

**NORTHAMPTON BOROUGH COUNCIL**

**Licensing Committee**

Your attendance is requested at a meeting to be held at The Jeffrey Room, St. Giles Square, Northampton, NN1 1DE. on Tuesday, 21 January 2014 at 6:00 pm.

**D Kennedy  
Chief Executive**

**AGENDA**

1. APOLOGIES
2. MINUTES
3. DEPUTATIONS / PUBLIC ADDRESSES
4. DECLARATIONS OF INTEREST
5. MATTERS OF URGENCY WHICH BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR IS OF THE OPINION SHOULD BE CONSIDERED
6. STREET TRADING CONSENT
7. FULL REVIEW OF MO MO, 79-81 ABINGTON STREET, NORTHAMPTON
8. EXCLUSION OF PUBLIC AND PRESS

The Chair to Move:

“that the public and press be excluded from the remainder of the meeting on the grounds that there is likely to be disclosure to them of such categories of exempt information as defined by section 100(1) of the Local Government Act 1972 as listed against such items of business by reference to the appropriate paragraph of Schedule 12a to such act.”

## NORTHAMPTON BOROUGH COUNCIL

### LICENSING COMMITTEE

Tuesday, 10 December 2013

**PRESENT:** Councillor Malpas (Chair); Councillor Hill (Deputy Chair); Councillors Conroy, Eales, Ford, Hibbert, Mennell, Sargeant, Stone and Wire DL

**APOLOGIES:** Councillor Duncan

#### 1. APOLOGIES

Apologies were received from Councillor Duncan.

#### 2. MINUTES

The minutes of the meeting held on 5 November 2013 were agreed and signed by the Chair, with the amendment of the word "offers" to "officers" in the first bullet point of minute 13.

#### 3. DEPUTATIONS / PUBLIC ADDRESSES

None.

#### 4. DECLARATIONS OF INTEREST

None.

#### 5. MATTERS OF URGENCY WHICH BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR IS OF THE OPINION SHOULD BE CONSIDERED

The Chair stated that he and Councillor Hibbert had recently attended a Member training day at the Institute of licensing annual conference in Birmingham and that this Council was following best practice in connection with licensing hearings. The Chair stated that the only exception to this was that the Committee's determinations did not always contain sufficient evidence as to how the decision was reached and relied on the minutes of the meeting for that information. He considered it was important that the determination should contain all the information on how the decision had been reached as magistrates, in an appeal situation, did not always look at the minutes in relation to a determination.

The Chair stated that he had congratulated the officers on being consistent with best practice.

#### 6. FIXED ODDS BETTING TERMINALS

The Senior Licensing Officer presented a report on issues relating to Fixed Odds Betting Terminals (FOBTs). He stated that a number of local authorities were lobbying the Government regarding concerns about FOBTs and suggested that if they were successful the Council should follow a similar route.

Members' expressed concerns about the prevalence of FOBTs and the dangers for vulnerable people. A question was asked if a byelaw relating to the machines could be imposed in the Borough. The Senior Licensing Officer stated that any byelaw would need to be signed off by the Home Office and they had not done so in the past when the Council had wanted to introduce Hackney Carriage byelaws. He suggested that it would be preferable to monitor the progress made by other local authorities, particularly Liverpool and Lambeth, in lobbying the Government.

Members expressed the view that they would wish to see the Council being more proactive,

especially as there was a duty of care to residents, and to lobby the Government. The Senior Licensing officer stated that both Lambeth and Liverpool have had complaints made to them in respect of FOBTs, and Liverpool had a serious problem with the machines. No complaints had been made to this Council and action would have been recommended to the Committee if any had been received.

It was noted that fourteen local authorities in London wanted to use the Sustainable Communities Act 2007 to control the spread and activities of betting shops, where many FOBTs were placed. Members asked the officers to look further into this and other legislation and to report back to the Committee in April 2014.

**RESOLVED:**

That the officers look into the effect of FOBTs in the Borough and report back to the Committee in April 2014 on this issue, including legislation available to control the use of Fixed Odds Betting Terminals.

**7. STREET TRADING CONSENT**

The Senior Licensing Officer presented a report seeking to relocate a Street trading Consent Site from its current position to the preferred option site in an attempt to confirm a safer location for the trader to operate. Photographs of the current site and proposed new site were circulated at the meeting.

The Senior Licensing Officer stated that the site could be adopted if the Council wished to do so.

