are NOT FOR PUBLICATION in accordance with Paragraphs 1, 2 and 7 of Schedule 12A of the Local Government Act 1972 in that they contain information relating to individuals or information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

1 Summary

- To consider an application for the review of a premises licence in respect of The Italian Affair - New Inn Yard, Wisbech, PE13 1AQ.

2 Key issues

- The review has been submitted by the Cambridgeshire Constabulary
- The reason for the review is:
 - It is alleged by the Police that the Conduct of Mr Rafique shows that he has not upheld the Licensing Objectives as below.
- The review application is made under the following licensing objectives:
 - The Prevention of Crime and Disorder
 - Public Safety
- There is a requirement to hold a licensing hearing to determine the application for the review of a premises licence.

3 Recommendations

- That the committee determines the application, having regard for the evidence presented by the parties to the hearing, the relevant legislation and guidance applicable to this process and the content of this report and appendices.

Wards Affected	Medworth Wisbech
Forward Plan Reference	N/A
Portfolio Holder(s)	Councillor Sam Hoy, Portfolio Holder with responsibilities for Licensing
Report Originator(s)	Andy Fox, Senior Licensing & Compliance Officer, Tel: 01354 602162, Email: afox@fenland.gov.uk

Contact Officer(s)	Amy Brown, Assistant Director, Deputy Monitoring Officer and Data Protection Officer, abrown@fenland.gov.uk
Background Paper(s)	<p>Section 182 Guidance to the Licensing Act 2003 - Revised guidance issued under section 182 of the Licensing Act 2003 (December 2022) (accessible) - GOV.UK (www.gov.uk)</p> <p>Licensing Act 2003 - Licensing Act 2003 (legislation.gov.uk)</p> <p>The Licensing Act (Hearings) Regulations 2005 - The Licensing Act 2003 (Hearings) Regulations 2005 (legislation.gov.uk)</p> <p>Fenland District Council's Statement of Licensing Policy 2021 – 2026 - FENLAND DISTRICT COUNCIL</p>

Report:

1 Introduction

- 1.1 Fenland District Council as the Licensing Authority has received an application to review a premises licence, from Cambridgeshire Constabulary in their capacity as a Responsible Authority under section 51 of the Licensing Act 2003 for the premises known as The Italian Affair, New Inn Yard, Wisbech, PE13 1AQ.
- 1.2 The application was received on 18th February 2025. As required under the Licensing Act 2003, notice of the application was advertised on the Council's website and blue notices were placed on the premises from 18th February 2025. The 28 days consultation period ended on 18th March 2025.
- 1.3 A copy of the review application, along with supporting CCTV footage can be seen at **APPENDIX B** to this report. This footage will be shown during the Licensing Sub-Committee Hearing.
- 1.4 A copy of the current premises licence can be seen at **APPENDIX C**.
- 1.5 The application to review relates to the following licensing objectives:
 - The prevention of crime and disorder
 - Public Safety

2 Background & Timeline

- 2.1 The Premises licence details for The Italian Affair, Wisbech are:
 - Premises Licence Holder (PLH) - Elgood & Sons Limited, and have held the licence since August 2017
 - Designated Premises Supervisor (DPS) - Mr Shahid RAFIQUE
- 2.2 Mr RAFIQUE holds a personal licence with the Fenland District Council - PERS0766.
- 2.3 In relation to the role of DPS, they are responsible for the day-to-day running of the premises, which includes a clear knowledge and compliance with the licence conditions.
- 2.4 The review application refers to an alleged offence, details are:

On Sunday 26th January 2025 at approximately 03:20 hours there was a report of persons fighting on Market Square, Wisbech between several persons. The affray incident is still being investigated.
- 2.5 During the course of the investigation, it has been established by the Police that Mr RAFIQUE was involved.
- 2.6 Cambridgeshire Constabulary have provided CCTV evidence of the incident which will be shown to the licensing committee during the hearing.
- 2.7 Cambridgeshire Constabulary respectfully requests that consideration be given to:
 1. The removal of the Designated Premises Supervisor (DPS) Mr RAFIQUE
 2. Whether the Premises Licence, although in a company name but under the control and influenced by Mr RAFIQUE should be revoked.

