

Licensing (Licensing and Gambling) Sub-Committee

Wednesday, 27th March, 2024
at 10.00 am

PLEASE NOTE TIME OF MEETING

Virtual Meeting

This meeting is open to the public

Members

Three Members drawn from the Licensing Committee

Contacts

Democratic Support Officer
Emily Goodwin

Email: Emily.Goodwin@southampton.gov.uk

Executive Director Place

Adam Wilkinson

Email: Adam.Wilkinson@southampton.gov.uk

PUBLIC INFORMATION

The Members of the Licensing Committee are Councillors M Bunday, Beaurain, Mrs Blatchford, Kenny, Letts, Moulton, Noon, Powell-Vaughan, Whitbread and Windle.

Role of the Sub-Committee

The Sub-Committee deals with licences for which the Council is responsible under the Licensing Act 2003 and Gambling Act 2005, including:-

- Determination of applications for review of premises licences and club premises certificates;
- Determination of representations to applications for premises licences and club premises certificates, variations and various permits;
- Determination of police objections to applications for:
 - Variation of designated premises supervisors
 - Transfer of premises licences
 - Personal licences for the sale of alcohol
- Determination of objections to temporary event notices.

Relevant Representations

Those who have made relevant representations may address the meeting about the matter in which they have an interest. New matters, not raised within a written representation, can not be relied upon at the hearing.

When dealing with Licensing Act matters the Sub-Committee must only take into account the following statutory Licensing Objectives:-

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

Likewise, when dealing with Gambling Act matters the Sub Committee must only take into account the statutory Licensing Objectives below:-

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way, and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

Southampton: Corporate Plan 2022-2030 sets out the four key goals:

- Strong Foundations for Life.- For people to access and maximise opportunities to truly thrive, Southampton will focus on ensuring residents of all ages and backgrounds have strong foundations for life
- A proud and resilient city - Southampton's greatest assets are our people. Enriched lives lead to thriving communities, which in turn create places where people want to live, work and study
- A prosperous city - Southampton will focus on growing our local economy and bringing investment into our city.
- A successful, sustainable organisation - The successful delivery of the outcomes in this plan will be rooted in the culture of our organisation and becoming an effective and efficient council.

Fire Procedure:- In the event of a fire or other emergency a continuous alarm will sound, and you will be advised by Council officers what action to take.

Access:- Access is available for disabled people. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

Smoking policy:- The Council operates a no-smoking policy in all civic buildings.

Mobile Telephones:- Please switch your mobile telephones to silent whilst in the meeting

Use of Social Media:- The Council supports the video or audio recording of meetings open to the public, for either live or subsequent broadcast. However, if, in the Chair's opinion, a person filming or recording a meeting or taking photographs is interrupting proceedings or causing a disturbance, under the Council's Standing Orders the person can be ordered to stop their activity, or to leave the meeting. By entering the meeting room, you are consenting to being recorded and to the use of those images and recordings for broadcasting and or/training purposes. The meeting may be recorded by the press or members of the public. Any person or organisation filming, recording or broadcasting any meeting of the Council is responsible for any claims or other liability resulting from them doing so. Details of the Council's Guidance on the recording of meetings is available on the Council's website.

Dates of Potential Meetings for the Municipal Year
Meetings are scheduled on a weekly basis usually at 4pm on a Wednesday evening.

CONDUCT OF MEETING

Terms of Reference

The terms of reference are contained in the Council's Constitution.

Business to be discussed

Only those items listed on the attached agenda may be considered at this meeting.

Rules of Procedure

The meeting is governed by the Licensing Act 2003 (Hearings) Regulations 2005 and the Council Procedure Rules as set out in Part 4 of the Constitution, so far as it is applicable.

Quorum 3

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

DISCLOSURE OF INTERESTS

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Pecuniary Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

DISCLOSABLE PECUNIARY INTERESTS

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

(i) Any employment, office, trade, profession or vocation carried on for profit or gain.

(ii) Sponsorship:

Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

(iii) Any contract which is made between you / your spouse etc (or a body in which you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.

(iv) Any beneficial interest in land which is within the area of Southampton.

(v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.

(vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council, and the tenant is a body in which you / your spouse etc has a beneficial interests.

(vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:

- a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or
- b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

Other Interests

A Member must regard himself or herself as having an 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

Principles of Decision Making

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision-making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

AGENDA

1 **ELECTION OF CHAIR**

To appoint a Chair for the purposes of this meeting.

2 **DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS**

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

3 **STATEMENT FROM THE CHAIR**

4 **EXCLUSION OF THE PRESS AND PUBLIC - LEGAL ADVICE**

At a predetermined point during the consideration of all items the Sub-Committee may move into private session in order to receive legal advice when determining issues. The parties to the hearing, press and public, unless otherwise excluded by the Licensing Act 2003 (Hearings) Regulations 2005, will be invited to return immediately following that private session at which time the matter will be determined and the decision of the Sub-Committee will be announced.