Any objections to the proposal to designate the street trading consent site would be reported to the next meeting of the Committee for consideration.

**RESOLVED:**

That notice be published in a local newspaper of the intention that with effect from 1 February 2014 the existing Street Trading Consent Site in Gowerton Road, Brackmills, Northampton be withdrawn in favour of a new site nominated by the Senior Licensing Officer in agreement with Mr Chris Barker, Brackmills Industrial Estate Security Manager and the street trader, Mr Podolczak.

**8. EXCLUSION OF PUBLIC AND PRESS**

The Chair moved that the Public and Press be excluded from the remainder of the meeting on the grounds that there was likely to be disclosure to them of such categories of exempt information as defined by Section 100(1) of the Local Government Act 1972 as listed against such items of business by reference to the appropriate paragraph of Schedule 12A to such Act.

The Motion was Carried.

**9. REVIEW OF HACKNEY DRIVER'S LICENCE**

The Senior Licensing Officer stated that the title of the report in the agenda was incorrect and that the Committee were being asked to review a Private Hire Driver's Licence, and not a Hackney Driver's Licence.

The Committee heard evidence and a witness was called.

**RESOLVED:**

That the Private Hire Driver's Licence not be re-issued.

The meeting concluded at 7:46 pm

Appendix:  
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**NORTHAMPTON**  
BOROUGH COUNCIL

## LICENSING COMMITTEE REPORT

<b>Report Title</b>	<b>Street Trading Consent.</b>
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**AGENDA STATUS: PUBLIC**

<b>Committee Meeting Date:</b>	21 January 2014
<b>Policy Document:</b>	Street Trading
<b>Directorate:</b>	Customers and Communities

### 1. Purpose

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1.1 This report updates the Committee on the consultation regarding the proposed relocation of the existing street trading consent site on Gowerton Road, Brackmills, Northampton.

### 2. Recommendations

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1.1. That the recommended consent site be adopted from 1<sup>st</sup> March 2014, and the current location be withdrawn.

(i) the existing street trading consent site in Gowerton Road, Brackmills, Northampton is withdrawn in favour of the new site nominated by the Senior Licensing Officer in agreement with Mr Chris Barker, Brackmills Industrial Estate Security Manager and the street trader Mr Podolczak.

The original recommendation suggested a commencement date of 1<sup>st</sup> February 2014 this will be delayed by a month to comply with the statutory regulations.

### 3. Issues and Choices

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#### 3.1 Report Background

3.1.1 At its meeting of 10 December 2013, the Licensing Committee agreed to consult on the withdrawal of the existing Street Trading Consent Site in Gowerton Road Brackmills in favour of a new suggested location shown on the map as at Appendix A.

- 3.1.2 The statutory advertisement was placed in the local press and on the council website setting out the proposed new location.
- 3.1.3 Consultations have taken place between the Police, Highways and the Brackmills site manager Mr Barker who has notified businesses in the area.
- 3.1.4 There have been no objections and those consulted have recognised the advantages of the suggested new location.
- 3.1.5 Street trading consents are regulated under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (LGMPA) and authorise the selling, or offering for sale, of any article in a street. The term 'street' includes any road, footway or other area to which the public has access without payment.

This includes all hot and cold food vendors, for example:

All vendors of burgers, kebabs, doughnuts, ice cream, etc.

It also includes:

All vendors of non-food products who trade on static pitches from any vehicle, stall, barrow, trailer, or any other moveable construction.

- 3.1.6 The granting of street trading consent is a matter within the general discretion of the local authority.
- 3.1.7 All streets within Northampton Borough are prohibited streets, with specified pitches granted a street trading consent. There are currently 24 street trading pitches within the Borough.

## **3.2 Issues**

There are no known issues with regard to this change of location.

## **3.3 Choices (Options)**

- 3.3.1 To implement the recommendation.
- 3.3.2 To reject the recommendation.

## **4. Implications (including financial implications)**

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### **4.1 Policy**

- 4.1.1 There would be no change to the existing street trading policy regarding the prohibited streets and consent locations.

### **4.2 Resources and Risk**

- 4.2.1 Resources would not be affected and there are no known risks.

