

# Bath & North East Somerset Council

MEETING:	Licensing Sub - Committee	AGENDA ITEM NUMBER
MEETING DATE:	<b>Tuesday 6 August 2013</b>	
TITLE:	Application for a Review of a Premises Licence for <b>Mix Grill</b> , 4 Cleveland Place East, Walcot, Bath BA1 5DJ.	
WARD:	Walcot	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b>		
Annex A Application for the Review of a Premises Licence		
Annex B Copy of Current Premises Licence		
Annex C Site Plan		
Annex D Representations received from "other persons" in support of the review.		
Annex E Representation received on behalf of the premises licence holder..		

## 1 THE ISSUE

- 1.1 An application has been received from Michael Dando, Licensing Enforcement Officer for Bath & North East Somerset Council, for the Review of a Premises Licence under section 51 of the Licensing Act 2003, in respect of **Mix Grill 4 Cleveland Place East, Walcot, Bath BA1 5DJ**.

## 2 RECOMMENDATION

- 2.1 That the sub-committee determines the application to Review the Premises Licence.

## 3 FINANCIAL IMPLICATIONS

- 3.1 The application for the review of the premises licence is free of charge.

The Licensing budget contains a "non-chargeable" element that covers this cost.

## 4 THE REPORT

- 4.1 An application has been received for the Review of the Premises Licence (**Annex A**).
- 4.2 The application relates to the following licensing objectives, namely;
- Prevention of Crime & Disorder; and
  - Public Nuisance;

The alleged grounds for the Review are:

- A history of the Police being called to the premises to deal with threats of violence and fighting;
- Persistent breaches in respect of the hours the provision of late night refreshment is permitted to take place, in itself constituting an offence under s.136 Licensing Act 2003;
- Public nuisance caused by noxious odours;
- Public nuisance caused by noise

4.3 The Licensing Authority may, having had regard to the application and any relevant representations, take any of the following steps (if any) as it considers necessary for the promotion of the licensing objectives:

**a) Modify the conditions of the Licence;**

**b) Exclude a licensable activity from the scope of the Licence;**

**c) Remove the Designated Premises Supervisor;**

**d) Suspend the Licence for a period not exceeding three months;**

**e) Revoke the Licence**

Where the Licensing Authority takes a step mentioned in 4.3 (a) or (b), it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

Any determination made by the Licensing Authority does not have effect until the end of the period given for appealing against the decision, or, if the decision is appealed against, until the appeal is disposed of.

4.4 The Licensing Authority will also have regard to the Council's Licensing Policy, the Statutory Guidance issued under Section 182 of the Licensing Act 2003, the Licensing Act itself, and, in particular, to:-

a) Sections 4, 9, 10, 13, 51, 52, 53, 182, and 183 of the Act.

b) Chapters 1, 2, 3, 8, 9, 10, 11 and 12 of the Statutory Guidance (as revised June 2013)

c) Paragraphs 3, 5, 6, 15, 18 - 20, 21, 24, 28, 33 - 37 and 40 - 45 inclusive, of the Policy.

4.5 An appeal may be made to the Magistrates Court within 21 days of the notification of the decision by the Council to the applicant for the review, the holder of the premises licence or any other person who made relevant representations in relation to the application.

On appeal the court may either dismiss the appeal, substitute the decision appealed against for any other decision which could have been made by the Licensing Authority, or remit the case to the Licensing Authority to dispose of it in accordance

with the direction of the court. The court may make such Order for costs as it thinks fit.

4.6 The current Premises Licence (**Annex B**) permits the following licensable activity:

1) **The Provision of Late Night Refreshment**

Friday and Saturday 23:00 to 03:00

Sunday to Thursday 23:00 to 01:00

There are no non-standard timings.

2) **Opening hours** detailed on the licence are:

Friday and Saturday 23:00 to 03:00

Sunday to Thursday 23:00 to 01:00

3) The licence is subject to the following **conditions**:

**Annex 1 – Mandatory Conditions**

- Any individual employed to carry out a security activity must be licensed by the Security Industry Authority.

**Annex 2 – Conditions consistent with the operating schedule**

- Staff shall arrange for a taxi service if requested;
- Free drinking water shall be available;
- CCTV cameras shall be in operation at the premises;
- Customers shall not be permitted to bring bottles or glasses into the shop;
- A prominent sign shall be displayed telling customers to leave the shop in a quiet manner;
- The premises shall have an extract system which is designed to prevent noxious smells

**Annex 3 – Conditions attached after a hearing by the Licensing Authority**

There are no Annex 3 conditions as the last Variation application proposing an extension in the hours and the addition of alcohol to the licence was refused in its entirety by the Licensing Sub-Committee

4.7 A site plan is attached at **Annex C**.

4.8 In accordance with the requirements of the Act the applicant has served copies of the application upon the Licence Holder, Police, Fire Authority, Environmental Health, Development Control, Trading Standards, the Child Protection Agency and the Public Health Authority.

4.9 Notices were placed by the Licensing Officer outside the premises and in the public

area of the Licensing Office at the One Stop Shop, Lewis House, Manvers Street, Bath BA1 1JG, for a period of 28 days, commencing the day after the application was served on the Licensing Authority.

- 4.10 Written representations have been received from “other persons” in respect of the prevention of crime and disorder licensing objective and the prevention of public nuisance objective (**Annex D**).
- 4.11 A written representation has been received from Licensing Agent David Holley acting on behalf of the premises licence holder (**Annex E**).
- 4.12 The current premises licence does not permit the sale of alcohol at the premises.
- 4.13 This report has not been sent to the Trades Union because they would have no involvement in this application.

## **5 RISK ASSESSMENT**

- 5.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council’s decision making risk management guidance.

## **6 EQUALITIES**

- 6.1 An Equality Impact Assessment (EqIA) has been completed. No adverse or other significant issues were found.

## **7 CONSULTATION**

- 7.1 The applicant for review has given notice of the application to the premises licence holder and to all the relevant Responsible Authorities, and has advertised the application both at the premises and in the public area of the Council’s One Stop Shop, Lewis House, Manvers Street, Bath.

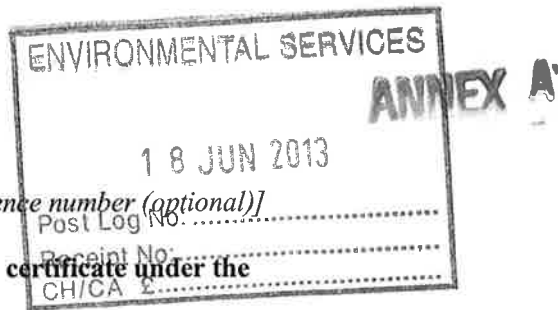
## **8 ISSUES TO CONSIDER IN REACHING DECISION**

- 8.1 When reaching a decision, the licensing authority must carry out its functions with a view to promoting the four licensing objectives.
- 8.2 Consideration must be given to the Human Rights Act 1998 and the “convention rights”.

## **9 ADVICE SOUGHT**

- 9.1 The Council’s Monitoring Officer (Divisional Director – Legal & Democratic Services), s.151 Officer (Divisional Director – Finance) and the Divisional Director have had the opportunity to input to this report and have cleared it for publication.

<b>Contact person</b>	Terrill Wolyn, Licensing Services, 01225 396939
<b>Background papers</b>	The Licensing Act 2003, Guidance issued under s.182 of the Act, Regulations issued under the Act, BANES Licensing Policy.



[Insert name and address of relevant licensing authority and its reference number (optional)]

**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 Michael Dando, Licensing Enforcement Officer, Bath & North East Somerset Council**

*(Insert name of applicant)*

**apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)**

**Part 1 – Premises or club premises details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b>  Mix Grill. 4 Cleveland Place East, Walcot, Bath.	
<b>Post town</b> Bath	<b>Post code (if known)</b> BA1 5DJ
<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Mr Jamie Brian.	
<b>Number of premises licence or club premises certificate (if known)</b> 07/01519/LAPRE	

**Part 2 - Applicant details**

I am

Please tick ✓ yes

- 1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)
- 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 ✓ yes

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

**Surname**

**First names**

**I am 18 years old or over**

Please tick ✓ yes

**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)

Please provide as much information as possible to support the application (please read guidance note 3)

The **Mix Grill** was firstly granted a Premises Licence issued under the Licensing Act 2003. Authorising the sale of late night refreshment in 2007.

During this time one Mr JAMIE BRIAN aka JAMIE KOC has been the sole licence holder. Please see Mix Grill folder 2013 Annex A.

Since this time there have been various complaints about the premises in regards to :-

- 1) Police being called to deal with threats of violence, fights public nuisances and reports of after-hours selling of hot food. The dates of these incidents range from 10 December 2010 to 06 October 2011. Please see Mix Grill folder 2013 Annex B, for full details of events and timings of events.
- 2) Police Officers and Licensing Officers observing out of hours sale of food above the ambient temperature (hot food). Evidence of some of these occasions are detailed in Mix Grill folder 2013 Annex C. Dates of alleged offences are:-
  - a) Police Officers statement dated 21 March 2012, Wednesday morning at 01:42Hrs, when the premises should have stopped serving hot food at 01:00Hrs.
  - b) Police Officers statement dated 12 May 2012, Saturday morning at 04:05Hrs, when the premises should have stopped serving hot food at 03:00Hrs.
  - c) Licensing Officers statement dated 13 July 2012, Friday morning at 01:17Hrs, when the premises should have stopped serving hot food at 01:00Hrs.
  - d) Licensing Officers statement for 15 July 2012, Sunday morning at 03:26Hrs, when the premises should have stopped serving hot food at 03:00Hrs.
  - e) Licensing Officers statement for 10 August 2012 Friday morning at 01:25Hrs, when the premises should have stopped serving hot food at 01:00Hrs.
  - f) Licensing Officers statement 16 March 2013, Saturday morning at 03:11Hrs, when the premises should have stopped serving hot food at 03:00Hrs.
- 3) On 31 January 2013 an Officer of the Public Protection Section had cause to serve a Statutory Notice under Section 80, the Environmental Protection Act 1990. To prevent the continuation of an odorous smell nuisance. Please see Mix Grill folder 2013 Annex D.

The problem arising from the premises extracting system should have been mindful to Mr BRIAN aka Mr KOC due to the condition on his licence, Please see Mix Grill folder Annex A, page 5, item 6 which states, "The premises shall have an extraction system designed to prevent noxious smells."

- 4) Advertisement for the premises shows that the premises is stating that the provision of hot food can be carried out from the premises between the hours of 15:00Hrs to 03:00Hrs seven days a week. See advertisements in Mix Grill folder Annex E.
- 5) In Annex F of the Mix Grill folder you will find previous letters and e-mails, from previous Licensing Officers and members of the Police. These make reference to illegal un-licensable activities covering the periods from 10 January 2008 to 10 February 2012.

Letters of education concerning illegal un-licensable activities are dated as 19 February 2008, 28 April 2009 & 10 February 2012. Witness statement of the 10 August 2012 in Annex C should also be viewed with these letters and e-mail. As education and advice was given verbally to MR ZAFFER KOCH at the time of the illegal activity taking place at the time and date stated.

**Summary.**

In summary;-

- 1) Concerns of both the Police and Licencing Officers from 2007 to the present day that the premises have been serving hot food after its licenced hours.
- 2) The actual evidence gathered during the period of 13 May 2012 to 16 March 2013 which shows that the illegal sale of hot food is still taking place.
- 3) Also that during this period there has been educational conversations with both Mr BRIAN aka MR KOC and Mr ZAFFER KOC explaining that the sale of hot food outside of the granted hours on the licence is illegal.
- 4) The fact that Final Warning Letters have been sent, again pointing out the sale of hot food outside of the granted hours on the licence is illegal and that such actions should stop immediately.
- 5) With none of the above warnings, conversations or letters being acted upon by Mr BRIAN aka Mr KOC. It shows a complete disregard for his responsibilities under the Licensing Act 2003. And the promotion of the licensing objectives. There has also been an unwillingness to follow guidance issued by two Responsible Authorities, those being the Police and the Licensing Section.

It is requested that the Licencing Sub Committee revokes the Premises Licence issued under the Licensing Act 2003, authorising the sale of late night refresh from the **Mix Grill** premises.



**Please state the ground(s) for review (please read guidance note 2)**

Over the period of the last 5 years the premises known as Flames, King Mix Grill and Mix Grill ( all one and the same premises and have been managed/owned by one MR JAMIE BRIAN aka MR JAMIE KOC), has been found to be trading outside of the agreed premises Late Night Refreshment hours, those being :-

Friday and Saturday 23:00 – 03:00Hrs

Sunday to Thursday 23:00 – 01:00Hrs

This action being in contravention of Section 136 of the Licensing Act 2003.

Also

During the last year the Police, the Licensing Section and the Public Protection Section have been requested by neighbours of the property, or had reason to attend the premises of the Mix Grill to deal with complaints of noise, odour and out of hours sales.

All of the above undermining the licensing objectives of:-

- 1) Prevention of Crime and Disorder.
- 2) Prevention of Public Nuisance.

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

Name and address <b>Michael Dando.</b> <b>Licensing Enforcement Officer.</b>  <b>Bath &amp; North East Somerset Council.</b> <b>Licensing Section,</b> <b>Lewis House,</b> <b>Manvers Street,</b> <b>Bath.</b> <b>BA1 1JG.</b>
Telephone number (if any) <b>01225 477946</b>
E-mail address (optional) <b>michael_dando@bathnes.gov.uk</b>

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

- |   |                                     |
|---|-------------------------------------|
|   | Please tick one or more boxes ✓     |
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety                        | <input type="checkbox"/>            |
| 3) the prevention of public nuisance    | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/>            |

Please tick ✓ yes

Have you made an application for review relating to the 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 the premises please state what they were and when you made them**

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

**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 4)

**Signature of applicant or applicant's solicitor or other duly authorised agent** (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature



Date

18<sup>th</sup> June 2013

Capacity

Licensing Enforcement Officer Bath &amp; North East Somerset Council.

**Contact name (where not previously given) and postal address for correspondence associated with this application** (please read guidance note 6)

**Michael Dando. Licensing Enforcement Officer.**

**Bath & North East Somerset Council.**

**Licensing Section,  
Lewis House,  
Manvers Street,**

**Post town  
Bath**

**Post Code  
BA1 1JG**

**Telephone number (if any) 01225 477946**

**If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) michael\_dando@bathnes.gov.uk**

#### Notes for Guidance

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

Copy of Mix Grill Licence.

Granted 2007.



**Schedule 12  
Part A****Regulation 33, 34****Premises Licence**

<b>Premises Licence Number</b>	07/01519/LAPRE
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**Part 1 – Premises Details****Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code**

Mix Grill  
4 Cleveland Place East  
Walcot  
Bath  
BA1 5DJ

**Telephone number**      07769724323**Where the licence is time limited the dates**    Not applicable**Licensable activities authorised by the licence and the times the licence authorises the carrying out of licensable activities****Late Night Refreshment (Indoors only)**

Friday and Saturday	23:00 - 03:00
Sunday to Thursday	23:00 - 01:00

**The opening hours of the premises**

Monday	23:00 - 01:00
Tuesday	23:00 - 01:00
Wednesday	23:00 - 01:00
Thursday	23:00 - 01:00
Friday	23:00 - 03:00
Saturday	23:00 - 03:00
Sunday	23:00 - 01:00

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

**Part 2**

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

Mr Jamie Brian  
4A Cleveland Place East  
Bath  
BA1 5DJ  
07769724323  
jamie\_koc@hotmail.com

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

Registered Business Number - Not applicable

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

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

This licence is issued by Bath & North East Somerset Council as licensing authority under Part 3 of the Licensing Act 2003 and regulations made thereunder.

Signed for and on behalf of  
Bath & North East Somerset Council: .....

Dated 25 July 2007



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

**Annex 4 – Plans**

As submitted with application.

**Annex 1 – Mandatory conditions**

Any individual employed to carry out a security activity must be licensed by the Security Industry Authority.

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

Staff shall arrange for a taxi service if requested.

Free drinking water shall be available.

CCTV cameras shall be in operation at the premises.

Customers shall not be permitted to bring bottles or glasses into the shop.

A prominent sign shall be displayed telling customers to leave the shop in a quiet manner.

The premises shall have an extract system which is designed to prevent noxious smells.

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# Police Incident Reports.

From 2010 to 2011.



12/11/2011 Produced by PC 1287 Gemma Kirby

<b>Incident no.</b>	1 (linked to 2)
<b>Date</b>	06/10/11 - Thursday
<b>Time</b>	01:36
<b>Informant</b>	Member of staff from Mixed Grill
<b>Log no.</b>	AS-20111006-0053
<b>Police Arrival</b>	01:43 (7 minutes)
<b>Incident</b>	VAP - Assault Report of female being hit by a male on Cleveland Place. Information received that the offender is outside the Mixed Grill. Initial incident is followed by an assault on the informant's boss. Two arrested.
<b>Guardian</b>	118926/11 and 118924/11 ABH and Racially aggravated ABH (both male victims)
<b>Arrest</b>	2 arrested – 52SE/3050/11 and 3051/11
<b>Disposal</b>	Awaiting CPS result
<b>Related</b>	Yes. Staff from Mixed Grill involved and recorded as victims.

12/11/2011 Produced by PC 1287 Gemma Kirby

<b>Incident no.</b>	2 (linked to 1)
<b>Date</b>	06/10/11 – Thursday
<b>Time</b>	01:42
<b>Informant</b>	MOP
<b>Log no.</b>	AS-20111006-0058
<b>Police Arrival</b>	01:43
<b>Incident</b>	Disturbance/Nuisance Informant details the location as outside the Curfew and Flames, 4 or 5 males fighting and the Police arriving. Transferred to working log above.
<b>Guardian</b>	Refer to incident 1.
<b>Arrest</b>	Refer to incident 1.
<b>Disposal</b>	Refer to incident 1.
<b>Related</b>	Yes. Staff from Mixed Grill involved and recorded as victims.



