

# Public Document Pack

Legal and Democratic Services



## LICENSING (HEARING) SUB-COMMITTEE

**Tuesday 10 November 2020 at 10.00 am**

**Place: Remote Meeting**

**PLEASE NOTE: this will be a 'virtual meeting'.**

**The link to the meeting is: <https://attendee.gotowebinar.com/register/4401448810783585296>  
Webinar ID: 689-037-611**

**Telephone (listen-only): 020 3713 5022 Telephone Access code:732-277-528**

The members listed below are summoned to attend the Licensing (Hearing) Sub-Committee meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

Councillor Liz Frost (Chairman)  
Councillor Neil Dallen

Councillor Robert Foote

Yours sincerely

A handwritten signature in black ink, appearing to read "J.C. Belden".

Chief Executive

For further information, please contact Democratic Services, [democraticservices@epsom-ewell.gov.uk](mailto:democraticservices@epsom-ewell.gov.uk) or 01372 732000

## **Public information**

### **Please note that this meeting will be a ‘virtual meeting’**

This meeting will be held online and is open to the press and public to attend as an observer using free GoToWebinar software, or by telephone.

A link to the online address for this meeting is provided on the first page of this agenda and on the Council’s website. A telephone connection number is also provided on the front page of this agenda as a way to observe the meeting, and will relay the full audio from the meeting as an alternative to online connection.

Information about the terms of reference and membership of this Committee are available on the [Council’s website](#). The website also provides copies of agendas, reports and minutes.

Agendas, reports and minutes for the Committee are also available on the free Modern.Gov app for iPad, Android and Windows devices. For further information on how to access information regarding this Committee, please email us at [Democraticservices@epsom-ewell.gov.uk](mailto:Democraticservices@epsom-ewell.gov.uk).

### **Exclusion of the Press and the Public**

There are matters scheduled to be discussed at this meeting that would appear to disclose confidential or exempt information under the provisions Schedule 12A of the Local Government (Access to Information) Act 1985. The Sub-Committee will be asked to consider passing a resolution to exclude the press and public by virtue of the private nature of the business to be transacted.

### **Questions from the Public**

Questions from the public are not permitted at meetings of the Licensing (Hearing) Sub-Committee. [Part 4 of the Council’s Constitution](#) sets out which Committees are able to receive public questions, and the procedure for doing so.

## **AGENDA**

### **1. DECLARATIONS OF INTEREST**

Members are asked to disclose the existence and nature of any Disclosable Pecuniary Interests in respect of any item to be considered at the meeting.

### **2. EXCLUSION OF PRESS AND PUBLIC (Pages 5 - 6)**

The Sub-Committee is asked to consider whether it wishes to pass a resolution to exclude the Press and Public from the meeting in accordance with Section 100A (4) of the Local Government Act 1972 on the grounds that the business involves the likely disclosure of exempt information as defined in paragraph 7 of Part 1 of Schedule 12A to the Act (as amended) and that pursuant to paragraph 10 of Part 2 of the said Schedule 12A the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

### **3. LICENSING ACT 2003 - APPLICATION FOR REVIEW OF A PREMISES LICENCE - EPSOM CONVENIENCE STORE, 8 EAST STREET, EPSOM (Pages 7 - 50)**

The Sub-Committee is asked to consider the Review of the Premises Licence for Epsom Convenience Store, 8 East Street Epsom under the Licensing Act 2003.

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**EXCLUSION OF PRESS AND PUBLIC**

Under Section 100(A)(4) of the Local Government Act 1972, the Sub-Committee may pass a resolution to exclude the public from the Meeting for Part Two of the Agenda on the grounds that the business involves the likely disclosure of exempt information as defined in paragraph 7 of Part 1 of Schedule 12A to the Act (as amended) and that pursuant to paragraph 10 of Part 2 of the said Schedule 12A the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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**LICENSING ACT 2003 - APPLICATION FOR REVIEW OF A  
PREMISES LICENCE - EPSOM CONVENIENCE STORE, 8 EAST  
STREET, EPSOM**

<b>Head of Service:</b>	Rod Brown, Head of Housing & Community
<b>Wards affected:</b>	Town Ward
<b>Appendices (attached):</b>	Restricted Appendix 1: Application for the Review of a Premises Licence submitted by Surrey Police with supporting submission and evidence. Restricted Appendix 2: Representation from Surrey Social Services Appendix 3: Premises Licence Appendix 4: Floor Plan

**Summary**

The Sub-Committee is asked to consider the Review of the Premises Licence for Epsom Convenience Store, 8 East Street Epsom under the Licensing Act 2003.

**Recommendation (s)**

**The Sub Committee is asked to:**

- (1) consider the Review of the Premises Licence for Epsom Convenience Store, 8 East Street Epsom under the Licensing Act 2003.**

**1 Reason for Recommendation**

- 1.1 To determine the application for a Review brought by Surrey Police.