5 **APPLICATION FOR A NEW PREMISES LICENCE - 5 HAO, 4 HANOVER BUILDINGS, SOUTHAMPTON SO14 1JW** (Pages 1 - 20)

Application for a new premises licence - 5 Hao, 4 Hanover Buildings, Southampton SO14 1JW

Tuesday, 19 March 2024

Executive Director Communities, Culture & Homes

This page is intentionally left blank

Agenda Item 5

DECISION-MAKER LICENSING (LICENSING & GAMBLING) SUB COMMITTEE

SUBJECT HEARING TO CONSIDER AN APPLICATION FOR GRANT OF A PREMISES LICENCE – 5 Hao 4 Hanover Buildings
Southampton SO14 1JW

DATE OF HEARING 27th March 2024 10.00 am

REPORT OF SERVICE DIRECTOR – PLACE

E-mail licensing@southampton.gov.uk

Application Date : 2nd February 2024 Application Received 2nd February 2024

Application Valid : 2nd February 2024 Reference : **2024/00664/01SPRN**



© Crown copyright and database rights 2014 Ordnance Survey 100019679

Representations from Responsible Authorities

Responsible Authority	Satisfactory?
Safeguarding Children	No Response
Fire Service	Satisfactory
Environmental Health - Licensing	No Response
Home Office	No Response

Public Health Manager	No Response	
Planning & Sustainability - Development Control - Licensing	Satisfactory	
Police - Licensing	Satisfactory	
Trading Standards	Unsatisfactory	
Other Representations		
Name	Address	Contributor Type

Legal Implications

The legislation specifically restricts the grounds on which the sub-committee may refuse an application for grant of a premises licence, or impose conditions. The legislation provides for a presumption of grant of an application for a premises licence, subject to the determination of the application with a view to promoting the licensing objectives in the overall interests of the local community. In doing so the sub-committee must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- its own statement of licensing policy
- the Statutory Guidance

An application may be refused in part and thereby only permit some of the licensable activities sought.

An applicant for grant of a premises licence whose application has been refused, or who is aggrieved by conditions imposed, may appeal against the decision to the Magistrates' Court. Any other person, who made a valid representation, may appeal to the Magistrates' Court against the decision to grant the application or against any conditions imposed.

In considering this application the sub-committee is obliged to consider the application in accordance, in particular, with both the Licensing Act 2003(Hearings) Regulations 2005 (as amended) and the rules of natural justice

The practical effect of this is that the sub-committee must make its decision based on evidence submitted in accordance with the legislation and give adequate reasons for reaching its decision.

Only persons that made relevant representations or their representative, within the time limits, will be allowed to present evidence and this will be restricted to the points raised in their written representation. Any evidence used to expand upon specific points already raised in a written representation should be served upon all parties in good time before the hearing date in order to allow proper consideration. A failure to properly serve any such additional evidence in advance is likely to mean it cannot be produced or relied upon at the hearing.

The sub-committee must also have regard to:

- *The Crime and Disorder Act 1998*
Section 17 of the Crime and Disorder Act 1998 places the sub-committee under a duty

to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

- *The Human Rights Act 1998*

The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the sub-committee to act in a way that is incompatible (or fail to act in a way that is compatible) with the rights protected by the Act. Any action undertaken by the sub-committee that could have an effect upon another person's Human Rights must be taken having regard to the principle of proportionality - the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the sub-committee which affect another's rights must be no more onerous than is necessary in a democratic society. The matters set out in this report must be considered in light of the above obligations.

Copies of the application for grant of a premises licence and the representations to it are annexed to this report.

Equality Act 2010

Section 149 of the Equality Act 2010 requires the Council to have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act. It also requires the Council to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and persons who do not share it. This means having due regard to the need to removing or minimising disadvantages suffered, taking steps to meet the needs of persons, encouraging persons to participate in public life, tackling prejudice and promoting understanding. The relevant protected characteristics are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

SUMMARY

This application is for a small Asian Food supermarket.

Applicant	5 Hao Ltd.
Designated Premises Supervisor	Ye Wang

Licensable Activities.

Supply by retail of alcohol		
Monday	08:00	- 23:00
Tuesday	08:00	- 23:00
Wednesday	08:00	- 23:00
Thursday	08:00	- 23:00
Friday	08:00	- 23:00
Saturday	08:00	- 23:00
Sunday	08:00	- 23:00

This application has received only one representation from Trading Standards.