12/11/2011 Produced by PC 1287 Gemma Kirby

<b>Incident no.</b>	4
<b>Date</b>	30/07/11 - Saturday
<b>Time</b>	05:00
<b>Informant</b>	Member of staff from Mixed Grill
<b>Log no.</b>	AS-20110730-0354
<b>Police Arrival</b>	05:05 (5 minutes)
<b>Incident</b>	<p>Disturbance/Nuisance</p> <p>Informant states he is outside the Mixed Grill and male keeps following him. Description of the offender and vehicle provided. Police attend and words of advice given. Log closed stating that there appears to be problems between Mixed Grill and the owner of Mega Byte.</p>
<b>Guardian</b>	N/A
<b>Arrest</b>	N/A
<b>Disposal</b>	N/A
<b>Related</b>	Yes – at the location and call from member of staff.



12/11/2011 Produced by PC 1287 Gemma Kirby

<b>Incident no.</b>	5 (linked to 6)
<b>Date</b>	14/07/11 – Thursday
<b>Time</b>	03:07
<b>Informant</b>	MOP
<b>Log no.</b>	AS-20110714-0102
<b>Police Arrival</b>	03:15 (8 minutes)
<b>Incident</b>	<p>VAP – Assault</p> <p>Location – Mixed Grill. Informant reporting that a friend has been asked to leave the kebab shop and has head has been stamped on by Greek kebab shop owners. The informant keeps the victim in a nearby telephone kiosk for safety. The informant leaves the location as he feels uneasy about making the call. The victim remains in the TK. BANES CCTV has not captured the incident. Police arrive and the victim is arrested after he assaults police. The suspect is taken to hospital prior to custody.</p> <p>Staff report to officers that the arrested male said “go back home!” as he left the shop and then swung a glass bottle towards the window, which missed.</p>
<b>Guardian</b>	83300/11 – Racially aggravated Public Order
<b>Arrest</b>	1 arrest – 52SB/2702/11
<b>Disposal</b>	Charged S5 POA
<b>Related</b>	Yes. Informant reporting that incident is taking place at the premises.

12/11/2011 Produced by PC 1287 Gemma Kirby

<b>Incident no.</b>	6 (linked with 5)
<b>Date</b>	14/07/11 – Thursday
<b>Time</b>	03:10
<b>Informant</b>	MOP
<b>Log no.</b>	AS-20110714-0104
<b>Police Arrival</b>	X-ref to AS-20110714-0102
<b>Incident</b>	Disturbance/Nuisance MOP reporting a drunk male just went into the kebab house and then tried to throw a bottle at the window. He then fell over and hit his head and is claiming he's been assaulted by staff.
<b>Guardian</b>	N/A – as above
<b>Arrest</b>	N/A – as above
<b>Disposal</b>	N/A – as above
<b>Related</b>	Yes. Informant reporting that incident is taking place at the premises.

12/11/2011 Produced by PC 1287 Gemma Kirby

<b>Incident no.</b>	13
<b>Date</b>	11/02/11 - Friday
<b>Time</b>	01:50
<b>Informant</b>	MOP
<b>Log no.</b>	AS-20110211-0073
<b>Police Arrival</b>	Police attendance not required.
<b>Incident</b>	Contact Informant reporting that Mixed Grill is still open and serving food and it does not have a licence. Informant has previously phoned the Council and they told him it should only be open until 01:00.
<b>Guardian</b>	N/A
<b>Arrest</b>	N/A
<b>Disposal</b>	N/A
<b>Related</b>	Yes. MOP stating location is Mixed Grill.



12/11/2011 Produced by PC 1287 Gemma Kirby

<b>Incident no.</b>	15
<b>Date</b>	19/01/11 – Wednesday
<b>Time</b>	03:11
<b>Informant</b>	Male at Mixed Grill
<b>Log no.</b>	AS-20110119-0075
<b>Police Arrival</b>	03:21 (10 minutes)
<b>Incident</b>	<p>VAP – Assault</p> <p>Informant provides the location as Mixed Grill kebab shop and states there are 4 or 5 males being violent and causing problems in the shop. Informant says the males are Turkish and think they have come to cause trouble, to hurt a member of staff and may have weapons. Informant refused to provide his name and cleared the call. CCTV operator can see 5 males inside the premises but no weapons. Police attend and 2 males are arrested for public order.</p> <p>Guardian states that 2 males entered the shop and purchased food and then returned with number of other males. The victim (member of staff at Mixed Grill) was told by the males that they had been sent to kill him and that if he didn't leave the country by Wednesday he would be dead and his body would go back to Turkey.</p>
<b>Guardian</b>	7153/11 – S5 Public Order
<b>Arrest</b>	2 arrested – 52SE/228/11 and 229/11
<b>Disposal</b>	NFA – CPS advice
<b>Related</b>	Yes. Male states the incident is at Mixed Grill.





12/11/2011 Produced by PC 1287 Gemma Kirby

<b>Incident no.</b>	17
<b>Date</b>	12/01/11 – Wednesday
<b>Time</b>	01:04
<b>Informant</b>	MOP
<b>Log no.</b>	AS-20110112-0032
<b>Police Arrival</b>	Police attendance not required.
<b>Incident</b>	Licensing Informant reporting that Mixed Grill is still open and that despite their licensing stating they are open until 01:00 they are staying open until 03:00 – 04:00. Call handler looks at previous logs and sees that as the premises is not selling alcohol the reported matter should be dealt with by the council.
<b>Guardian</b>	N/A
<b>Arrest</b>	N/A
<b>Disposal</b>	N/A
<b>Related</b>	Yes. Informant stating the incident is at Mixed Grill.

12/11/2011 Produced by PC 1287 Gemma Kirby

<b>Incident no.</b>	18
<b>Date</b>	31/12/10 – Friday
<b>Time</b>	00:58
<b>Informant</b>	MOP
<b>Log no.</b>	AS-201001231-0046
<b>Police Arrival</b>	Police not required to attend
<b>Incident</b>	Contact Record. Informant reporting that Mixed Grill is opening later than its licence permits. Logged for info; as no alcohol is sold so not a Police issue.
<b>Guardian</b>	N/A
<b>Arrest</b>	N/A
<b>Disposal</b>	N/A
<b>Related</b>	Yes. Informant provides the location as Mixed Grill.

12/11/2011 Produced by PC 1287 Gemma Kirby

<b>Incident no.</b>	21
<b>Date</b>	23/12/10 – Thursday
<b>Time</b>	01:27
<b>Informant</b>	MOP
<b>Log no.</b>	AS-20101223-0061
<b>Police Arrival</b>	Police attendance not required
<b>Incident</b>	Contact Record Informant alleging that Mixed Grill is open beyond its licensed hours and should close at 01:00 but is still serving customers. As there is no alcohol licence involved it is not a Police matter and the log is closed.
<b>Guardian</b>	N/A
<b>Arrest</b>	N/A
<b>Disposal</b>	N/A
<b>Related</b>	Yes. Informant provides location as Mixed Grill.

12/11/2011 Produced by PC 1287 Gemma Kirby

<b>Incident no.</b>	22
<b>Date</b>	10/12/10 - Friday
<b>Time</b>	03:31
<b>Informant</b>	Member of staff from Mixed Grill
<b>Log no.</b>	AS-20101210-0083
<b>Police Arrival</b>	03:57 (26 minutes)
<b>Incident</b>	<p>Disturbance/Nuisance</p> <p>Informant reporting that there are four males outside the address who work at the takeaway down the road and are trying to fight them. Informant reluctant to provide descriptions of people involved. Police attend close the log stating that it was a dispute between employees from rival restaurants.</p>
<b>Guardian</b>	N/A – no offences disclosed. Intel report submitted.
<b>Arrest</b>	N/A
<b>Disposal</b>	N/A
<b>Related</b>	Yes. Call from Mixed Grill staff.

12/11/2011 Produced by PC 1287 Gemma Kirby

<b>Incident no.</b>	23
<b>Date</b>	06/12/10 – Monday
<b>Time</b>	01:17
<b>Informant</b>	MOP
<b>Log no.</b>	AS-20101206-0032
<b>Police Arrival</b>	Police attendance not required
<b>Incident</b>	<p>Disturbance/Nuisance</p> <p>Informant reporting that there are sounds of a disturbance at Mixed Grill. States that he could hear 3-5 voices outside talking possibly in Arabic. Informant cannot see the front of the takeaway. A call is made to Mixed Grill ad staff inform the Police that nothing is happening and that it is just the night time economy.</p>
<b>Guardian</b>	N/A
<b>Arrest</b>	N/A
<b>Disposal</b>	N/A
<b>Related</b>	Tenuous. Informant provides location as Mixed Grill but cannot see from her location.

12/11/2011 Produced by PC 1287 Gemma Kirby

<b>Incident no.</b>	24
<b>Date</b>	06/12/10 – Monday
<b>Time</b>	01:46
<b>Informant</b>	Unknown
<b>Log no.</b>	AS-20101206-0037
<b>Police Arrival</b>	02:10 (24 minutes)
<b>Incident</b>	Contact Record Informant is in the Mixed Grill and states that persons from another kebab shop across the road are trying to fight. Police arrive as the informant is on the line. There are no complaints and the attending unit submit an intelligence report stating that there are on going issues between Mixed Grill and Mega Bytes.
<b>Guardian</b>	N/A - no offences disclosed. Intel report submitted
<b>Arrest</b>	N/A
<b>Disposal</b>	N/A
<b>Related</b>	Yes. Caller states incident is at Mixed Grill.

## AVON AND SOMERSET CONSTABULARY

RESTRICTED (when complete)

MG11T

**WITNESS STATEMENT**

CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

URN 

Statement of Martin Michael Holliwell

Age if under 18 Over 18 (if over insert 'over 18') Occupation Police Constable

This statement (consisting of 6 page(s), each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signature

Date 2nd November 2011

Tick if witness evidence is visually recorded  (supply witness details on rear)

I am Police Constable 1665 Martin Michael Holliwell of the Avon and Somerset Constabulary, currently stationed at Bath Police Station. I joined the Constabulary in 1990, and until 2003 was stationed in Bristol. In 2003 I became the Beat Manager for Weston village, Bath, and in 2006 I became the incumbent Beat Manager for the Walcot, Lambridge and Lansdown wards. I have been a uniformed Officer since 1990, and have worked as a Beat Manager in various locations for at least half my Service.

One of my current wards, Walcot, encompasses the area around London Road and Cleveland Bridge. This is an area with high volumes of traffic and pedestrians; the area is as busy during the night as it is in the day. London Road and Cleveland Bridge form the link between the A36 and the A46 and the M4 and the road is constantly busy. The limited parking spaces are now "Residents Only", severely limiting any visitors' ability to park legally on this busy thoroughfare.

The area is also densely populated, with flats above the shops on the bridge, and houses adjacent to both sides of the rank of shops. It is a main pedestrian route into and out of Bath city centre, for residents of Snowhill, London Road and Larkhall as well as places further afield.

Signature:

Signature witnessed by:

2006/07 (1)

RESTRICTED (when complete)

## AVON AND SOMERSET CONSTABULARY

RESTRICTED (when complete)

MG11(CONT)

Page No 2 of 2

Continuation of Statement of: Martin Michael Holliwell

The area has a number of late night takeaways and late night establishments – it is possible to purchase alcohol in two nearby outlets, until 2200 hrs (Morrisons and London Road Stores), and I would describe these outlets as well run and well managed.

It has been my experience, both here and in Bristol, that serving alcoholic beverages in late night takeaways is downright dangerous. Many pedestrians walking home from the City Centre, especially on weekends, will have consumed a lot of alcohol. At the moment, they will stop off at a Takeaway and order a meal; I have had complaints from residents that matters have got out of hand whilst late night revellers are waiting for their food – I have witnessed this myself in the City Centre, where fights can break out at a moments' notice, over spurious reasons.

The presence of alcohol on the premises, in my opinion, would only serve to exacerbate the issue – at present there are no premises on this side of Bath that have a late night licence, and, again in my opinion, the presence of alcohol would serve as a catalyst for people to meet and linger and drink in the street outside; the potential for Public disorder, road traffic collisions, noise, anti social behaviour and disruption to local residents would be increased massively.

Signature:

Signature witnessed by:

2006/07 (1)

RESTRICTED (when complete)



# Statements of alleged witnessed sale of hot food outside of licenced hours.

PS 3227 Wednesday 21 March 2012.

PS 633 Saturday 12 May 2012.

Licencing Officer MD 13 & 15 July 2012.

Licensing Officer KM Friday 13 May 2012.

Photographs of 13 May 2012.

Receipt for food on 13 May 2012.

Licensing Officer AT Sunday 15 May 2012.

Photographs of 15 May 2012.

Receipt for food on 15 May 2012.

Licencing Officer MD 10 August 2012.

Licencing Officer MD 16 March 2013.

Environmental Health Officer NS 16 March 2013.

Photographs of 16 March 2013.

Receipt for food on 16 March 2013.



**RESTRICTED (when complete)****WITNESS STATEMENT**

(CJ Act 1967, s.9: MC Act 1980 ss.5A (3)(a) and 5B: MC Rules 1981 r.70)

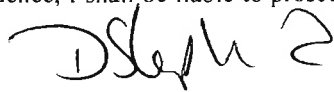
URN 

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Statement of Daniel James Shepherd  
Age if under 18 Over 18 (if over insert 'over 18') Occupation Police Sergeant

This statement (consisting of 2 page(s), each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything which I know to be false, or do not believe to be true.

Signature



Date Wednesday, 21 March 2012

Tick if witness evidence is visually recorded  (supply witness details on rear)

I am Police Sergeant 3227 Daniel James Shepherd currently stationed at Bath police station of Avon and Somerset Constabulary.

On Wednesday, 21 March 2012 I attended CLEVELAND PLACE EAST, BATH where at number 4 is situated the MIX GRILL, fast food restaurant.

I understand that this premise is licensed to operate and only serve hot food between 2300-0100hrs Sunday to Thursdays.

At 0142hrs I observed a lone male enter the shop and appeared to order food, I could clearly hear the staff talking back and confirm his order of a kebab.

This male was then joined by another person at 0145hrs and a second food order was confirmed for a pizza.

At 0152hrs both persons left together carrying a pizza box and kebab.

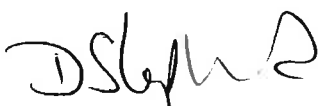
The shop was well lit, the front door open and all neon advertising boards operating.

I then entered the shop and spoke to the manager who identified himself as Ahmed DEMER.

Having introduced myself I asked him if he knew his licensed operating hours for this day.

He replied "ONE OR TWO O'CLOCK?"

I informed him I had seen his staff serve the two men hot food and that the facts of this breach would be reported to the local authority licensing officer.

Signature:  
2003(1.1)

Signature witnessed by:

**RESTRICTED (when complete)**

Continuation of Statement of: Daniel James Shepherd

He informed me that he had applied to extend the hours and that it was unfair that other shops had been granted extensions and he had been prevented from doing so.

He stated that this was because their shop had called the police a number of times due to problems and this now was used against them.

*DS/MS*

RESTRICTED (when complete)

**WITNESS STATEMENT****Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B**

URN

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Statement of Vicky BARKER

Age if under 18 Over 18 (if over insert 'over 18') Occupation Police Constable

This statement (consisting of 2 page(s), each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signature

Date 12/05/2012

Tick if witness evidence is visually recorded  (supply witness details on rear)

I am Temporary Police Sergeant 633 Vicky BARKER of the Avon and Somerset Constabulary. I am at present attached to Bath Police Station.

At 0405 hours on Saturday 12<sup>th</sup> May 2012 I attended at Mix Grill, 4 Cleveland Place East, Bath which is a take away food establishment. I am aware that the premise is licensed to serve late night refreshments on a Friday and Saturday between 2300 hours and 0300 hours. I noted that the premises door was wide open, the lights were on inside the premises and the neon advertising boards were on. Behind the counter were approximately six members of staff and I could see that the fat fryers were on and a member of staff was making a pizza base. I asked to speak to the manager who identified himself as Ali KARTAR, I asked when he was licensed until and he replied "THREE". KARTAR advised a member of staff to switch off the lights on the menu board and switch off the equipment and informed me that they were cleaning up and were not open and informed me that the closed sign was displayed on the outside of the address. KARTAR advised that the staff were making food for themselves as they worked long days often for fifteen hours. There was a female sat at a table at the location emptying out her bag, I asked KARTAR why she was in the premises and he informed me she was there as she was drunk and upset. I advised KARTAR that if he was not open and was cleaning then he should have the main lights off and the front door shut to make it obvious that the premises was closed. KARTAR told me

Signature:

Signature witnessed by:

2010/11

RESTRICTED (when complete)

**RESTRICTED (when complete)**

MG11

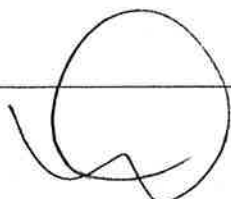
Page No 2 of 2

Continuation of Statement of: Vicky BARKER

that it took 45minutes to an hour to do the cleaning. At this point I could not see any members of staff cleaning except for them all to point to the kebab machine which was switched off. I spoke with the female in the customer area and she advised she had been in the take away with her boyfriend but he had walked off. To ensure her safety I provided the female who I now know to be Zara PALMER with a lift home. During the journey I asked PALMER why she had been inside the Mix Grill and she informed me that she had placed a food order just minutes before I arrived and had paid £12 for a pizza, chips and onion rings which she had not received.