**2 Background**

- 2.1 The supply of alcohol, provision of regulated entertainment, and sale of late night refreshment are licensable activities under the Licensing Act 2003. Authorisation from the Council, in its role as the licensing authority, is required in order to carry on any of these activities at premises within the borough.

- 2.2 Under the scheme of delegation adopted by the Council, the Licensing (Hearing) Sub-Committee (“the Sub-Committee”) is responsible for the exercise of many of the functions of the licensing authority, including determination of applications where representations have been received.

**General principles to be followed when determining review applications**

- 2.3 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 2.4 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 2.5 When considering applications, the licensing authority is required to carry out its functions with a view promoting the licensing objectives, which are:
- the prevention of crime and disorder;
  - public safety;
  - the prevention of public nuisance; and
  - the protection of children from harm.
- 2.6 The Licensing Authority must also have regard to its Statement of Licensing Policy, and to the statutory guidance issued by the Home Office under section 182 of the Act. Chapter 11 of the Section 182 guidance specifically deals with Reviews.



- 2.7 The Sub-Committee must ensure that all licensing decisions have a direct relationship to the promotion of one or more of the licensing objectives. Every application should be considered on its merits, and there must not be a 'blanket policy' to the extent that it is applied so rigidly that an exercise of discretion in each individual case is precluded. Applications must be considered with regard to the principles of fair process and the Human Rights Act.
- 2.8 The Statutory Guidance highlight that only precise, necessary and proportionate conditions, which promote one or more of the licensing objectives, should be attached to the licence or certificate. The Sub-Committee should only impose such conditions as are appropriate to promote the licensing objectives arising out of the consideration of the representations received and should avoid straying into undisputed areas. Conditions duplicating other statutory provisions are not considered to be appropriate.
- 2.9 It is considered inappropriate for officers involved in the administration of applications to make recommendations. However officers from the Responsible Authorities may request conditions be imposed on a licence and make recommendations with regard to the licensing objectives.
- 2.10 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 2.11 Parties to a hearing, including the applicant and persons who made relevant representations, may have rights of appeal against any decision made by the Sub-Committee, dependent upon the nature of the decision. Appeals may be instituted by way of written notice to a Magistrates Court, within 21 days of being notified of the decision.

#### **Options available to the Sub Committee**

- 2.12 The Licensing Authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a Licensing Authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

- 2.13 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.
- 2.14 Where the Licensing Authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- a. modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
  - b. exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
  - c. remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
  - d. suspend the licence for a period not exceeding three months;
  - e. revoke the licence.
  - f. Take no action

### **3 Details of Application**

- 3.1 On 25 September 2020, an application for Review of the Premises Licence was submitted by Surrey Police on the grounds of the prevention of public nuisance, public safety and the protection of children from harm. The application and supporting submission and evidence, is attached as Appendix 1.
- 3.2 A copy of the current premises licence and floor plan are attached at Appendix 3 and 4 respectively.
- 3.3 The premises are currently licensed for the sale of alcohol from 6:00 until 23:00 Monday to Sunday.
- 3.4 The Licence has been in operation since March 2010.

### **4 Representations from Interested Parties**

- 4.1 None received.

**5 Representations from Responsible Authorities**

5.1 Surrey Social Services, Child Employment Team as Responsible Authority are in support of the Review. Their representation is attached as Appendix 2.

5.2 No other responses have been received.

**6 Policy Considerations**

6.1 A copy of the Council's Statement of Licensing Policy has been provided to all parties.

**7 Risk Assessment**

Legal or other duties

7.1 Impact Assessment

7.1.1 Decisions on licensing matters engage issues of human rights, in particular, Article 6, the right to a fair hearing. However, the interference with Convention Rights is permitted where lawful and necessary in the interests of public safety, the prevention of disorder and crime, the protection of health and morals or for the protection of the rights and freedoms, and Article 8, respect for protection of the rights and freedoms of others.

7.2 Crime & Disorder

7.2.1 None for the purposes of this report.

7.3 Safeguarding

7.3.1 None for the purposes of this report.

Dependencies

7.4 None for the purposes of this report.

Other

7.5 None for the purposes of this report.

**8 Financial Implications**

8.1 None for the purposes of this report.

8.2 **Section 151 Officer's comments:** None for the purposes of this report.

## 9 Legal Implications

- 9.1 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 9.2 The Licensing Authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 9.3 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the steps referred to above. In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.
- 9.4 **Monitoring Officer's comments:** None arising from the contents of this report.

## 10 Policies, Plans & Partnerships:

- 10.1 **Council's Key Priorities:** Not relevant for the purposes of this report.
- 10.2 **Service Plans:** Not relevant for the purposes of this report.
- 10.3 **Climate & Environmental Impact of recommendations:** None for the purposes of this report.
- 10.4 **Sustainability Policy & Community Safety Implications:** None for the purposes of this report.
- 10.5 **Partnerships:** None for the purposes of this report.