3 Representations

- 3.1 During the consultation period, 4 letters of support for the application have been received and copies of these can be seen at **APPENDIX D**
- 3.2 Mr RAFIQUE has sent in a letter of representation, supporting his position as DPS, and can be seen at **APPENDIX E**

- 3.3 A person who has submitted a relevant representation is entitled to address the Licensing Sub-Committee at the hearing and ask questions of any other party appearing at the hearing.

4 Legislation/Policy Considerations

- 4.1 The licensing authority must carry out its functions under the 'Act' with a view to promoting the Licensing objectives, each objective has equal importance, these are:
- the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance
 - the protection of children from harm.
- 4.2 When determining an application for a review of a premises licence, due regard should be given to the Council's Statement of Licensing Policy and the Secretary of State's Guidance section 182.
- 4.3 The hearing will be conducted in accordance with the approved procedures and can be seen at **APPENDIX A** to this report.

5 Determination

- 5.1 The Sub-Committee must determine the application on its individual merits having regard to the representations and supporting documents included within this report.
- 5.2 Where the committee consider that action under its statutory powers is appropriate, they may take any of the steps mentioned below, as it considers appropriate for the promotion of the licensing objectives. The steps are:
- To modify the conditions of the licence
 - To exclude a licensable activity from the scope of the licence
 - To remove the Designated Premises Supervisor (DPS)
 - To suspend the licence for a period not exceeding three months
 - To revoke the licence
 - To take no action
- 5.3 The Sub-Committee may also consider issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. If none of the above steps is considered appropriate the licence should remain in the form, it was granted.
- 5.4 Where the Sub-Committee decides to modify the conditions of a licence or exclude a licensable activity from a licence, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify. Any suspension of the premises licence may be for a maximum period of three months.
- 5.5 Members may wish to note that any modification, amendment, suspension or revocation of the premises licence will not take effect until the end of the period for the submission of an appeal or if an appeal is submitted until such time as the appeal is determined.
- 5.6 Conditions can only be attached to a premises licence if they are considered appropriate for the promotion of the licensing objectives. If consideration is being given to attaching conditions, Members should consider, are the proposed conditions:
- Appropriate
 - Relevant to the activity/premises/venue.
 - Enforceable.

- Precise;
- Reasonable, and
- Achievable.

6 Community impact

- 6.1 The Licensing Act 2003 seeks to provide public protection by way of the four licensing objectives.

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APPENDIX A – LICENSING PROCEDURES



PROCEDURE FOR DETERMINATION OF APPLICATIONS MADE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 FOR THE REVIEW APPLICATION OF A PREMISES LICENCE

INTRODUCTION

- Meetings of the Licensing Committee, whether the full committee of 12 members or panels of 3 members drawn from the full committee, shall be held in public unless the Licensing Authority deems that it is not in the public interest to do so. Reasons for exclusion of the public must be given at the hearing by the Chairman of the committee. Determinations will be made in private at conclusion of the hearing but announced in public thereafter.
- All hearings convened will be heard by a panel known as the Sub-Committee (but still referred to as the Licensing Committee) of 3 members drawn from the full committee of 12. The quorum of the committee/panel is 3 members. Therefore, 4 members of the Licensing Committee will usually be invited to attend each hearing (i.e. one as a reserve), in case of one of those invited subsequently needing to tender an apology for absence or, on being informed of the details of the application or meeting the applicant or objector (or for some other reason), deciding that s/he possesses a personal and prejudicial interest in the matter that prevents him/her participating in the hearing. At the beginning of each committee/hearing a Chairman will be appointed by those members present unless the Chairman of the whole committee is present.
- Members of the committee shall endeavor to be present throughout an individual hearing. If a member of the committee is required to leave a hearing temporarily, the Chairman shall adjourn the hearing for the duration of the member's absence. If a member is not present for the whole of an item of business, they will not be able to debate or vote on that item of business.
- Where a committee undertakes a site visit prior to a hearing, a member shall be precluded from taking part in the hearing if he/she has not attended the site visit.
 - (a) To avoid taking into account "local" factors that could influence improperly his/her judgement, a member cannot serve on the committee undertaking a hearing at which a matter is being discussed that relates to a Premises Licence, Club Premises Certificate, Temporary Events Notice or Personal Licence where either the premises are or the person is resident in the ward which that member represents on Fenland District Council.,

When selecting members to participate in a hearing, the Member Services team will ensure there is compliance with this requirement.