At 0415 hours I drove past the Mix Grill and saw that the lights were now off, chairs had been placed on tables and a member of staff was sweeping the floor.

Signature:



Signature witnessed by:

2010/11

**RESTRICTED (when complete)**

**Bath & North East  
Somerset Council  
Public Protection Service**

**STATEMENT OF WITNESS  
C.J.A. Statement**

*(Criminal Procedure Rules, r 27.1(1); Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s. 5B)*

**STATEMENT OF: Michael Huw Dando**

**Age of Witness: over 18**

(True age to be shown where witness is a juvenile or person involved in serious crime enquiry, otherwise "over 18" will suffice)

**Occupation of Witness: Licensing Enforcement Officer**

This statement, consisting of ...4...pages each signed by me, is true to the best of my knowledge and belief, and I make it knowing that if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

**Dated: 16<sup>th</sup> day of July 2012**

Signed.....

My name is Mike Dando and I am employed by Bath and North East Somerset Council as a Licencing Enforcement Officer. Parts of my duties are to patrol the City Centre and the surrounding area and report and take action in relation to illegal unlicensed hot food activities. The Chief Executive of Bath and North East Somerset gives me the authority to undertake enforcement actions, under Section 136 (1) of the Licensing Act 2003.

On 13th July 2012 myself and Kirsty Morgan a fellow Licencing Officer were on a routine licensing check within the Bath City area. One of the premises we were intending to visit was the MIX GRILL on London Road.

This premise was to be checked as there had been various reports from the Police that hot food was being served outside of the permitted licenced hours granted to this premises.

At 01:00Hrs we drove past the MIX GRILL on Cleveland Place East on our way to the Esso garage on London Road. I noticed that the lights were on, the door was open and all the signage in the windows was illuminated. I also noticed that there were two males behind the counter.

Signed.....

On return from the Esso garage we drove back past the MIX GRILL. This time I noticed that the main lights were off but the lights behind the counter were still on and all of the signage in the windows was still illuminated. Also the main door was still wide open. There were now three males in the shop.

At 01:11Hrs I parked the car in one of the parking spaces on Cleveland Place East and at 01:16Hrs Officer Morgan went back to the premises of MIX GRILL to see if they were still serving hot food. I remained in the vehicle.

At 01:21Hrs Officer Morgan returned to the vehicle carrying a white plastic bag, Kirsty Morgan informed me that she had been able to purchase a cheese burger and chips from the MIX GRILL.

We drove from Cleveland Place East and drove to Henrietta Road approximately two minutes away. I parked the car and both myself and Officer Morgan carried out temperature test on the food which had been purchased from MIX GRILL.

I firstly turned the temperature probe on and allowed it to read the ambient temperature of the vehicle we were sat in.

The ambient temperature of the car according to the probe was shown at 20.6C. I took a photograph of this.

I then used the probe to record the temperature of the cheese burger, the digital reader showed the temperature of the cheese burger to be 49.9C. I took a photograph of this.

I then used the probe to record the temperature of the chips, the digital reader showed the temperature of the cheese burger to be 79.3C. I took a photograph.

Officer Morgan then handed over the receipt for the food purchased, I took a photograph of this.

Signed.....



The food was placed in a public waste bin on our return to Manvers Street car park, when I dropped Officer Morgan off to collect her car at 01:45Hrs.

I then travelled back to my home in my vehicle passing the MIX GRILL at 02:01Hrs. I noted that the main lights were still off, the lights behind the counter were still on, the front door was wide open and all the signage in the windows were still illuminated. The three gentlemen seen earlier were all behind the counter.

On Sunday 15<sup>th</sup> July 2012 myself and Andy Tapper a fellow Licencing Officer were carrying out an inspection of the MIX GRILL at Cleveland Place. Due to Police complaints that the premises was selling hot food out of licenced hours.

Both myself and Officer Tapper drove past the MIX GRILL premises at 03:15Hrs. I observed that the door was wide open, all the lights were on in the shop and that all the signs in the windows were illuminated.

I turned my vehicle around in London Road and travelled back to Cleveland Place where I parked in one of the parking spaces.

At 03:20Hrs Officer Tapper left the vehicle and went directly to the MIX GRILL to see if he could obtain hot food from the premises. I remained in the vehicle.

At 03:26Hrs Officer Tapper returned to the vehicle carrying a white plastic bag. Officer Tapper informed me that he had been able to purchase a burger and chips from the premises.

I drove to Henrietta Road approximately 2 minutes away where the food was temperature tested and our contemporaneous notes were updated.

I firstly turned the temperature probe on and allowed it to read the ambient temperature of the vehicle we were sat in.

Signed.....

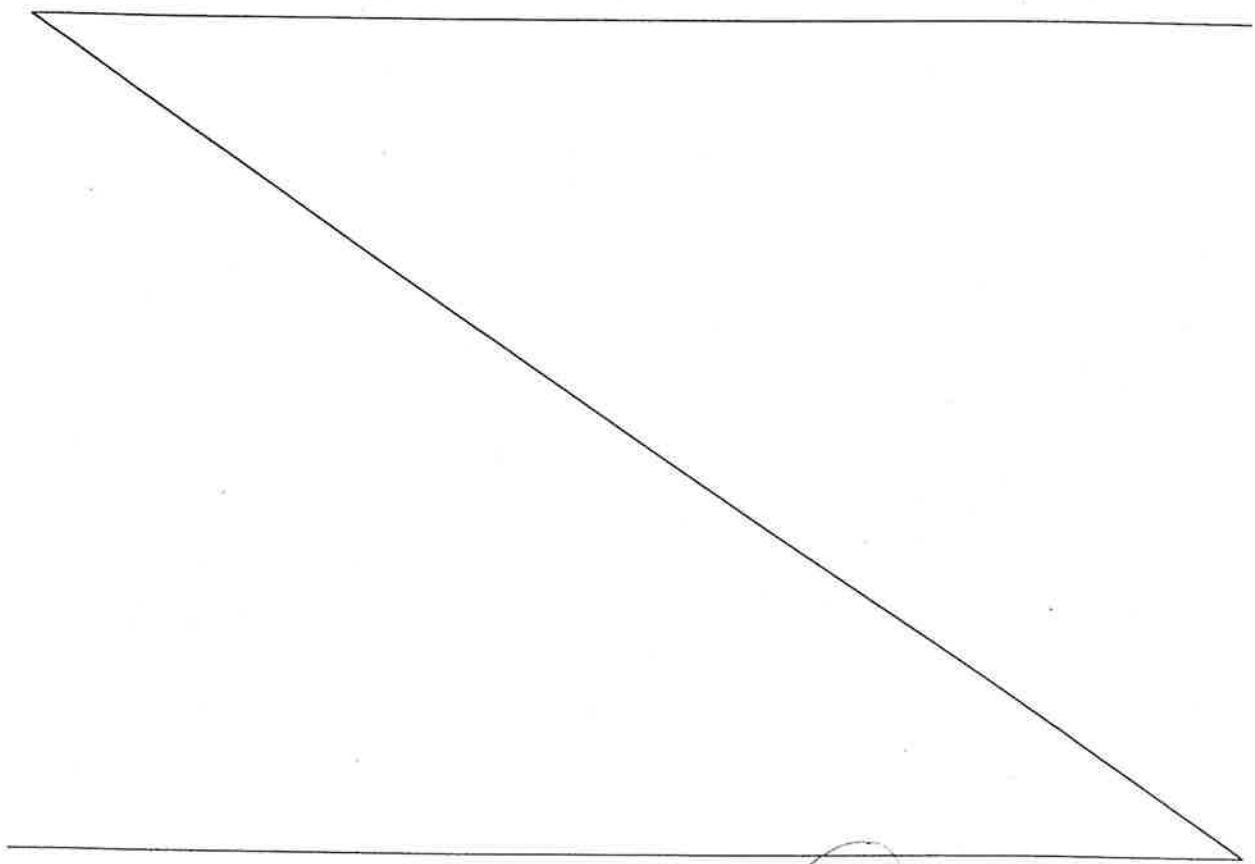
The ambient temperature of the car according to the probe was shown at 19.9C.I took a photograph of this.


I then used the probe to record the temperature of the cheese burger, the digital reader showed the temperature of the burger to be 68.2C. I took a photograph of this.

I then used the probe to record the temperature of the chips, the digital reader showed the temperature of the cheese burger to be 78.0C. I took a photograph of this.

Officer Tapper then gave me the receipt for the food the purchased. I took a photograph of this.

I then drove Officer Tapper back to his house leaving him at 03:48Hrs. I then started travelling back to my home in my vehicle passing the MIX GRILL at 03:591Hrs. I noted that the all of the lights were still on, the front door was still wide open and all the signage in the windows was still illuminated.



Signed..........

**Bath & North East  
Somerset Council  
Public Protection Service**

SW/WS1

**STATEMENT OF WITNESS  
C.J.A. Statement**

*(Criminal Procedure Rules, r 27.1(1); Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s. 5B)*

**STATEMENT OF Kirsty Morgan**

**Age of Witness over 18**

(True age to be shown where witness is a juvenile or person involved in serious crime enquiry, otherwise "over 18" will suffice)

**Occupation of Witness Licensing Officer**

This statement, consisting of ..2...pages each signed by me, is true to the best of my knowledge and belief, and I make it knowing that if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

**Dated the 18<sup>th</sup> day of July 2012**

Signed.....*K Morgan*.....

I am a Licensing Officer employed by Bath & North East Somerset Council. On Friday 13<sup>th</sup> July 2012 I took part in routine licensing checks in the company of Officer Dando, a Licensing Enforcement Officer.

One of the premises visited was Mix Grill on London Road, the visit was prompted by intelligence from the Police alleging that the premises is selling hot food outside the permitted hours and also complaints from a rival business.

At 01:00Hrs myself and Officer Dando drove past the premises, the lights were on and the door was wide open.

Officer Dando parked the car around the corner from the premises; I got out of the car at 01:16 hours and headed for the Mix Grill premises.

At 01.17Hrs I entered the premises. The door was still wide open and I noted that the main lights that had been on earlier were now switched off, the lights behind the counter were still on, the TV and the light-up signs in the window were also on.

There were 3 men behind the counter when I entered, two of which were already cooking burgers, chips and what looked like onions, the other male was watching the music channel on the TV, no-one else was in the shop.

Signed.....*K Morgan*.....

SW/WS1

I ordered a cheese burger and chips at 01:17Hrs, this was prepared in front of me. I was told that in total it would come to £4:00 I asked if I could pay by debit card, the male that was not cooking stated that there is a 75p charge on all card transactions.

I paid £4.75 altogether for the burger and chips with my VISA debit card and retained a receipt. My cheese burger and chips were given to me at 01:21Hrs, the cheese burger and chips were wrapped separately in a polystyrene box and brown paper, I then proceeded to leave the premises.

I arrived back at the car at 01:21Hrs where I handed the receipt to Officer Dando. We drove further down the road onto Henrietta Street and parked up where we tested the temperature of the food.

Office Dando first tested the ambient temperature of the car with a food probe and took a picture of the reading.

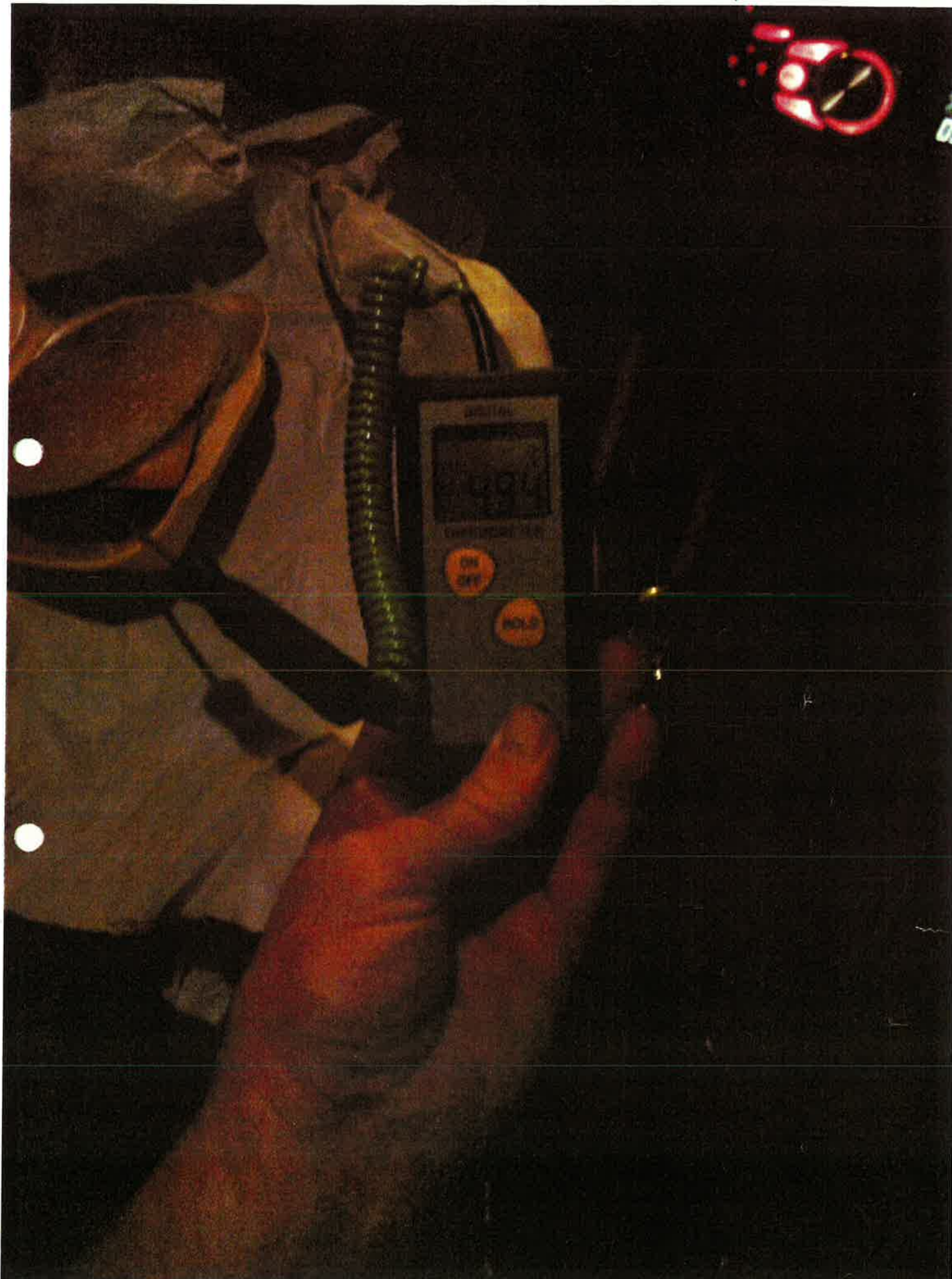
I then opened the packaging that the burger was in and Officer Dando tested the temperature of the burger with the food probe and took a photograph of the outcome.

He then wiped the end of the food probe with anti-bacterial wipes. I then opened the packing of the chips and Officer Dando tested their temperature, he took a photo of the reading.

I then recorded my visit on a notepad which Officer Dando retained.

Signed.....*K. Morgan*.....







KINGS M. LL (MerchRent)

THANK YOU

TERMINAL ID: \*\*\*\*\*3700  
MERCHANT ID: \*\*\*\*\*34138

Visa ICC  
\*\*\*\*\*4648  
PAN SEQ NO: 01  
AID: A0000000031010

SALE AMOUNT £4.75

\*\*\* CUSTOMER COPY \*\*\*  
PLEASE RETAIN FOR YOUR RECORDS

PIN VERIFIED

AUTH: 003858  
DATE: 13/07/12 TIME: 01:21



**Bath & North East  
Somerset Council  
Public Protection Service**

SW/WS1

**STATEMENT OF WITNESS  
C.J.A. Statement**

*(Criminal Procedure Rules, r 27.1(1); Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s. 5B)*

**STATEMENT OF Andrew John Tapper**

**Age of Witness over 18**

*(True age to be shown where witness is a juvenile or person involved in serious crime enquiry, otherwise "over 18" will suffice)*

**Occupation of Witness Licensing Officer**

This statement, consisting of 5 pages each signed by me, is true to the best of my knowledge and belief, and I make it knowing that if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

**Dated the .....16th..... .....day of..... ...July .....2012**

Signed.....AJ Tapper.....

**My name is Andrew Tapper and I am employed as a Licensing Officer by Bath and North East Somerset Council based in Lewis House.**

**At 3:15am on Sunday 15<sup>th</sup> July 2012 I was in company Michael Dando a fellow Licensing Officer when we drove past the premises known as Mixed Grill at Cleveland Place East. I could clearly see that the premises were open for business. All the lights and signs were still illuminated and there was a male member of staff behind the counter. I could also see that there were 2 other people in the public area of the shop premises.**

**We parked up around the corner and I entered the premises on my own at 3:20am. On entering the premises I could see that there were 2 members of staff behind the counter. A female wearing a red T shirt with the words KING MIXED GRILL (in white lettering) on the rear of the T shirt (I had seen this female outside the premises a short while previously smoking a cigarette) and the male I had seen earlier dressed in a chef's white top.**

Signed.....AJ Tapper.....

SW/WS1

I could also see what appeared to be a male dressed in the same type of white top the chef was wearing sat at a window table eating from a Domino Pizza Box. There was another member of the public sat at another window table reading from a magazine.

