

**AGENDA ITEM NO. 4**

**LICENSING COMMITTEE**

<b>Date</b>	<b>23 July 2019</b>
<b>Title</b>	<b>DETERMINATION OF AN APPLICATION FOR A VARIATION TO A PREMISES LICENCE MADE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 – NENE SUPERMARKET, 12 LYNN ROAD, WISBECH PE13 3DJ</b>

**1 PURPOSE/SUMMARY**  
 To consider an application for a variation to a premises licence in respect of Nene Supermarket, 12 Lynn Road, Wisbech PE13 3DJ

- 2 KEY ISSUES**
- There has been an application submitted for the variation of a Premises Licence
  - It is the responsibility of all premises licence holders to demonstrate that suitable and sufficient measures are undertaken to uphold the four Licensing Objectives of the Licensing Act 2003;
  - Relevant representations have been received regarding this application from Public Health - CCC
  - There is a requirement to hold a hearing to determine the application for the review of a premises licence.
  - The application is for a premises located within the Wisbech Cumulative Impact Zone.

**3 RECOMMENDATION(S)**  
 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.

<b>Wards Affected</b>	Medworth
<b>Forward Plan Reference No.</b> (if applicable)	N/A
<b>Portfolio Holder(s)</b>	Councillor Sam Clark, Portfolio Holder with responsibilities for Licensing.
<b>Report Originator</b>	Michelle Bishop, Licensing Manager, Tel: 01354 622542, Email: <a href="mailto:mbishop@fenland.gov.uk">mbishop@fenland.gov.uk</a>
<b>Contact Officer(s)</b>	Dan Horn, Head of Housing & Community Support, Tel: 01354 654321, Email: <a href="mailto:dhorn@fenland.gov.uk">dhorn@fenland.gov.uk</a> Carol Pilson, Corporate Director, Tel: 01354 622360, Email: <a href="mailto:cpilson@fenland.gov.uk">cpilson@fenland.gov.uk</a>
<b>Background Paper(s)</b>	Licensing Act 2003 Section 182 Guidance to the Licensing Act 2003 The Licensing Act (Hearings) Regulations 2005 Fenland District Council's Statement of Licensing Policy 2016 - 2021

## 1 DETAILS OF APPLICATION

- 1.1 The application relates to the proposed variation of a premises licence in respect of Nene Supermarket, 12 Lynn Road, Wisbech PE13 3DJ
- 1.2 The applicant is Mr Ayad Ali Saide, The agent is Mrs Ipec Kilic a Licensing Consultant for Narts Food and Leisure Limited
- 1.3 A copy of the application including the plan is at **APPENDIX B**
- 1.4 A copy of the current premises licence can be seen at **APPENDIX C** to this report.

## 2 DETAILS OF THE PROPOSALS CONTAINED WITHIN THE APPLICATION

- 2.1 The Premises Licence Holder of Nene Supermarket, 12 Lynn Road, Wisbech PE13 3DJ is Mr Mr Ayad Ali Saide

The Designated Premises Supervisor responsible for alcohol sales is Mr Ayad Ali Saide, his Personal Licence No. WNPA010052 and has been issued by The Borough Council of Kings Lynn & West Norfolk

- 2.2 The original application for a Premises Licence was refused by the Licensing Sub-Committee on 14 November 2016.
- 2.3 This decision was appealed by the applicant to the Magistrates Court who granted the licence on the 22 May 2017.

A copy of the Magistrates decision can be seen at **APPENDIX D**.

- 2.4 The current premises licence was valid from 22 May 2017
- 2.5 As per Annex 4 of APPENDIX C, you can see that some additional conditions were added to the licence during the Licence Application appeal process at the Magistrates Court.
- 2.6 The conditions added at the Magistrates Court during the appeal process were:
  - ◆ All alcohol items offered for sale will have the supermarkets name and address attached with label.
  - ◆ No cans of alcohol will be sold.
  - ◆ The maximum footage given over to the sale of alcohol will not be more than 5% of the overall footage.
  - ◆ The alcohol licence will apply between the hours of 12 noon and 9pm daily.
  - ◆ The DPS will engage as an active member of the off licence scheme.

2.7 The variation application received is requesting an increase in the sale of alcohol hours, the increase has been compared to the current licensed hours:

<b>Licensed Activity</b>	<b>Current Days and Times</b>	<b>Variation Applied For</b>
<b>Sale by Retail of Alcohol (off sales)</b>	<b>Mon - Sun 12:00 – 21:00</b>	<b>Mon – Sun 08:00 until Midnight</b>
Non – Standard Timings:	None applied for	None applied for.

2.8 The variation application is also applying to remove and amend some of the condition, below is a breakdown of what the applicant is applying for:

<b>Condition No.</b>	<b>Current Condition</b>	<b>Proposed Condition</b>
Annex 2 – Condition 1	<ul style="list-style-type: none"> <li>❖ No super-strength beer, lagers, ciders of 6.0% ABV (alcohol by volume) or above shall be sold at the premises.</li> <li>Specialist products from craft or microbreweries or limited edition / seasonal products (e.g. Christmas gift packs), may be sold subject to Police and Local Authority discretion.</li> </ul>	<p>No high strength beer, lager or cider 6.5% ABV or above shall be sold at the premises other than premium beer, lager or cider priced at £1.95 or above per 500ml.</p> <p>Specialist products from craft or microbreweries or limited edition / seasonal products (e.g. Christmas gift packs), may be sold subject to Police and Local Authority discretion.</p>
Annex 2 – Condition 9	<p>Additional signage which can read as follows:</p> <ul style="list-style-type: none"> <li>❖ No alcohol will be served to known street drinkers.</li> <li>❖ Please note that this store does not stock or sell any strong beers or ciders with an ABV of more than 6%.</li> <li>❖ No single bottles of beer or cider will be sold.</li> <li>❖ No loitering.</li> </ul>	<p>Additional signage which can read as follows:</p> <ul style="list-style-type: none"> <li>❖ No alcohol will be served to known street drinkers.</li> <li>❖ No loitering.</li> </ul>
Annex 2 – Condition 12	There will always be a Personal Licence holder on the premises throughout the time that licensable activity is taking place to authorise any sales of alcohol.	To be removed from the conditions
Annex 4 -Condition 2	No cans of alcohol will be sold.	No single cans of alcohol will be sold
Annex 4 – Condition 3	The maximum footage given over to the sale of alcohol will not be more than 5% of	The maximum footage given over to the sale of alcohol will not be more

	the overall footage.	than 10% of the overall footage
Annex 4 – Condition 4	The alcohol licence will apply between the hours of 12 noon and 9pm daily.	The alcohol licence will apply between the hours of 08:00am noon and midnight daily

### 3 CONSULTATION/AWARENESS

- 3.1 In accordance with the provisions of the Licensing Act 2003, the applicant has completed the statutory 28 day consultation period by displaying a copy of the notice on blue coloured paper and an advert in the local newspaper.
- 3.2 The application was submitted electronically and therefore it was the responsibility of the Local Authority to serve this application to all the Responsible Authorities.

(a) Cambridgeshire Constabulary	No representation
(b) Cambridgeshire Fire & Rescue	No representation
(c) Public Health – CCC	<b>Representation</b>
(d) Environmental Health	No representation
(e) Health & Safety	No representation
(f) Safeguarding & Standards Unit – Children Services	No representation
(g) Development Services - Planning	No representation
(h) Licensing	No representation
(i) Trading Standards	No representation

- 3.3 The representation referred to at 3.2 (c) is an objection from Joe Keegan on Behalf of Public Health at Cambridgeshire County Council. A copy of the objection can be seen at **APPENDIX E**.

This representation relates to all four of the Licensing Objectives.

- 3.4 In accordance with the principle of seeking to “negotiate away” objections to this licensing application, officers forwarded details of the representations received to the applicants agent, Mrs Ipec Kilic – Narts Food & Leisure Limited
- 3.5 The Licensing Act 2003 encourages discussion between persons making the applications and those serving objections with the aim of resolving issues of concern, to strike the balance between enabling the applicant to operate his/her premises in a manner that meets his/her business needs/aspirations and the necessary protection of the community. Officers are aware of a discussion between the Police and the applicant, this objections has now been resolved and the conditions requested will be added to the licence should it be granted.

### 4 POLICY IMPLICATIONS

- 4.1 The Council’s Statement of Licensing Policy expects applicants to demonstrate in their Operating Schedule that suitable and sufficient measures have been identified and will be maintained to:

- (1) reduce or prevent crime and disorder on, and in the vicinity of, their premises, relevant to the individual style and characteristics of their premises and events;
- (2) ensure public safety, relevant to the individual style and characteristics of their premises and events;
- (3) prevent public nuisance, relevant to the individual style and characteristics of their premises and events;
- (4) protect children from harm, relevant to the individual style and characteristics of their premises and events.

4.2 Fenland District Council has a Cumulative Impact Policy in place for the area where the premise is located. **APPENDIX F** is a copy of the Cumulative Impact Policy together with a map of the designated area.