Included in Report

Application

Plan

Trading Standards Representation

Hearing Procedure

From: Licensing <Licensing@southampton.gov.uk>

Sent: 02 Feb 2024 09:31:17

To: IdoxDMSLicensing@southampton.gov.uk

Cc:

Subject: FW: Application for a premises licence to be granted under the Licensing Act 2003 - TXS698F6

Attachments: DPS COSENT FORM SIGNED.jpg, No 5 Chinese Supermarket Layout Plan.pdf

From: Southampton City Council <noreply@southampton.gov.uk>

Sent: Friday, February 2, 2024 1:42 AM

To: Licensing <Licensing@southampton.gov.uk>; licensing@hampshire.police.uk; Environmental Health <Environmental.Health@southampton.gov.uk>; Food Safety <Food.Safety@southampton.gov.uk>; CsProtection Admin <csprotection.admin@hantsfire.gov.uk>; Trading Standards <Trading.Standards@southampton.gov.uk>; Planning <planning@southampton.gov.uk>; Safeguarding Children Licensing <SafeguardingChildren.Licensing@southampton.gov.uk>; Public Health <Publichealth@southampton.gov.uk>; alcohol@homeoffice.gov.uk

Subject: Application for a premises licence to be granted under the Licensing Act 2003 - TXS698F6

Southampton and Eastleigh Licensing Partnership

Licensing authority: Southampton City

Copy to
Hampshire Constabulary
Hampshire and Isle of Wight Fire and Rescue Service
Environmental Health
Trading Standards
Planning
Safeguarding Children
Public Health
Home Office

Case reference number: TXS698F6

Payment reference: 430352692

Payment amount: £190.00

Premises address: 4 Hanover Buildings, Southampton, SO14 1JW

This email has been automatically generated so please do not reply to this message.

Application for a premises licence to be granted under the Licensing Act 2003

Application reference:	TXS698F6
-------------------------------	----------



Before you begin

I confirm that I have read and understood	True
--	------

About the premises

Premises address or location	4 Hanover Buildings, Southampton, SO14 1JW
UPRN	100062501210
Local Authority:	Southampton
Which band/rateable value best describes your premises?	Band B: £4301 - £33000
Non-domestic rateable value of premises (£)	17250
<u>Applicant type</u>	
Applying as	A limited company/limited liability partnership
Additional option	I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities
<u>Details of applicant 1</u>	
Name	5 Hao Limited
Address	5 Hanover Buildings, Southampton, SO14 1JW
Registered number (where applicable)	11546313
Description of applicant	Private limited Company
Email address	████████████████████
Phone number	██████████
<u>Operating schedule</u>	
When do you want the licence to start?	02/03/2024
Details of the premises	The premises is a retail outlet specialising in Asian foods, drinks and other products.
Are 5,000 or more people expected to attend the premises at any one time	No
What licensable activities do you intend to carry out from the premises?	Supply of alcohol
<u>Licensable activities</u>	

Licensable activity: Supply of alcohol

Activity	Supply of alcohol
Will the supply of alcohol be for consumption on or off the premises?	Off the premises
Monday	08:00-23:00
Tuesday	08:00-23:00
Wednesday	08:00-23:00
Thursday	08:00-23:00
Friday	08:00-23:00
Saturday	08:00-23:00
Sunday	08:00-23:00
Please state any seasonal variations, where the activity will occur on additional days during certain months	None
Please state when intend to use the premises outside of the times listed above	None
<u>About the proposed designated premises supervisor</u>	
Full name	Ye Wang
Date of birth	
Address	
Personal licence number (if known)	15/04449/LAPERS
Issuing licensing authority (if known)	Portsmouth City Council
<u>Adult entertainment</u>	
Any adult entertainment or services, activities, other	None

entertainment or matters additional to the use of the premises that may give rise to concern in respect to children

Public opening hours

Monday 08:00-23:00

Tuesday 08:00-23:00

Wednesday 08:00-23:00

Thursday 08:00-23:00

Friday 08:00-23:00

Saturday 08:00-23:00

Sunday 08:00-23:00

Seasonal variations None

Where you intend the premises to be open to the public at different times to those listed above, please list these None

Licensing objectives

1. The prevention of crime and disorder

A suitable and sufficient CCTV system with recording facilities will be in place at site and will operate at all times the premise is open for licensable activities. Images will be retained for a period of no less than 31 days. Access to the equipment and recordings will be provided to the Police or other relevant officers of a responsible authority within 24 hours of the request being made.

Staff will be trained with regard to their responsibilities in the retail sale of alcohol and regular refresher training will also be undertaken (minimum of every 12 months). Written training records can be made available for inspection upon reasonable request by the Police or other relevant officers of a responsible authority.

A refusals log will be operated and maintained and will be produced to a relevant officer of the Police or other relevant officers of a responsible authority upon reasonable request. The log will be checked, signed and dated on a regular basis.

An incident log will be operated and maintained and will be produced to a relevant officer of the Police or other relevant officers of a responsible authority upon reasonable request. The log will be checked, signed and dated on a regular basis.

