

**REPORT OF CORPORATE DIRECTOR FOR COMMUNITIES**

**REVIEW OF PREMISES LICENCE**

<b>Premises concerned</b>	Arnold Road Off Licence 75 Arnold Road Basford Nottingham NG6 0ED  Please see attached Premises Licence
<b>Premises licence holder</b>	Mr Ashok Bharadwaj and Mrs Sushma Bharadwaj
<b>Party submitting review application</b>	Jane Bailey, for & on behalf of Nottingham City Council Trading Standards Service  Please see attached application.
<b>Date application Received:</b>	20 September 2010
<b>Last date for representations:</b>	18 October 2010  The Licensing Officer displayed public notice of this application in accordance with the Licensing Act 2003 (Premises Licence) Regulations 2005 from 21 September 2010 to 18 October 2010 inclusive.
<b>Relevant representations received</b>	None
<b>Matters which the Authority has asked the parties to clarify</b>	1. Identification of all issues (both factual legal) which are in dispute. 2. Identification of all areas of law, Guidance and Policy upon which they intend to rely.
<b>Issues</b>	Whether it is necessary and proportionate to take any one or more of the steps identified below in order to promote: (1) the prevention of crime & disorder (2) public safety (3) the prevention of public nuisance or (4) the protection of children from harm;  or whether no action is necessary to promote the licensing objectives.

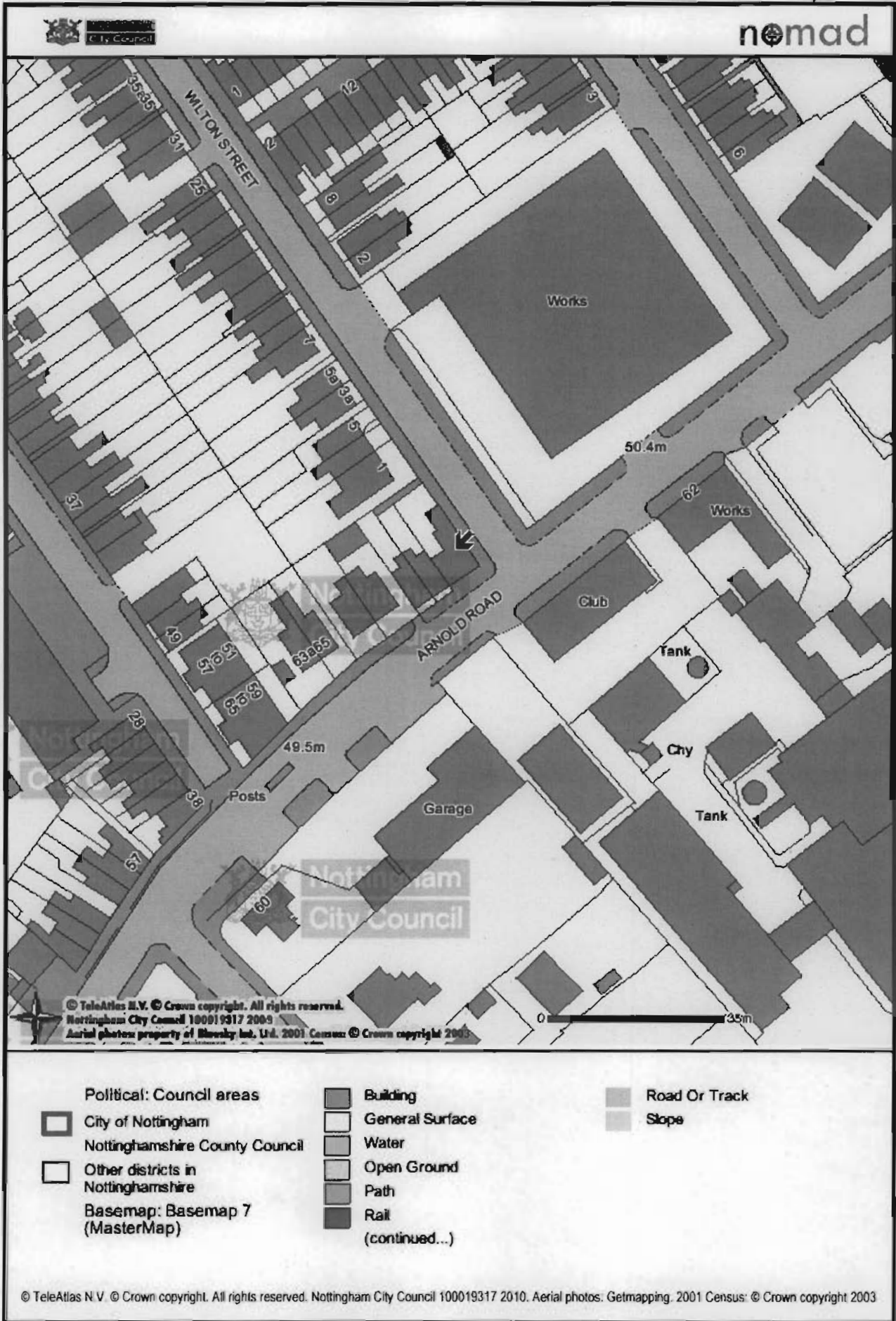
<b>Relevant Legislation</b>	S51 – 53 Licensing Act 2003
<b>Relevant Policy</b>	Paragraphs 9.26 to 9.28 of the Statement of Licensing Policy
<b>Relevant Guidance</b>	Paragraphs 1-27, Chapter 11 of the guidance issued under section 182 of the Licensing Act 2003.
<b>Steps which the Licensing Authority may take</b>	<ol style="list-style-type: none"> <li>1. To modify the conditions of the licence permanently or for a temporary period of up to 3 months; and/or</li> <li>2. To exclude a licensable activity from the scope of the licence permanently or for a temporary period of up to 3 months; and/or</li> <li>3. To remove the designated premises supervisor; and/or</li> <li>4. To suspend the whole premises licence for a period not exceeding 3 months; or</li> <li>5. To revoke the licence.</li> </ol>
<b>Published documents referred to in compiling this report</b>	<p>Licensing Act 2003</p> <p>Guidance issued under Section 182 of the Licensing Act 2003.</p> <p>Statement of Licensing Policy issued by Nottingham City Council.</p>