NOTE: All questions and statements will be directed through the Chairman.

APPENDIX A – LICENSING PROCEDURES

INTRODUCTION

- (1) The Chairman will, at the beginning of the meeting, welcome all those present and explain both the reason for the hearing and the procedure to be followed. They will inform attendees of any changes to committee membership (if any) since publication of the Notice of Meeting. The Chairman will also seek confirmation that everyone present has received this procedure and a copy of the report pack
- (2) The Chairman will introduce to all present the members of the committee.
- (3) The Chairman will then introduce and explain the respective roles of
 - (i) the Legal Adviser to the committee
 - (ii) the Clerk to the committee
 - (iii) the officer representing the Licensing Authority (“the Licensing Manager/Officer”).
- (4) The Chairman will invite those present to introduce themselves.

BODY

- (5) The Chairman will ask the Licensing Officer to outline the case, by presenting the report which refers to the review application of the premises licence and the licensable activities, days and hours of operation, reason for the review.
- (6) The Chairman will invite members of the committee to ask relevant questions to clarify the content of the Licensing Officer’s report.
- (7) The Chairman invites the applicant – Responsible Authority Officer (RA) to put the case in support of a review application for the premises licence.
- (8) If applicable the applicant can call any witness(es) to give evidence in support of his/her case.
- (9) Once the applicant has presented his/her case, the Chairman invites questions to the applicant (RA):
 - members of the committee
 - the licence holder (or their representatives);
 - interested persons (or their representatives);

The Chairman invites the Licence Holder (or their representative) to put forward the case regarding the review of the premises licence.

- (10) The Chairman will then invite questions to the Licence Holder from:
 - members of the committee
 - the Responsible Authority Officer (or their representatives)
 - interested persons (or their representatives);
- (11) The Chairman will then invite any interested persons to put forward their case, based on the representation submitted.

APPENDIX A – LICENSING PROCEDURES

CONCLUSION

- (12) The Chairman then invites the responsible authority officer, licence holder and interested persons (or their representatives) if they have anything else they wish to add. They may comment upon what has been said but no new evidence should be introduced.
- (13) The Chairman seeks confirmation from all parties that they are satisfied that they have said all that they wished to.
- (14) The Chairman will then thank all those who have spoken and invite the committee to retire in private to determine the application. The committee members will then debate the case presented to them at the hearing and seek to reach a determination. When the committee has reached a proposed determination with reasons or has decided to defer a determination, it shall call in the Legal Adviser to clarify the proposed determination/decision.

DETERMINATION

- (15) Once a determination/decision has been reached, the committee will return to the room and the Legal Adviser will announce in public any legal advice that he/she has given in private.
- (16) The Chairman will read out the determination and the reasons for such (unless the committee is unable to reach a determination at conclusion of the hearing). A signed copy of the determination will be given to all interested parties.
- (17) If the committee is unable to reach a determination at that time, the Chairman will explain that all interested parties will be notified as soon as possible in writing (but within 5 working days) of the determination and the reasons for such.

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By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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Part A

Premises Licence

**The Licensing Authority, Fenland District Council
Fenland Hall, County Road, March
Cambridgeshire, PE15 8NQ. Tel: 01354 654321**

Premises Licence Number

22/1635/LADPS1

Premises Licence valid from

30th September 2022

Part 1 – Premises Details

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

The Italian Affair
Wisbech Bar & Diner Ltd
New Inn Yard
Wisbech
Cambridgeshire
PE13 1AQ

Telephone number: 01945 475757

Where the licence is time limited the dates

Not Applicable

Licensable activities authorised by the licence

Recorded Music - Indoors
Late Night Refreshment – Indoors/outdoors
Sale by Retail of Alcohol – On/Off Sales

Times the licence authorises the carrying out of licensable activities

Recorded Music - Indoors

Monday to Sunday 08:30 hrs to 01:30 hrs

Late Night Refreshment – Indoors/Outdoors

Monday to Sunday 23:00 hrs to 01:30 hrs

Sale by Retail of Alcohol – On/Off Sales

Monday to Sunday 08:30 hrs to 01:30 hrs

Non-Standard Timings

New Years Eve: From end of prescribed hours New Years Eve to start of prescribed hours the following day.