	<p>A Challenge 25 policy will be operated at the premise. Acceptable forms of identification are a passport, photo-card driving licence and PASS accredited identification card.</p> <p>Spirits (with the exception of spirit mixers and premixed spirit drinks) will be located behind the counter.</p>
<p>2. Public safety</p>	<p>A suitable and sufficient CCTV system with recording facilities will be in place at site and will operate at all times the premise is open for licensable activities. Images will be retained for a period of no less than 31 days. Access to the equipment and recordings will be provided to the Police or other relevant officers of a responsible authority within 24 hours of the request being made.</p> <p>Staff will be trained with regard to their responsibilities in the retail sale of alcohol and regular refresher training will also be undertaken (minimum of every 12 months). Written training records can be made available for inspection upon reasonable request by the Police or other relevant officers of a responsible authority.</p> <p>A refusals log will be operated and maintained and will be produced to a relevant officer of the Police or other relevant officers of a responsible authority upon reasonable request. The log will be checked, signed and dated on a regular basis.</p> <p>An incident log will be operated and maintained and will be produced to a relevant officer of the Police or other relevant officers of a responsible authority upon reasonable request. The log will be checked, signed and dated on a regular basis.</p> <p>A Challenge 25 policy will be operated at the premise. Acceptable forms of identification are a passport, photo-card driving licence and PASS accredited identification card.</p> <p>Spirits (with the exception of spirit mixers and premixed spirit drinks) will be located behind the counter.</p>
<p>3. The prevention of public nuisance</p>	<p>A suitable and sufficient CCTV system with recording facilities will be in place at site and will operate at all times the premise is open for licensable activities. Images will be retained for a period of no less than 31 days. Access to the equipment and recordings will be provided to the Police or other relevant officers of a responsible authority within 24 hours of the request being made.</p> <p>Staff will be trained with regard to their responsibilities in the retail sale of alcohol and regular refresher training will also be undertaken (minimum of every 12 months). Written training records can be made available for inspection upon reasonable request by the Police or other relevant officers of a responsible authority.</p> <p>A refusals log will be operated and maintained and will be produced to a relevant officer of the Police or other relevant officers of a responsible authority upon reasonable request. The log will be checked, signed and dated on a regular basis.</p> <p>An incident log will be operated and maintained and will be produced to a relevant officer of the Police or other relevant officers of a responsible authority upon reasonable request. The log will be checked, signed and dated on a regular basis.</p> <p>A Challenge 25 policy will be operated at the premise. Acceptable forms of identification are a passport, photo-card driving licence and PASS accredited identification card.</p>

	<p>Spirits (with the exception of spirit mixers and premixed spirit drinks) will be located behind the counter.</p>
<p>4. The protection of children from harm</p>	<p>A suitable and sufficient CCTV system with recording facilities will be in place at site and will operate at all times the premise is open for licensable activities. Images will be retained for a period of no less than 31 days. Access to the equipment and recordings will be provided to the Police or other relevant officers of a responsible authority within 24 hours of the request being made.</p> <p>Staff will be trained with regard to their responsibilities in the retail sale of alcohol and regular refresher training will also be undertaken (minimum of every 12 months). Written training records can be made available for inspection upon reasonable request by the Police or other relevant officers of a responsible authority.</p> <p>A refusals log will be operated and maintained and will be produced to a relevant officer of the Police or other relevant officers of a responsible authority upon reasonable request. The log will be checked, signed and dated on a regular basis.</p> <p>An incident log will be operated and maintained and will be produced to a relevant officer of the Police or other relevant officers of a responsible authority upon reasonable request. The log will be checked, signed and dated on a regular basis.</p> <p>A Challenge 25 policy will be operated at the premise. Acceptable forms of identification are a passport, photo-card driving licence and PASS accredited identification card.</p> <p>Spirits (with the exception of spirit mixers and premixed spirit drinks) will be located behind the counter.</p>
<p>General steps taken to achieve all four objectives</p>	<p>A suitable and sufficient CCTV system with recording facilities will be in place at site and will operate at all times the premise is open for licensable activities. Images will be retained for a period of no less than 31 days. Access to the equipment and recordings will be provided to the Police or other relevant officers of a responsible authority within 24 hours of the request being made.</p> <p>Staff will be trained with regard to their responsibilities in the retail sale of alcohol and regular refresher training will also be undertaken (minimum of every 12 months). Written training records can be made available for inspection upon reasonable request by the Police or other relevant officers of a responsible authority.</p> <p>A refusals log will be operated and maintained and will be produced to a relevant officer of the Police or other relevant officers of a responsible authority upon reasonable request. The log will be checked, signed and dated on a regular basis.</p> <p>An incident log will be operated and maintained and will be produced to a relevant officer of the Police or other relevant officers of a responsible authority upon reasonable request. The log will be checked, signed and dated on a regular basis.</p> <p>A Challenge 25 policy will be operated at the premise. Acceptable forms of identification are a passport, photo-card driving licence and PASS accredited identification card.</p> <p style="text-align: center;">Page 10</p> <p>Spirits (with the exception of spirit mixers and premixed spirit drinks) will be located behind the counter.</p>