Applicants are asked to address the Cumulative Impact Policy and produce evidence to demonstrate how the application will:

- (a) Not add to cumulate impact, and challenges already being experienced in the area or;
- (b) Undermine the promotion of the licensing objectives.

4.3 The applicant must produce evidence to rebut the presumption to refuse an application within the Cumulative Impact Policy area. This Policy takes effect where a relevant representation is received.

4.4 It must be stressed that the presumption to refuse an application does not relieve, Responsible Authorities or Other Persons of the need to provide supporting evidence in conjunction with a relevant representation. This must be submitted before the Licensing Authority may lawfully consider giving effect to the Cumulative Impact Policy.

## **5 COMMUNITY IMPACT**

5.1 The Act gives greater freedom to operators and users of premises, which is balanced by greater responsibilities for licensees and tempered by strengthened protection for the community.

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

## **6 DETERMINATION OF THE APPLICATION**

6.1 In undertaking its statutory function, the Licensing Authority must promote the licensing objectives as defined in the Licensing Act 2003:

- the prevention of crime and disorder
- public safety

- the prevention of public nuisance
- the protection of children from harm.

6.2 When determining an application for a variation to a premises licence, due regard should be given to the Council's Licensing Policy including the Cumulative Impact Policy and the Secretary of State's Guidance.

6.3 The Committee in its determination can take one or more of the following steps as it considers appropriate for the promotion of the licensing objectives :

- to grant the variation subject to:
  - I. such conditions as are consistent with the operating schedule accompanying the application, modified to such extent as the authority considers necessary for the promotion of the four licensing objectives, and
  - II. any mandatory condition which must be included in the licence
- reject the variation application.

The hearing will be conducted in accordance with the approved procedures and can be seen at **APPENDIX A** to this report.

**PROCEDURE FOR DETERMINATION OF APPLICATIONS MADE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 FOR THE VARIATION 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 PROCDEURES**

### **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 the “what you need to know” document.
- (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”).
- (4) The Chairman will invite those present to introduce themselves.
- (5) Each party will be asked by the Chairman for a time estimate for the presentation of his/her/body’s case. After hearing all estimates, the committee will allocate each party an equal amount of time to speak.

### **BODY**

- (6) The Chairman will ask the Licensing Officer to outline the case, by presenting the report which refers to the application of the premises licence and the licensable activities, days and hours of operation, specified on the application.
- (7) The Chairman will invite members of the committee to ask relevant questions to clarify the content of the Licensing Officer’s report.
- (8) The Chairman invites the applicant (or his/her representative) to put the case in support of the application for a variation to a premises licence.
- (9) If applicable the applicant can call any witness(es) to give evidence in support of his/her case.
- (10) Once the applicant has presented his/her case, the Chairman invites questions to the applicant, his/her representative and/or witnesses from:
  - responsible authorities (or their representatives);
  - interested persons (or their representatives);
  - members of the committee.
- (11) The Chairman invites the Responsible Authority (RA) Officer to put the case in support of their representation submitted for the premises licence application.
- (12) The Chairman will then invite questions to the Responsible Authority Officer from:
  - the applicant (or their representatives)
  - interested persons (or their representatives);
  - members of the committee.
- (13) The Chairman will then invite any interested persons to put forward their case, based on the representation submitted.



## **APPENDIX A – LICENSING PROCDEURES**

### **CONCLUSION**

- (14) The Chairman then invites the applicant of the premises licence, responsible authorities and interested persons (or their representatives) to sum up their case. They may comment upon what has been said but no new evidence should be introduced. Each party will be allowed 5 minutes to sum up.
- (15) The Chairman seeks confirmation from all parties that they are satisfied that they have said all that they wished to.
- (16) 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**

- (17) 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.
- (18) 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.
- (19) 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.

\* required information

**Section 1 of 18**

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference

Not Currently In Use

This is the unique reference for this application generated by the system.

Your reference

Nene Supermarket

You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

Yes       No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

**Applicant Details**

\* First name

Mr Ayad Ali

\* Family name

Saide

\* E-mail

Main telephone number

Include country code.

Other telephone number

Indicate here if the applicant would prefer not to be contacted by telephone

Is the applicant:

- Applying as a business or organisation, including as a sole trader  
 Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means the applicant is applying so the applicant can be employed, or for some other personal reason, such as following a hobby.

Continued from previous page...

**Address**

\* Building number or name

\* Street

District

\* City or town

County or administrative area

\* Postcode

\* Country

**Agent Details**

\* First name

\* Family name

\* E-mail

Main telephone number

Other telephone number

Include country code.

Indicate here if you would prefer not to be contacted by telephone

Are you:

- An agent that is a business or organisation, including a sole trader
- A private individual acting as an agent

A sole trader is a business owned by one person without any special legal structure.

**Agent Business**

Is your business registered in the UK with Companies House?  Yes  No

Note: completing the Applicant Business section is optional in this form.

Registration number

Business name

VAT number

Legal status

Your position in the business

Home country

If your business is registered, use its registered name.

Put "none" if you are not registered for VAT.

The country where the headquarters of your business is located.

*Continued from previous page...***Agent Registered Address**

Address registered with Companies House.

Building number or name	<input type="text" value="53"/>
Street	<input type="text" value="Stoke Newington High Street"/>
District	<input type="text"/>
City or town	<input type="text" value="London"/>
County or administrative area	<input type="text"/>
Postcode	<input type="text" value="N16 8EL"/>
Country	<input type="text" value="United Kingdom"/>

**Section 2 of 18****APPLICATION DETAILS**

**This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.**

I/we, as named in section 1, being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in section 2 below.

\* Premises Licence Number

Are you able to provide a postal address, OS map reference or description of the premises?

Address     OS map reference     Description

**Postal Address Of Premises**

Building number or name	<input type="text" value="Nene Supermarket"/>
Street	<input type="text" value="12 Lynn Road"/>
District	<input type="text" value="Wisbech"/>
City or town	<input type="text" value="Cambridgeshire"/>
County or administrative area	<input type="text"/>
Postcode	<input type="text" value="PE13 3DJ"/>
Country	<input type="text" value="United Kingdom"/>

**Premises Contact Details**

Telephone number	<input type="text"/>
Non-domestic rateable value of premises (£)	<input type="text" value="13,750"/>

**Section 3 of 18****VARIATION**

Continued from previous page...

Do you want the proposed variation to have effect as soon as possible?

Yes  No

Do you want the proposed variation to have effect in relation to the introduction of the late night levy?

Yes  No

You do not have to pay a fee if the only purpose of the variation for which you are applying is to avoid becoming liable to the late night levy.

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, state the number expected to attend

**Describe Briefly The Nature Of The Proposed Variation**

Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.

- Variation of hours for sale of alcohol from: 12 noon and 9pm daily
- To: Monday to Sunday 08:00 to 00:00
- Change of Conditions 1, 9
- Remove of Condition 12

**Section 4 of 18**

**PROVISION OF PLAYS**

See guidance on regulated entertainment

Will the schedule to provide plays be subject to change if this application to vary is successful?

Yes  No

**Section 5 of 18**

**PROVISION OF FILMS**

See guidance on regulated entertainment

Will the schedule to provide films be subject to change if this application to vary is successful?

Yes  No

**Section 6 of 18**

**PROVISION OF INDOOR SPORTING EVENTS**

See guidance on regulated entertainment

*Continued from previous page...*

Will the schedule to provide indoor sporting events be subject to change if this application to vary is successful?

Yes  No

### Section 7 of 18

#### PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

See guidance on regulated entertainment

Will the schedule to provide boxing or wrestling entertainments be subject to change if this application to vary is successful?

Yes  No

### Section 8 of 18

#### PROVISION OF LIVE MUSIC

See guidance on regulated entertainment

Will the schedule to provide live music be subject to change if this application to vary is successful?

Yes  No

### Section 9 of 18

#### PROVISION OF RECORDED MUSIC

See guidance on regulated entertainment

Will the schedule to provide recorded music be subject to change if this application to vary is successful?

Yes  No

### Section 10 of 18

#### PROVISION OF PERFORMANCES OF DANCE

See guidance on regulated entertainment

Will the schedule to provide performances of dance be subject to change if this application to vary is successful?

Yes  No

### Section 11 of 18

#### PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE

See guidance on regulated entertainment

Will the schedule to provide anything similar to live music, recorded music or performances of dance be subject to change if this application to vary is successful?

Yes  No

### Section 12 of 18

#### PROVISION OF LATE NIGHT REFRESHMENT

*Continued from previous page...*

Will the schedule to provide late night refreshment be subject to change if this application to vary is successful?

Yes  No

### Section 13 of 18

#### SUPPLY OF ALCOHOL

Will the schedule to supply alcohol be subject to change if this application to vary is successful?

Yes  No

#### Standard Days And Timings

MONDAY

Start

End

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

*Continued from previous page...*

Will the sale of alcohol be for consumption?

- On the premises     
  Off the premises     
  Both

If the sale of alcohol is for consumption on the premises select on, if the sale of alcohol is for consumption away from the premises select off. If the sale of alcohol is for consumption on the premises and away from the premises select both.

