

**REPORT OF THE GROUP DIRECTOR, NEIGHBOURHOODS AND HOUSING**

<b>LICENSING SUB-COMMITTEE:</b> 26/01/2021	<b>Classification</b> DECISION	Enclosure
<b>Application for Review of Premises Licence:</b> Topaloglu Food and Wine, 478 Kingsland Road, E8 4AE	<b>Ward(s) affected</b>  London Fields	

**1. SUMMARY**

<b>Applicant</b> PC Neal Hunwick	<b>In SPA:</b> Dalston
<b>Date of Application</b> 12 October 2020	
<b>The Grounds for Review:</b> <ul style="list-style-type: none"> <li>• The Prevention of Crime and Disorder</li> <li>• Public Safety</li> <li>• Allegation that alcohol has been sold during the licence suspension period.</li> </ul>	
<b>Current Premises Licence Details:</b> Premises Licence permitting <ul style="list-style-type: none"> <li>• Sale by retail of alcohol (Off sales)</li> </ul> See Appendix B	
Current Capacity	Unknown
Policies Applicable	LP1 (General Principles), LP2 (Licensing Objectives) and LP10 (Special Policy Areas – Dalston and Shoreditch)
List of Appendices	Appendix A– Application requesting the review of the premises licence Appendix B – Current Licence Appendix C – Representations from responsible authorities Appendix D - Location map
Relevant Representations	<ul style="list-style-type: none"> <li>• Licensing Authority</li> </ul>

**2. APPLICATION FOR REVIEW OF PREMISES LICENCE**

- 2.1 PC Neal Hunwick, as a responsible authority under the Licensing Act 2003, has applied for the review of the premises licences granted for the premises known as Topaloglu on the grounds of prevention of crime and disorder and public safety. For further application details, see Appendix A

2.2 Representations supporting the review have been received from Licensing Authority (see Appendix C)

### 3. CURRENT POSITION/ HISTORY

3.1 The premises were in procession of a justice's licence prior to the introduction of the Licensing Act 2003 in 2005. The licence is held by Sherkhan Limited. A copy of the current premises licence is attached as Appendix B.

3.2 Police had made an application for review relating to this premises on 18 May 2020 and the Licensing Sub-Committee was held on 17 June 2020.

### 4. REPRESENTATIONS: RESPONSIBLE AUTHORITIES

From	Relevant Representations details
Environmental Health Authority (Environmental Protection)	No representation received
Environmental Health Authority (Environmental Enforcement)	Have confirmed no representation on this application
Environmental Health Authority (Health & Safety)	No representation received
Weights and Measures (Trading Standards)	No representation received
Planning Authority	No representation received
Area Child Protection Officer	No representation received
Fire Authority	No representation received
Police	Not Applicable, see review application
Licensing Authority (Appendix C)	Representation received on the grounds of Prevention of Public Nuisance.
Health Authority	No representation received

### 5. REPRESENTATIONS: INTERESTED PARTIES

None.

### 6. REPRESENTATIONS: LICENSEE

6.1 No representations have been received from the licensee.

### 7. POLICY CONSIDERATIONS

7.1 The Licensing Sub-Committee is required to have regard to the Hackney Statement of Licensing Policy ("the Policy") adopted by the Licensing Authority.

7.2 Extracts from Licensing Policies are reproduced at the front of the agenda for this meeting.

7.3 The Policy applies to applications where relevant representations have been made. With regard to this application, policies, LP1 (General Principles) and LP2 (Licensing Objectives) and LP10 (Special Policy Areas – Dalston and Shoreditch) are relevant.

## **8. GUIDANCE CONSIDERATIONS**

8.1 The Licensing Authority is required to have regard to any guidance issued by the Secretary of State under the Licensing Act 2003.