Supporting documents

Total file uploads

Checklist

Please check which of the following you have completed

Uploaded plan of the premises, Understood that a copy of this application will be sent to the relevant authorities, Understood I must advertise my application, Uploaded consent form completed by the individual I wish to be designated premises supervisor, Understood that if I do not comply with the above requirements my application will be rejected

Contact details

Contact name

Paolo Zaffino

Address

LOCKETT HOUSE 13 CHURCH STREET, KIDDERMINSTER, DY10 2AH

Contact email

[REDACTED]

Contact phone number

[REDACTED]

Fee exemption

Believes exempt to fees under legislation

No

Declaration

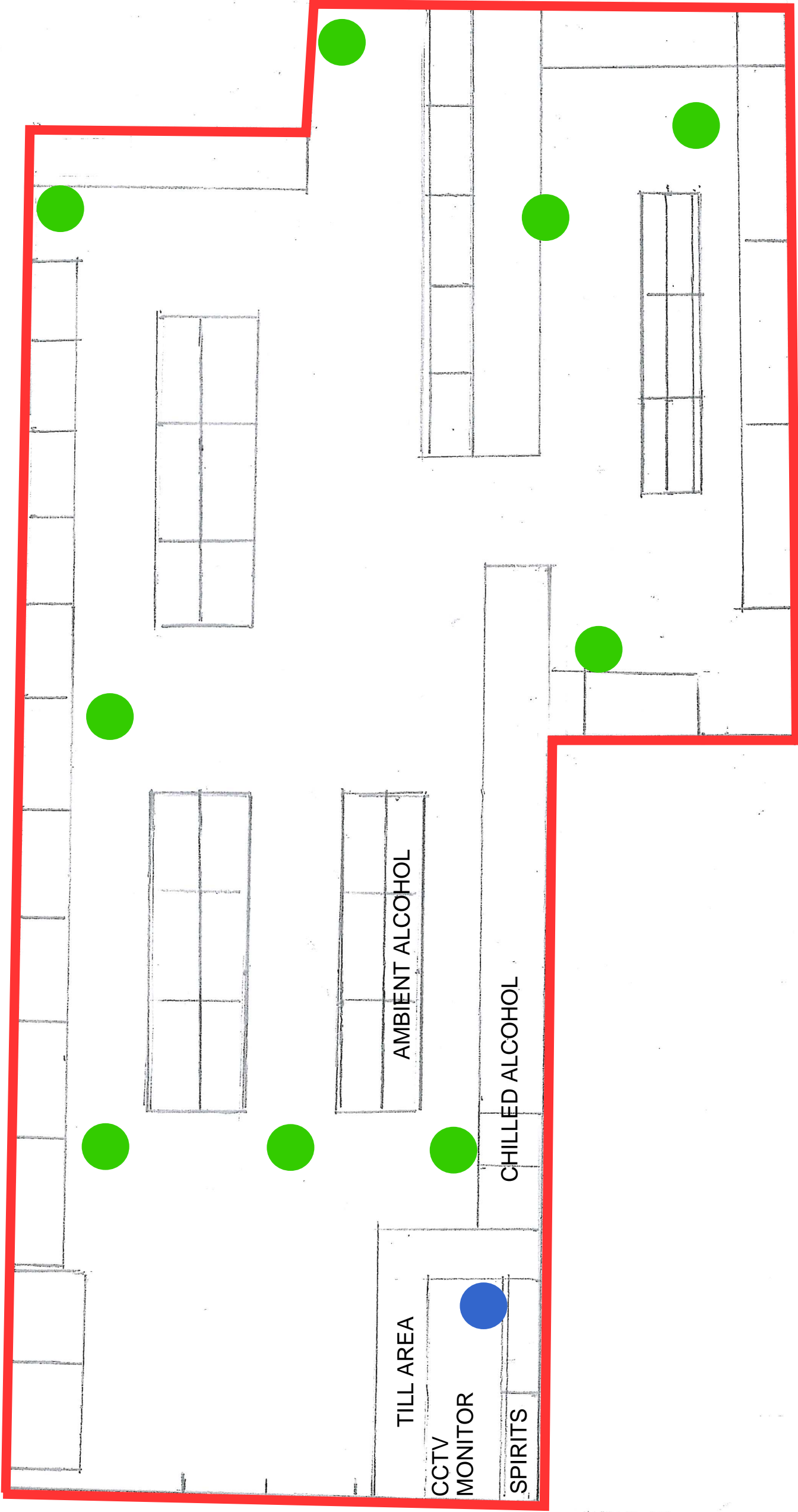
I hereby agree to abide by the statements set out above