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

N/A

Non-standard timings. Where the premises will be used for the supply of alcohol at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

N/A

**Section 14 of 18**

**ADULT ENTERTAINMENT**

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

Provide information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

N/A

**Section 15 of 18**

**HOURS PREMISES ARE OPEN TO THE PUBLIC**

**Standard Days And Timings**

MONDAY

Start

End

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start

End

Start

End



*Continued from previous page...*

WEDNESDAY

Start	<input type="text" value="08:00"/>	End	<input type="text" value="00:00"/>
Start	<input type="text"/>	End	<input type="text"/>

THURSDAY

Start	<input type="text" value="08:00"/>	End	<input type="text" value="00:00"/>
Start	<input type="text"/>	End	<input type="text"/>

FRIDAY

Start	<input type="text" value="08:00"/>	End	<input type="text" value="00:00"/>
Start	<input type="text"/>	End	<input type="text"/>

SATURDAY

Start	<input type="text" value="08:00"/>	End	<input type="text" value="00:00"/>
Start	<input type="text"/>	End	<input type="text"/>

SUNDAY

Start	<input type="text" value="08:00"/>	End	<input type="text" value="00:00"/>
Start	<input type="text"/>	End	<input type="text"/>

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

N/A

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

N/A

Identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

- Variation of hours for sale of alcohol  
 from: 12 noon and 9pm daily  
 To: Monday to Sunday 08:00 to 00:00  
 - Change of Conditions 1, 9  
 - Remove of Condition 12

I have enclosed the premises licence

*Continued from previous page...*

- I have enclosed the relevant part of the premises licence

Reasons why I have failed to enclose the premises licence or relevant part of premises licence.

## Section 16 of 18

### LICENSING OBJECTIVES

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

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

- Change of Conditions

- Condition No 1 from: super-strength beer, lagers, ciders of 6.0% ABV (alcohol by volume) or above shall be sold at the premises. Specialist products from craft or microbreweries or limited edition / seasonal products (e.g. Christmas gift packs). may be sold subject to Police and Local Authority discretion.

Change to: No high strength beer, lager or cider of 6,5% ABV or above shall be sold other than premium beer, lager or cider priced at £1,95 or above per 500ml. Specialist products from craft or microbreweries or limited edition / seasonal products (e.g. Christmas gift packs). may be sold subject to Police and Local Authority discretion.

- Condition No 9 from: Additional signage which can read as follows:

- No alcohol will be served to known drinkers.

Please note that this store does not stock or sell any strong beers or ciders with an ABV of more than 6%

No single bottles of beer or cider will be sold.

- No loitering.

- Change to: Additional signage which can read as follows:

- No alcohol will be served to known drinkers.

- No Loitering.

- Remove the condition No 12: There will always be a Personal Licence holder on the premises throughout the time that licensable activity is taking place to authorise any sales of alcohol.

- Change the conditions attached by the magistrate's court

2. No cans of alcohol will be sold,

change to: No single cans of alcohol will be sold

3. The maximum footage given over to the sale of alcohol will not be more than 5% of the overall footage.

Change to: The maximum footage given over to the sale of alcohol will not be more than 10% of the overall footage.

4. The alcohol licence will apply between the hours of 12 noon and 9pm daily.

Change to: The alcohol licence will apply between the hours of

Daily 08:00 to 00:00

b) The prevention of crime and disorder

*Continued from previous page...*

c) Public safety

--

d) The prevention of public nuisance

--

e) The protection of children from harm

--

**Section 17 of 18**

**NOTES ON REGULATED ENTERTAINMENT**

**Continued from previous page...**

In terms of specific **regulated entertainments** please note that:

- Plays: no licence is required for performances between 08:00 and 23.00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- Live music: no licence permission is required for:
  - o a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
  - o a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - o a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
  - o a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - o a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
  - o any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - o any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - o any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

**Continued from previous page...**

- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
  - o any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
  - o any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
  - o any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
  - o any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

**Section 18 of 18****PAYMENT DETAILS**

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

The fee will depend on the NDR (Non Domestic Rateable) value of the premises. Band A = £100 Band B = £190 Band C = £315 Band D = £450 Band E = £635

\* Fee amount (£)

190.00

**DECLARATION**

I/WE UNDERSTAND THAT IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT

Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

\* Full name

Mrs Aysen Ipek Kilic

\* Capacity

Licensing Consultant

\* Date

24 / 05 / 2019  
dd mm yyyy

Add another signatory

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...

2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/fenland/change-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

**IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.**

**OFFICE USE ONLY**

Applicant reference number	<input type="text" value="Nene Supermarket"/>
Fee paid	<input type="text"/>
Payment provider reference	<input type="text"/>
ELMS Payment Reference	<input type="text"/>
Payment status	<input type="text"/>
Payment authorisation code	<input type="text"/>
Payment authorisation date	<input type="text"/>
Date and time submitted	<input type="text"/>
Approval deadline	<input type="text"/>
Error message	<input type="text"/>
Is Digitally signed	<input type="checkbox"/>

[1](#) [2](#) [3](#) [4](#) [5](#) [6](#) [7](#) [8](#) [9](#) [10](#) [11](#) [12](#) [13](#) [14](#) [15](#) [16](#) [17](#) [18](#) Next >



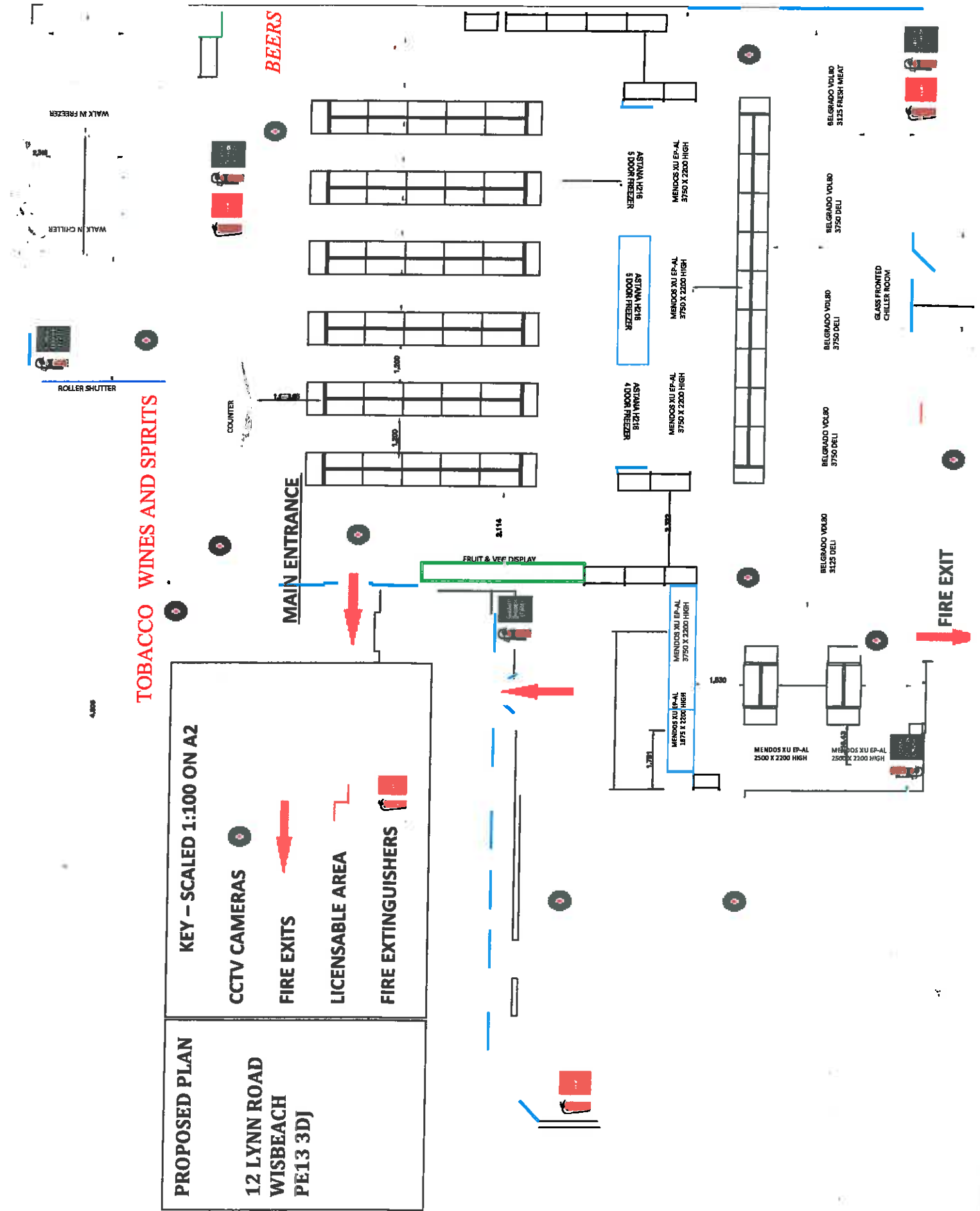
**PROPOSED PLAN**  
**12 LYNN ROAD**  
**WISBEACH**  
**PE13 3DJ**