## **9. LEGAL IMPLICATIONS**

9.1 A legal representative will be in attendance to advise Members.

## **10. LEGAL COMMENTS**

10.1 The Council has a duty as a Licensing Authority under the Licensing Act 2003 to carry out its functions with a view to promoting the following 4 licensing objectives;

- The Prevention of crime and disorder
- Public Safety
- Prevention of public nuisance
- The protection of children from harm

10.2 It should be noted that each of the licensing objectives have equal importance and are the only grounds upon which a relevant representation can be made and for which an application can be refused or terms and conditions attached to a licence.

## **11. HUMAN RIGHTS ACT 1998 IMPLICATIONS**

11.1 There are implications on Article 6, Article 8, Article 14 and the First Protocol of Article 1.

## **12. MEMBERS DECISION MAKING**

12.1 Members must, having regard to the application and any relevant representations, take such steps (if any) as it considers necessary for the promotion of the licensing objectives.

**12.2 The steps are:**

- A. Option 1**  
**Take no action**
  
- B. Option 2**  
**Modify the conditions of the premises licence.**
  
- C. Option 3**  
**Exclude a licensable activity from the scope of the premises licence.**

- D. **Option 4**  
Remove the designated premises supervisor.
- E. **Option 5**  
Suspend the premises licence for a period not exceeding three months.
- F. **Option 6**  
Revoke the licence.

### 13. CONCLUSION

13.1 That Members decide on the application for review of the premises licence.

<b>GROUP DIRECTOR, NEIGHBOURHOODS AND HOUSING</b>	Ajman Ali
<b>Lead Officer (holder of original copy):</b>	Shan Uthayasangar Licensing Officer Licensing Service 1 Hillman Street E8 1DY Telephone: 020 8356 2431

### LIST OF BACKGROUND PAPERS RELATING TO THIS REPORT

The following document(s) has been relied upon in the preparation of the report.

<b>Description of document</b>	<b>Location</b>
<b>Office File:</b> Topaloglu Food and Wine, 478 Kingsland Road, E8 4AE	Licensing Service 1 Hillman Street London E8 1DY

#### **Printed matter**

Licensing Act 2003  
LBH Statement of Licensing Policy



**TOTAL POLICING**

**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 **PC Neal HUNWICK**

apply for the review of a premises licence under Section 51 of the Licensing Act 2003 for the premises described in Part 1 below

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

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

TOPALOGLU, 478 Kingsland Road

Post town: London Post code: (if known) E8 4AE

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

Sherkhan Ltd

Number of premises licence or club premises certificate (if known):

LBH-PRE-T-0035

**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) | <input type="checkbox"/>            |
| 2 | a responsible authority (please complete (C) below)  | <input checked="" type="checkbox"/> |
| 3 | a member of the club to which this application relates (please complete section (A) below)                                       | <input type="checkbox"/>            |



PROTECTIVE MARKING

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

Mr	<input type="checkbox"/>	Mrs	<input type="checkbox"/>	Miss	<input type="checkbox"/>	Ms	<input type="checkbox"/>	Any other title (e.g. Rev.)	<input type="checkbox"/>
Surname:					First Names:				
I am 18 years old or over <input type="checkbox"/>									
Current postal address if different from premises address:									
Post town:					Post code:				
Daytime Tel. No.:					Email: (optional)				

**(B) DETAILS OF OTHER APPLICANT** (fill in as applicable)

Name and Address:	
Telephone Number (if any):	
Email address: (optional)	

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT** (fill in as applicable)

Name and Address:	
PC 3590CE Neal Hunwick, Stoke Newington Police Station, 33 Stoke Newington High Street, N16 8DS	
Telephone Number (if any):	0207 275 3140
Email address: (optional)	HackneyLicensingUnit-GN@met.police.uk

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

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

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

We, the Police instigated a review of the Licence following receipt of an allegation that the premises licence holder, who is also the DPS, did attack a member of the public with a weapon of offence together with a number of other persons associated with the premises, in an incident that occurred outside of the venue as a result of their operating said venue.

