

## **DECISION RECORD**

**Licensing Act 2003 (all section references in this record are references to the Act)**

### **LICENSING AUTHORITY FOR BRISTOL**

#### **LICENSING (HEARINGS) SUB COMMITTEE MEETING HELD ON 16 April 2015**

#### **AGENDA TITLE**

Conduct of a hearing into an application for the GRANT of a licence made by Stephen Varcoe in respect of Aron's Jewish Delicatessen, 19 Chandos Road, Bristol, BS6 6PG

#### **MEMBERS PRESENT:**

1. Councillor Pearce (Chair)
2. Councillor Stone

#### **OFFICERS PRESENT**

Ashley Clark, Legal Advisor  
Sarah Flower, Licensing Policy Adviser  
Allison Taylor, Committee Clerk

#### **REPRESENTATIONS RECEIVED FROM:**

David Thomas  
Paul Buttner  
Debbie And Jeff Clark  
Kathryn Ford And James Creed  
Henry Curtis  
Kyle Douglas  
Mark Mason  
A And E Parkes  
James And Nina Robinson  
Vibeke Rowell  
Tracey Yeo  
Nicholas Krestovnikoff  
Eleanor Breed  
Peter Wadsley  
Ian And Jo Davis  
Olive Nichols  
Andy Lyle  
A S Parsons  
Sarah Woodhouse  
Bethan Lewis

<b>Applicants, responsible authorities and interested parties</b>	<b>PARTIES &amp; REPRESENTATIVE (IF ANY) in attendance</b>
<b>Applicant</b>	<b>Steven Varcoe – Applicant Pete Rosser – Agent</b>
<b>Chief Officer of Police (s.13(4)(a))</b>	<b>Not a party to this hearing</b>
<b>Fire Authority (s.13(4)(b))</b>	<b>Not a party to this hearing</b>
<b>Health and Safety Enforcing Authority (s.13(4)(c))</b>	<b>Not in attendance but the Committee had regard to the representation of David Thomas</b>
<b>Local Planning Authority (s.13 (4) (d))</b>	<b>Not a party to this hearing</b>
<b>Environmental Health (Pollution Control) (s.13 (4) (e))</b>	<b>Not a party to this hearing</b>
<b>Social Services Authority (s.13 (4) (f))</b>	<b>Not a party to this hearing</b>
<b>Any other relevant Licensing Authority (s.13 (4) (g))</b>	<b>Not in attendance but the Committee had regard to the representation of Andy Lyle</b>
<b>Weights and Measures Authority (s.13. (4) (i))</b>	<b>Not a party to this hearing</b>
<b>Relevant persons who are persons living in the vicinity of the premises (s.13 (3) (a))</b>	<b>Tracey Yeo James Creed Jo Davis Adrian Parkes Councillor Negus representing Henry Curtis The Committee also had regard to other written representations who's authors were not in attendance</b>
<b>Relevant persons who are a body representing persons living in that vicinity (s.13 (3) (b))</b>	<b>Not a party to this hearing</b>
<b>Relevant persons who are persons involved in a business in that vicinity (s.13 (3) (c))</b>	<b>Not a party to this hearing</b>
<b>Relevant persons who are bodies representing persons involved in such businesses (s.13 (3) (d))</b>	<b>Not a party to this hearing</b>

**RECORD OF HEARING:**

The authority made a contemporaneous hand written (long hand) record of the hearing. Any party wishing to receive a typed transcript should contact Councillor Support Officer (Democratic Services, City Hall, College Green, Bristol) for information regarding the arrangements for transcribing and any charge levied where the authority produces the same. Set out below is a summary of the reasons for the decision, in the event of an appeal the Licensing Authority reserves the right to elaborate on the reasons.

**DECISION MADE:**

1. That the application be GRANTED subject to the conditions on the licence as modified as follows:
  - (i) The addition of conditions as detailed in Annex 3 below
  - (ii) The mandatory conditions included in the licence under section 19 and 21 of the Act

Accordingly the licence is to be issued subject to the following

Licensable activities authorised by the licence and the times the licence authorises the carrying on of licensable activities

**STANDARD TIMES**

<b>Licensable activities authorised by the licence and the times the licence authorises the carrying out of licensable activities.</b>	
Sale of Alcohol	Sunday 09:00 - 18:00
Sale of Alcohol	Monday to Wednesday 09:00 - 18:00
Sale of Alcohol	Thursday to Saturday 09:00 - 22:30

Supply of alcohol authorised for On and Off the premises

<b>The opening hours of the premises</b>	
Sunday	09:00 - 18:00
Monday to Wednesday	09:00 - 18:00
Thursday to Saturday	09:00 - 22:30

<b>NON STANDARD TIMINGS</b>
Non standard timings not applicable.