## 11 Background papers

- 11.1 The documents referred to in compiling this report are as follows:

### **Previous reports:**

- None

### **Other papers:**

- Council's Statement of Licensing Policy, dated 11 December 2018
- Licensing Act 2003
- Revised Guidance issues under section 182 of the Licensing Act 2003 (updated April 2018)  
<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

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## SCHEDULE 12 PART A (Regulation 33,34)

### PREMISES LICENCE

**Premises licence number**

**EEBC/09/00337/LAPRE**

#### Part 1 - Premises details

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

**EPSOM CONVENIENCE STORE LTD  
8 EAST STREET**

**Post town EPSOM**

**Post code KT17 1HH**

**Telephone number** [REDACTED]

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

**NONE**

**Licensable activities authorised by the licence**

**SALE OF ALCOHOL BY RETAIL**

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

**MONDAY TO SUNDAY 06.00 HOURS UNTIL 23.00 HOURS**

**The opening hours of the premises**

**MONDAY TO SUNDAY 06.00 HOURS UNTIL 23.00 HOURS**

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

**FOR CONSUMPTION OFF THE PREMISES**

## Part 2

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

**MR J ANNARAJAH**

[REDACTED ADDRESS]

**TELEPHONE :** [REDACTED]

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

**NOT APPLICABLE**

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

**MR J ANNARAJAH**

[REDACTED ADDRESS]

**TELEPHONE :** [REDACTED]

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

**LONDON BOROUGH OF SUTTON 05/[REDACTED]/LAPERS**

**Dated 6 October 2020**

*R Jackson*

**For The Licensing Authority**

## **Annex 1 – Mandatory conditions**

### **Mandatory Condition: where licence authorities supply of alcohol**

Where a premises licence authorises the supply of alcohol, the licence must include the following conditions

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

### **Mandatory Condition: exhibition of films**

1. Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection 3(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.
3. Where:
  - (a) The film classification body is not specified in the licence, or
  - (b) The relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,
 Admission of children must be restricted in accordance with any recommendation made by that licensing authority.

Children means persons aged under 18; and

Film classification body means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification)

### **Mandatory Condition: door supervision**

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.
2. But nothing requires a condition to be imposed in respect of:
  - (a) paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
  - (b) any occasion mentioned in paragraph 8(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

Security activity means an activity to which paragraph 2(1)(a) of that Schedule applies, and Paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

**Conditions 1, 2 and 3 below came into force on 6<sup>th</sup> April 2010, and 4 and 5 came into force on 1<sup>st</sup> October 2010 (as amended 1 October 2014).**

1. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

3. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.  
  
(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.  
  
(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—  
  
(a) a holographic mark, or (b) an ultraviolet feature.
4. The responsible person must ensure that—  
  
(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—  
  
(i) beer or cider: ½ pint;  
  
(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and  
  
(iii) still wine in a glass: 125 ml;  
  
(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and  
  
(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

**The Licensing Act 2003 (Mandatory Conditions) Order 2014 came into force on May 2014.**

A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1—  
 “permitted price” is the price found by applying the formula—

$$P = D + (D \times V) \text{ where—}$$

- (i) P is the permitted price,
  - (ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
- (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question;

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph)

not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the

price actually given by that sub-paragraph rounded up to the nearest penny.

3. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.



(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

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

1. The Designated Premises Supervisor shall provide comprehensive training to all staff authorized to sell alcohol and refresher training every 6 months thereafter regarding Licensing Law with respect to the sale of alcohol and recognised identification documents. A written record shall be kept of such training, and shall include details of the names of staff trained, including their signature, date of training and a summary of the matters covered in training including any material used. Training records shall be kept on site for a minimum period of 2 years and shall be made available on demand for inspection to Police and the Local Authority.

2. CCTV shall be installed and working to the satisfaction of the Police and Local Authority; There shall be a minimum of two cameras covering the till area and front entrance; Recordings shall be maintained for a period of 31 days and made available on demand to the Police and Local Authority; A notice shall be displayed at the entrance to the premises advising that CCTV is in operation.

3. Only staff that have been trained shall be permitted to sell alcohol.

4. When Staff Members who are not Personal Licence holders are authorised to sell alcohol, that authorisation shall be made in writing and made available to Police or Local Authority Officers on demand.

5. The display of alcohol for sale shall be restricted to the areas stated on the submitted plan.

6. A challenge 21 policy shall be operated. Any person wishing to purchase alcohol who appears to be under the age of 21 years will be requested to provide identification. Only photographic identification shall be accepted such as passport, driving licence or citizen cards with holograms. If a customer is unable to provide identification then no sale shall be made.