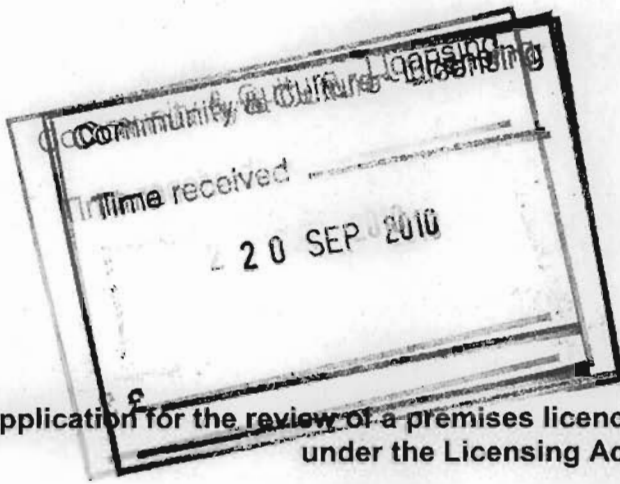
**Andrew Errington**  
**Director of Community Protection**  
**Central Police Station, North Church Street, Nottingham NG1 4BH**

**Contact Officer:** Melanie Bird, Assistant Licensing Officer 0115 9156254

28 October 2010

ARNOLD ROAD OFF LICENCE, 75 ARNOLD ROAD, NOTTM





**Nottingham  
City Council**

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

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

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

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

- I, **Jane Bailey**, for and on behalf of **Nottingham City Council Trading Standards Service**, apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below
- .....