True

The designated premises supervisor (DPS) named in this application is entitled to work in the UK (and is not subject to condition preventing them from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, or have conducted an online right to work checking service which

Yes

confirmed their right to work	
Are you signing on behalf of the applicant(s)	Yes
Name of person signing/notifier	Paolo Zaffino p.p. Lockett and Co
Capacity you are signing on behalf	Duly authorised agents



ENTRANCE
& EXIT

Key:		Area licensed for sale of alcohol for consumption off the premises
		Fire Extinguisher
		CCTV

Trading Standards Service

Southampton City Council
Civic Centre
Southampton SO14 7LY

Direct dial: [REDACTED]

Fax: [REDACTED]

Email: [REDACTED]

Please ask for: Lucas Marshall

Our ref:

Your ref:

26th February 2024

Licensing
Southampton City Council
Civic Centre
Southampton
SO14 7LY

Dear Sir/Madam

Licensing Act 2003

5 HAO Ltd, 5 Hanover Buildings, Southampton, SO14 1JW

I write with reference to 5 HAO Ltd's application for a premises licence at 5 HAO, 5 Hanover Buildings, Southampton, SO14 1JW, a copy of which was received by Southampton City Council's Trading Standards Service on 2nd February 2024. I wish to notify you that Trading Standards make representation to object to the granting of a Premises Licence to 5 HAO Ltd, and outline the reasons for the objection below.

5 HAO is a retailer of oriental foods. The Director of the company is Wenjie Miao. In January 2024 Southampton City Council's Trading Standards Service received intel alleging that illegal cigarettes were being sold at 5 HAO.

On 29th January 2024 I conducted an inspection at 5 HAO, during which I found under the shop counter 247 packs of cigarettes which were not labelled in accordance with the Tobacco & Related Products Regulations 2016, in that health warnings were not present or as prescribed, and they were not in standardised packaging, as prescribed by the Standardised Packaging of Tobacco Products Regulations 2015. It is alleged that offences for possession for sale of the cigarettes are committed under regulation 48 and Regulation 15, respectively, and I seized the cigarettes. The cigarettes would not have been duty paid. I also seized 34 bottles of alcoholic spirits from under the counter which were not labelled as UK Duty Paid.

During the inspection Qi Chanqi, who identified himself as manager, said that the cigarettes and alcohol were for his own personal use. He said that 5 HAO had a personal Licence but it was being varied since extending into the premises next door. Mr Miao also claimed that they were for his own use when I phoned him to arrange an interview. I found it unlikely that the cigarettes and alcohol were for his own use, given the quantity present, the variety of brands, and that a shop is such an inappropriate place to keep illegal stock, unless your intent is to sell them from that shop, as alleged in the complaint that prompted this visit.

On 1st February 2024, having spoken to Senior Licensing Officer Ian McGuinness and confirming that the premises was not Licensed, I visited 5 HAO with him. No cigarettes were found on this occasion. There was alcohol in the storeroom, namely 1 bottle of UK duty paid spirit, 2 bottles of sake, 21 bottles of Tiger and Tsingtao beer. Mr Chanqi asked me whether it was ok to sell this alcohol for cooking, because people cook duck in it, which prompted me to ask him if he was selling it for cooking, which would not be permitted without a Licence. Initially he would not give a clear answer, but eventually said that he was not selling the alcohol for cooking.

It is an offence under Section 144(1) of the Licensing Act 2003 to keep on a licensed premises goods which have been imported without payment of duty. Guidance issued under section 182 of the Licensing Act 2003 goes on to state that;

“11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises.....for the sale or storage of smuggled tobacco and alcohol.”

“11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.”

Contrary to what Mr Chanqi stated at the time that the illegal cigarettes and alcohol were found 5 HAO Ltd did not have a premises licence, though I understand from their solicitor David Lee, that they had been intending to apply since December 2023. When a premises makes an application for a Premises Licence I would expect them to be at their best, exercising diligence to promote compliance with the legislation which applies to them. I would certainly not expect a significant quantity of illegal goods to be kept at the premises, as it shows little intent to meet the Licensing Objective, to Prevent Crime & Disorder.

On 7th February I interviewed Wenjie Miao under Caution regarding the alleged offences. To summarise he claimed that the cigarettes and alcohol were for his personal use. He denied selling them but admitted to supplying to his friends. The only place that he stored the alcohol and cigarettes was under the counter in the shop, which he regards as his own personal and private area, and he kept the cigarettes at the shop rather than home because his children don't know that he smokes. He said that the cigarettes were obtained from trips abroad. For information it would have taken 25 trips abroad to bring back the permitted quantity of duty free cigarettes for personal use, which would equate to the quantity found at 5 HAO.