As a result of this review the members of the Sub Committee were satisfied with this allegation in so far as to make a number of directions including suspending the licence for a period of three months, the replacement of the DPS with an independent person and staff training to the satisfaction of the Local Authority. The 3 month suspension expired on or about the 9<sup>th</sup> October, however, throughout that time Police have repeatedly found the venue to be retailing alcohol and indeed Officers have themselves been able to purchase alcohol on a number of occasions. The remaining directions from the previous review have also been ignored and we have no faith that the premises can be operated in a legal manner or in line with the licensing objectives.

**PROTECTIVE MARKING**

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

Alcohol has been seen to be sold or has been sold to Police Officers on the following dates during the suspension period:

24<sup>th</sup> July 2020

1<sup>st</sup> August 2020

7<sup>th</sup> August 2020

4<sup>th</sup> September 2020

11<sup>th</sup> September 2020

19<sup>th</sup> September 2020

25<sup>th</sup> September 2020

PROTECTIVE MARKING

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

(Please tick yes)

Day	Month	Year
18	05	2020

If yes, please state the date of that application:

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

At about 1830hrs on Tuesday 12<sup>th</sup> May 2020 it is alleged that th DPS and Licence Holder together with 4 members of staff did assault a passer by outside the venue by using bats and during this assault allegedly stamped on the victim.



PROTECTIVE MARKING

Please tick Yes

I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate.

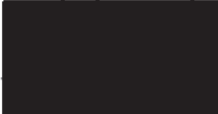
I understand that if I do not comply with the above requirements my application will be rejected.

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

**Part 3 – Signatures** (please read guidance note 4)

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

Signature:



PC3890CE

Date:

12th October 2020

Capacity:

RESPONSIBLE AUTHORITY

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

Post town:

Post code:

Telephone Number (if any):

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

**Notes for Guidance**

1. 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.



This premises licence has been issued by:  
**Licensing Service**  
1 Hillman Street  
London  
E8 1DY

**Premises licence number**  
LBH-PRE-T-0035

### Part 1 – Premises details

**Postal address of premises, or if none, ordnance survey map reference or description**  
Topaloglu Food and Wine  
478 Kingsland Road

<b>Post town</b>	London	<b>Post code</b>	E8 4AE
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<b>Telephone number</b>	[REDACTED]
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**Where the licence is time limited the dates**  
N/A

**Licensable activities authorised by the licence**  
Supply of Alcohol

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

Mon 00:00-23:59  
Tue 00:00-23:59  
Wed 00:00-23:59  
Thu 00:00-23:59  
Fri 00:00-23:59  
Sat 00:00-23:59  
Sun 00:00-23:59

**The opening hours of the premises**

Mon 00:00-23:59  
Tue 00:00-23:59  
Wed 00:00-23:59  
Thu 00:00-23:59  
Fri 00:00-23:59  
Sat 00:00-23:59  
Sun 00:00-23:59

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

Off supplies

**Part 2**

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

Sherkhan Limited  
165 City Road  
London  
EC1V 1NR

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

11465714

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

Currently No DPS

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

N/A

Date of Grant: 24 November 2005

**David Tuitt**  
**Team Leader - Licensing**

## **Annex 1 - Mandatory conditions**

1. No supply of alcohol may be made under the premises licence:
  - (a) At a time when there is no designated premises supervisor in respect of the premises licence.
  - (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.
3. 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 sales or supply of alcohol.  
  
3.2. The designated premises supervisor in relation to the premises licences must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.  
  
3.3. 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.

## **Minimum Drinks Pricing**

4. 4.1 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.  
  