I could see that the burners to the KEBAB meat grill was still working as the burners were still operating and the meat was rotating slowly. There was a vapour coming from the chip cooker which also led me to believe that it was still at working temperature.

At one stage the male member of staff spoke in a foreign language I did not understand to the man eating the Pizza. He then switched off the burners to the Kebab meat that was still cooking.

The female member of staff asked me what I wanted and I ordered a Plain Burger with salad and a portion of chips. I saw the female complete my order for chips and the male member of staff began cooking my burger. At various times the male and female members of staff both checked on the burger before it was packaged.

I was asked for £4:00 which I paid for with a £5:00 note and was given a £1 coin in change. I was not offered a receipt so I asked for one. Initially the female picked up a small blank page lined receipt book and said she would have to write it out for me. She then went to the till behind the counter to the right and produced a till receipt for me. The time was 3:26am. As I was leaving the premises 3 males entered and I could hear them talking to the female member of staff but I did not hear what was said. The 2 other males that were in the shop when I entered were still sat at the same tables.

Signed.....*AJ Tapper*.....

SW/WS1

When I checked the receipt I could see that it was dated for 15/07/2012 at 3:38 but it stated it was for a Cartridge and the name of the business was shown as ARSLAN Computer and Ink Center 01225 471924.

I joined Mr Dando in the vehicle and we drove to Henrietta Road just off Bathwick Street where at 3:32am where I handed him the receipt and the purchases before we started to test the temperature of the purchases. The initial ambient temperature reading on the device was shown as 19.9 degrees. At 3:33am the burger measured at 68.2 degrees and at 3:35am the chips recorded 78 degrees. Mr Dando took photographs of the measurements as they were recorded by me. I recorded these temperatures in a note book as I was making brief notes of my visit to the premises. The notes and the receipt were retained by Michael Dando

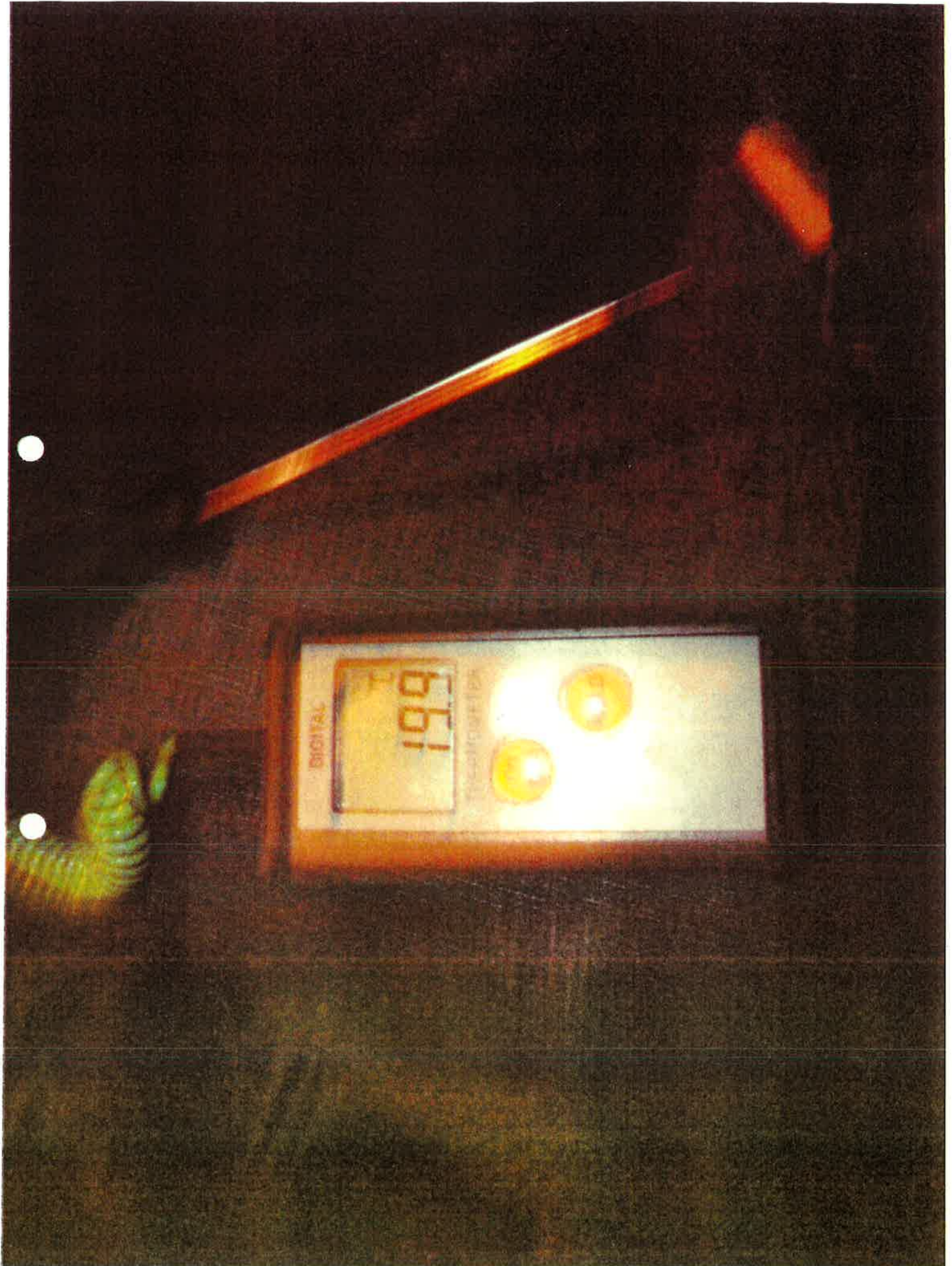
Signed.....A.J. Tappel.....

SW/WS1

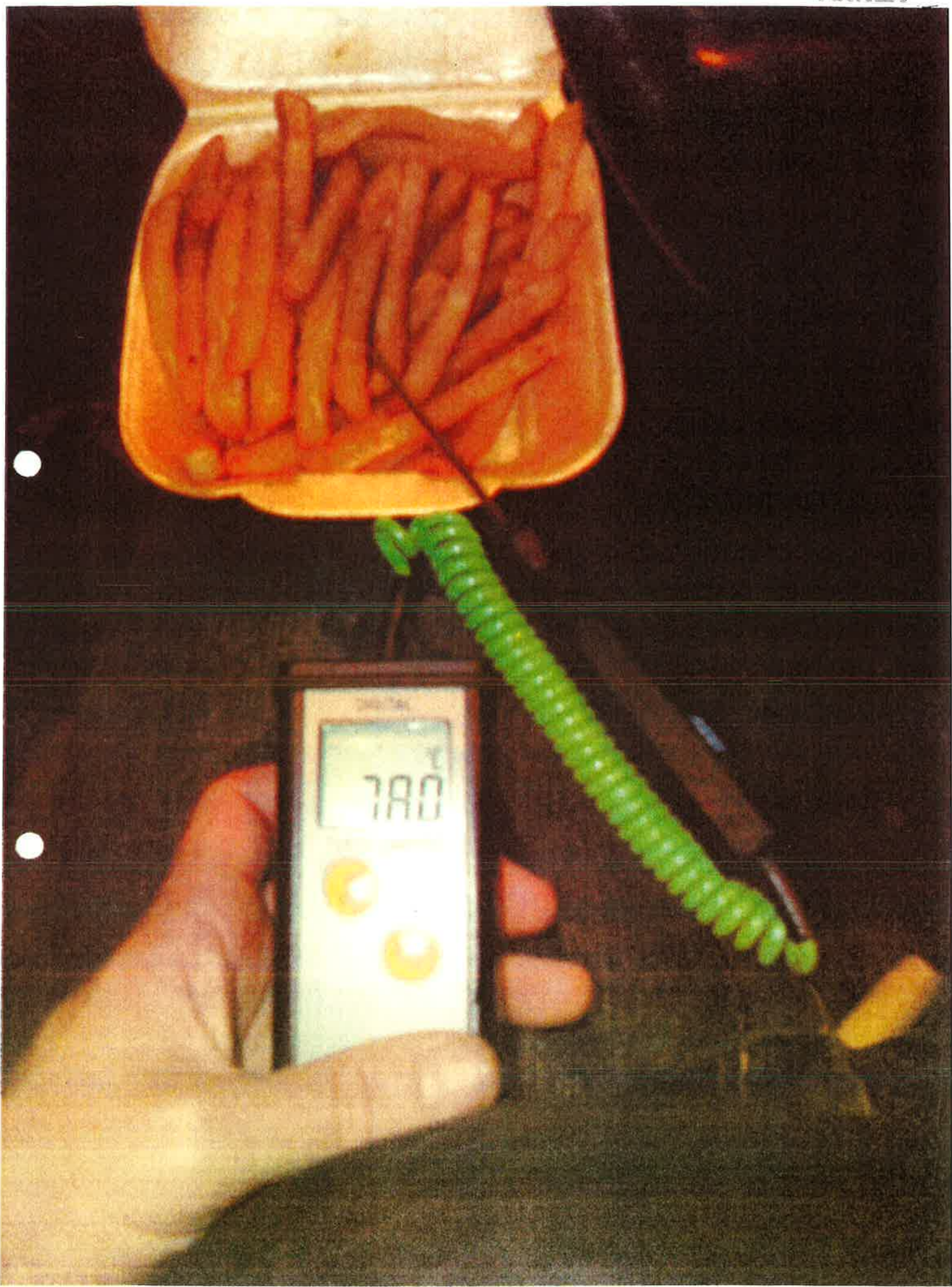
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Signed.....AJ Tappel.....







15/07/2012 3:38 01  
000000#8294 Murat

Cartridge \*4.00

ITEMS 10  
CASH \*4.00

**ARSLAN**  
COMPUTER & INK  
CENTER  
01225 471924



**Bath & North East  
Somerset Council  
Public Protection Service**

**STATEMENT OF WITNESS  
C.J.A. Statement**

*(Criminal Procedure Rules, r 27.1(1); Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s. 5B)*

**STATEMENT OF: Michael Huw Dando**

**Age of Witness: over 18**

(True age to be shown where witness is a juvenile or person involved in serious crime enquiry, otherwise "over 18" will suffice)

**Occupation of Witness: Licensing Enforcement Officer**

This statement, consisting of ...6...pages each signed by me, is true to the best of my knowledge and belief, and I make it knowing that if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

**Dated: 10<sup>th</sup> day of August 2012**

Signed.....

**My name is Mike Dando and I am employed by Bath and North East Somerset Council as a Licencing Enforcement Officer. Part of my duties are to patrol the City Centre and the surrounding areas. Then report and take action in relation to illegal unlicensed hot food activities. The Chief Executive of Bath and North East Somerset gives me the authority to undertake enforcement actions, under Section 136 (1) of the Licensing Act 2003.**

**On 10th August 2012 I was carrying routine licensing check within the Bath City area. One of the premises I visited was the MIX GRILL on London Road.**

**This premise was to be checked as there had been various reports from the Police that hot food was being served outside of the permitted licenced hours granted to this premises.**

**At 01:10Hrs I drove along Cleveland Place East and noticed Mr ZAFFER KOCH sat inside the internet café two doors down from the MIX GRILL. As I drove past the premises of the MIX GRILL, I noticed that the lights were on, the door was open and all the signage in the windows was illuminated.**

Signed.....

I also noticed that there were two IC1 males sat at the table inside the door, dressed in casual wear whilst there were two members of staff working behind the counter.

I turned my vehicle around and parked my car in one of the parking bays on Cleveland Place. I left the vehicle and I crossed the road stopping outside the front door of a private residence, No1 The Paragon. From this location I could clearly see the entrance to the MIX GRILL. Both of the IC1 males seen earlier had left the premises of the MIX GRILL and were nowhere in sight.

I observed the premises of the MIX GRILL from 01:18Hrs and saw one of the members of staff leave the premises light a cigarette and carry on what appeared to be a conversation on a mobile phone.

At 01:25Hrs a heavy set IC1 male entered the premises, from the direction of Cleveland Place East. The male approached the counter and at this point I decided to approach the premises.

I walked past the window and looked in to the premises, the male I had seen entering the premises was now stood at the counter talking to a member of staff who was behind the counter.

I walked past the MIX GRILL to see if Mr ZAFFER KOCH was still in the internet café where I had seen him earlier. I entered the internet café and Mr ZAFFER KOCH was still sat in the seat by the door where I had seen him before. He appeared to be carrying on a conversation on the telephone in what I believe to be Turkish.

A young man was sat next to Mr ZAFFER KOCH, I asked the young man if he was Mr BRIAN as he bore a striking similarity to Mr JAMIE BRIAN the licence holder for the MIX GRILL. The young man replied, "No."

Signed.....

As I was asking this question of the younger gentleman a female entered the internet café. The female asked me if she could help. I explained I needed to speak to Mr ZAFFER KOCH and I would come back in a minute.

I left the internet café and went in to the premises of the MIX GRILL. I was followed by the female from the internet cafe. The heavy set IC1 male I had seen entering the premises was now sat at one of the tables to the left hand side of the door.

I observed that there was a member of staff behind the counter and that there were chips being fried in the deep fat fryer.

The female who had followed me from the internet café asked if everything was ok. I introduced myself and showed my warrant. The female stated that the staff were doing a deep clean at the moment because they hadn't done one yet this month.

She then spoke in a raised voice to the members of staff present saying, "Why aren't you lot cleaning?"

I asked if the gentleman sat at the table was a member of staff, the female replied, "No he wasn't, he's a friend, one of the few people I can speak English to."

The female had now taken a seat against the wall facing the door. The lady then informed me, that the man worked for Hiltons and that they looked after their cars so you have to treat them right.

I asked the lady who the chips were being cooked for and she replied "They are for the staff."

Signed..........

I approached the gentleman seated at the table and introduced myself and showed my warrant. I asked if he had ordered any food from the staff behind the counter. I also asked if he had made any payment for his food.

The female who had now got up from her chair and was stood just to my rear over my left shoulder. Before the gentleman answered I saw him look at her. I looked at the woman and caught the movement of her head as she was shaking her head in a no movement.

I asked the gentleman again if he had ordered food and paid for it yet. He replied that, "I'm just on a break, there isn't anywhere else open and they let us sit here."

I told the lady that I would go and see if Mr ZAFFER KOCH had finished the conversation he was having on his mobile. The female informed me that he was talking to someone in Turkey and would be some time.

As I walked towards the internet café Mr ZAFFER KOCH came out still talking on his mobile phone. Mr ZAFFER KOCH ended his conversation and hung up. The female had now followed me from the MIX GRILL.

I asked Mr ZAFFER KOCH why the MIX GRILL was still open. The female replied that they were cleaning and asked ZAFFER KOCH why the staff hadn't started cleaning. She then walked back off towards the MIX GRILL.

Again I asked Mr ZAFFER KOCH why the premises were open and all the lights on and the door open. I also asked why there was a member of the public in there when they were supposed to be closed.

Mr ZAFFER KOCH explained that the man worked for Hiltons and they looked after the cars for them. They phone up for food but they work till now and we give them special price for their food.

Signed.....

I informed Mr ZAFFER KOCH that this was illegal as the food was being cooked and sold after the premises closing time of 01:00HRs. Mr ZAFFER KOCH said he understood but what can you do. They need to be allowed to open longer so that they can pay all the bills they have.

At this time the young man who had been sat next to Mr ZAFFER KOCH in the internet café walked up and joined Mr ZAFFER KOCH and myself.

I told Mr ZAFFER KOCH that it did not matter that they had bills to pay as this was no excuse for serving hot food outside of his allowed hours. The young man that I know now to be called SINAN BRIAN said that they don't do that.

I repeated to MR SINAN BRIAN what Mr ZAFFER KOCH had told me about Hilton staff and the special price they get charged for their food.

Mr SINAN BRIAN then stated, "He doesn't know what he's talking about." and walked off in the direction of the MIX GRILL.

It was at this stage that I asked Mr ZAFFER KOCH who the young man was and what, was his connection to the MIX GRILL. Mr ZAFFER KOCH then informed me that the young man was his son and he was called SINAN BRIAN.