**Annex 1 – Mandatory conditions**

## **1 Mandatory condition Licensing Act 2003 - Door Supervision**

Where this licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must:

- (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
  - (b) be entitled to carry out that activity by virtue of section 4 of that Act.
- (As required by s21 Licensing Act 2003 as amended by the Violent Crime Reduction Act)

## **2 Mandatory condition Licensing Act 2003 - Supply of Alcohol**

1.No supply of alcohol may be made under the premises licence-

- (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

## **Mandatory Licensing Conditions - Additional conditions imposed by Policing and Crime Act 2009**

Conditions numbered 1 - 4 shall be in force as of the 01 October 2014.

Conditions 1, 2 and 4 shall not apply where the premises licence authorises sale by retail or supply of alcohol only for consumption off the premises.

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

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

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

3. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply

of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either -

- (a) a holographic mark, or
- (b) an ultraviolet feature.

4, The responsible person must ensure that -

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

#### **Additional conditions imposed by Licensing Act 2003 (Mandatory Conditions) Order 2014**

Conditions numbered 1 - 4 shall be in force as of 28 May 2014

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1 -

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula -

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

Where -

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

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

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

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

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

## **Annex 2 – Conditions consistent with the Operating Schedule**

### **Conditions consistent with the operating schedule submitted 27 February 2015**

1 CV11: The premises shall not be permitted to be used for any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children, which prohibited uses include, among other things, nudity or semi-nudity, films for restricted age groups or any relevant entertainment (with the meaning of the third schedule to the Local Government (Miscellaneous Provisions) Act 1982 except where that is expressly permitted under a licence or waiver granted or given under that legislation.

2 CC01: CCTV shall be in use at the premises.

(i) Where a CCTV system is to be installed, extended or replaced, it shall be to an appropriate standard as agreed with the Licensing Authority in consultation with the Police. Where a CCTV system is to be installed it shall be fully operational by the grant of licence. Where existing CCTV systems are to be replaced or extended the replacement or extension to the system shall be concluded by the grant of licence and the system be fully operational on that date.

(ii) The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place and for a period of two hours afterwards.

(iii) The premises licence holder shall ensure images from the CCTV are retained for a period of 31 days. This image retention period may be reviewed as appropriate by the Licensing Authority

(iv) The correct time and date will be generated onto both the recording and the real time image screen.

(v) If the CCTV equipment (Including any mobile units in use at the premises) breaks down the Premises Licence Holder shall ensure the designated premises supervisor, or in his/her absence other responsible person, verbally informs the Licensing Authority and the Police as soon as is reasonably practicable. This information shall be contemporaneously recorded in the incident report register and shall include the time, date and means this was done and to whom the information was reported. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay. The Licensing Authority and the Police shall be informed when faults are rectified.

(vi) The premises Licence holder shall ensure that there are trained members of staff available during licensable hours to be able to reproduce and download CCTV images into a removable format at the request of an authorised officer of the Licensing Authority or a constable.

(vii) There shall be clear signage indicating that CCTV equipment is in use and recording at the premises during all licensable hours.

3 SA01: All staff to be trained in the prevention of underage sales to a level commensurate with their duties. All such training to be updated as necessary, for instance when legislation changes, and should include training on how to deal with difficult customers. The training should be clearly documented and signed and dated by both the trainer and the member of staff receiving it. The documentation shall be available for inspection on request by an authorised officer of the Licensing Authority or a constable.

4 SA02: (i) An approved proof of age scheme shall be adopted, implemented and advertised within the premise such as "Challenge 25" whereby an accepted form of photographic identification shall be requested before any alcohol is sold to any person who appears to be under 25 years of age. Acceptable proof of age shall include identification bearing the customers photograph, date of birth and integral holographic mark or security measure. Suitable means of identification would include PASS approved proof of age card, photo-card driving licence and passport.

(ii) Publicity materials notifying customers of the operation of the Challenge 25 scheme shall be displayed at the premises, including a Challenge 25 sign of at least A5 size at the entrance to the premises and where practicable at each point of sale.