**Part 1 – Premises details**

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

Arnold Road Off Licence  
75 Arnold Road  
Basford  
Nottingham  
NG6 0ED

**Post town** Nottingham

**Post code (if known)** NG6 0ED

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

Mrs Sushma Bharadwaj and  
Mr Ashok Bharadwaj

**Number of premises licence**

036425

**Part 2 - Applicant details**

I am

**Please tick yes**

- 1) an interested party (please complete (A) or (B) below)
  - a) a person living in the vicinity of the premises
  - b) a body representing persons living in the vicinity of the premises
  - c) a person involved in business in the vicinity of the premises
  - d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

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

**Please tick**

Mr  Mrs  Miss  Ms  Other title (for example, Rev)

**Surname**

**First names**

**Please tick yes**

I am 18 years old or over

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

**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address (optional)**

**(B) DETAILS OF OTHER APPLICANT**

Name and address
Telephone number (if any)
E-mail address (optional)

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address  Nottingham City Council Trading Standards Service Lawrence House, Talbot Street, Nottingham, NG1 5NT
Telephone number (if any) 0115 9156161
E-mail address (optional) jane.bailey@nottinghamcity.gov.uk

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

Please tick one or more boxes

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

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

The premises trades as an off-licence. At all material times the Designated Premises Supervisor was Mr Ashok Bharadwaj, and the Premises Licence Holders were Mr Ashok Bharadwaj and Mrs Sushma Bharadwaj.

**2. Public Safety**

A test purchase volunteer aged 14 years and 1 month old was sold alcohol by a person working at Arnold Road Off Licence.

Sales of alcohol to children under the age of 18 can cause concerns of public safety. This could cause intoxicated underaged children to be generally engaging in unsafe behaviour putting themselves, and others at risk. An example of unsafe behaviour due to underage children drinking alcohol could be they could walk into the path of a moving vehicle putting themselves and the motorist at risk. The incorrect disposal of glass alcohol bottles could pose further risks to public safety.

**3. The Prevention of Public Nuisance**

It is alleged that the sale of alcohol to underage children could also cause a public nuisance due to empty cans/bottles being left in the surrounding area as well as possible noise nuisance made by intoxicated underage children. Public urination is also a nuisance.

#### 4. The Protection of Children from Harm

The sale of alcohol to children can expose them to a risk to their health and wellbeing, either from the direct effects of consuming alcohol, or either by making them more likely to be the victims, or perpetrators, of violent or sexual crimes.

Mr Ashok Bharadwaj, the Premises Licence Holder and Designated Premises Supervisor of Arnold Road Off Licence, is responsible for breaching a mandatory condition of the premises licence, namely S146 (1) of the Licensing Act 2003, in that he sold alcohol to a person under 18 years of age. This sale was witnessed by a member of Trading Standards and gave rise to two prosecution reports where Mr and Mrs Bharadwaj are separate defendants.

#### Summary

By reason of the matters aforesaid, it is felt that it would be a necessary and proportionate response of the Nottingham City Council Trading Standards Service to make an application for review of the premises licence.

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

On the 26th January 2010, two officers from Trading Standards, and one Police Officer carried out a test purchase exercise with a volunteer aged 14 years and 1 month. Around 6.00pm the volunteer purchased alcohol (WKD Original Vodka Iron Brew) from Arnold Road Off Licence. The sale was witnessed by Elizabeth Hanson, Enforcement Assistant for the Service. After the sale, Ian Tucker (Enforcement Officer for Trading Standards) and PC Chappell Mason returned to the premises and spoke to the seller of the alcohol. The seller, Anil Prakash, was informed of the sale and informed Ian Tucker and PC Chappell that he was a member of staff. Further business details were provided by Mr Prakash and he also provided a refusals book that had 5 tobacco refusals entered over period of 11 months, with the last one being entered 3 months before the sale. There were no entries for alcohol refusals produced on the day of the sale, but after the interview with Mrs Sushma Bharadwaj a further refusals record was produced by her which contained alcohol refusals. This second document appeared to be a photocopy of the 1st refusals book that was seen on the day of the sale. It is our view that these documents are an essential part of systems designed to prevent sales of alcohol to under age persons. Of the five test purchases carried out in total that day, the other four premises all refused to sell alcohol to the same test purchase volunteer.