4.2 For the purposes of the condition set out in paragraph 4.1 above -
  - (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
  - (b) "permitted price" is the price found by applying the formula -  $P = D + (D \times V)$   
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

and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

4.3 Where the permitted price given by Paragraph 4.2(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that subparagraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4.4 (1) Sub-paragraph 4.4(2) below applies where the permitted price given by Paragraph 4.2(b) above 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**

5. CCTV Cameras shall be in operation at all hours the premises are open.
6. The 'Red Care' Alarm System, providing direct connection to the police station, shall be maintained;
7. Fire alarms and fire extinguishers shall be installed and maintained on the premises;
8. A minimum of three employees shall be on the premises between 12.00 midnight and 7.00am



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

9. CCTV covering the interior and exterior of the shop premises must be installed and be kept operational at all times the premises are open to the public.
10. The CCTV system shall be capable of taking a head and shoulders shot of persons entering the premises.
11. The CCTV system will be capable of storing images for a minimum of 31 days and a member of staff trained and capable of downloading images shall be on duty at all times the premises are open to the public. Images will be provided to the Metropolitan Police or Authorised Officers on request.
12. Challenge 25 will be in operation at the premises as the proof of age policy. Only the following credible photographic evidence may be accepted as proof of age: a passport, photographic driving licence, UK Armed Forces ID card or a proof of age card with the PASS hologram/ logo on it. Refusals of the sale of alcohol must be recorded in the relevant section of the Incident Book.
13. Relevant notices will be prominently displayed by the entry/exit door and counter as appropriate advising customers that:
  - CCTV and Challenge 25 are in operation;
  - Advising customers of the provisions of the Licensing Act regarding underage and proxy sales;
  - Asking customers to respect nearby residents, to leave quietly, not to drink outside the shop or in the street and not loiter outside the shop.
14. No alcohol may be consumed in the shop at any time.
15. Alcohol will not be supplied in an open container.
16. An incident book is to be kept at the premises and made available to the Police or Authorised Officers which will record the following
  - a) All crimes reported;
  - b) Lost property;
  - c) All ejections of customers;
  - d) Any complaints received;
  - e) Any incidents of disorder;
  - f) Any seizure of drugs or offensive weapons;
  - g) Any faults in the CCTV system;
  - h) Any refusal in the sale of alcohol;
  - i) Any visit by a relevant authority or emergency service;
  - j) A CAD number where Police are called
17. Staff will be trained on induction and be given refresher training at 6 monthly intervals in the operation of Challenge 25. Training will include identifying persons under 25, making a challenge, acceptable proof of age and checking it, making and recording a refusal, not serving intoxicated persons, avoiding conflict, responsible alcohol retailing, operating the CCTV system and downloading images and safeguarding children.

18. A written training record will be kept for each staff member and will be made available to the Police and Authorised Officers on request.
19. Management and staff will monitor the outside of the shop to check that persons are not loitering or drinking outside and will politely ask any that do to leave the area quickly and quietly.
20. The Licensee shall ensure that all staff are fully trained and made aware of the legal requirement of businesses to comply with their responsibility as regards the disposal of waste produced from the business premises. The procedure for handling and preparing for disposal of the waste shall be in writing and displayed in a prominent place where it can be referred to at all times by staff.
21. The Licensee shall ensure that any contract for general and recyclable waste disposal shall be appropriate in size to the amount of waste produced by the business. The Licensee shall maintain an adequate supply of waste receptacles provided by his registered waste carrier (refuse sacks or commercial waste bins) in order to ensure all refuse emanating from the business is always presented for collection by his waste carrier and shall not use any plain black or unidentifiable refuse sacks or any other unidentifiable or unmarked waste receptacles.
22. The Licensee's premises are situated in an area within which refuse may only be left on the public highway at certain times (time bands). If the Licensee's waste carrier cannot or does not comply by collecting the refuse within an hour after the close of any time band imposed by the waste authority, the Licensee must remove the refuse from the public highway and/or keep it within the premises until such time as his/her waste carrier arrives to collect the refuse.
23. The Licensee shall instruct members of staff to make regular checks of the area immediately outside the premises and remove any litter, bottles and glasses emanating from the premises. A final check should be made at close of business.
24. The Licensee shall provide a safe receptacle for cigarette ends to be placed outside for the use of customers, such receptacle being carefully placed so as not to cause an obstruction or trip.
25. The current trade waste agreement/duty of care waste transfer document shall be conspicuously displayed and maintained in the window of the premises where it can be conveniently seen and read by persons standing in Topaloglu Food & Wine.
  - This should remain unobstructed at all times and should clearly identify:-
  - the name of the registered waste carrier
  - the date of commencement of trade waste contract
  - the date of expiry of trade waste contract
  - the days and times of collection
  - the type of waste including the European Waste Code