5 SA03: The premises licence holder shall require the designated premises supervisor, or in his/her absence other responsible person, to keep an 'incident/refusals logbook in a bound book in which full details of all incidents are recorded. This shall include details of any refused sales and shall give details of the persons involved, incident description, time and date, actions taken and final outcome of the situation. This shall be completed as soon as possible and in any case no later than the close of business on the day of the incident. The time and date when the report was completed, and by whom, is to form part of the entry. The logbook is to be kept on the premises at all times and shall be produced to an authorised officer of the Licensing Authority or a constable when required.

6 GS29: All gangways, passages, staircases and exit ways must at all times be kept entirely free from chairs or any other obstructions and from any article or substance which may cause a person to slip, trip or fall.

7 CA07: Adequate procedures must be implemented to ensure overcrowding (such as that which may cause injury through crushing) does not occur in any part of the premises.

8 NP68: Noise from any ventilation, refrigeration or air conditioning plant or equipment shall not cause nuisance to the occupants of any properties in the vicinity.

9 NP04: No speakers for amplification of music shall be placed on the outside of the premises or on the outside of any building forming a part of the premises.

10 NP65: A clear notice shall be displayed at any exit to the premises to instruct customers to respect the needs of local residents and leave the premises and the area quietly.

11 WM5: The premises licence holder, premises supervisor or event manager, shall ensure that measures shall be put in place to remove litter or waste arising from customers and to prevent such litter from accumulating in the immediate vicinity of the premises or neighbouring premises.

12 At least 80% of the trade area shall be for seated customers.

13 The premises licence holder or other responsible person shall co-operate with Police or Officers of the Local Authority in the implementation of any initiatives to combat crime, disorder, antisocial behaviour or nuisance in the vicinity.

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

### **Conditions proposed by Responsible Authorities**

#### **Health and Safety**

1 The licence holder shall determine the occupant capacity of the premises on the basis of documented risk assessment(s).

(i) The risk assessment(s) must take into account all relevant factors including space, means of access and egress, toilet provision, load-bearing capacity of floors, ventilation, etc and must be reviewed regularly, and if circumstances change.

(ii) Where necessary separate occupancy levels must be set for different parts of the premises.

(iii) The premises licence holder shall ensure that they consult the Public Health Services of Bristol City Council and any other relevant authority (for example the Fire Rescue Service regarding emergency evacuation limitations) as to the occupancy figure.

Confirmation of the consultation and any outcomes shall form an integral part of the risk assessment on which the capacity figure is based.

(iv) The capacity figure proposed by the premises licence holder shall be notified to the Licensing Authority in writing prior to the commencement of the licence.

(v) Measures must be put in place to ensure that the capacity is not exceeded at any time.

(vi) All documentation pertaining to the proposed figure must be kept on the premises and must be available immediately on request to any authorised officer of the Licensing Authority or a constable.

(vii) The premises licence holder shall regularly review, update and amend any risk assessments particularly following any changes to the layout or operation of the venue. Such reviews etc shall be fully documented and form an integral part of the risk assessment.

2 Use of premises by third parties. Where the premises, or parts of the premises may be hired out by third parties or be used by events promoters, the premises licence holder must ensure that there are appropriate procedures in place that will ensure that as far as is possible, the third party is aware of the licensing conditions and has in place their own procedures / arrangements which will ensure that the licensing objectives are not compromised.

3 All traffic routes used by members of the public (including entrance ways, gangways, lobbies, corridors, passages and exit routes and all steps and stairways) should have:

(i) Nosings of the treads of steps in a contrasting colour to the remainder of the tread. The nosings shall show up clearly under emergency lighting conditions.

(ii) Any changes in level shall be clearly visible to members of the public, such as by using contrasting colours or additional lighting.

(iii) Mats more than 1 cm thick sunk to floor level unless of rubber with wide bevelled edges.



4 A continuous handrail securely fixed on each side of all staircases, steps and landings at a height of not less than 840 mm nor more than 1 metre, measured vertically from the pitch line, except that only one such handrail need be provided to such staircases, flights of steps or landings which are less than 1 m wide. Where a staircase is 1.8 metres or more in width, a central handrail shall, in addition, be provided, properly supported and secured to the steps.

5 Electrical installation in areas used by members of the public shall be subject to the following:

(i) Any alterations made to electrical installations, including the use of temporary wiring and distribution systems, shall comply with the relevant edition of the Regulations for the Electrical Equipment of Buildings issued by the Institution of Electrical Engineers (BS 7671 or any British Standard replacing or amending the same).