### **4.3 Legal**

- 4.3.1 The designation of streets / roads as consented streets is lawful within the meaning of the LGMPA Schedule 4 Section 2 (1) (c).
- 4.3.1 The proposed resolution is unopposed and hence the committee has discretion to adopt the said consent street as advertised.
- 4.3.2 The Council shall publish notice that they have passed such a resolution in two consecutive weeks in a local newspaper circulating in their area
- 4.3.3 The first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of the designation

### **4.4 Equality**

- 4.4.1 There are no equality issues to be addressed; any issues relating to public safety have been addressed during the consultation period.

### **4.5 Consultees (Internal and External)**

- 4.5.1 The Police. Highways Department (Northamptonshire County Council). Environmental Health. Mr Barker (Brackmills Manager) and Mr Podolczak.

### **4.6 Other Implications**

- 4.6.1 N/A

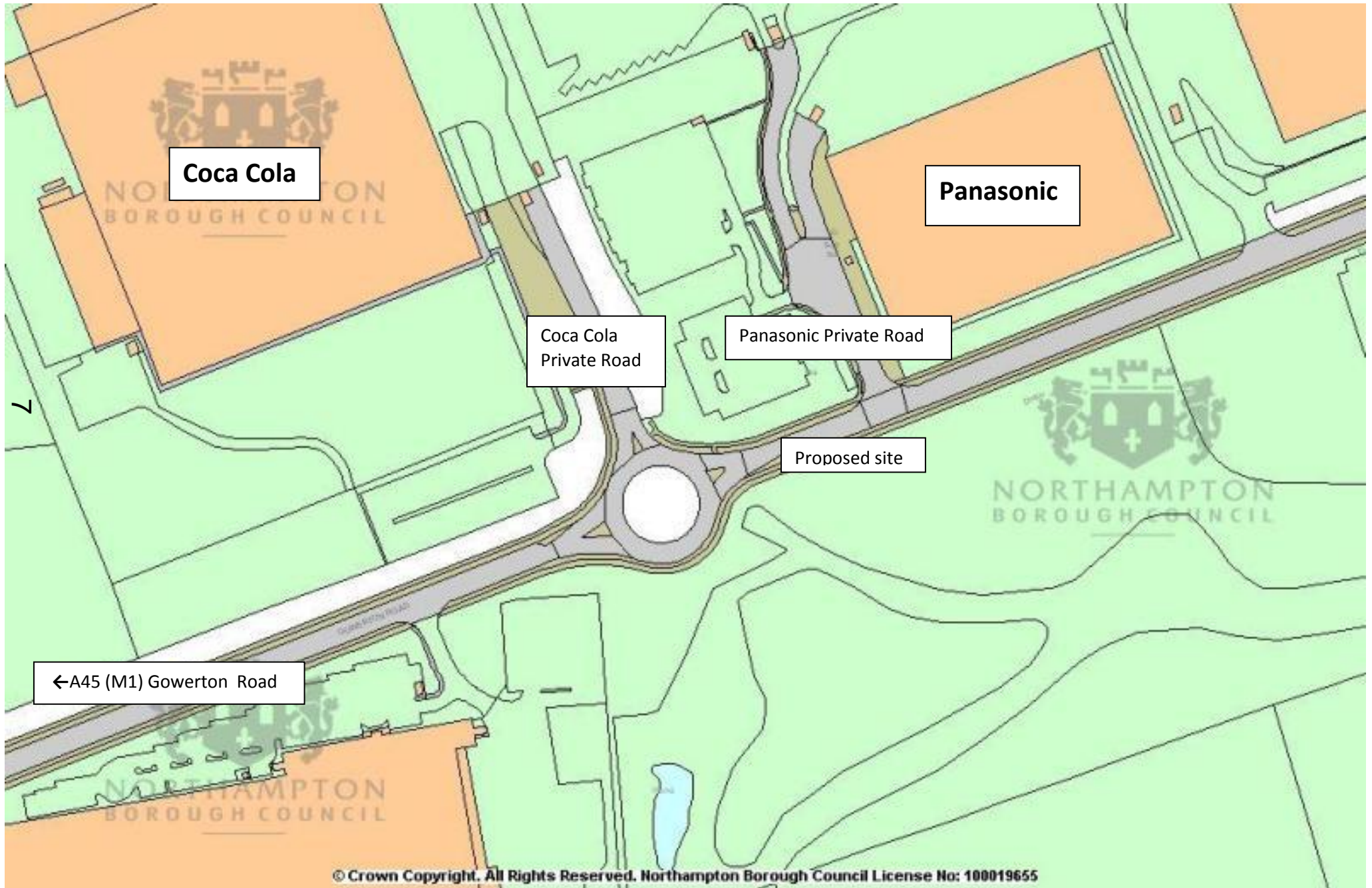
## **5. Background Papers**

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- 5.1 Local Government (Miscellaneous Provisions) Act 1982
- 5.2 Northampton Borough Council Street Trading Policy