**KEY - SCALED 1:100 ON A2**

- CCTV CAMERAS
- FIRE EXITS
- LICENSABLE AREA
- FIRE EXTINGUISHERS

**TOBACCO WINES AND SPIRITS**

**BEERS**







## Premises Licence

**THE LICENSING AUTHORITY  
 FENLAND DISTRICT COUNCIL  
 FENLAND HALL  
 COUNTY ROAD  
 MARCH  
 CAMBS PE15 8NQ**

Premises licence number:

PREM 0802

### PART 1 – PREMISES DETAILS

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

Nene Supermarket, 12 Lynn Road

**Post town:** Wisbech

**Post code:** PE13 3DJ

**Telephone number:** 07542 052438

**Where the licence is time limited, the dates:**

Not applicable

**Licensable activities authorised by the licence:**

Sale by Retail of Alcohol

**The times the licence authorises the carrying out of licensable activities:**

Sale by Retail of Alcohol

Monday to Sunday      12:00 – 21:00

**The opening hours of the premises:**

Monday to Sunday      08:00 – 21:30

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

OFF

**PART 2**

**Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence:**

Mr Ayad Ali Saide  
24b Nightingale Walk  
Denver  
Kings Lynn  
West Norfolk  
PE38 0DS

Tel: 07542 052438  
Email: karsansdik@live.com

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

N/A

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

Mr Ayad Ali Saide  
24b Nightingale Walk  
Denver  
Kings Lynn  
West Norfolk  
PE38 0DS

Tel: 07542 052438

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

WNPA010052

Borough Council of Kings Lynn & West Norfolk

**Licence valid from: 22 May 2017**

**Date of Issue: 08 June 2017**

.....Daniel Horn  
**HEAD OF HOUSING AND NEIGHBOURHOOD SERVICES**

## Annex 1 – Mandatory Conditions

### Premises Licence (Off Sales of alcohol only)

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 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.
4. A relevant person shall ensure that no alcohol is sold or supplied for consumption 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.

**Annex 2 – Conditions Consistent with the Operating Schedule**

1. No super-strength beer, lagers, ciders of 6.0% ABV (alcohol by volume) or above shall be sold at the premises. Specialist products from craft or microbreweries or limited edition / seasonal products (e.g. Christmas gift packs), may be sold subject to Police and Local Authority discretion.
2. All alcohol to be price labelled with the name of the premises for clear identification as to the place of purchase by any Responsible Authority.
3. No sales of alcohol will be made from these premises to known street drinkers.
4. The premises shall install and maintain a comprehensive CCTV system which records 24 hours a day. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.
5. All CCTV recordings shall be stored for a minimum period of 31 days, and all recordings will be stamped with the correct date and time. Viewing of recordings shall be made available, subject to Data Protection legislation, immediately upon the request of Police or an authorised council officer.
6. A CCTV camera will monitor the exterior front of the premises.
7. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a police or authorised council officer copies of recent CCTV images or data with the minimum of delay when requested.
8. Signage will be prominently displayed advising customers that they are being recorded on CCTV.
9. Additional signage which can read as follows:

No alcohol will be served to known street drinkers.  
Please note that this store does not stock or sell any strong beers or ciders with an ABV of more than 6%.  
No single bottles of beer or cider will be sold.  
No loitering.
10. A refusals book shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale, a description of the refusal and the name of the member of staff who refused the sale. Records shall be kept on the premises and maintained for a minimum of 12 months. Records will be made available for inspection at the premises by the police or an authorised officer of the council at all times.
11. Any person showing any sign of intoxication will be refused the sale of alcohol.
12. There will always be a Personal Licence holder on the premises throughout the time that licensable activity is taking place to authorise any sales of alcohol.
13. No alcoholic drinks will be purchased by the premises owners, DPS or staff from sellers calling at the premises.
14. All invoices (originals or copies) for all alcoholic goods for retail sale on the premises will be kept at the premises and made available to Police Officers, authorised County Council Trading Standards Officers and HMRC Officers upon request.
15. The installed digital CCTV system will record for 31 days all public areas of the premises which will monitor all public safety issues.
16. The DPS will be responsible for carrying out a fire and health and safety risk assessment for the licenced premises, all notices in relation to public health and safety will be displayed.

## Appendix C

17. The DPS will ensure that the premises operates in line with existing health and safety legislation and is aware that it is also the responsibility of the premises licence holder that the legislation is adhered to.
18. The DPS and the premises licence holder are responsible for ensuring that the premises do not cause any nuisance to the local residents, other business operators or the general public.
19. The DPS will monitor the external areas of the premises in relation to public nuisance and antisocial behaviour.
20. Deliveries and rubbish collection will only take place during normal business hours and are at the rear of the premises.
21. Any antisocial behaviour CCTV recordings will be made available to the police and environmental health officers.
22. A CCTV will monitor the exterior of the premises.
23. Notices will be prominently displayed at the exit requesting that customers respect the nature of the residential area and leave quietly.
24. Customers will be discouraged from congregating outside the premises.
25. A challenge 25 proof of age scheme shall operate at the premises. Signage shall be displayed advising customers that the scheme is in place.
26. All staff authorised to sell alcohol will be trained in the challenge 25 scheme and this training will be documented to include the date the training was given, the name of the person who gave the training, the person who received the training and the signatures by both trainer and trainee.
27. The DPS will ensure that all staff receives fully documented training in relation to challenge 25 and the licensing objectives.
28. All necessary signage will be displayed with regard to challenge 25 and the fact that NO ID NO SALE policy is in place.
29. Refresher training (every six months) relating to the sale of alcohol and the conditions of the premises licence.
30. The DPS and premises licence holder ensures that there are no specific promotions targeting alcohol products at young people e.g. alco-pops drinks or very cheap alcohol sales.
31. There will be an unimpeded view of the street from the service counter / till area as to prevent Proxy Sales.

**Annex 3 – Conditions Attached after a Hearing by the Licensing Authority**

Not applicable

**Annex 4 – Conditions Attached by the Magistrates Court following an appeal.**

1. All alcohol items offered for sale will have the supermarkets name and address attached with label.
2. No cans of alcohol will be sold.
3. The maximum footage given over to the sale of alcohol will not be more than 5% of the overall footage.
4. The alcohol licence will apply between the hours of 12 noon and 9pm daily.
5. The DPS will engage as an active member of the off licence scheme.







## Premises Licence Summary

THE LICENSING AUTHORITY  
FENLAND DISTRICT COUNCIL  
FENLAND HALL  
COUNTY ROAD  
MARCH  
CAMBS PE15 8NQ

Premises licence number:

PREM 0802

### PREMISES DETAILS

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

Nene Supermarket, 12 Lynn Road

<b>Post town:</b>	Wisbech	<b>Post code:</b>	PE13 3DJ
<b>Telephone number:</b>	07542 052438		

**Where the licence is time limited, the dates:**

Not applicable

**Licensable activities authorised by the licence:**

Sale by Retail of Alcohol

**The times the licence authorises the carrying out of licensable activities:**

Sale by Retail of Alcohol

Monday to Sunday

12:00 – 21:00

**The opening hours of the premises:**

Monday to Sunday      08:00 – 21:30

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

OFF

**Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence:**

Mr Ayad Ali Saide  
24b Nightingale Walk  
Denver  
Kings Lynn  
West Norfolk  
PE38 0DS

Tel: 07542 052438  
Email: karsansdik@live.com

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

N/A

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

Mr Ayad Ali Saide

**State whether access to the premises by children is restricted or prohibited:**

Not applicable

Hearing decision by Judge Edwards

Appeal by Mr Saied against decision FDC licencing authority on 14/11/2016 refusing to grant licence for sale of alcohol at Nene Supermarket at Lynn Rd Wisbech. Provided with bundle and read substantial parts of it and have been referred to important aspects of it.

Legal framework is not in dispute, not going to repeat the framework. Are four key licencing objectives, prevention of crime and disorder, protecting children, preventing public nuisance etc.

Wisbech has a cumulative impact zone and seen more than 1 map or diagram which illustrates this, not confined to the town centre. Within that area there are 31 off licence premises as well as numerous on licence premises.

Nene Supermarket is located in an area of particular concern to the local authority because there has been an established and chronic amount of street drinking in the area, PC Richards furnished the court with some eye opening statistics, disproportionate to other places in the country and indeed in the Fenland area. There have been attempts to address this without much success. There is often anti social behaviour relating to this consumption of alcohol on the streets.

Efforts are continually being made, hence the cumulative impact zone.

Each app to be considered on own merits, once CIZ policies in place that creates a rebuttable presumptions that the application will be refused unless relevant applications received, presented of course by the police and the applicant.

Today, evidence has come from PC Richardson, an experienced police officer and licencing officer. At the original hearing, the appellant put forward a number of strategies designed to rebut the presumption referred to above, a document dated 16/05/2017 signed by the appellant contained 7 measures to mitigate the impact of the licence being granted.