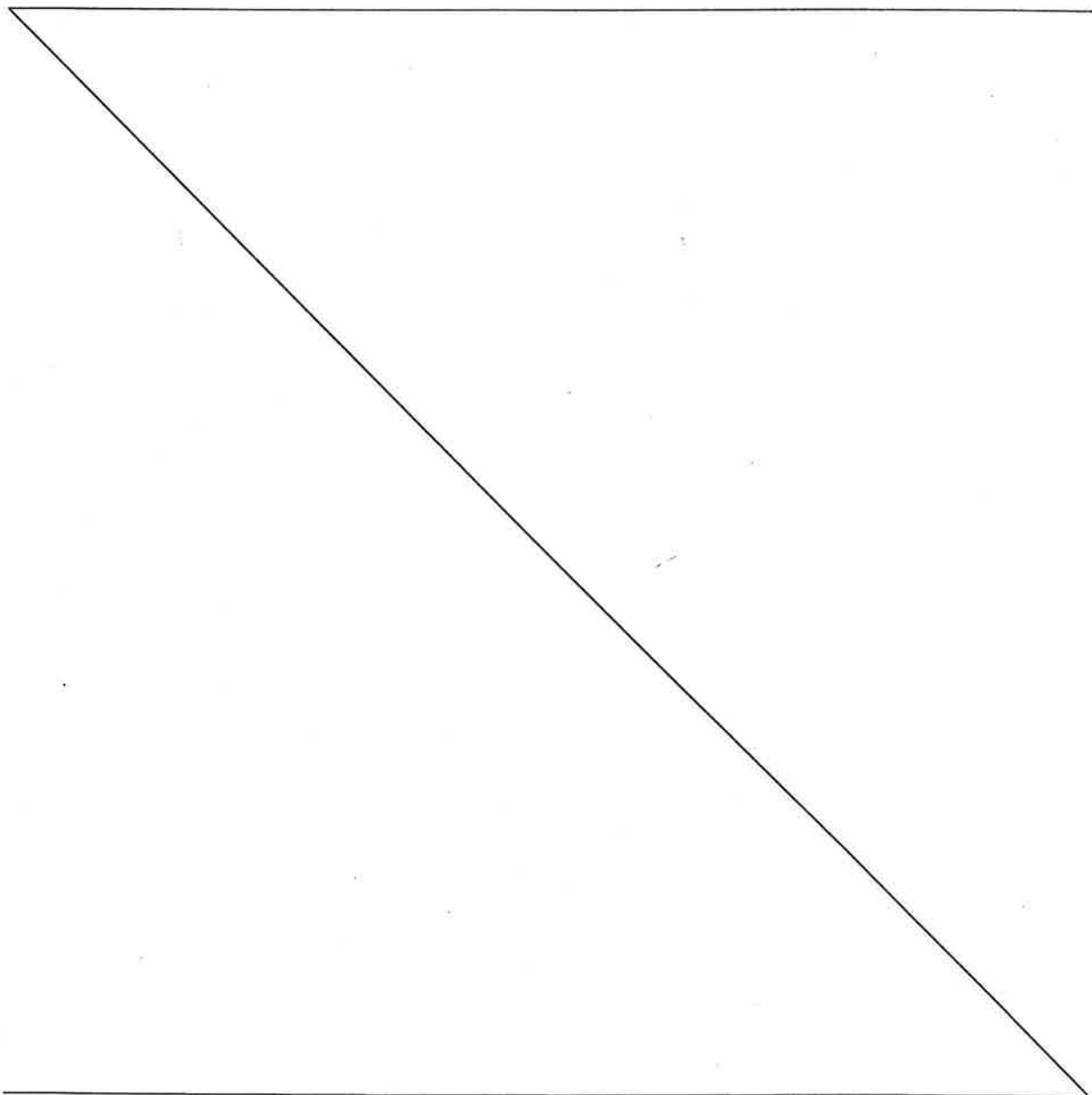
I informed Mr ZAFFER KOCH that he must comply with his licenced hours and not sell hot food outside of those times. Mr ZAFFER KOCH said that he would do this as he wanted to re-apply for extended hours until 05:00Hrs.

I informed Mr ZAFFER KOCH that I would have to log what I had seen happening here tonight and the conversation we had had. Mr ZAFFER KOCH said he understood.

Signed..........

I returned to my car and left the area at 01:54Hrs. I parked my car and continued to complete my contemporaneous notes.

At 02:12Hrs on my way home I drove back past the MIX GRILL. Main lights in the seated area were switched off. The lights behind the counter were still on. The door was still wide open and I could see no cleaning taking place. Both MR ZAFFER KOCH and Mr SINAN BRIAN were stood on the pavement outside the MIX GRILL.



Signed..........

**Bath & North East  
Somerset Council  
Public Protection Service**

**STATEMENT OF WITNESS  
C.J.A. Statement**

*(Criminal Procedure Rules, r 27.1(1); Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s. 5B)*

**STATEMENT OF: Michael Huw Dando**


**Age of Witness: over 18**

(True age to be shown where witness is a juvenile or person involved in serious crime enquiry, otherwise "over 18" will suffice)

**Occupation of Witness: Licensing Enforcement Officer**

This statement, consisting of ...3...pages each signed by me, is true to the best of my knowledge and belief, and I make it knowing that if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

**Dated: 18<sup>th</sup> day of March 2013**

**Signed.....** 

**My name is Mike Dando and I am employed by Bath and North East Somerset Council as a Licencing Enforcement Officer. Parts of my duties are to patrol the City Centre and the surrounding areas. Then report and take action in relation to illegal unlicensed hot food activities. The Chief Executive of Bath and North East Somerset gives me the authority to undertake enforcement actions, under Section 136 (1) of the Licensing Act 2003.**

**On 16 March 2013 I was carrying routine licensing check within the Bath City area, with Environmental Health Officer Nigel Shires. One of the premises we visited was the MIX GRILL on London Road.**

**This premise was to be checked as there had been various incidents where the provision of hot food, being provided illegal out of hours. Had been reported by the Police and witnessed by Licensing Officers on various occasions in the past.**

**At 03:01Hrs I drove my car with myself and Officer Shires inside, along London Road. We noticed that as we approached the junction of Cleveland Place East, where the premise of the MIX GRILL is. The lights of the premises were on, and all the signage in the windows was illuminated.**

**Signed.....** 

I turned into Cleveland Place East and parked my car opposite the premises of the MIX GRILL.

Officer Shires left the vehicle with myself and made his way to the MIX GRILL to see if the sale of hot food was taking place and to see if he could obtain any as evidence if this was taking place.

I walked up Cleveland Place East and turned left into London Road so I could have a clear view of the front door of the MIX GRILL. From this position I could confirm that the front door was shut, but all of the internal lights were on as were the neon signage in the window.

I saw Officer Shire enter into the MIX GRILL and approach the counter where he was approached by a member of staff the time by my watch was 03.12Hrs. I continued watching and saw Officer Shire receive a white carrier bag from the member of staff; the time this happened was 03:18Hrs.

I returned to my vehicle where I was met by Officer Shire carrying the white plastic bag I had seen handed to him by the member of staff.

Officer Shire handed me the bag which I opened and saw a metal foil container inside with a white cardboard lid on the top.

Using a food probe I recorded the temperature of the food. The Food probe showed a reading of 70.6C the time was 03:24Hrs. The content of the metal foil box was made up of what appeared to be kebab meat, chips, red cabbage, onions and salad.

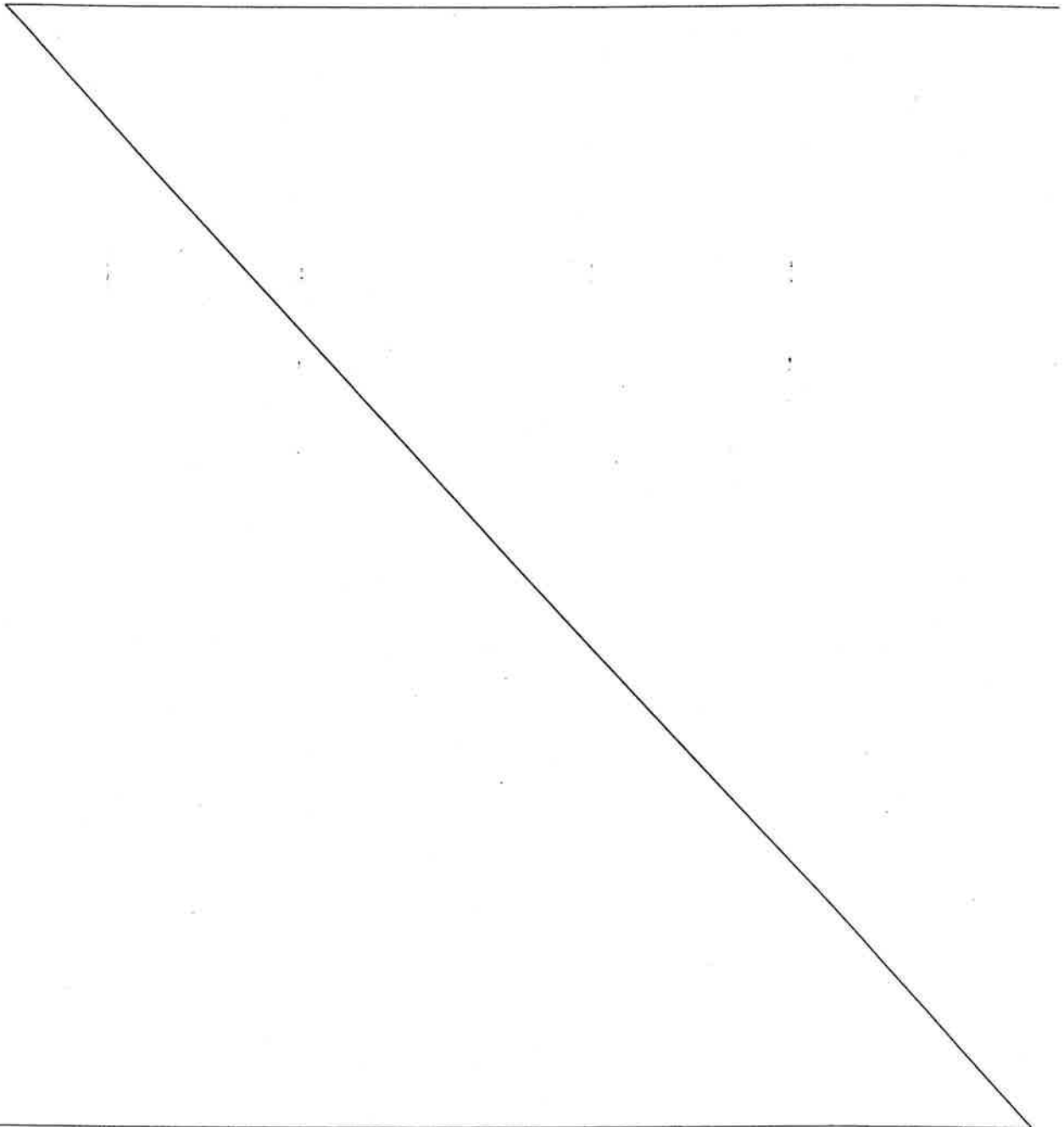
Officer Shire then handed me the receipt for the food he had purchased. The receipt showed the time of 04:30Hrs, the price of £5.80 and the date of 16/03/2013. However the receipt showed the items sold as 2 cartridges at a cost of £4.80 and £1.00 and the premises name as Arslan.


Signed.....



I took photographs of the food present, the temperature of the food recorded and the receipt received.

I disposed of the food and its wrapping in a litter bin on Cleveland Place East and then both Officer Shire and myself left the area in my car, the time was 03:31Hrs and as I drove out on to London Road I noted that the door of the MIX GRILL was shut but all of the lights were still on.



Signed..........

**Statement of Witness**

*(Criminal Procedure Rules, r 27.2;  
Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980, s.5B)*

**STATEMENT OF**

**Nigel John Shire**


**Age of witness (if over 18, enter "over 18"):** Over 18

Occupation of Witness: Environmental Health Officer

This statement (consisting of one page) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 19<sup>th</sup> March 2013

Signature.....



My name is Nigel Shire and I hold a BSc (hons) degree in Environmental Health obtained in 2011. I have been employed by Bath & North East Somerset Council since 2012 as an Environmental Health Officer.

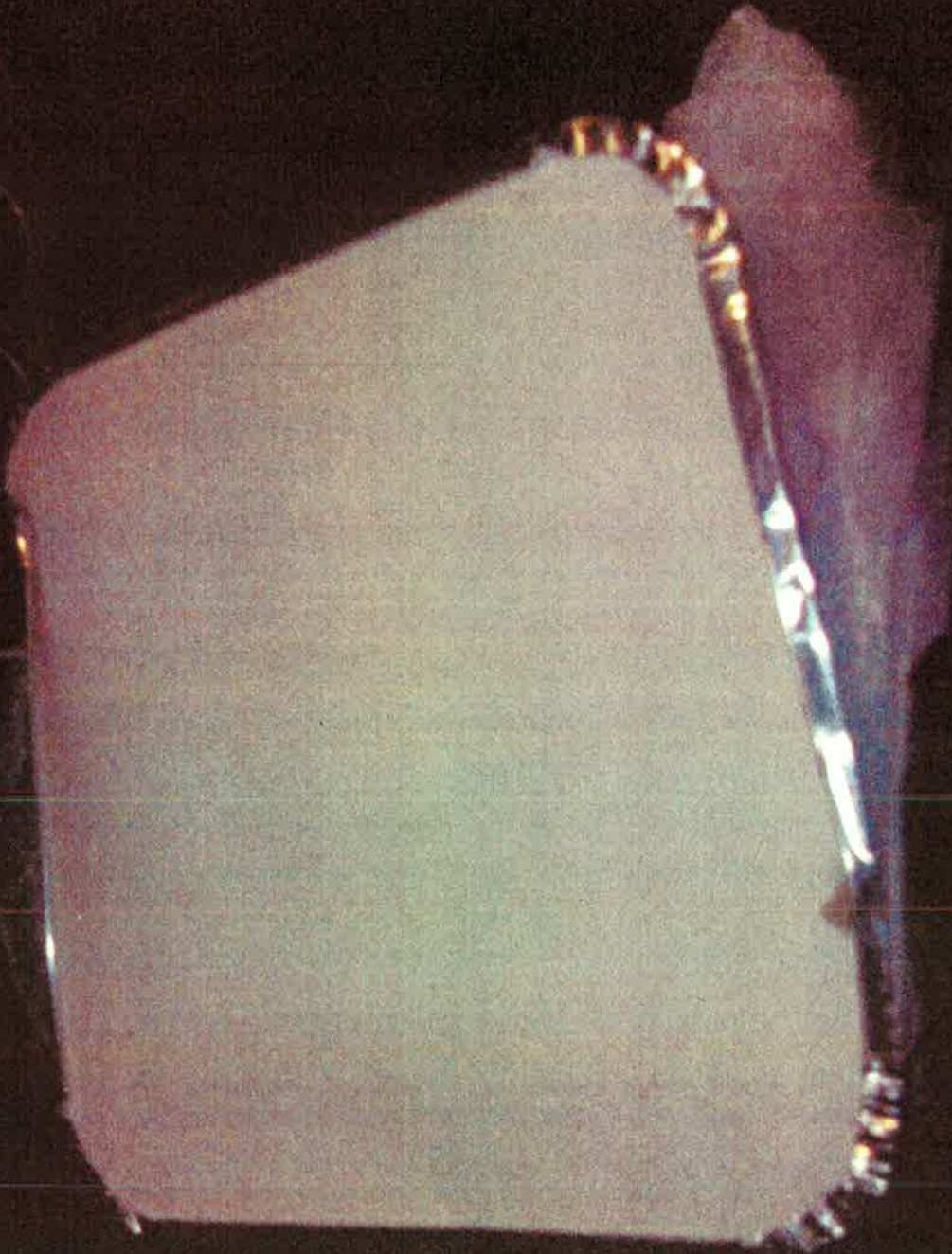
Part of my duties involve the investigation of noise complaints and on the evening of Friday 15<sup>th</sup> March 2013 into the morning of 16<sup>th</sup> March 2013 I was part of a multi-agency licensing enforcement group (LEG) reviewing licensable premises in the city of Bath.

On 16<sup>th</sup> March at 03.11 I entered the Kings Mix Grill takeaway at 4 Cleaveland Place East, Bath at the request of licensing enforcement officer Mr Michael Dando. I was able to purchase a Doner kebab and a can of Fanta orange from the premises. I paid for the two items using a £10 note and received change for the sale which totalled £5.80.

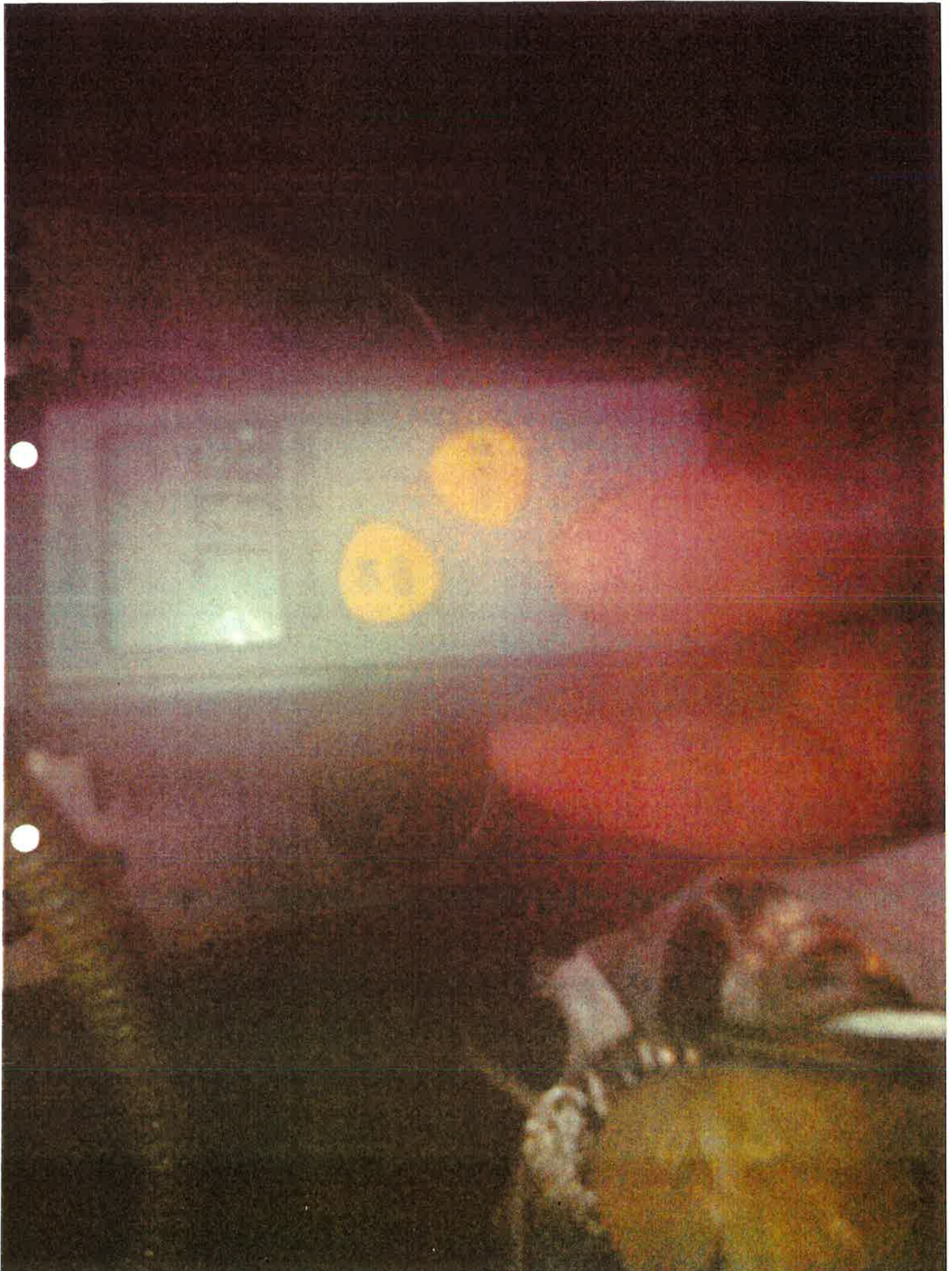
A receipt was requested, which itemised the two items as printer cartridges. The receipt was dated the 16<sup>th</sup> March 2013 with a time identified as 4.30.