**Report Author: Philip Bayliss**  
**Title: Senior Licensing officer**  
**Ext: 7099**

**Appendix A**





## Licensing Committee, 21<sup>st</sup> January 2014

### Full Review - Mo Mo, 79-81 Abington Street, Northampton

The following papers are attached:

- The procedures for Licensing Committee/Sub-Committee hearings.
- The application for review of the premises licence.



NORTHAMPTON  
BOROUGH COUNCIL

## PROCEDURES FOR LICENSING SUB-COMMITTEE HEARING

- **Welcome** – Chairman welcomes the Applicant, Representors, Responsible Authorities and Interested Parties and introduces members of the sub-committee (+ other officers e.g. Solicitor, Licensing Officer, Democratic Services Officer etc).
- **Declarations of Interest by Councillors**
- **Reason for Hearing** – to be outlined by the Licensing Officer or the Chair.
- **Format of the hearing** – an explanation of the format of the proceedings:
  1. **Applicant** (or his/her representative) will address the sub-committee first and put their case.
  2. **The Chair** leads an examination of the **Applicant's case**. First, the panel may ask questions and then the Chair invites Responsible and Interested Parties to participate. Questions may only relate to the points made by the applicant.
  3. **The Representors** (and responsible and Interested Parties) then state their case.
  4. **The Chair** leads an examination of the **Representor's case**.

Each party will be given an equal maximum period of time in which to present their case and may, if given permission by the Chair, question any other party.

- **Summing Up**
  - By the Representors
  - By the Applicant
- **Sub-committee retires** – and may call for the Solicitor for advice if required.
- **Sub-Committee deliver their decision and reasons for their decision at the conclusion of the meeting IF:**
  1. Application for conversion of existing licence
  2. Application for conversion of existing club certificate
  3. Application by holder of justices' licence for grant of personal licence
  4. Application for conversion and variation of premises licence (including variation of DPS)
  5. Application for conversion and variation of club premises certificate
  6. Counter notice following police objection to temporary event notice
  7. Review of Premises Licence following Closure Order

In all other cases, the Sub-committee delivers its decision and reasons for its decision within five working days beginning with the day on which the hearing was held.

**If you require any further information regarding this meeting please contact Democratic Services on 01604 837722 or [democraticservices@northampton.gov](mailto:democraticservices@northampton.gov)**



**APPLICATION FOR THE REVIEW OF A PREMISES LICENCE  
UNDER SECTION 53A of the LICENSING ACT 2003**  
(Premises associated with serious Crime or disorder)

Insert name & address of relevant Licensing Authority:  
Northampton Borough Council, The Guildhall, Northampton, NN1 1DE

30 DEC 2013

Northampton  
Borough Council

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 completed copy for your records.

I Police Constable 113 D.Bryan  
(on behalf of) the Chief Officer of Police for the Northamptonshire Police area  
apply for the review of a premises licence under Section 53a of the Licensing Act 2003.

**Part 1 – Premises Details:**

Postal address of the premises (or if none – Ordnance Survey map reference or description)  
MoMo,  
79-81 Abington Street

Town: Northampton

Post Code: NN1 2BH

**Part 2 – Premises Licence details:**

Name of Premises Licence holder (If known) Proactive Pubs Ltd  
Premises Licence Number (If known) PLO681

**Part 3 – Certificate under Section 53a(1)(b) of the Licensing Act 2003**

(Please read guidance note 1)

I confirm that a certificate has been given by a senior member of the Police Force for the police area above and that in his/her opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application

Please tick/check the box to confirm



**Part 4 – Details of association of the above premises with serious crime, serious disorder or both:** (Please read guidance note 2)

In the early hours of Friday the 27<sup>th</sup> of December 2013 a ‘private’ event was held at MoMo Club and Bar, at this event two males were stabbed. One of the victims was stabbed in the back and also in the victims chest close to the heart. It is believed at the time of this application that the victims lung has been punctured from the stab wound to the back the extent of the chest wound is not yet as known. This victim was taken to hospital and was described as being in a stable but potentially life threatening condition. The second victim was stabbed in the shoulder the wound is not considered life threatening at this time.