Mr Saied gave evidence today and explained a number of measures and showed a number of helpful photographs of both the interior and exterior of the supermarket and explained the measures for security adopted by the premises as a matter of course. Unsure at what time of day the photographs were taken, the supermarket was fully trading. The impression was of a neat and tidy store offering a comprehensive range of food items, including a counter selling fresh produced and monitors to enable the staff to keep a watchful eye over the premises. The appellant suggests that his cliental are ordinary people, doing everyday shops – the appeal does not relate to the nature of the customers, the issue is that the making of his application he can rebut the presumption that the licence would exacerbate the difficultites within the CIZ. The suggestion put forward on his behalf is that he can demonstrate and has deomonstrated at the first hearing by his additional measures that he can effectively mitigate the impact on selling alcohol within the zone. It must be simple logic to say that if you have a problem with dstreet drinkers that increasing the number of places we can buy alcohol you limit those places, however it isn't like that. It has been suggested that the two other outlets in close proximity – BP Garage, different altogether and different customer base and isn't seen to be a contributor to the problem or street drinking. The other place is more of an off licence than more of a supermarket like the appellant's shop and it might be said that they were in competition and in that respect competition to sell alcohol to those street drinkers. The appeallant comes to court to rebut the presumption by putting forward a variety of measures, the other issue before the court and is relied upon strongly by Mr Hunker on behalf of FDC is that this court whilst it can reach its own decision must

give good weight to the decision of the licencing authority and this court in considering the evidence it has heard today and all other relevant matters, unless it concludes that the authority was wrong, should not allow the appeal.

I have been assisted hugely by the skeleton argument and the submissions by both counsels. A number of issues trouble me so I turn to the issue of the degree of weight that should be placed on the views of the local authority and read with care the extract from the local authority and where parliament says that these matters are entrusted to them one should be hesitant to interfere with that local experience and give significant persuasive weight to the decision they have made. 'parliament must intend that their views carry great weight' – this is highlighted by Mr Hunker in his skeleton argument.

Hope & Glory case – 'the magistrates court should pay great attention to the reasons given by the local authority'. I've taken account to what was taken to my attention to the other case law I was referred to.

I don't just say I will give weight to the earlier decision to the licencing authority and blindly say that they are right anymore than I would blindly say they were wrong and to help me in that I looked at the decision itself.

Judge draws attention to the paragraph where the panel sets out the decision of the panel finishing with 'challenges that already exist in that locality. In conclusion the panel has unanimously decided to refuse the application'.

The decision document simply says that he hasn't achieved the objectives, it doesn't explain why the councillors concluded that. I also turn to the minutes of the hearing, there is no doubt about it, they are complicated by a wide variety of matters, both parties agree that there are irrelevant matters in there and that this court could discount such matters. Ms Lloyd Owen argued as well as the influence of those irrelevant matters being negative on the application but the guidance given to the authority offends the right to a fair trial. She powerfully argued that given the lack of reasons for the refusal, I should give very little weight to the decision. Mr Hunker states that the council had regard to all of the matters when coming to the decision, the local authority concluded properly and independently of irrelevant issues because the presumption had not been rebutted. The responsible authority in the form of the police and the experience of PC Richardson was best placed to assist them with their judgement, they concluded after substantial contemplation and after visiting the premises that the presumption hadn't been rebutted.

The councillors did not have the advantage of seeing the premises trading, I haven't seen that myself but I have at least seen a number of pictures. As it happens, PC Richards has not been to the premises either. Since then a number of measures has been mooted by the appellant as a matter of good practice of the retailer, as they would want to ensure their customers are not acting in an anti social way. Equally, the security of the premises is sustained as an advantage to him and to the advantage of his customers who will come back and shop again. This is a matter where if there was a quota and the applicant's application was outside that quota that would be the end of it, but it is not. The issues are whether any perceived future risk be sufficiently mitigated by adopting some of the measured suggested, such as labelling the items with the store of origin, not selling cans instead selling bottles, selling single items of alcohol would be discouraged due to the kind of individual that would be likely to consume that alcohol. The authority say that none of those measures could mitigate to prevent that future risk. A number of those suggestions could be seen to have a practical advantage if the perpetrators of the anti-social behaviour drift into the shop to buy a can of Stella and can't get on, they will turn elsewhere as they're not being

offered the article that best suits them. PC Richardson did also not dismiss them as being unrealistic. The proposal in this shop would be confined to 2 small areas, one behind the tills out of the reach of the customer and in a chilled cabinet not far from the till area and certainly in an area covered by CCTV – not more than 1.5% of the footage of the store and easily and readily observed by a number of trained staff at the till point who will be able to control who has access to those items of alcohol. The shop as a whole seems to be well ordered and reflect good retail practice. There's carparking at the premises, designated bays, CCTV camera etc, no problems associated with the store or the car park area or indeed the very nearby dominos or BP Garage. I don't think it's a comparable outlet to the nearby off licence or the BP Garage. I would struggle to see why a street drinker would gravitate to the store. The lack of reasons given in the authorities decision troubles me to a great extent, the minutes show concern with matters that should have been set aside and not addressed at all and I fear may have influenced the decision the councillors made. There is not a court of law where the court can put from their mind the negative and irrelevant information. I have considered the evidence before me today and it seems to me that Mr Saied has rebutted the presumption and that the licencing authority in Nov last year were wrong in rejecting his application and irrelevant matters affected their decision making in a negative way, as demonstrated therefore by the absence of reasons, it follows therefore is that the appeal succeeds.

Conditions to be included in the licence:

All alcohol items offered for sale should have supermarkets name and address attached with label.

No cans of alcohol should be offered for sale.

The maximum footage given over to sale of alcohol should be not more than 5% of the over all footage.

The alcohol licence should apply between the hours of 12 noon and 9pm daily.

The DPS to engage as an active member of the off licence scheme.

Costs:

Judge of the view that costs should follow event, do not see that the order for costs would be oppressive on the local authority.

Costs awarded to the Applicant against the Respondent Local Authority of £4100.

**Licensing Act 2003 – Representation in respect of Premises Licence**

<b>Details of person or body making representation</b>	
<b>Your name:</b>	Joseph Keegan
<b>Your address:</b>	Public Health Directorate Cambridgeshire County Council Shire Hall Castle Hill Cambridge CB3 0AP

<b>Details of premises representation is about</b>	
Name of premises:	Nene Supermarket
Address of premises:	12 Lynn Road, Wisbech, PE13 3DJ
Application no. (if known):	

<b>Please tick one or more of the licensing objectives that your representation relates to:</b>	
Prevention of crime and disorder	Yes
Public safety	Yes
Prevention of public nuisance	Yes
Protection of children from harm	Yes

<b>Please summarise your concerns about this application:</b>
<p><b>1. This representation is made on the basis that the above premises will sit within the Wisbech Cumulative Impact Zone (CIZ) 2016-2021.</b></p> <ul style="list-style-type: none"> <li>The policy states that the Cumulative Impact Policy creates ‘<i>a rebuttable presumption that applications for a new premises licence, club premises certificates or material variations to such will normally be refused if relevant representations are received.</i>’</li> <li>It states that ‘<i>the onus is on the person or organisation making representations to prove any assertion by way of evidence that the addition of the premises concerned and/or a variation to activities, hours or a change in nature of operation will undermine the promotion of the licensing objectives.</i>’</li> <li><b>The application does not produce evidence to demonstrate how the application will not add to cumulative impact and therefore does not meet the requirements of the policy. In my opinion, this does not therefore justify the licensing authority to make the requested variation.</b></li> </ul> <p>2. The role of the Director of Public Health is to help promote the health and wellbeing of the local populations they serve. Promotion of the licensing objectives, which collectively seek to protect the quality of life for those who live and work in the vicinity of licensed premises and those who socialise in licensed premises is an important contributor to this.</p> <ul style="list-style-type: none"> <li>A considerable body of research examines the relationship between alcohol outlet density (AOD) and alcohol-related harms; this shows that <b>higher levels of AOD are associated with social disorder, greater alcohol consumption, alcohol related violence, injuries, alcohol-related road traffic crashes, sexually transmitted infections, child abuse and neglect, and suicides<sup>1</sup>.</b></li> <li>The National Institute for Health and Care Excellence (NICE) recommends that reducing the number of outlets selling in a given area is an effective way of reducing alcohol-related harm<sup>2</sup>.</li> </ul>

<sup>1</sup> Public Health England, 2016. The Public Health Burden of Alcohol and the Effectiveness and Cost-Effectiveness of Alcohol Control Policies – an evidence review.

<sup>2</sup> National Institute for Health and Care Excellence, 2010. Public Health Guideline (PH24) – Alcohol-use disorders: prevention & National Institute for Health and Care Excellence 2014. Evidence update 54 – a summary of selected new evidence relevant to NICE public health guidance 24.

- This evidence supports the restriction of the number of outlets within the Wisbech Cumulative Impact Area, within which this premises is located. In this case increasing the hours of an existing outlet will service to increase the availability of alcohol within the CIZ.