**Annex 4 – Plans**

PLAN/LBH-PRE-T-0035/\*\*TBC\*\*

# APPENDIX C

## RESPONSIBLE AUTHORITY REPRESENTATION: APPLICATION UNDER THE LICENSING ACT 2003

### RESPONSIBLE AUTHORITY DETAILS

NAME OF AUTHORITY	Licensing Authority
ADDRESS OF AUTHORITY	Licensing Service Hackney Service Centre 1 Hillman Street London E8 1DY
CONTACT NAME	David Tuitt
TELEPHONE NUMBER	020 8356 4942
E-MAIL ADDRESS	david.tuitt@hackney.gov.uk

### APPLICATION PREMISES

Premises	Topaloglu 478 Kingsland Road London E8 4AE
Applicant	PC Neil Hunwick on behalf of the Chief Officer of Police

### COMMENTS

I make the following relevant representations in relation to the above application for a premises licence at the above address.

- |    |                                      |          |
|----|--------------------------------------|----------|
| 1) | the prevention of crime and disorder | <b>x</b> |
| 2) | public safety                        | -        |
| 3) | the prevention of public nuisance    | -        |
| 4) | the protection of children from harm | -        |

Representations (which include comments and/or objections) in relation to:

I write to make a representation in relation to this application and to express support for the action being taken by the Police. I am satisfied that the activities at the premises are undermining the crime prevention objective,

I am aware that following a summary review application earlier this year, the premises licence was subject to a number of interventions taken by the Licensing Sub-Committee at a hearing on 17th June 2020. These measures included modified conditions, removal of the designated premises supervisor (DPS) and the suspension of the premises licence. The licensee did not appeal the decision. However, I was made aware by Police colleagues that the premises continued to operate after the decision had been made, with no cessation of the alcohol sales nor nomination of a new individual as DPS. Subsequently, I visited the premises with Police colleagues on 25th September 2020 during which PC Amanda GRIGGS was able to make a purchase of alcohol at the premises. I subsequently entered the premises shortly afterwards with PC Neal HUNWICK to give the staff present a closure notice under s19 of the Criminal Justice and Police Act 2001. In serving the notice I explained to the staff member behind the counter the purpose of the notice and the steps that could be taken to rectify the matter. However, I was later advised by Police colleagues that on a visit to the site the following day, that alcohol was still displayed for sale. Furthermore, I received no contact from the licensee/management despite including my name and contact details on the notice.

Below are extracts from Chapter 11 (Reviews) of the Home Office Guidance that would appear to be relevant to this application. Paragraph 11.21 states:

*“For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.”*

Paragraph 11.22 goes on to state:

*“Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives”*

I feel that on this occasion the Sub-Committee will have no choice but to take more

stringent measures bearing in mind that powers to remove the DPS, modify conditions and suspend the licence have previously been utilised with no apparent change in conduct of the management.

The above representations are supported by the following evidence and information.

The Licensing Act 2003, s182 Guidance issued by the Home Office.

Are there any actions or measures that could be taken to allay concerns or objections? If so, please explain.