Given the quantity, variety and location of the cigarettes, and alcohol, I think it likely that they were intended for sale from 5 HAO. However if they were just for Qi's, Mr Miao's and his friends personal use he could have chosen to keep compliant, UK duty paid product, rather than alcohol and cigarettes which could not legally be kept at a Licensed Premises.

Had 5 HAO Ltd had a Premises Licence at the time that the illegal cigarettes and alcohol were kept at the premises the Premises Licence Holder and DPS would have committed an offence under Section 144 of the Licensing Act 2003, and, as such, would have failed to meet the Licensing Objective, to Prevent Crime & Disorder. According to the Guidance under Section 182 of the Licensing Act 2003 it is expected that a Review of that Licence would have been made and that revocation of the Licence should seriously be considered. For the above reasons Trading Standards therefore consider it appropriate to object to this application.

Yours faithfully

Lucas Marshall
Trading Standards Officer

Cc. Hampshire Constabulary, Licensing, Southampton Central
5 HAO Ltd, 5 Hanover Buildings, Southampton

Procedure – Applications etc. under the Licensing Act 2003 or Gambling Act 2005

1. A hearing will be held to decide applications, etc., under the Licensing Act 2003, where there have been relevant representations from one or more of the responsible authorities or other persons. The parties to the hearing will have the chance to be heard. They are also entitled to be helped or represented by another person if due written notice is given in advance.
2. Hearings will take place before a Sub-Committee comprising three members of the Licensing Committee. One of these members will be elected Chair of the Sub-Committee for that hearing.
3. Please note that for day time hearings the Sub-Committee will normally adjourn for lunch at 1:00 p.m. and that comfort breaks will be taken at the discretion of the Chair at appropriate points during the meeting.

Preliminary matters

4. The Chair will introduce those present.
5. The Chair will check whether any of the Sub-Committee members has a “disclosable pecuniary”, “personal” or “pecuniary” interest.
6. The Chair will check whether all the parties are present at the hearing, and if any are not, whether they have told the Council that they do not wish to attend or be represented. If any party who was expected to attend has not done so, the Sub-Committee will decide whether to hold the hearing in that party’s absence, or to adjourn it to another date. Hearings will be adjourned if the Sub-Committee considers this necessary in the public interest, if that is possible. If the Sub-Committee decides to hold the hearing in a party’s absence, they will still consider any written information received.
7. In the case of an application for variation or a new licence, the Sub-Committee’s legal advisor will ask the applicant or their advisor for confirmation that the required public notices have been displayed where they can conveniently be read from the exterior of the premises and that notice was given in a local newspaper within eleven working days of the day on which the application was received by the licensing authority.
8. Normally, hearings will be open to the public. However, the Sub-Committee may exclude the public from the hearing (or part of it) if they think the public interest in doing so outweighs the public interest in having the hearing in public. If the public are excluded, any of the parties to the hearing, and/or anyone helping or representing them, may also be excluded.
9. The Chair will propose a motion that the public and the press be excluded from the hearing while the Sub-Committee considers the matter. Ordinarily the legal advisor and democratic support officer will remain (see paragraph 30 (b) below).
10. The Openness of Local Government Bodies Regulations 2014 provide an entitlement for the public to film, photograph and audibly record (“record”) public meetings. However, by virtue of Schedule 6, paragraph 58 of the Licensing Act 2003 and section 101 (15) of the Local Government Act 1972, Licensing Act 2003 hearings are not covered by the entitlement to film as of right. The Council’s general approach is to encourage openness and transparency in all its dealings and the general presumption is that filming or recording of hearings shall generally be permitted where due notice has been provided in advance of the hearing. Nonetheless the following shall apply:

- i) Filming / recording / photographing hearings shall only be permitted with the express permission of the Chair. Such permission may include restrictions to protect children, vulnerable persons or others that object to being filmed / photographed / recorded.
 - ii) Requests to film / record / photograph should be made with sufficient notice in advance of the hearing. Late requests may not be granted if there shall be a delay to proceedings as a result.
 - iii) Every party to the hearing and any witnesses shall have the opportunity to object and those representations shall be considered by the Sub-Committee.
 - iv) No filming, photography or sound recording shall be permitted of any person under 18 years of age.
 - v) No person shall be put under any pressure to consent to such and no payment for such consent shall be given.
 - vi) The Chair shall have the final say as to whether any filming, photography or recording is allowed (including the extent to which permission is granted e.g. the parts of the meeting, the individuals concerned or the arrangement of the recording equipment).
 - vii) All directions given by the Chair shall be fully complied with and the Chair shall have the absolute discretion to withdraw permission to film, photograph or record in the event the same causes an obstruction or interferes with the general conduct of the hearing, including the impeding of the giving of proper evidence.
11. A party may have asked for someone else to appear at the hearing to make a point or points that may help the Sub-Committee reach a decision. It is up to the Sub-Committee to decide whether that person should be heard, although permission will not be refused unreasonably. Such a person is referred to as a “witness” in this procedure.
12. Where application has been made, in advance of the hearing, that it should be conducted in private (e.g. by the Police in review or summary review proceedings) reports shall be prepared and presented as confidential so that the Committee can make a meaningful determination in accordance with Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005 to exclude the press and public. It is important to note that reports presenting Licensing Act 2003 matters are not required to be published in advance. However, certain limited information must be published in accordance with the Licensing Act 2003 (Licensing Authority’s Register) (Other Information) Regulations 2005 and section 8 of the Licensing Act 2003.
13. The Chair will then explain the procedure that will follow.