The shop operates a 25 Policy, but Mrs Sushma Bharadwaj said that the seller didn't use the policy at that time as he told her that he thought the young test purchase volunteer looked over 18 years old. A 25 Policy is designed to prevent sales in this circumstance. During the interview with Mrs Sushma Bharadwaj she stated that she authorised her members of staff to sell alcohol, but the DPS at that time, Mr Ashok Bharadwaj, had no knowledge of who worked there. This means that unauthorised sales were made from the premises unless all sales were made by Mrs Sushma Bharadwaj (or specifically authorised by her).

In 2008, a different premises that both Mr and Mrs Bharadwaj were Joint Premises Licence Holders for, had a licence review. The panel at that time revoked the licence due to the evidence that was brought to them by Nottinghamshire Constabulary. This review involved underage children being sold alcohol from ASB News, 21B Mansfield Road with resulting incidents from sales of alcohol including several hospitalisations and a sexual attack. All these incidents involved people under the age of 18 years that had obtained alcohol from ASB News. During the review process, on the basis on which the evidence was submitted, the Panel was satisfied that factually the premises had sold alcohol to persons under the age of 18 on various occasions including:-

25th March 2006

16th April 2007

15th September 2007

1st March 2008

3rd March 2008

4 separate occasions within a 2 hour period on 5th April 2008



9 May 2008

Further information relating to the history of the Premises Licence Holders, in relation to the previous Licence Review, can be found within Decision No. 169 - 2008 (a copy of which has been submitted with this Licence Review Application).

On checking our records, we received a complaint in summer 2007 about sales being made to minors from Arnold Road Off Licence. The premises was informed of the complaint.

During the interview process with Mrs Sushma Bharadwaj in March 2010, prior to the tape recording, she stated that Trading Standards were being sexist as we were only interviewing her because she was a woman in business. She did not make this allegation during the recording of the interview.

During the tape recorded interview under caution, on the 15th March 2010 with Mrs Sushma Bharadwaj, she stated that her husband, Mr Ashok Bharadwaj, had nothing to do with Arnold Road Off Licence and he has never been there. She also stated that she manages the business on her own. At the time of the sale Mr Ashok Bharadwaj was the Designated Premises Supervisor (DPS) of Arnold Road Off-Licence (and this is detailed on the Premises Licence, and copy of which is submitted with this Premises Licence Review). Also during Mr Ashok Bharadwaj's interview under caution, on the 21<sup>st</sup> June 2010, he confirmed that he had never been inside the premises and does not know the name of the members of staff that work there. The role of a DPS has been viewed as the person who has day to day responsibility for the running of the premises. Any premises where alcohol is supplied under a premises licence should have a DPS. During the investigation it was also discovered that they own another licensed premises next door to ASB News. Deva Restaurant, at 19 Mansfield Road, also had both Mr and Mrs Bharadwaj as joint Premises Licence Holders.

During both interviews with the Premises Licence Holders it was stated that Mr Bharadwaj did not know any members of staff that work at Arnold Road Off Licence - 75 Arnold Road, Basford. However, in 2009 a Anil Prakash had made representations in support against a new premises licence application next door to the Bharadwaj's other business, Deva Restaurant on Mansfield Road. Also, the Licence Review in 2008 had supportive signatures from customers of ASB News, and one of these names was Anil Prakash with his address given as 19 Mansfield Road (Deva Restaurant).

Mrs Sushma Bharadwaj was offered a place on the Alcohol Retailers Training Sessions in September 2010, which are free. However, she did not attend and did not call Trading Standards to explain why or to rebook.