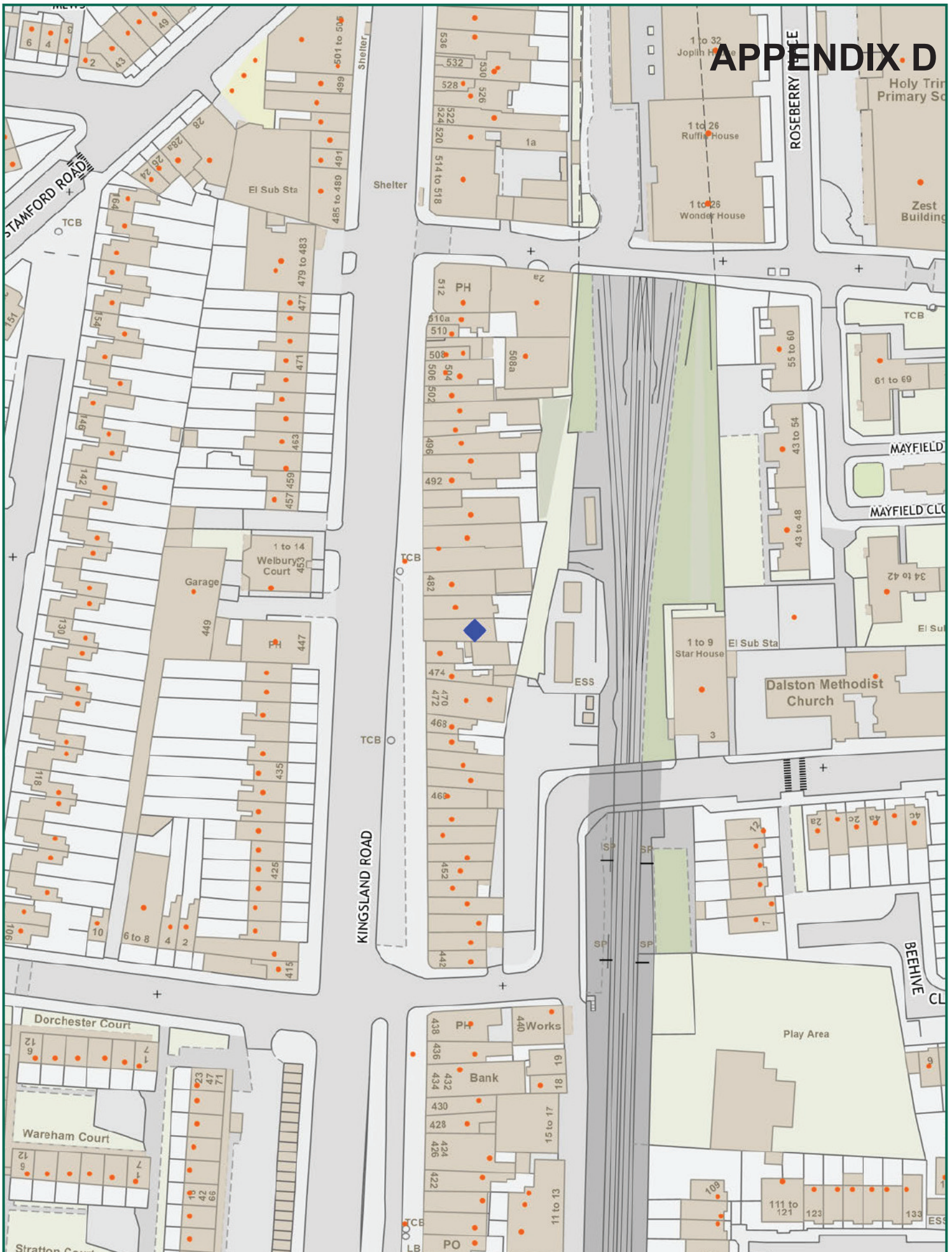
N/A

Name: **David Tuitt (Business Regulation Team Leader - Licensing and Technical Support)**

9 November 2020



# APPENDIX D



Scale: 1:1250 at A4

## Topologlu, 478 Kingsland Road, E8 4AE



Ref:  
Thursday, January 14, 2021

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