Signed:  (witness)

Date: ... 19/03/13







16/03/2013 4:30 01  
000000#1717 Murat

Cartridge \*4.80  
Cartridge \*1.00

ITEMS 20  
CASH \*5.80

**ARSLAN**  
PRINTED 2 TMR

# Statutory Notice for odorous nuisance.

Environmental Officer DH 31 January 2013.





BATH AND NORTH EAST SOMERSET  
COUNCIL

DH2  
ANNEX A

ENVIRONMENTAL PROTECTION ACT 1990  
(Section 80)

**Abatement Notice in Respect of Statutory Odour Nuisance**

TO: Mr Jamie Brian Koc

OF: Kings Hot Grill, 5 Cleveland Place East, Bath, BA1 5DJ

**TAKE NOTICE** that under the provisions of the Environmental Protection Act 1990, the BATH AND NORTH EAST SOMERSET COUNCIL being satisfied of the existence and likely recurrence of a statutory nuisance under section 79(1) (d) of that Act emanating from **Kings Hot Grill, 5 Cleveland Place East, Bath, BA1 5DJ** within the district of the said Council arising from:-

**Cooking Odours**

**HEREBY REQUIRE YOU** as the occupier and person responsible for the said odour nuisance emanating from the premises **within 14 DAYS** from the service of this notice, to abate the same and also **HEREBY PROHIBIT** the recurrence of the same and for that purpose require you to-

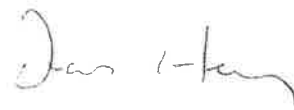
**ABATE THE NUISANCE**

**TAKE NOTICE** that pursuant to The Statutory Nuisance (Appeals) Regulations 1995 regulation 3 paragraph (2)(b) applies and this Abatement Notice shall continue to have effect notwithstanding any appeal to a magistrate's court that has not been decided by the court.

If without reasonable excuse you contravene or fail to comply with any requirement of this Notice you will be guilty of an offence under Section 80 of the Environmental Protection Act 1990 and on summary conviction will be liable of a fine not exceeding £5,000 together with a further fine of an amount equal to one tenth of that amount (£500) for each day on which the offence continues after the conviction. A person who commits an offence on industrial, trade or business premises shall be liable on summary conviction to a fine not exceeding £20,000. The Council may take proceedings in the High Court for securing the abatement, prohibition or restriction of the nuisance. If you fail to execute all or any of the works in accordance with this notice, the Council may execute those works and recover from you the necessary expenditure incurred.

**DATED THIS DAY THE**

**31 January 2013**



Signed  
Diarmid Henry  
Senior Environmental Health Officer

All communications should be sent to:-

BATH AND NORTH EAST SOMERSET COUNCIL  
ENVIRONMENTAL SERVICES, LEWIS HOUSE, MANVERS STREET, BATH, BA1 1JG  
Tel: (01225) 477555 Fax: (01225) 477596

**NB** The person served with this notice may appeal against the notice to a magistrate's court **within 21 days** beginning with the date of service of the notice. See notes on the reverse of this form.

Date: 31 January 2013  
Our ref: 12/05069/E\_NE  
Direct line: (01225) 477555  
Fax: (01225) 477596  
E Mail: Diarmid\_Henry@bathnes.gov.uk

Mr Jamie Brian Koc  
Kings Hot Grill  
4 Cleveland Place East  
BATH

Dear Mr. Koc,

**The Environmental Protection Act 1990  
Odour Nuisance from Kings Hot Grill, 4 Cleveland Place East, Bath**

I refer to the attached Statutory Notice which has been served on you under Section 80, Environmental Protection Act 1990.

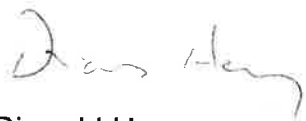
The Notice has been served on you because Bath and North East Somerset Council is satisfied of the existence and likely recurrence of an odour nuisance at Kings Hot Grill, 4 Cleveland Place East, Bath.

No further action will be taken by the Council if you ensure that no further odour nuisance arises. This means that cooking odours from your premises must not affect neighbouring properties so as to cause a Statutory Nuisance.

I must advise you that if further complaints are received the Council will monitor the premises. If it is considered that a statutory nuisance has occurred then the matter may be forwarded to the Council's legal department for consideration of legal proceedings.

Your attention is drawn to the appeals provisions on the reverse of the Notice.

Yours Faithfully,



Diarmid Henry  
SENIOR ENVIRONMENTAL HEALTH OFFICER

DH1

Date: 7 November 2012  
Our ref: 12/05069/E\_NE  
Your ref:  
Direct line: 01225 477555  
Fax: (01225) 477596  
Email: diarmid\_henry@bathnes.gov.uk

Mr Jamie Brian  
Flames Hot Grill  
4 Cleveland Place East  
BATH  
BA1 5DJ

Dear Mr Brian,

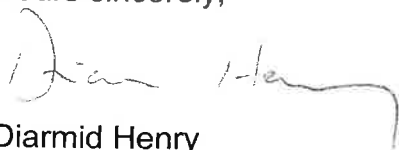
**Environmental Protection Act 1990  
Complaint of Alleged Odour Nuisance from Flames Hot Grill, 4 Cleveland  
Place East, Bath**

This Service is in receipt of an alleged odour nuisance from your premises. It is alleged that cooking odours from your premises are affecting a neighbouring property. I am concerned that the extraction system at your premises may not be functioning correctly. I would therefore be grateful if you would contact me at your earliest convenience to arrange a suitable time to visit to inspect the installation.

Please note, that if an odour nuisance is proved the Council is obliged to serve a statutory notice requiring the abatement of the nuisance and prohibiting a recurrence. A person found guilty of an offence on summary conviction for failing to comply with such a notice may be liable to a fine not exceeding £20,000.

I look forward to hearing from you.

Yours sincerely,



Diarmid Henry  
Senior Environmental Health Officer

## STATEMENT OF WITNESS

**Criminal Justice Act 1967 s.9;  
Magistrates' Courts Act 1980 ss5A(3)(a) & 5B;  
Magistrates' Courts Rules 1981 r.70**

Continuation of statement of : DIARMID HEAR Page: 3

I subsequently served an abatement notice on Jamie Brian Koc in respect of a statutory odour nuisance emanating from his premises. The notice was served by first class post on 31 January 2013. I produce a true copy of the abatement notice and covering letter marked **DH2**. I can confirm that no appeal was lodged against the abatement notice.

I believe the facts stated in this statement are true

Signature Diarmid Hear Signature Witnessed by [Signature]

**STATEMENT OF WITNESS**

**Criminal Justice Act 1967 s.9;  
Magistrates' Courts Act 1980 ss5A(3)(a) & 5B;  
Magistrates' Courts Rules 1981 r.70**

Continuation of statement of: DARWIN HENRY Page: 2  
was my intention to visit the premises to carry out an inspection of the kitchen  
extract.

I visited Kings Hot Grill at 5.00pm on Monday 19 November 2012. At the time of my visit the kitchen extract was switched off even though cooking activities were taking place. Jamie Brian was not present during my visit, however I did advise the member of staff in charge at the time to ensure that the kitchen extract was run whilst cooking.

I received a further complaint of odour nuisance regarding Kings Hot Grill in January 2013. As a result of this complaint I made a telephone call to Jamie Brian. During the conversation, Jamie Brian stated that the complainant should expect a smell within their flat as they lived above a takeaway. I explained my concerns that the kitchen extract had not been operating as it should and that the entire extract system had been switched off during my visit on 19 November 2012. Jamie Brian stated that the kitchen extract did operate all the time but later in the conversation contradicted himself stating that the extract did not need to operate all of the time. Jamie Brian then stated that I did not know anything about kitchen extracts and that he would rather speak with someone more knowledgeable. He then became verbally aggressive and I ended the call.

Signature Darwin Henry Signature Witnessed by [Signature]

## STATEMENT OF WITNESS

**Criminal Justice Act 1967 s.9;  
Magistrates' Courts Act 1980 ss5A(3) & 5B;  
Magistrates' Courts Rules 1981 r.70**

Statement of: **Diarmid Henry**

Age of Witness: **Over 18**  
(if over 18 insert "over 18")

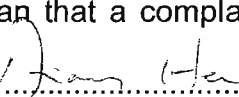
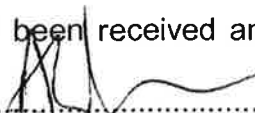
Occupation of Witness: **Senior Environmental Health Officer**

This statement, consisting of page(s), signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have willfully stated in it anything which I know to be false or do not believe to be true.

Dated the **11** day of **June 2013** Signature 

My name is Diarmid Henry, I am a Senior Environmental Health Officer employed by Bath and North East Somerset Council. I have been qualified as an Environmental Health Officer since 2005. I also hold the Institute of Acoustics Diploma in Acoustics and Noise Control. My duties involve the investigation of statutory noise nuisances as defined by section 79(1)(g) of the Environmental Protection Act 1990.

In October 2012 I received a complaint of odour nuisance emanating from Kings Hot Grill, 5 Cleveland Place East, Bath. As part of the investigation I wrote to Jamie Brian on 7 November 2012 to advise that a complaint had been received. I produce a true copy of this letter marked **DH1**. I later received a telephone call from Jamie Brian on 13 November 2012 in response to this letter. I confirmed to Jamie Brian that a complaint of odour nuisance had been received and that it

Signature  Signature Witnessed by 

## APPEALS

The Statutory Nuisance (Appeals) Regulations 1995 as follows:-

### APPEALS UNDER SECTION 80(3) of the ENVIRONMENTAL PROTECTION ACT 1990 ("the 1990 Act")

2. - (1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act (appeals to magistrates) against an abatement notice served upon him by a local authority.
- (2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case:-
- that the abatement notice is not justified by section 80 of the 1990 Act (summary proceedings for statutory nuisances);
  - that there has been some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the abatement notice served under section 80A(3) (certain notices in respect of vehicles, machinery or equipment);
  - that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unreasonable in character or extent, or are unnecessary;
  - that the time, or, where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;
  - where the nuisance to which the notice relates:-
    - is a nuisance falling within section 79(1)(a), (d), (e), (f), or (g) of the 1990 Act and arises on industrial, trade or business premises, or
    - is a nuisance falling within section 79(1)(b) of the 1990 Act and the smoke is emitted from a chimney,
    - is a nuisance falling within section 79(1)(ga) of the 1990 Act and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes,that the best practicable means were used to prevent, or to counteract the effects of, the nuisance;
  - that, in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act (noise emitted from premises), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of that Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of:-
    - any notice served under section 60 or 66 of the Control of Pollution Act 1974 (the 1974 Act) (control of noise on construction sites and from certain premises), or
    - any consent given under section 61 or 65 of the 1974 Act (consent for work on construction sites and consent for noise to exceed registered level in a noise abatement zone), or
    - any determination made under section 67 of the 1974 Act (noise control of new buildings);
  - that, in the case of a nuisance under section 79(1)(ga) of the 1990 Act (noise emitted from or caused by vehicles, machinery or equipment), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of any condition of a consent given under paragraph 1 of Schedule 2 to the Noise and Statutory Nuisance Act 1993 (loudspeakers in streets or roads);
  - that the abatement notice should have been served on some person instead of the appellant, being -
    - the person responsible for the nuisance, or
    - the person responsible for the vehicle, machinery or equipment, or
    - in the case of a nuisance arising from any defect of a structural character, the owner of the premises, or
    - in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises;
  - that the abatement notice might lawfully have been served on some person instead of the appellant being:-
    - in the case where the appellant is the owner of the premises, the occupier of the premises, or
    - in the case where the appellant is the occupier of the premises, the owner of the premises,and that it would have been equitable for it to have been so served;
  - that the abatement notice might lawfully have been served on some person in addition to the appellant, being:-
    - a person also responsible for the nuisance,
    - a person who is also an owner of the premises, or
    - a person who is also an occupier of the premises,
    - a person who is also the person responsible for the vehicle, machinery or equipment,and that it would have been equitable for it to have been so served.
- (3) If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the notice served under section 80A(3) the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (4) Where the ground upon which an appeal is brought include a ground specified in paragraph (2)(i) or (j) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of any appeal to which these regulations apply they may serve a copy of this notice of appeal on any other person having an estate or interest in the premises, vehicle, machinery or equipment in question.
- (5) On the hearing of the appeal the court may:-
- quash the abatement notice to which the appeal relates, or
  - vary the abatement notice in favour of the appellant in such manner as it thinks fit, or
  - dismiss the appeal;
- and an abatement notice that is varied under sub-paragraph (b) above shall be final and shall otherwise have effect, as so varied, as if it had been so made by the local authority.
- (6) Subject to paragraph (7) below, on the hearing of an appeal the court may make such order as it thinks fit:-
- with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work, or
  - as to the proportions in which any expenses which may become recoverable by the authority under Part III of the 1990 Act are to be borne by the appellant and by any other person.
- (7) In exercising its powers under paragraph (6) above, the court:-
- shall have regard, as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of any relevant tenancy and to the nature of the works required, and
  - shall be satisfied before it imposes any requirements thereunder on any person other than the appellant, that the person has received a copy of the notice of appeal in pursuance of paragraph (4) above.

### SUSPENSION OF NOTICES

3. - (1) Where:-
- an appeal is brought against an abatement notice served under section 80 or section 80A of the 1990 Act, and:-
  - either:-
    - compliance with the abatement notice would involve any person in expenditure on the carrying out of works before the hearing of the appeal, or
    - in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act, the noise to which the abatement notice relates is noise necessarily caused in the course of the performance of some duty imposed by law on the appellant, and
  - either paragraph (2) does not apply, or it does apply but the requirements of paragraph (3) have not been met, the abatement notice shall be suspended until the appeal has been abandoned or decided by the court.
- (2) The paragraph applies where:-
- the nuisance to which the abatement notice relates:-
    - is injurious to health, or
    - is likely to be of a limited duration such that suspension of the notice would render it of no practical effect, or
  - the expenditure which would be incurred by any person in the carrying out of works in compliance with the abatement notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.
- (3) Where paragraph (2) applies the abatement notice:-
- shall include a statement that paragraph (2) applies, and that as a consequence it shall have effect notwithstanding any appeal to a magistrates' court which has not been decided by the court, and
  - shall include a statement as to which of the grounds set out in paragraph (2) apply.





**Adverts for premises  
obtained in March 2013.**



**J** £15.99

Bath Special & Fries 2 for 1 Monday & 2 for 1 Tuesday  
Must mention promotion when ordering to get deal



**I** £19.99

Any two Pizzas



**H** £24.99

Any 12" & 9" Pizza & a Cheesy Garlic Bread,  
Fries & 1.5ltr Bottle



**G** £14.99

Any 9" Pizza with 3 Toppings, Cheesy Garlic  
Bread, Onion Rings, Fries & 1.5ltr Bottle



**F** £5.50

6 Wings, Fries & Can of Drink



**E** £7.00

Chicken Shish,  
Fries & Can of Drink



**D** £6.80

Doner Kebab, Fries  
& Can of Drink



**C** £5.00

Veggie Supreme,  
Fries & Can of Drink



**B** £5.00

1/4 Pound Burger,  
Fries & Can of Drink



**A** £5.50

Chicken Fillet Burger, Fries  
& Can of Drink



Credit Crunch Meal Deals

# KING MIX GRILL

NEW Menu  
September 2012

PIZZA - BURGERS - CHARCOAL GRILL - KEBABS

4 Cleveland Place BATH BA1 5DJ



NOW DELIVERING  
TIL 3AM  
7 DAYS  
A WEEK

**FREE DELIVERY**

Til 3am 7 days a week • Minimum Delivery £10.00

Order Online: [www.kings-mix-grill.just-eat.co.uk](http://www.kings-mix-grill.just-eat.co.uk)

[www.e-resistible.co.uk/mix-grill](http://www.e-resistible.co.uk/mix-grill)

**JUST EAT**.CO.UK

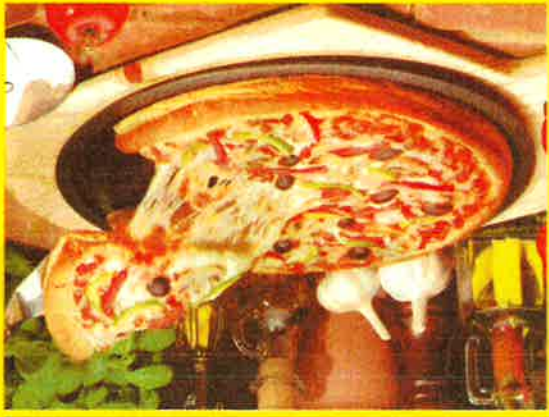
# 01225 44 37 27

ANNEX A Free Delivery to BA1 & BA2, £3 delivery to all other postcodes, delivery hours 3pm till 3am.