**Please give further details of why you believe this application will have an adverse effect on the licensing objectives.**

Although the protection of public health is not a discrete licensing objective, it can be pertinent to each of the licensing objectives. This representation is made on the basis that this application will have an adverse effect on the following licensing objectives:

**The prevention of crime and disorder:**

- There is a high density of premises selling alcohol in the CIA there are 18 off sales premises in the CIZ. This application would further increase the availability of alcohol in an area where there is already a high density of alcohol outlets. As stated above there is a strong relationship between AOD and problems associated with social disorder which affects the health and wellbeing of the population.
- Antisocial behaviour related to street drinking in Wisbech remains a concern to the local community. The latest report on the Impact of Drugs and Alcohol in Fenland by the Fenland Community Safety Partnership (2018/19 Q3) shows that although there has been an overall decline in police-recorded anti-social behaviour incidents, the number of police recorded antisocial behaviour incidents with a street drinking key word has remained broadly stable over the last 5 years. The analysis also shows that these incidents are most common in the Wisbech wards Medworth, Clarkson and Peckover.

**Prevention of public nuisance:**

- The Cumulative Impact Policy states that *'where there is evidence that a particular area of the District is already suffering adverse effects arising from a concentration of licensed premises, and it can be demonstrated that communities are under pressure because of it, this will be taken into account in determining any further applications or material changes to licensed premises within the area identified'*.
- Street drinking remains a concern for the local community in Wisbech. This is demonstrated in the consultation review of the Wisbech PSPO during which a range of issues were raised by the public including incidents of street drinkers urinating and defecating in the street, litter due to street drinking and reports of individuals feeling intimidated by street drinkers gathering in groups.
- The impact on the community is further evidenced by the latest Fenland Community Safety survey (responses from October to December 2018). Residents were asked if they had been directly affected by antisocial behaviour/crime in the past three months. In Wisbech, the highest impact upon those surveyed was street drinking at 36%.

**Public safety:**

- Alcohol-related hospital admissions are significantly higher (worse) in Fenland than the national average (see table 1 below) which demonstrates that alcohol is affecting the health and safety of Fenland residents.
- This application would increase the AOD within the CIA which is known to be associated with a number of alcohol-related harms including alcohol-related road traffic accidents, injuries and violence.

**TABLE 1: Key Alcohol Indicators from Local Alcohol Profile, Fenland** (Source: Local Alcohol Profiles, Public Health England)

Indicator	Time Period	Fenland	England	Fenland Status
Hospital admission episodes for alcohol-related conditions (Narrow) Persons, directly age-standardised rate per 100,000	2017/18	726	632	Statistically significantly higher (worse) than England
Hospital admission episodes for alcohol-related conditions (Narrow) males, directly age-standardised rate per 100,000	2017/18	930	809	Statistically significantly higher (worse) than England
Hospital admission episodes for alcohol-related conditions (Narrow) females, directly age-standardised rate per 100,000	2017/18	539	473	Statistically significantly higher (worse) than England
Hospital admission episodes for alcohol-related conditions (broad) Persons, directly age-standardised rate per 100,000	2017/18	2515	2224	Statistically significantly higher (worse) than England

Hospital admission episodes for alcohol-related conditions (broad) males, directly age-standardised rate per 100,000	2017/18	3409	3051	Statistically significantly higher (worse) than England
Hospital admission episodes for alcohol-related conditions (broad) females, directly age-standardised rate per 100,000	2017/18	1725	1513	Statistically significantly higher (worse) than England
Hospital admission episodes for alcohol-related conditions (Narrow) under 40s, Persons, directly age-standardised rate per 100,000	2017/18	400	298	Statistically significantly higher (worse) than England
Hospital admission episodes for alcohol-related conditions (Narrow) under 40s, males, directly age-standardised rate per 100,000	2017/18	483	348	Statistically significantly higher (worse) than England
Hospital admission episodes for intentional self-poisoning by and exposure to alcohol conditions (Narrow) - Persons, directly age-standardised rate per 100,000	2017/18	63.6	46.2	Statistically significantly higher (worse) than England
Hospital admission episodes for intentional self-poisoning by and exposure to alcohol conditions (Narrow) - Males, directly age-standardised rate per 100,000	2017/18	61.8	39.5	Statistically significantly higher (worse) than England
Hospital admission episodes for alcohol-related cardiovascular disease conditions (Broad) - Persons, directly age-standardised rate per 100,000	2017/18	1364	1162	Statistically significantly higher (worse) than England
Hospital admission episodes for alcohol-related cardiovascular disease conditions (Broad) - Males, directly age-standardised rate per 100,000	2017/18	1948	1681	Statistically significantly higher (worse) than England
Hospital admission episodes for alcohol-related cardiovascular disease conditions (Broad) - Females, directly age-standardised rate per 100,000	2017/18	872	739	Statistically significantly higher (worse) than England
Hospital admission episodes for alcoholic liver disease (Broad) - Persons, directly age-standardised rate per 100,000	2017/18	150.5	120.6	Statistically significantly higher (worse) than England
Hospital admission episodes for alcoholic liver disease (Broad) - Females, directly age-standardised rate per 100,000	2017/18	105.0	76.7	Statistically significantly higher (worse) than England

#### The protection of children from harm:

- Children are more vulnerable to alcohol related harm and may be affected in a number of ways including violence, financial problems, absenteeism from school, disrupted relationships and child maltreatment.
- This application would increase the availability in an area of existing high AOD within the CIA; there is evidence that higher levels of AOD are associated with greater alcohol-related harm including those that affect children such as violence.

The applicant has not made reference that the premises sits within a CIA or demonstrated why the operation of the premises involved will not add to the cumulative impact in relation to the above licensing objectives.

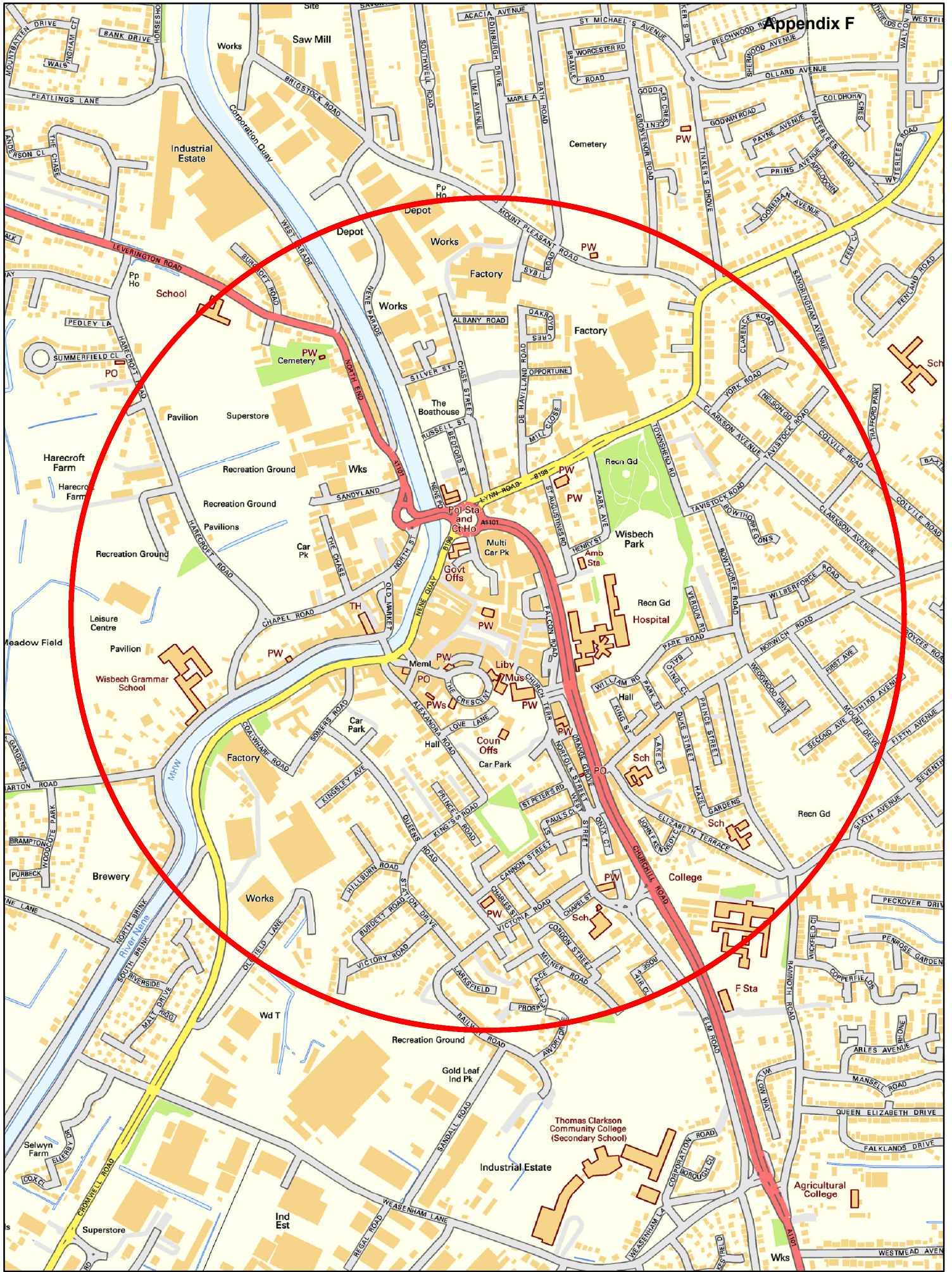
Furthermore the applicant is looking to increase alcohol sales in the CIZ by:

- Requesting that alcohol should be served when the Personal Licence Holder is not around. This was a requirement of the original licence
- Increasing the hours when alcohol can be sold from 12.00 – 21.00 and instead 08.00 in the morning until 00.00 or midnight
- Increasing the strength of beer sold from 6.0% to 6.5%
- Doubling the floor space for selling alcohol

It is argued that a combination of these changes is likely to lead to an increase in the Cumulative Impact.