7. Clear notices shall be prominently displayed at the premises confirming the challenge 21 policy and requirement for identification to be provided with respect to the purchase of alcohol.

8. A refusals book shall be kept recording details of refusals made of persons identified as under 18, of persons refused sale for failing to produce identification, and those refused sale where it is suspected the purchase was on behalf of children under 18. The refusal book shall be made available to police and local authority officers on demand.

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

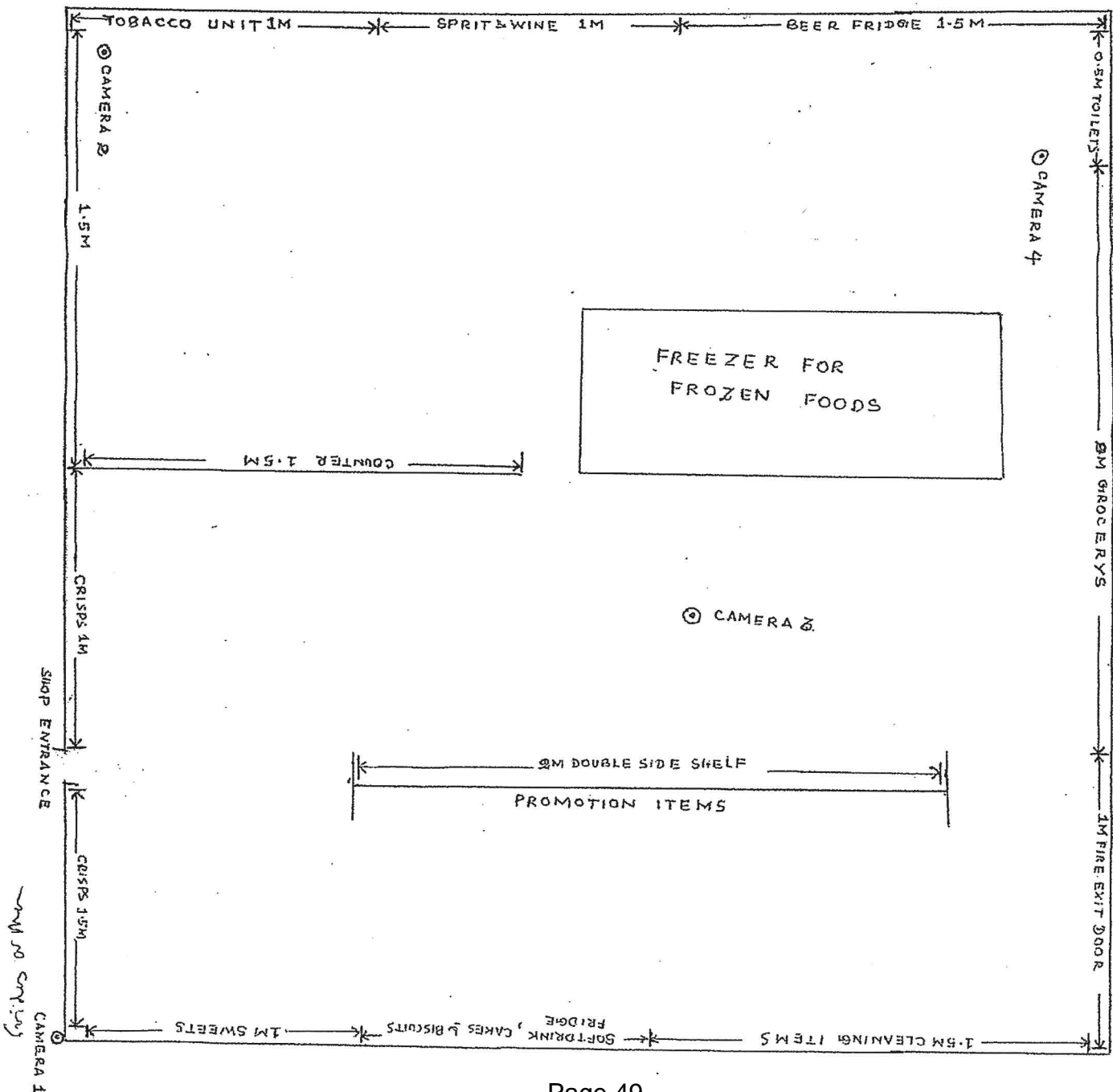
**NONE**

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# **SHOP PLAN** **FOR** **NO. 8 EAST STREET,** **EPSOM, KT17-1HH**

**NOTE**

- ① CAMERA 1 (CCTV) - OUTSIDE - It will cover the front of the shop and front door.
- ② CAMERA 2 (CCTV) - INSIDE - Cover the person, when who buy from the Till
- ③ CAMERA 3 (CCTV) - INSIDE - Cover the inside shop.
- ④ CAMERA 4 (CCTV) - INSIDE - Cover the inside shop.



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