Pepperoni Plus	£8.99	£10.99
Double Pepperoni, Mushrooms, Onions & Green Peppers	£7.99	£9.99
Pepperoni Hot	£8.99	£10.99
Double Pepperoni & Jalapeno	£8.99	£10.99
Tandoori Hot	£8.99	£10.99
Tandoori Chicken, Onions, Peppers & Jalapeno	£8.99	£10.99
Meat Feast	£8.99	£10.99
Chicken, Ham, Pepperoni & Beef	£9.49	£11.49
Vegetarian	£9.49	£11.49
Onions, Peppers, Sweetcorn, Mushrooms & Tomato	£9.99	£11.99
Kings Special	£9.99	£11.99
Onions, Peppers, Sweetcorn, Tomato & Chicken	£5.99	£6.99
Pepperoni, Sweetcorn, Tomato & Chicken	£5.99	£6.99
Garlic Bread	£5.99	£6.99
Garlic Bread with Cheese	£6.99	£7.99

Pepperoni Plus	£8.99	£10.99
Double Pepperoni, Mushrooms, Onions & Green Peppers	£7.99	£9.99
Pepperoni Hot	£8.99	£10.99
Double Pepperoni & Jalapeno	£8.99	£10.99
Tandoori Hot	£8.99	£10.99
Tandoori Chicken, Onions, Peppers & Jalapeno	£8.99	£10.99
Meat Feast	£8.99	£10.99
Chicken, Ham, Pepperoni & Beef	£9.49	£11.49
Vegetarian	£9.49	£11.49
Onions, Peppers, Sweetcorn, Mushrooms & Tomato	£9.99	£11.99
Kings Special	£9.99	£11.99
Onions, Peppers, Sweetcorn, Tomato & Chicken	£5.99	£6.99
Pepperoni, Sweetcorn, Tomato & Chicken	£5.99	£6.99
Garlic Bread	£5.99	£6.99
Garlic Bread with Cheese	£6.99	£7.99



Margherita	£6.99	£8.99
Mozzarella Cheese & Special Tomato Sauce	£7.99	£9.99
Ham & Mushroom	£7.99	£9.99
Ham & Mushrooms	£7.99	£9.99
Hawaiian	£7.99	£9.99
Ham & Pineapple	£7.99	£9.99
Tropicana	£8.49	£10.49
Ham, Mushrooms & Pineapple	£8.49	£10.49
Chicken Special	£8.49	£10.49
Chicken, Sweetcorn & Mushrooms	£8.49	£10.49
Def Eater	£8.49	£10.49
Beef, Mushrooms & Onions	£8.99	£10.99

## Pizzas

1/4 Pounder Burger, Ketchup, mayo, lettuce, onion, tomato	£3.30
1/2 Pounder Burger, Ketchup, mayo, lettuce, onion, tomato	£4.50
Mega Triple Burger, Ketchup, mayo, lettuce, onion, tomato	£5.50
BBQ Deluxe, BBQ sauce, bacon, ketchup	£4.50
Texas Hot, Jalapeno, hot sauce, lettuce, onion	£4.50
Tropical Hawaiian, Pineapple, lettuce, BBQ sauce, ketchup	£4.50
Messy Burger, Bacon, egg, mushroom, fried onion, ketchup & mayo	£5.50
Doner Burger, Flour, onion, lettuce, mild sweet chili	£5.00
Italian Salami, Lettuce, onion, ketchup, spicy sauce	£4.30
Mushroom Magic, Lettuce, onion, ketchup, spicy sauce	£4.00
Fish Burger, Lettuce, onion, mayo, burger sauce	£3.50
Spicy Bean Burger, Mixed salad, spicy sauce	£3.50
Spicy Veggie, Hot sauce, salad, jalapeno	£4.00
Chicken Fillet Burger, Lettuce, mayo	£3.80
Vegetarian	£4.50
Humus Kebab	£4.50
Mix Salad	£3.30
Salad in Pita	£4.00
Feta Cheese Salad	£4.80
Drinks	£1.00
Canned Drinks	£1.20
Bottled Drinks 1.5ltr	£2.30



Doner Kebab	£6.30
Chicken Shish	£5.10
Chicken Special	£5.80
Shish Kebab	£5.10
Vegetarian Kebab	£3.30
Kofte Kebab	£5.10
Mixed Choice	£4.80
Any 2 Mix	£7.10
Any 3 Mix	£7.80
Any 4 Mix	£9.10
Bath Special	£7.30
Chips	£3.00
Chips in Pita	£3.00
Chips & Cheese	£3.00
Chips & Salad	£3.50
Chips & Humus	£3.50
Chips & Jumbo Sausage	£4.00
Chips & Meat	£3.50
Sides	£3.50
6 Wings	£3.50
8 Nuggets	£3.50
8 Nuggets & Chips	£5.00
8 Nuggets, Chips & Cheese	£6.00
Onion Rings	£3.50
Potato Wedges	£3.50
Roast Chicken & Chips	£5.00
Cod & Chips	£4.90
Feta Cheese & Salad	£4.50
Garlic Mushroom	£3.50

All Kebabs contain a portion of fresh salad

Burgers with cheese extra 10p

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[Home](#) [BA1 Bath](#) Kings Mix Grill - Kebab, Pizza, Burgers.



### Kings Mix Grill - Kebab, Pizza, B...

4 Cleveland Place East Bath Avon, Bath BA1

[View all opening times](#)

Types of food:

**Pizza, Kebabs, Halal**



User

## More about Kings Mix Grill - Kebab, Pizza, Burgers.

### Takeaway Description

Kings Mix Grill on Cleveland Place in East Bath delivers flavoursome fast food straight to your door when you order online at Just-Eat.co.uk. This takeaway brings you various types of flavoursome Pizzas like the delicious Pepperoni Plus made on a 9 or 12" base topped with double pepperoni, green peppers, mushrooms and onions a real delight! You can order Cod and Chips or Roast Chicken and Chips from Kings Mix Grill too plus Burgers, Kebabs and lots on the menu to satisfy your hunger. Order today from Kings Mix Grill and sample the quality of their food and service. Kings Mix Grill is open Monday to Sunday 15:00 – 03:00. Orders of £10.00 or more are delivered for £1.00, under delivery is not available.

[Kings Mix Grill - Kebab, Pizza, Burgers. Menu](#)

Map

## Customer reviews of Kings Mix Grill - Kebab, Pizza, Burgers.

Quality ●  
Deliverytime ●●●●

Alex from bath  
Date: 19/02/2013

### Opening Hours:


Monday 15:00 - 03:00  
Tuesday 15:00 - 03:00  
Wednesday 15:00 - 03:00  
Thursday 15:00 - 03:00

Service ●●●●

Friday 15:00 - 03:00  
 Saturday 15:00 - 03:00  
 Sunday 15:00 - 03:00

Quality ●●●●●● **Kieran from Bath**  
 Deliverytime ●●●●●● Date: 02/02/2013  
 Service ●●●●●●

**Kings Mix Grill - Kebab, Pizza, Burgers. Delive**

Delivery lunch 

OM NOM NOM

Delivery postcode	Min. order
ba1 Bath	£ 10
ba2 Bath	£ 10

Quality ● **Aggy from Bath**  
 Deliverytime ●●●● Date: 07/01/2013  
 Service ●●●●

*that was just pan fried pieces of chicken without any taste with raw onion, raw cabbage and cold chips. we ordered one shish kebab and one chicken kebab and was exactly this same. very disappointed.*

Quality ●●●● **Sophia from Norwich**  
 Deliverytime ●●●●●● Date: 28/12/2012  
 Service ●●●●●●

*Good value for students, but they do use the CHEAPEST meat possible*

Quality ● **Rich from bath**  
 Deliverytime ●●●● Date: 12/12/2012  
 Service ●

*worst kebab i've ever had, deliver driver stank like he hadn't washed for a week.*

[Read full reviews of Kings Mix Grill - Kebab, Pizza, Burgers.](#)

 Page Feedback

Browse takeaways  
 New takeaways  
 Pizza  
 Chinese  
 Indian

London  
 Edinburgh  
 Glasgow  
 Manchester  
 Liverpool

Cardiff  
 Leeds  
 Birmingham  
 Bristol  
 List your restaurant



Council inspections,  
letters and e-mail.

From 2008 to 2012.





09/00923/L\_LA02

**LICENSING SERVICE REQUEST**  
**(LICENSING ACT 03 - UNPERMITTED HOURS)**

Flames 4 Cleveland Place East Walcot Bath BA1 5DJ

Date received 05.02.2009Officer Emma Stoneman**Details of service request/complaint:**

The premises are sporadically operating outside of their hours - there were still people coming and going at 04.00 this morning. This happens quite regularly and is causing significant disturbance. Complainant went and complained yesterday, and says that this means the premises will keep to its licensed hours for the next few weeks. After that, they will probably start to remain open late again.

I explained that we could not require the premises to close, but they could only sell hot food and drink during the hours permitted by the licence. I said we would arrange to visit the premises in a couple of weeks for observations.

**Customer Name:** Mike Menzies**Address:** 4 Cleveland Place East Walcot Bath BA1 5DJ**Contact:** 07786 705549**Actions taken/outcome:**

Date customer informed of outcome \_\_\_\_\_

How \_\_\_\_\_

Linked to licensing record? \_\_\_\_\_

YES/NO \_\_\_\_\_

Licence no. \_\_\_\_\_

Date closed \_\_\_\_\_

Signature \_\_\_\_\_

**FILE NOTE**

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**MIX GRILL 4 CLEVELAND PLACE EAST WALCOT BATH BA1 5DJ**

---

**Date** 4 April 2008**Officer** Emma Stoneman**Notes:**

01.40hrs i/c PC Andy Yates

Premises still open, lights on, staff behind counter and 2 customers sitting at tables.

02:00 - Lights off, premises appeared closed.

---

**FILE NOTE**

---

MIX GRILL 4 CLEVELAND PLACE EAST WALCOT BATH BA1 5DJ

---

**Date** 1 February 2008

**Officer** Emma Stoneman

**Notes:**

01.36hrs.

Observed premises still open, lights on, 2 members of staff behind counter (including Jamie Brian) and 2 other males seated in front of AWP machine.

01.40hrs - main shop lights turned off and staff appeared to be closing premises up although 2 males still at AWP.

---

**Environmental Services** **ANNEX A**  
9-10 Bath Street, Bath BA1 1SN  
www.bathnes.gov.uk

**Date:** 19 February 2008  
**Our ref:** 07/01519/LAPRE  
**Your ref:**  
**Direct line:** (01225) 477531  
**Fax:** (01225) 477596  
**Email:** licensing@bathnes.gov.uk

Mr J Brian  
Basement Flat  
7 Cleveland Place East  
Bath  
BA1 5DJ

Dear Mr Brian

**Licensing Act 2003**  
**Mix Grill 4 Cleveland Place East Walcot Bath BA1 5DJ**

I am writing to you following my visit to your premises at 01.05 hours on 18 January 2008 with my colleague Licensing Enforcement Officer Mal O'Hagan.

When we spoke to you, you advised us that you had been selling hot food later than the times permitted by your Premises Licence. I would like to remind you that the sale of hot food after 23.00 hours requires a licence and must only be carried out during the times set out on the licence.

You are currently allowed to sell hot food until 01.00 hours during the week, and until 03.00 hours on Friday and Saturday nights. If you wish to sell hot food later than this you will need to make an application to extend the hours on your licence and the application must be granted before you can operate during the longer hours.

May I take this opportunity to remind you that if you sell hot food later than the hours permitted on the premises licence you will be committing an offence. The maximum penalty for such an offence is £20,000 fine, 6 months' imprisonment, or both.

If you have any questions please feel free to contact me on 01225 396719.

Yours sincerely

ES

Emma Stoneman  
Licensing Officer

**FILE NOTE**

---

**MIX GRILL 4 CLEVELAND PLACE EAST WALCOT BATH BA1 5DJ**

---

**Date** 10 January 2008**Officer** Emma Stoneman**Notes:**

T/C received from local resident Mr Mike Menzies enquiring if the times for LNR refreshment had been extended. Last night he observed the premises still open at 3am and when he asked the owners they said they were now allowed to open until 3am on Wednesdays and Thursdays also. Confirmed to Mr Menzies that there had been no change to the permitted hours and that we would contact the premises to advise them of this. Asked him to keep up informed if observes further problems.

---

07/01519/LAPRE

**FILE NOTE**

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**MIX GRILL 4 CLEVELAND PLACE EAST WALCOT BATH BA1 5DJ**

---

**Date** 18 January 2007**Officer** Emma Stoneman**Notes:**

01.05hrs.

Visit to premises i/c MOH in response to complaint that premises had been trading until 3am on Wednesdays and Thursdays.

At time of visit two male customers were seated in the premises eating hot food. Spoke with the licence holder Jamie Brian, advised on routine visit but had reason to believe he had been trading beyond permitted hours.

Mr Brian explained that he had been away on holiday but his staff had opened later and had complaints from a local resident. He stated that following his application hearing he had adhered to the permitted hours but had no complaints and since then had regularly opened until 4am. I advised that he was not licensed to operate until that time and would need to apply to vary his licence (successfully) before making use of any later hours. I reminded him that it is an offence to sell hot food/drink otherwise than in accordance with a licence and advised re the penalties if convicted. Mr Brian responded that we should tell the police and take further action; he said he would lose money by not staying open so it made no difference if he was fined. Mr Brian showed a complete disregard for the advice we had given him and the licensing legislation.

Action: liaise with police and monitor premises.

---

**Emma Stoneman**

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**From:** Steven Mildren [Steven.Mildren@avonandsomerset.police.uk]  
**Sent:** 05 February 2009 12:13  
**To:** Emma Stoneman  
**Subject:** RESTRICTED: RE: Problem Licensed Premises - Mix Grill/Flames, 4 Cleveland Place East, BA1 5DJ

Emma  
leave it with me  
Steve

-----Original Message-----

**From:** Emma Stoneman [mailto:Emma\_Stoneman@BATHNES.GOV.UK]  
**Sent:** 05 February 2009 11:57  
**To:** Steven Mildren  
**Cc:** Alan Bartlett  
**Subject:** Problem Licensed Premises - Mix Grill/Flames, 4 Cleveland Place East, BA1 5DJ

Steve,

We are having on going problems with the above premises and were hoping to enlist the help of some of your team.

The premises have caused problems for the last couple of years, often opening much later than they are permitted. I have had dealings with the licence holder Mr Jamie Brian in relation to this premises and his previous premises (Kings and an unlicensed mobile takeaway). Despite lots of advice (including a visit to the Police Station) and warning letters from us he still continues to trade in breach of licensing legislation.

On a couple of occasions Mr Brian has openly admitted to me that he regularly trades until 4am and is not concerned that he doesn't have the permission to do so. I have carried out a number of visits and observations of the premises, unfortunately these haven't produced any evidence as he seems quite sporadic in his later opening hours. However, I continue to have regular complaints from a local resident who is disturbed by this, including a call from the resident this morning.

Due to the history with this premises we are looking to monitor the premises closely with a view to pursuing a prosecution if we can gain the necessary evidence. Ideally we would be looking to witness a breach then follow this up with a final warning. If a second breach is observed then we would hopefully be in a position to take further action.

For your information, the premises licence authorises the provision of late night refreshment (hot food/drink) between the following hours:

Sunday to Thursday: 23.00 to 01.00 hours

Friday and Saturday: 23.00 to 03.00 hours.

It is not an offence for the premises to be open later than this, as long as they are not selling hot food. However information that the premises is open well beyond their permitted hours is likely to indicate that they are also trading. The sale of hot food/drink after the terminal hour is an offence under s.136 of the Licensing Act 2003. When looking for evidence to support a prosecution we need to witness the sale of hot food/drink taking place.

Would it be possible for any of your team who are working late could bear this premises in mind when they are out and about and do some checks for us please? A statement from one of your officers who has witnessed an unlicensed sale would be really helpful in trying to tackle this problem.

Any help would be gratefully received!

Kind regards,

Emma

**Emma Stoneman**  
**Licensing Officer**  
**Environmental Monitoring and Licensing**  
**Bath & North East Somerset Council**  
**Tei: 01225 396719**  
**Fax: 01225 477596**  
**Email: [emma\\_stoneman@bathnes.gov.uk](mailto:emma_stoneman@bathnes.gov.uk)**  
**[www.bathnes.gov.uk](http://www.bathnes.gov.uk)**

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**FILE NOTE**

---

**MIX GRILL 4 CLEVELAND PLACE EAST WALCOT BATH BA1 5DJ**

---

**Date** 6 February 2009**Officer** Emma Stoneman**Notes:**

Visit from Jamie Brian wanting to know if he was doing anything wrong by allowing his staff to remain on the premises once it had closed and have something to eat. He said that since our last conversation he had ensured the premises did not operate beyond the licensed hours. However, once the premises had closed his staff remain on the premises to clean up and whilst he sorted out the takings and relevant paperwork. During this time they would eat food that had been prepared, or cook food for themselves to eat. Mr Brian said that he made sure the neon open signs were turned off and the front lights.

I advised him that as long as no sales of food were taking place and the premises was closed to the public then it was not a problem for this to happen. I suggested that it would be best to ensure the premises looked completely closed by putting up closed signs (in addition to turning the light off the open sign) and making sure the door was shut so customers couldn't come in.