(ii) All electrical equipment and installations shall be subject to regular visual checks to ensure that they are safe and in good working order, as well as formal routine tests by a competent person as advised in the aforementioned BS 7671 guidance.

(iii) A Residual Current Device protection sensitive to tripping currents of not more than 30 milli-amperes, must be fitted to power circuits supplying outdoor sockets and also indoor sockets that might be expected, with the use of plug-in extension leads, to power outdoor circuits.

6 The premises licence holder shall ensure the designated premises supervisor, or nominated deputy in their absence, provides unhampered use of a telephone on the premises for use in an emergency, while licensable activity entertainment is taking place. In premises that do not have the benefit of a permanent phone installation then a mobile phone must be available.

## **Licensing**

7 NP58 The rear garden area must not be used by customers after the hours of 20:00 hours May to September and not after 17:00 hours October to April.

8 NP63 The premises supervisor, manager or other competent person shall manage any outdoor area to ensure that customers do not behave in a noisy, rowdy or offensive manner.

9 NP64 Clear notices must be displayed at prominent points in all outdoor areas informing them the rear garden area is to be cleared of customers by 2000 hours and requesting that they respect the needs of local residents and behave in a quiet and orderly manner.

10 WM8 The collection of refuse, bottles and recyclable materials shall only take place Monday to Saturday between 0830 hours and 1900 hours..

11 No alcohol for consumption on the premises will be supplied to customers at the bar. Alcohol shall only be supplied to and for consumption by customers on the premises who are seated. Such service will be by waiter or waitress only.

## **Conditions attached after this hearing by the licensing authority**

12 The Premises Licence Holder shall make available to neighbours upon request a mobile telephone contact number that can be used during the operating hours of the business.

13 WM2 - The premises licence holder shall ensure that adequate measures are in place to prevent the escape of odours from the premises. This includes odour from food preparation and refuse storage.

#### **Annex 4 – Plans**

Plans as submitted to the Licensing Authority on 27 February 2015.

2. That the GRANT here agreed will take effect immediate effect.
3. That in accordance with Section 23 of the Act a duly authorised officer be directed to give Notice of determination to:
  - (a) Stephen Varcoe
  - (b) The Chief Officer of Police

And the following bodies that made representations:

David Thomas  
Paul Buttner  
Debbie And Jeff Clark  
Kathryn Ford And James Creed  
Henry Curtis  
Kyle Douglas  
Mark Mason  
A And E Parkes  
James And Nina Robinson  
Vibeke Rowell  
Tracey Yeo  
Nicholas Krestovnikoff  
Eleanor Breed  
Peter Wadsley  
Ian And Jo Davis  
Olive Nichols  
Andy Lyle  
A S Parsons  
Sarah Woodhouse  
Bethan Lewis

#### **REASONS FOR DECISION**

The following paragraphs summarise the sub-committee's reasons for granting the application and for modifying the conditions on the Licence.

The sub-committee carefully considered the representations together with the information provided for the Hearing and that received during it. The sub-committee had regard to the Secretary of State's guidance to Licensing Authorities and the Authorities own statement of licensing policy.

The committee's decision was particularly influenced by the consideration of the promotion of the licensing objectives concerning the prevention of crime and disorder, the prevention

of public nuisance, public safety and the protection of children from harm.

The Chair welcomed all parties, made introductions and explained procedure. All parties were given the opportunity to speak and clarifications were sought at all points. Finally, all parties summed up and the applicant summed up last.

The Committee, having carefully deliberated, agreed to grant the application as applied for and subject to conditions offered and those agreed with Responsible Authorities.

The Committee gave weight to resident's concerns which were primarily about noise from the operation of the garden and noted the concession made by the applicant regarding the hours of operation. They noted, however, that Pollution Control, as experts on noise pollution had made no representation and the Licensing Authority had proposed a 21:00 hours terminal hour for the garden in their representation. The Committee were therefore minded to agree the 20:00 terminal hour as a concession offered and during the Summer months a 17:00 terminal hour. It was noted that this was for only three days per week.

The Committee also gave great weight to the concession offered of not allowing alcohol to be consumed in the garden and to apply a maximum occupancy of 12 customers which would further promote the licensing objectives.

Overall, the Committee noted that a comprehensive set of conditions had been agreed and the applicant was an experienced, responsible operator who made clear his intention to have a good relationship with his neighbours.

**SIGNED:**

**CHAIR**

**Name: Councillor Pearce**