The opening hours of the premises

Monday to Sunday

08:30 hrs to 02:00 hrs

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

Alcohol is supplied for consumption both on and off the Premises

Part 2**Name, (registered) address, telephone number and email (where relevant) of holder of premises licence**

Elgood & Sons Limited
North Brink Brewery
Wisbech
PE13 1LN

Business Email: bettyvebmwm3@hotmail.com
Business Telephone No.: 01945 475757
Telephone: 01945 583160

Registered number of holder; for example company number, charity number (where applicable)

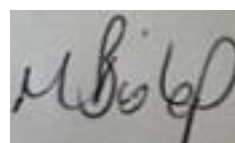
Limited Company Number 00086011

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

Mr Shahid Rafique
Black Bear Public House
27 Old Lynn Road
Wisbech
Cambridgeshire
PE13 3SB
07448 228600

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

Fenland District Council
PERS0766

Premises Licence issue date: 18th October 2022

.....(Michelle Bishop)
ON BEHALF OF FENLAND DISTRICT COUNCIL

Annex 1 – Mandatory Conditions

Premises Licence (On & Off Sales of alcohol)

1. Under Section 19(2) of the Licensing Act 2003, no supply of alcohol shall be made under this premises licence at a time when there is no designated premises supervisor in respect of the premises licence, or at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Under Section 19(3) of the Licensing Act 2003 every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3. The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises. In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises:
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective [words added];
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
5. The premises licence holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either a holographic mark, or an ultraviolet feature.
6. The responsible person must ensure that where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:
 - (a) beer or cider: ½ pint;

- (b) gin, rum, vodka or whisky: 25ml or 35ml; and
- (c) still wine in a glass: 125ml;

These measures must be displayed in a menu, price list or other printed material which is available to customers on the premises and if a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

7. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price. For the purposes of this condition:
- * "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - * "permitted price" is the price found by applying the formula - $P = D + (D \times V)$ where:
 - * P is the permitted price;
 - * D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol; and
 - * V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - * "relevant person" means the holder of the premises licence, the designated premises supervisor (if any) in respect of such a licence, or the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - * "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

The permitted price must be rounded up to the nearest penny.

A change to the permitted price which would apply as a result of a change to the rate of duty or VAT charged in relation to alcohol would not apply until the expiry of the period of 14 days beginning on the day on which the change in the rate of duty or VAT takes effect.