Clearly from the incident the potential offences would constitute a ‘serious crime’ as it is one for which a person who has attained the age of 21 and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more or the conduct involves the use of violence, results in financial gain or is conduct by a large number of persons in pursuit of

a common purpose. Although this might extend to a range of offences , Summary Reviews are particularly aimed at those offences which involve the use of guns and knives.

Should the Licensing Sub Committee of Northampton Borough Council agree with the application to Suspend the Premises Licence for MoMo then at the full Hearing Northamptonshire Police will be in a better position to give fuller details of the investigation and any subsequent meetings and actions agreed with the Premises Licence Holders.

#### Section 81 of the Regulation of Investigatory Powers Act 2000

81(2) In this Act -

- (a) references to crime are references to conduct which constitutes one or more criminal offences or is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom would constitute one or more criminal offences; and
- (b) references to serious crime are references to crime that satisfies the test in subsection (3)(a) or (b).

81(3) Those tests are -

- that the offence or one of the offences that is or would be constituted by the conduct is an offence for which a person who has attained the age of twenty-one and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more;
- (b) that the conduct involves the use of violence, results in substantial financial gain or is conducted by a large number of persons in pursuit of a common purpose.

Signature of Applicant

Date:

27.12.2013

Capacity:

*Northants Police Licence Officer*

Contact details for matters concerning this application:

Name: Constable 113 D.Bryan

Address: C/O Campbell Square Police Station, Northampton, NN1 3EL

E-mail: david.bryan@northants.pnn.police.uk

Telephone: 03000 111 222 Ext 8634

**Notes for Guidance**

1. A certificate of the kind mentioned in the form, must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder, or both.  
Serious crime is defined by reference to Section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:
  - 'Conduct that amounts to one or more criminal offences for which a person who has attained the age of 18 and has no previous convictions, could reasonably be expected to be sentenced to imprisonment for a term of three years or more'; or
  - 'Conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose;
  - Serious disorder is not defined in legislation and so bears its ordinary English meaning.
2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.





**CERTIFICATE**  
**Under section 53a(1)(b) of the Licensing Act 2003**

**I Simon Blatchly  
am a Chief Superintendent (or above) in Northamptonshire Police and hereby certify that  
in my opinion the premises described below are associated with:**

**serious crime**

*\*Delete as appropriate*

**Premises Details:**

(Include Business name, Postal address of the premises or if none – Ordnance Survey map reference or description)

MoMo

79-81 Abington Street

Town: Northampton

Post Code: NN1 2BH

**I am giving this certificate because I am of the opinion that other procedures under the Licensing Act 2003 are inappropriate in this case because:**

(Give brief description of why other procedures such as standard review process are thought to be inappropriate eg the degree of seriousness of the crime and/or disorder, the past history of compliance in relation to the premises concerned etc)

The standard Review Process is not considered appropriate as Northamptonshire Police are of the belief that a period of suspension of the Premises Licence is required pending the full Hearing in order for Northamptonshire Police to properly assess the incident and address any potential failings of the Premises Licence Holders in preparation for the full Review Hearing. In the early hours of Friday the 27<sup>th</sup> of December 2013 a 'private' event was held at MoMo Club and Bar, at this event two males were stabbed. One of the victims was stabbed in the back and also in the victims chest close to the heart. It is believed at the time of this application that the victims lung has been punctured from the stab wound to the back the extent of the chest wound is not yet as known. This victim was taken to hospital and was described as being in a stable but potentially life threatening condition. The second victim was stabbed in the shoulder the wound is not considered life threatening at this time.

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The premises has been the subject of incidents involving violence within the past twelve months. Section 161 of the Licensing Act 2003 has been considered however cannot be used in these circumstances as it applies to 'imminent' disorder, the conventional Review process was also considered however due to the seriousness of the incident a 'quick time' response was deemed more appropriate.

Should the Licensing Sub Committee of Northampton Borough Council agree with the application to Suspend the Premises Licence for MoMo then at the full Hearing

Northamptonshire Police will be in a better position to give fuller details of the investigation and any subsequent meetings and actions agreed with the Premises Licence Holders.

Signed:



A. Holt

Date:

27<sup>th</sup> Dec 2010