General information on the conduct of the hearing

14. Each party is entitled to:
- (a) Give further information in response to any point that the Council told them before the hearing they would like clarified;
 - (b) With the permission of the Chair, seek clarification on any point by any other party;
 - (c) Address the Sub-Committee.
15. Members of the Sub-Committee may also seek clarification of any party or witness.
16. At the Chair’s discretion, the Sub-Committee’s legal advisor may ask any questions he or she thinks are relevant.

17. Unless the Council has requested in advance that a particular point be clarified, new documentary or other evidence may not be submitted for the first time at the hearing, unless all the other parties agree.
18. Members of the Sub-Committee will have read all the papers included in the agenda for the hearing before the hearing starts. The parties are requested not to spend unnecessary time repeating evidence which is already in the papers and which is not disputed.
19. Evidence that is not relevant to the case, or to the promotion of the four licensing objectives, will be disregarded.

Hearing Procedure

20. If any party has asked permission for a witness or witnesses to appear, the Sub-Committee will decide whether they should be heard (see paragraph 10 above).
21. All parties will be allowed a similar (and maximum) amount of time to put their case, and ask questions of other parties, subject to the Chair's discretion to not hear repetitive matters or questions.

The applicant

22. The applicant for the licence (or their representative) or the applicant in review proceedings, may present their case.
23. If the Sub-Committee permits, the applicant may call those witnesses whose names have been provided in advance to support their application.
24. Where a group of witnesses wish to speak in support of the application for similar reasons, one person should, where possible, act as spokesperson for the whole group. The Sub-Committee may reasonably refuse permission for a witness to be heard if their evidence simply repeats points already made.
25. The Chair will invite those making representations to seek clarification on any point made by the applicant. The Chair will decide in which order those making representations will be invited to put their questions.
26. Members of the Sub-Committee or the Legal Advisor, if so permitted by the Chair, may also seek clarification of the applicant or any of their witnesses.

The representations

27. Where there is more than one person making a representation, the Chair will decide the order in which they may put their case. If there is a representation from one or more of the responsible authorities, their representatives will normally be invited to put their case first.
28. The following procedure will apply to each person making a representation in turn:-
 - (a) The person making a representation (or their representative) may present their case.
 - (b) If the Sub-Committee permits, the person making a representation may call those witnesses whose names have been provided in advance to support their objection.
 - (c) Where a group of witnesses wish to speak in support of the objection for similar reasons, where possible, one person should act as spokesperson for the whole group. The Sub-Committee may reasonably refuse permission for a witness to be heard if their evidence simply repeats points already made.

- (d) The Chair will invite the applicant to seek clarification on any points made by those making representations.
- (e) Members of the Sub-Committee or the Legal Advisor, if so permitted by the Chair, may seek clarification of those making representations or any witnesses.

Summing up

29. The Chair will invite each person making a representation to make a final statement or sum up their case.

30. The Chair will invite the applicant to make a final statement or sum up their case.

Sub-Committee's decision

31.

- (a) At the end of the hearing the Sub-Committee will move to private session whilst it considers the matter.
- (b) The Sub-Committee's legal advisor will remain to provide legal advice and the democratic services officer will remain to record the decision. Details of any legal advice will be recorded and referenced in the decision and reasons.
- (c) The parties will be invited to wait to be informed of the outcome.
- (d) As soon as the decision is reached, the public and press will be invited to return to the room in which the hearing took place, and the Chair will announce the decision and the reasons for it.
- (e) If a room is available, the Committee may retire to deliberate and make its decision
- (f) All parties will be formally notified in writing of the decision and reasons as soon as possible.

In most cases the Sub-Committee will announce the decision at the conclusion of the hearing. In certain cases where this is not possible due to time constraints (and the Hearings Regulations permit – Regulation 26 (1) sets out those hearings where delay is not possible) the decision shall be made within 5 working days beginning with the day of the hearing or the last day of the hearing.

This page is intentionally left blank