For all the reasons outlined above the Director of Public Health and Public Health Team object to a variation in the hours being agreed.





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**Wisbech Cumulative Impact Zone**

Scale = 1:10,000



## Cumulative Impact Zone Special Policy 2016 – 2021

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Fenland District Council

Cumulative Impact Policy

### 1.0 Legislative Framework

1.1 Fenland District Council, as the Licensing Authority, has a duty to comply with its obligations under Section 17 of the Crime and Disorder Act 1998, and to promote the Licensing Objectives contained within the Licensing Act 2003, namely:

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

1.2 Due regard is had to Section 182 Guidance issued under Section 182 of the Licensing Act 2003, as revised in 2010 concerning the cumulative impact of licensed premises within an area, and the resultant impact on the promotion of the licensing objectives.

1.3 The cumulative impact of licensed premises on the promotion of the licensing objectives under the Licensing Act 2003 is a proper matter which the Licensing Authority can take into account.

1.4 This should not, however, be equated with the 'need' for a licensed premises. This relates to the commercial demand for a particular type of premises. The issue of 'need' is a matter for the market to decide, and does not form part of the Cumulative Impact Policy or wider Licensing Policy Statement.

### 2.0 Definition

2.1 For the purposes of the Fenland District Council Statement of Licensing Policy, cumulative impact is defined as:

'The potential impact on the promotion of the licensing objectives where there are a number of licensed premises concentrated in one area.'

2.2 Where the number, type and density of licensed premises are unusually high, serious problems of noise, nuisance and disorder can occur outside or some distance away from the licensed premises in question. This is described as the cumulative impact of all premises taken together.

2.3 It is recognised that the impact on surrounding areas in relation to the behaviour of patrons from a number of premises located in close proximity to one another is greater than the impact of individual premises.

## Cumulative Impact Zone Special Policy 2016 – 2021

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2.4 The issue of cumulative impact is also linked to:

- Any material increase in the occupant capacity of the premises;
- Any change in the nature of the operation of the premises. This may include a change to layout, the provision of vertical drinking, \* the inclusion of regulated entertainment, the addition of other licensable activities, extension to the times regulated entertainment and alcohol is sold or supplied, both on and off the premises;
- Consideration will also be given to applications for premises seeking to provide late night refreshment between the hours of 11.00pm -5.00am.

### 3.0 Context

3.1 The Licensing Authority may receive relevant representations from either a 'Responsible Authority' or an 'Interested Party,' that the cumulative impact of new premises licences, material changes and variations to existing permissions is leading to an area becoming saturated with licensed premises.

3.2 The issue of cumulative impact will be taken into account when considering the individual merits of an application. The onus is on the person or organisation making representations to prove any assertion by way of evidence, that the addition of the premises concerned and/or a variation to activities, hours or a change in nature of operation will undermine the promotion of the licensing objectives.

3.3 The Licensing Authority will not operate a quota of any kind which would pre-determine an application, nor will it seek to impose general limitations on trading hours in particular areas unless there are clear, evidence based reasons for doing so.

3.4 Regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels, theatres, and other clubs all sell alcohol, serve food and provide regulated entertainment, but with contrasting styles and characteristics.

3.5 Proper regard will be made to those differences and the impact they are likely to have on the local community. It is recognised that it may not always be possible to attribute issues to a particular premise, or patrons from a particular premises, but that cumulatively; there can be a negative effect.

### 4.0 Adoption of Cumulative Impact Policy

4.1 Consideration will be given to the infrastructure in place to facilitate the dispersal of patrons from an area, including the availability of late night bus services, taxis and street cleansing services when establishments offering food, alcohol and regulated entertainment close.

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- 4.2 A major concern for the Council is the level of alcohol related violent crime and alcohol related Anti Social Behaviour. This is particularly apparent in the town centre and its impact on policing the evening and night time economy.
- 4.3 The Council have considered:
- Evidence of serious concern, regarding the concentration of licensed premises that is undermining the promotion of the licensing objectives from a Responsible Authority, namely Cambridgeshire Constabulary.
  - Evidence from ‘Interested parties,’ to include local businesses, residents and representatives groups regarding noise, nuisance and disorder where a particular concentration of licensed premises in an area of Fenland is considered to be causing a negative impact on one or more of the licensing objectives.
- 5.0 What Does The Policy Do?
- 5.1 The effect of adopting a Cumulative Impact Policy is to create a rebuttable presumption that applications for new premises licence, club premises certificates or material variations to such will normally be refused if relevant representations are received.
- 5.2 Applicants must address the Cumulative Impact Policy and produce evidence to demonstrate how the application will:
- (a) Not add to cumulate impact, and challenges already being experienced in the area or;
  - (b) Undermine the promotion of the licensing objectives.
- 5.3 The applicant must produce evidence to rebut the presumption to refuse an application within the Cumulative Impact Policy area. This Policy takes effect where a relevant representation is received.
- 5.4 It must be stressed that the presumption to refuse an application does not relieve Responsible Authorities of ‘Interested Parties’ of the need to provide supporting evidence in conjunction with a relevant representation. This must be submitted before the Licensing Authority may lawfully consider giving effect to the Cumulative Impact Policy.
- 5.5 Where there is evidence that a particular area of the District is already suffering adverse effects arising from a concentration of licensed premises, and it can be demonstrated that communities are under pressure because of it, this will be taken into account in determining any further applications or material changes to licensed premises within the area identified. This includes:
- The character of the surrounding area;

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- The impact of the licence on the surrounding area, both individually, and cumulatively with existing licences;
- The nature and character of the proposed operation;
- The availability of other support services at key times, for example street cleansing services;
- The impact upon the policing of an area.

### 6.0 Integration of Strategies

- 6.1 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and beyond the control of the licence holder but is still a key aspect of such control and will be part of a holistic approach to the management of the day and night time economy in the District.
- 6.2 The Licensing Authority recognises that as well as licensing legislation, there are a number of other mechanisms for addressing issues of noise, nuisance and anti social behaviour which occur in the vicinity of licensed premises. These include:
- Planning controls;
  - Ongoing measures to provide a safer and cleaner environment in partnership with residents, local businesses and others;
  - Powers to designate parts of the District which restricts the consumption of alcohol in designated public places;
  - Confiscation of alcohol in designated areas;
  - Police enforcement of the law with regard to disorder and anti-social behaviour;
  - Police powers to close some premises for up to 24 hours in extreme cases of disorder or excessive noise;
  - The power of police, local businesses or residents to seek a review of the premises licence;
  - Enforcement action against those selling or supplying alcohol to people who are underage or already drunk.
- 6.3 The Licensing Authority may address a number of these issues through Community Safety Partnerships in line with the strategic objectives for crime and disorder reduction within the District.
- 6.4 The Licensing Authority and Cambridgeshire Police are aware of the problems associated with the town centre area in respect of alcohol related crime and disorder and have launched a number of initiatives to combat this including intelligence sharing about problem premises, joint licensing visits and targeted activity.
- 6.5 There is an established alcohol treatment referral scheme for those individuals who come into custody and investment in diversionary activities for young people.