Mr and Mrs Bharadwaj have been reported for consideration of prosecution for the sale of alcohol on 26<sup>th</sup> January 2010 as mentioned above and which gives rise for this application for review.

[Empty rectangular box for text input]

**Please tick yes**

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

If yes please state the date of that application

Day Month Year

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

No previous representations made.

**Please tick yes**

- I have sent copies of this form and enclosures to the responsible

authorities and the premises licence holder or club holding the club premises certificate, as appropriate

- I understand that if I do not comply with the above requirements my application will be rejected ✓

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

**Part 3 – Signatures** (please read guidance note 3)

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

Signature

*John Bailey*

Date 20<sup>th</sup> September 2010

Capacity Trading Standards Manager  
For and on behalf of Nottingham City Council

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

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

**Notes for Guidance**

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

# Licensing Act 2003

# City Development

Lawrence House  
Talbot Street  
Nottingham  
NG1 5NT  
Tel: 0115 915 5555  
Fax: 0115 915 6145

## Premises Licence

**Premises licence number**

036425

**Part 1 – Premises details****Postal address of premises, or if none, ordnance survey map reference or description**

Arnold Road Off Licence  
75 Arnold Road  
Basford

**Post town**

Nottingham

**Post code**

NG6 0ED

**Telephone number****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****Alcohol Sales**

Monday	from 08.00 hrs to 23.00 hrs
Tuesday	from 08.00 hrs to 23.00 hrs
Wednesday	from 08.00 hrs to 23.00 hrs
Thursday	from 08.00 hrs to 23.00 hrs
Friday	from 08.00 hrs to 23.00 hrs
Saturday	from 08.00 hrs to 23.00 hrs
Sunday	from 10.00 hrs to 22.30 hrs
Good Friday	from 08.00 hrs to 22.30 hrs
Christmas Day	from 12.00 hrs to 15.00 hrs and 19.00 hrs to 22.30 hrs

**The opening hours of the premises**

At the licensee's discretion, but licensable activities are only to be provided as outlined above.

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

Alcohol-Off the premises

**Part 2**

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

Sushma Bharadwaj, Arnold Road Off Licence, 75 Arnold Road, Basford, Nottingham, NG6 0ED

Ashok Bharadwaj, Arnold Road Off Licence, 75 Arnold Road, Basford, Nottingham, NG6 0ED

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

Not applicable

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

Ashok Bharadwaj, Arnold Road Off Licence, 75 Arnold Road, Basford, Nottingham NG6 0ED

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

Nottingham City Council – 034915

**Signed:** .....  
**Licensing Officer**

**Dated: 30 September 2005**

## **Annex 1 - Mandatory conditions**

### **S19 Licensing Act 2003**

1. No supply of alcohol may be made under this licence
  - a. At a time when there is no designated premises supervisor in respect of it or,
  - b. At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended
2. Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.

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

### **Embedded Restrictions**

#### **Section 60, 63, 86 Licensing Act 1964 – Off Licence Permitted Hours**

Alcohol shall not be sold or supplied except during permitted hours.

In this condition, permitted hours means:

- a. On weekdays, other than Christmas Day, 8 a.m. to 11 p.m.
- b. On Sundays, other than Christmas Day, 10 a.m. to 10.30 p.m.
- c. On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.
- d. On Good Friday, 8 a.m. to 10.30 p.m.

The above restrictions do not prohibit:

- (a) the taking of the alcohol from the premises, (unless the alcohol is supplied or taken in an open vessel,) during the first twenty minutes after the above hours;
- (b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (c) the sale of alcohol to a trader or club for the purposes of the trade or club;
- (d) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces.

#### **Section 164 Licensing Act 1964**

Alcohol shall not be sold in an open container or be consumed in, the licensed premises.

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

Not applicable

## **Annex 4 – Plans**

Drawing submitted with the application dated 1 August 2005.

Dated 30 September 2005.