Mr Brian said that last night he was visited by two police officers at 1.30am and his staff were concerned that they were doing something wrong by still being there. Also, he is in dispute with the neighbour living in the upstairs flat who he states has told his staff they must leave the premises at the time stated on the licence.

I clarified that as long as the premises was shut to the public and no sales were taking place after the permitted hours then there was no breach of the licence.

---

**To: INSP Mildren**

**Re: Flames takeaway, Cleveland Place East**

Sir,

They're definitely still breaching routinely but, as always happens, I got called away during the relevant times!

I gave the benefit of the doubt on Saturday night just gone (early hours 29<sup>th</sup> March - Change to British Summer time), but they were still serving at what was technically nearly 4.00am.

Please find a S.9 for the breach last week and let me know if your need more, they're doing it all the time.

Regards

Rich



PC 411 Hafferty  
Team 2

## AVON AND SOMERSET CONSTABULARY

**RESTRICTED (when complete)**

MG11T

**WITNESS STATEMENT**

CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

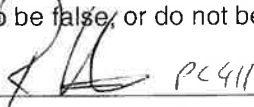
URN

Statement of PC 411 Richard Hafferty

Age if under 18 Over 18 (if over insert 'over 18') Occupation Police Constable

This statement (consisting of 1 page(s), each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signature



Date 30/3/2009

Tick if witness evidence is visually recorded  (supply witness details on rear)

I am Police Constable 411 Richard Hafferty of the Avon and Somerset Constabulary, currently stationed at Bath Police Station.

On Thursday the 19<sup>th</sup> March 2009, I was on duty, in uniform in the company of PC 4564 Cole.

At 01.20hrs, while on routine patrol in a marked police vehicle, I passed 'Flames' takeaway, Cleveland Place East, Bath.

'Flames' is a takeaway or 'fast food' outlet that sells hot food to the public. Its premises are located on the junction with Cleveland Place East and London Road. It has full-length clear glass windows and doors across its front, and during the hours of darkness (such as on this occasion) you get a clear view inside the premises as it is very well illuminated inside.

As I passed 'Flames' I noticed it was open for business, all its lights were on and a large sign said 'Open' in its front window. Staff, wearing red t-shirts were behind the counter and I noticed two customers waiting in front of the service counter.

I stopped the police vehicle nearby and observed the two men at the counter both purchasing food from inside.

One customer, a male, who I'd describe as Black, 35/40 years of age, with long 'dread-locked' hair and around 6' in height, purchased some food that I saw come from the hot grill behind the counter. It was handed to him in a polystyrene-type container and I saw him make payment in cash.

The second customer, also a male, who I describe as a white, around 5'9" in height of stocky build and with short dark hair, also purchased hot food. It appeared to come from a large kebab-skewer grill, and was also served to him in a polystyrene-type container. I also observed this man make payment in cash.

I had a clear and obstructed view throughout, and was a distance of around 20 meters from the premises during my observation.

Signature:



Signature witnessed by: N/A

**Environmental Services**

9-10 Bath Street, Bath BA1 1SN  
www.bathnes.gov.uk

**Date:** 28 April 2009  
**Our ref:** 07/01519/LAPRE  
**Direct line:** (01225) 477531  
**Fax:** (01225) 477596  
**Email:** licensing@bathnes.gov.uk

Mr Jamie Brian  
Mix Grill / Flames  
4 Cleveland Place East  
Walcot  
Bath  
BA1 5DJ

Dear Mr Brian

**Mix Grill 4 Cleveland Place East Walcot Bath BA1 5DJ**

It is with regret that I have to write to you regarding further unlicensed sales of hot food from the above premises.

I have received information from the Police indicating that sales of hot food have been taking place beyond the hours permitted on your premises licence. The Police have provided me with a written statement for Thursday 19 March 2009 when two officers observed your premises being open and serving members of public at 01.20 hours.

As I have previously advised you, it is an offence to sell hot food or drink later than the hours permitted on your licence. Under the Licensing Act 2003 if you are convicted of this offence you may be liable for a fine not exceeding £20,000, up to 6 months' imprisonment, or both.

You should consider this letter to be a final written warning. Please be advised that if any more unlicensed sales are witnessed then further action will be taken.

Yours sincerely

ES

Emma Stoneman  
Licensing Officer

---

**Bath & North East  
Somerset Council**

---

**Environmental Services**  
9-10 Bath Street, Bath BA1 1SN  
[www.bathnes.gov.uk](http://www.bathnes.gov.uk)

**Date:** 10 February 2012  
**Our ref:** 07/01519/LAPRE  
**Your ref:**  
**Direct line:** (01225) 477531  
**Fax:** (01225) 477596  
**Email:** [licensing@bathnes.gov.uk](mailto:licensing@bathnes.gov.uk)

Mr J Brian  
Basement Flat  
7 Cleveland Place East  
Bath  
BA1 5DJ

Dear Mr Brian

**Licensing Act 2003**  
**Mix Grill 4 Cleveland Place East Walcot Bath BA1 5DJ**

I write to inform you that we have received a complaint alleging that late night refreshment is being provided beyond the hours authorised by your premises licence.

I am not currently in a position to prove the allegation either way, however I will take this opportunity to remind you that the offence of carrying on licensable activity otherwise than under or in accordance with an authorisation, carries a maximum penalty of £20,000 fine and/ up to 6 months' imprisonment.

I understand that my colleague Emma Stoneman has already issued a final written warning to you in respect of your providing late night refreshment beyond the hours permitted on your licence.

Please be advised that if any unlicensed sales are witnessed, further action will be taken.

I trust you will give this matter your urgent attention.

Yours sincerely

Terrill Wolyn  
Senior Licensing Officer



**Schedule 12  
Part A**

**Regulation 33, 34**

**Premises Licence**

<b>Premises Licence Number</b>	07/01519/LAPRE
--------------------------------	----------------

**Part 1 – Premises Details**

**Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code**

Mix Grill  
4 Cleveland Place East  
Walcot  
Bath  
BA1 5DJ

**Telephone number**      07769724323

**Where the licence is time limited the dates**    Not applicable

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

**Late Night Refreshment (Indoors only)**

Friday and Saturday	23:00 - 03:00
Sunday to Thursday	23:00 - 01:00

**The opening hours of the premises**

Sunday to Thursday	23:00 - 01:00
Friday and Saturday	23:00 - 03:00

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

Not applicable

**Part 2****Name, (registered) address, telephone number and email (where relevant) of holder of premises licence**

Mr Jamie Brian  
Basement Flat  
7 Cleveland Place East  
Bath  
BA1 5DJ  
07769724323  
jamie\_koc@hotmail.com

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

Registered Business Number - Not applicable

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

Not applicable

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

Not applicable

This licence is issued by Bath & North East Somerset Council as licensing authority under Part 3 of the Licensing Act 2003 and regulations made thereunder.

Signed for and on behalf of  
Bath & North East Somerset Council:

*Eftomena*

Dated 25 July 2007



## **Bath & North East Somerset Council**

### **Annex 1 – Mandatory conditions**

**Any individual employed to carry out a security activity must be licensed by the Security Industry Authority.**

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

Staff shall arrange for a taxi service if requested.

Free drinking water shall be available.

CCTV cameras shall be in operation at the premises.

Customers shall not be permitted to bring bottles or glasses into the shop.

A prominent sign shall be displayed telling customers to leave the shop in a quiet manner.

The premises shall have an extract system which is designed to prevent noxious smells.

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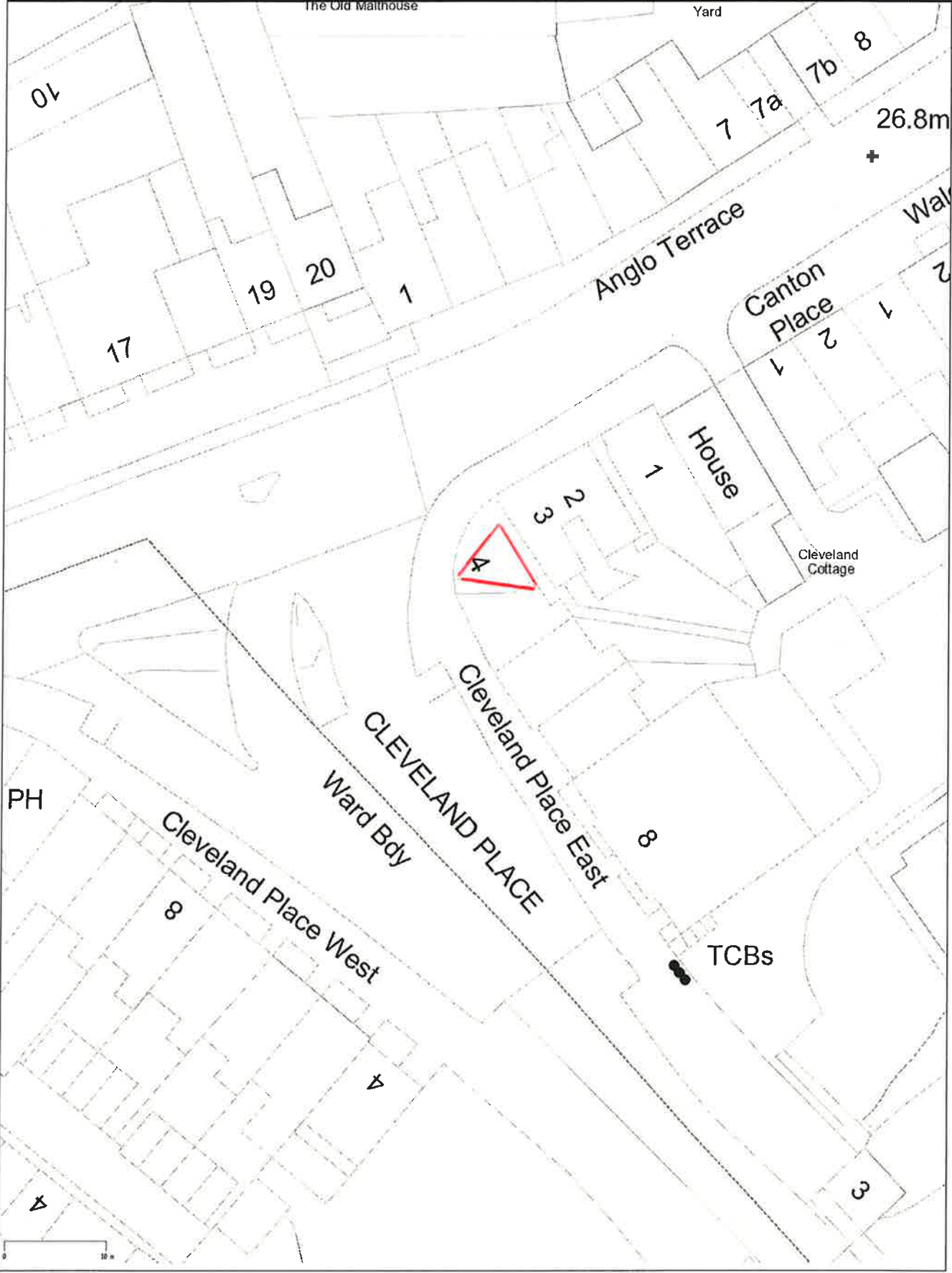
**Bath & North East  
Somerset Council**

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

**Annex 4 – Plans**

As submitted with application.

<b>Bath and North East Somerset: District Online</b>	Date: 16-7-2013 Scale: 1:500	<b>Bath &amp; North East Somerset Council</b>	
Mix Grill <i>REVIEW</i>	Map Centre - easting / northing: 375292 / 165735	© Crown copyright and database right. All rights reserved (100023334) 2013	





**Terrill Wolyn**

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**Subject:** FW: Flames Grill and Jamie Koc

**From:** Lynda Sanderson [mailto:]  
**Sent:** 11 July 2013 12:12  
**To:** Michael Dando  
**Subject:** Flames Grill and Jamie Koc

Dear Mr Dando,

Further to our extensive communications with yourself, Nigel Shire, Diarmaid Henry and the police, I can report that since our last communication with Jamie Koc the owner of Flames the fast food outlet below our flat, we still suffer in exactly the same way with smell and noise.

Since the threat that was made to our son Oliver, we have decided to move out of the flats and put them on the market. In short, we have been driven from our properties by someone who has intimidated us into so doing.

I am taking anti-depressants since the flare up with Mr Koc and am continually on tenterhooks in case I see him or he telephones us as he did before in the middle of the night. As I said, last summer apart from the continual noise and smell nuisance, Mr Koc made 1am telephone calls to us, frightened my son and in one case he or one of his staff came up to the flat in the middle of the night and hammered on the door which terrified the girls who were staying there.

In addition, we have regular visits from bailiffs at our premises and we are generally intimidated and very upset.

I find it difficult to believe that with the licencing laws that most decent businesses have to adhere to, that this group of aggressive members of our society have consistently flaunted them in the face of police, environmental health officers and indeed yourself, with the result that people like us and our son have no alternative but to sell up and try to move away from the trouble which has been caused us.

Let us not forget that we were seeking an amicable solution to the smell which has permeated our flat and ruined the living experience and also to the after hours incessant noise that was caused by Mr Koc's establishment, but his response was complete aggression and intimidation.

I hope that whoever revues his licence reads this testimonial, the experience caused by Mr Koc has affected the lives of my family to the extent that my son has moved back home from his own flat and I could never let my 15 year old daughter near the place for fear of the continual menacing from the large numbers of Koc's employees and family who linger outside our entrance by day and night.

Yours truly,  
 Lynda Passmore  
 Flat 1 Cleveland Place East  
 & Oliver Sanderson Flat 2 Cleveland Place East

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**Terrill Wolyn**

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**Subject:** FW: Mix Grill

**From:** [mailto: ]

**Sent:** 14 July 2013 11:45

**To:** Licensing

**Subject:** Mixed Grill

Hi there,

I am writing to support the council in revoking "Mixed Grill's late night licence. I live with my family in xxxxxxxxxxxx opposite the shop, which I think is a Public Nuisance late at night, attracting loud revellers in the middle of the night as we are trying to sleep.

I am happy to expand on the reason why I think the Mixed Grill's licence should be restricted to a closing time of 11.30pm.

Living on xxxxxxxxxxx is really great except for one thing---the noise. xxxxxxxxxxx and the immediate area, is ,and historically has always been, a densely populated area of Bath. Due to the volume of traffic and the close proximity of the fire and ambulance stations the inhabitants have more than their fair share of noise nuisance to put up with so I think it is only right that during those hours when most of us are trying to get some rest and the majority of the traffic has calmed down, the businesses in the area should not be permitted to continue trading, thereby attracting more traffic to the area and occasionally drunks and revellers who can be noisy and aggressive. When there is any sort of disturbance it is also made worse by the amplification of the noise as it ricochets around the buildings in the area.

I have occasionally looked out at the premises in question in the early hours of the morning and have been struck by 2 things.

1. In an area with so many listed buildings that have to comply with very many building regulations how come we have a business that is able to use large offensive signs and neon lights within our midst?

an

2. Considering the relatively few but occasionally raucous customers that arrive in the early hours , how can they be making any money during these hours and why should so many ( ie locals) be disturbed by so few ?

Yours

xxxxxxxxxxxxx



**Terrill Wolyn**

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**From:** Terrill Wolyn  
**Sent:** 16 July 2013 23:42  
**To:** david holley  
**Cc:** Licensing  
**Subject:** RE: mix grill - review

Dear David

Re: Mix Grill - Application for the review of the premises licence

I acknowledge safe receipt of your representation and confirm that the official hearing notification letters will be drafted tomorrow advising that the hearing is scheduled to take place on Tuesday 6 August 2013.

I look forward to receiving all additional information in due course.

Kind regards

Terrill

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**From:** david holley [dholley\_licensing@btinternet.com]  
**Sent:** 16 July 2013 21:37  
**To:** Terrill Wolyn  
**Cc:** david holley  
**Subject:** mix grill - review

Terrill, Please find attached a rep re mix grill

Many thanks,

David Holley



TO THE LICENSING DEPARTMENT  
BATH AND NORTH EAST SOMERSET COUNCIL,  
LEWIS HOUSE,  
Manvers Street,  
Bath BA1 5QJ

For the attention of Terrill Wolyn

Re REVIEW MIX GRILL – LICENCE NO 07/01519/LAPRE  
Late Night Refreshments facilities.

I have been requested by the holder of the Licence referred to above, Jamie Brian, to represent him at the hearing before the Licensing Sub Committee believed to be 6<sup>th</sup> August next during the process of a review ref MD/Enf/MIX GRILL issued on 18<sup>th</sup> JUNE. 2013.

Following the receipt of the application and my visits to the premises , there seems to be a number of matters which will need to be brought to the attention of the Committee. Additionally the possibility of some further steps which may be considered to address the concerns of those who have made relevant representations.

This untainted licence was issued in 2007 following a hearing and has provided a service to customers on and off the premises. Customers are mostly members of the public from individuals to parties, in the early hours of the morning, workers in the late night economy join the queue in the shop. Occasionally to other licence premises who wish to provide on their premises. Deliveries are undertaken too for sales made during the authorised hours.

There may be some degree of core business antagonism developing between competing premises in the area. I was surprised to discover the depth of this and it appears to demand some further investigation because of its effect on the quality of supply in this area.

The extraction systems has been cleaned and is now in use. A further inspection will be made hopefully within the next two weeks.

Jamie is anxious to assist in providing an important business requirement to supply customers with a respected quality of takeaway and delivery of hot food.

Any documents to be produced will be produced within the necessary time limits, prior to the hearing