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- 6.6 The Licensing Authority recognises that the Cumulative Impact Policy is one of a range of mechanisms to regulate activities of both premises and individuals, as part of a holistic approach which seeks to offer treatment to individuals and other interventions as appropriate.
- 6.7 Other measures include an established radio system to facilitate communication between licensed premises and exclude problem individuals from venues, CCTV coverage and monitoring of the centre, regular joint operations to monitor licensed premises, active use of dispersal orders.
- 7.0 Where Does The Cumulative Impact Policy Apply?
- 7.1 The Licensing Authority has applied a special Cumulative Impact Policy to an area around Wisbech Town Centre. This is identified on the map attached at Appendix A.
- 7.2 Police review of the Cumulative Impact Policy April 2016
- 7.3 Figures using the Police Recording system (CORAS) show the number of incidents within the Wisbech Town Centre Wards. This system evidences the numbers reducing significantly since a partnership approach was adopted by Public Health, Trading Standards and Cambridgeshire Constabulary in preventing further proliferation of alcohol outlets within the CIZ area. Since the formation of the alcohol partnership agencies, health and mental health services have seen an increase in demand for support, as street drinkers are directly engaged and offered help.
- 7.4 Alcohol related incidents have moved away from a Night Time Economy issue to be one that currently involves the street drinking community. Increases in litter, public urination and defecation have been reported and these have mainly been in areas evidenced to be used by street drinkers. Some of the Town's historic areas have been targeted as they are out of sight of the CCTV cameras and the general public. Sugar Tub Lane and Ghost Lane are particularly impacted with Ghost Passage having seen large quantities of human excrement having to be cleared by the public health services.
- 7.5 Officers patrolling these areas have on occasions, been attacked by street drinkers and one PCSO has had a glass bottle thrown at him by an aggressive male who did not want to be moved on. Other areas of the CIZ and also in the town centre wards, including Tillery Park, Town Park and the St Peters Church gardens all suffer from street drinkers at various times throughout the day and often well into the early hours. Seven pre-planned dispersals have been utilised within the CIZ since 31/01/2014 within the CIZ targeting alcohol and or anti-social behaviours. These powers come under Section 35 of the Anti-Social Behaviour, Crime and Policing Act 2014.
- 7.6 It is worth noting that the Constabulary uses a Secure Information Recording System called SIRCS which is operated by Empowering Communities and from January 2015 to April 2016 281 pieces of information were placed onto the system – most of this from the town centre alone relating to alcohol. This information has come from the Wisbech Pub Watch Group,

## Cumulative Impact Zone Special Policy 2016 – 2021

Police and Horsefair Security. It evidences the strong shift from night time pub related issues to street drinking becoming an increasing problem.

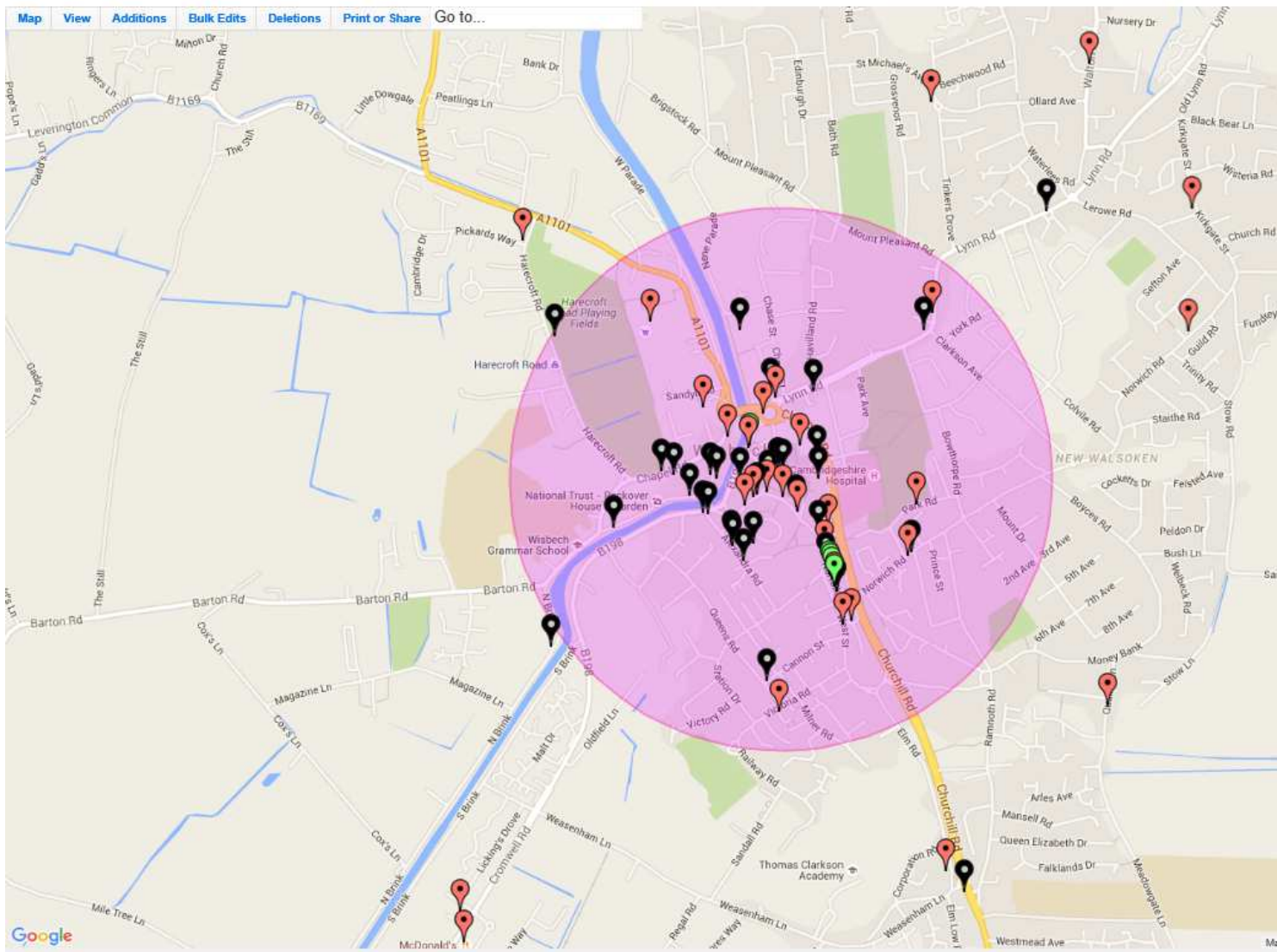
### 7.7 Offence/Incident Table

Offence/Incident	2012-2013	=+/-%	Offence/Incident	2014-2015	=+/-%
ASB	2,382 -2,159	-9.4%	ASB	1,881 -1,418	-24.8%
Alcohol Related Crime	970 -727	-25.1%	Alcohol related crime	786 – 781	-0.6%
Violence	721 – 662	-8.2%	Violence	231 – 151	-34.6%
Criminal Damage	580 – 502	-13.4%	Criminal Damage	497 - 483	-2.8%
Alc related Violence	30 - 23	-23.3%			
<b>Historic Figures used for CIZ Policy</b>					
Offence/Incident	2009	2010	2011	= + / - %	
Violent Crime	516	454	504	-2.3%	
Alcohol related Violent crime (% of total violent crime)	211 (40.9%)	188 (41.1%)	244 (48.4%)	+15.8% (+7.5%)	
Antisocial behaviour	1858	1543	1480	-20.3%	
Alcohol related ASB (% of total ASB)	508 (27.3%)	498 (32.3%)	533 (36.0%)	+4.9% (+8.7%)	
Criminal Damage	377	372	314	-16.7%	
Alcohol Related Criminal Damage (% of total criminal damage)	46 (12.2%)	58 (15.6%)	69 22.0%	+50% (+9.8)	

7.8 It is still evident that in areas of street drinking there is a high proportion of alcohol related ASB, urination and defecation, with the associated impact this has on public perception and fear of crime. The local community have made this one of their local priorities for the police to tackle and the ability to deliver on this priority has been facilitated through the benefits provided by the CIZ Policy.

7.9 As part of the CIZ review, incidents outside of the CIZ were considered and the decision has been that the current geographical limits of the CIZ area remain both appropriate and proportionate for the town at this time. Consideration was given to extending the area covered but it is believed that this would not significantly improve the current effectiveness of the CIZ area.

## Cumulative Impact Zone Special Policy 2016 – 2021



Map key:

- Red Markers – Off Sales Premises
- Black Markers – On Sales Premises
- Green Markers – Late Night Refreshment Premises (23:00hrs onwards)
- Purple circle – indicates approximate area of current CIZ area



## Cumulative Impact Zone Special Policy 2016 – 2021

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### 8.0 Conclusion

- 8.1 The conclusion drawn in respect of the evidence is that where relevant representations are submitted, the Cumulative Impact Policy should aim to limit the number of new or material variations to licensed premises. The rebuttable presumption to refuse such remains in place.
- 8.2 The Licensing Authority believes that the presence of a Cumulative Impact Policy in the designated area will support and assist the range of strategies in place to tackle alcohol related crime and disorder.
- 8.3 Accordingly, the Licensing Authority has resolved to maintain the Cumulative Impact Policy. The Policy will come into effect where relevant representations are received, will seek to prevent a further increase in the number of licensed premises and material changes to licences within that area.
- 8.4 The Licensing Authority wishes to encourage the provision of a range of entertainment in the area and to reduce the dominance of pubs, off licences, and take away premises with off licences. Any further expansion of licensed premises and the evening or night time economy should be consistent with the wider regeneration aspirations of the Council and its partners and should actively promote an inclusive town centre for all that is a safe and pleasant place to be in. This will be balanced against any likely negative impact on the licensing objectives.
- 8.5 The Licensing Authority has resolved that the Cumulative Impact Policy is one such measure to facilitate this, and ensure that the correct balance is sought.

## Cumulative Impact Zone Special Policy 2016 – 2021

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### REVISION HISTORY

<b>Version</b>	<b>Status</b>	<b>Date of Issue</b>	<b>Reason for Change</b>	<b>Sections</b>
V 01	Draft – approved Licensing Committee	15/01/2016	First Draft	All
V 02	Approved – Licensing Committee	19/04/2016	Reviewed and final edits made	All
V 03	Final – Approved Full Council	12/05/2016		All