Mandatory Conditions: Door Supervision

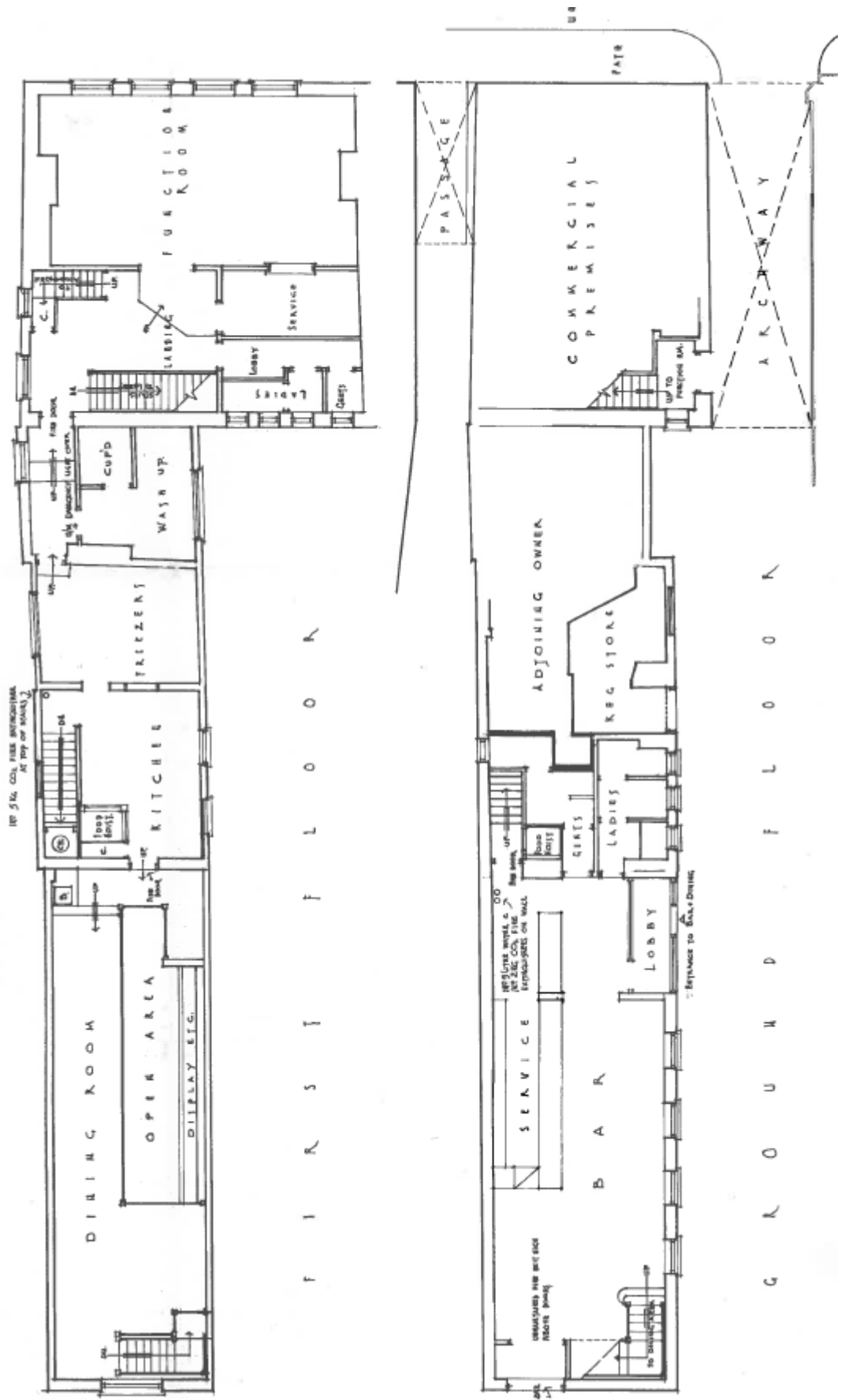
Any individual carrying out security activities at the premises must be licensed by the Security Industry Authority.

Annex 2 – Conditions consistent with the Operating Schedule

1. No glass, open bottles or glass drinking vessels to be allowed to leave the premises.
2. No controlled drugs to be allowed on the premises.
3. No drunken person to be sold or supplied alcohol.
4. An appropriate number of experienced and trained staff to always be on duty.
5. Good practice guidelines to be adopted regarding on-trade drinks promotions.
6. CCTV will be operated and maintained, with recordings kept and made available on request to the police or other authorised person in a readily transferable media.
7. Appropriate measures to be adopted to prevent the premises from becoming overcrowded.
8. Staff to be trained to deal with the safe evacuation of the premises with particular regard to persons with disabilities, and records to be maintained on the premises and produced to a police officer or authorised person.
9. Adequate seating and tables to be provided to prevent the premises from becoming a vertical drinking establishment.
10. Clear notices to be displayed to remind customers to leave the premises quietly.
11. As far as it is consistent with proper ventilation and comfort, doors and windows to be kept closed whilst the premises is open for business and in any event by 23.30 hours.
12. The patio area to be closed at 24.00 hours.
13. No person appearing to be under the age of 18 to be sold or supplied with any alcoholic drink.
14. Proof of age policy agreed by the Police and the Council to be implemented.
15. No unaccompanied children to be allowed on the premises at any time whilst the premises is open for business.
16. The Challenge 25 age verification scheme will be used whilst such a scheme is in operation.
17. When considered necessary by the management, appropriate certificated door supervisors will be employed.
18. Noise limiters to be fitted to amplified sound systems to prevent noise from affecting local residents.

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

N/A



By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
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