

Public Document Pack



**Service Director – Legal, Governance and
Commissioning**

Julie Muscroft

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Huddersfield
HD1 2TG

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Please ask for: Carol Tague

Email: carol.tague@kirklees.gov.uk

Thursday 2 May 2019

Notice of Meeting

Dear Member

Licensing Panel

The **Licensing Panel** will meet in the **Meeting Room 3 - Town Hall, Huddersfield** at **9.00 am** on **Friday 10 May 2019**.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read "Julie Muscroft", on a light-colored background.

Julie Muscroft

Service Director – Legal, Governance and Commissioning

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

The Licensing Panel members are:-

Member

Councillor Carole Pattison (Chair)

Councillor Karen Allison

Councillor Christine Iredale

Agenda

Reports or Explanatory Notes Attached

Pages

1: Minutes of Previous Meeting

1 - 4

To approve the minutes of the meetings of the Panel held on 16 April 2019.

2: Interests

5 - 6

The Councillors will be asked to say if there are any items on the Agenda in which they have disclosable pecuniary interests, which would prevent them from participating in any discussion of the items or participating in any vote upon the items, or any other interests.

3: Admission of the Public

Most debates take place in public. This only changes when there is a need to consider certain issues, for instance, commercially sensitive information or details concerning an individual. You will be told at this point whether there are any items on the Agenda which are to be discussed in private.

4: Deputations/Petitions

The Committee will receive any petitions and hear any deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also hand in a petition at the meeting but that petition should relate to something on which the body has powers and responsibilities.

In accordance with Council Procedure Rule 10 (2), Members of the Public should provide at least 24 hours' notice of presenting a deputation.

5: Application for Review Hearing under Section 51 Licensing Act 2003 - Lano Mini Market, 75a Swan Lane, Lockwood, Huddersfield, HD1 3UB 7 - 24

To consider the application at 9.00am.

Contact: Russell Williams, Group Leader, Licensing, tel 01484 221000, email: russell.williams@kirklees.gov.uk

6: Application for Review Hearing under Section 51 Licensing Act 2003 - Westgate News, 24 Westgate, Huddersfield HD1 1NU 25 - 48

To consider the application at 9.30am.

Contact: Beth Jennings, Licensing Officer, tel: 01484 221000, email: beth.jennings@kirklees.gov.uk

7: Exclusion of the Public

To resolve that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.

8: Application to Review Personal Licence 49 - 62

To consider the application at 10.00am.

Contact: Stephanie Mashiter, Senior Licensing Officer, tel 01484 221000, email: Stephanie.mashiter@kirklees.gov.uk

Contact Officer: Carol Tague

KIRKLEES COUNCIL

LICENSING PANEL

Tuesday 16th April 2019

Present: Councillor Carole Pattison (Chair)
Councillor Karen Allison
Councillor Kath Taylor

In attendance: Russell Williams, Group Leader Licensing Public Protection
Rox Javaid, Licensing Officer
Richard Woodhead, West Yorkshire Police, Licensing Officer PC
Katie Jagger, West Yorkshire Police Licensing Officer,
Tahir Hanif, Senior Legal Officer
Carol Tague, Principal Governance and Democratic Engagement Officer

1 Minutes of Previous Meeting

RESOLVED - That the minutes of the meeting held on the 19 March 2019 be approved as a correct record.

2 Interests

No interests were declared.

3 Admission of the Public

That all agenda items be considered in public session.

4 Deputations/Petitions

No deputations or petitions were received.

5 Licensing Act 2003 - Application for the Grant of a Premises Licence - MRH Midway, 237 Bradford Road, Batley, WF17 6LG

The Panel considered an application for the grant of a premises licence on behalf of MRH Midway, 237 Bradford Road, Batley, WF17 6LG.

The Group Leader Licensing Public Protection, outlined the application, advising the Panel that on 19 February 2019, the Licensing department received an application for the grant of a premises licence for MRH Midway, 237 Bradford Road, Batley WF17 6JQ. The application was made by Malthurst Retail Limited.

The licensable activity applied for by the applicant was for the supply of alcohol for consumption OFF the premises and late night refreshment as follows:-

- Supply of alcohol: Monday to Sunday, 00:00 – 24:00.

Licensing Panel - 16 April 2019

- Late night refreshment: Monday to Sunday, 23:00 – 05:00

The Panel were informed that one representation had been received objecting to the application, supported by a petition signed by in excess of 750 individuals.

The applicant's solicitor made representation to the Panel in support of the application and it was noted that MRH Midway had traded as a 24 operation for 10 years and whilst it was acknowledged that alcohol had not been previously sold, there had been no complaints from residents. It was further highlighted that there had been no representations from the responsible authorities such as West Yorkshire Police.

The objector and lead petitioner present at the hearing, put forward representations on the grounds that should the licence be granted, the Licensing Objectives of Public Nuisance, Prevention of Crime and Disorder and Public Safety would not be achieved. Issues raised included the statistical links with alcohol and crime and disorder, exacerbation of public nuisance as youths currently congregated on the forecourt of the premises and concerns as to protecting children from harm, given that the site was 150 yards from a local infant school and close to the largest mosque in the area.

Following careful consideration of all the representations both verbally and in writing, the Panel decided that:

RESOLVED - The application for the Grant of a Premises Licence on behalf of MRH Midway be granted as stipulated in the application.

The Panel were satisfied that agreeing the application in accordance with the hours stipulated by planning would not be inconsistent with the licensing objectives.

6 Application for Review Hearing under Section 51 Licensing Act 2003 - Beechley Filling Station, Flush Garage, Wakefield Road, Liversedge, WF15 6AU

The Panel considered an application for a review hearing under S51 of the Licensing Act 2003, in respect of Beechley Filling Station, Flush Garage, Wakefield Road, Liversedge, WF15 6AU.

Further to a late submission of evidence and request to defer, the Panel agreed that given the confidential nature of the evidence received, to move into private session and the public be excluded to allow for consideration of the evidence. Further to consideration of the evidence presented, the Panel determined not to defer the hearing and continue in public session.

The Licensing Officer outlined the application, advising that on 26 February 2019, West Yorkshire Police made an application for the review of the premises licence as they believed that the licensing objectives of the prevention of crime and disorder, the protection of children from harm and public safety were not being achieved at the premises.

Licensing Panel - 16 April 2019

West Yorkshire Police Licensing Officer, advised the Panel that on 19 February 2019, 3 plain clothed police cadets, aged 13, 14 and 15, had been served alcohol whilst on police test purchase operations and illegal tobacco products had been on sale on the premises only 7 days after this alcohol purchase took place.

As well as failing the test purchases, the Panel were informed that in the three months preceding the review application, the filling station had been linked to seven instances of crimes or assaults. Concerns as to employment practices at the premises were also raised.

Following careful consideration of all the representations both verbally and in writing, the Panel decided that:

RESOLVED – The premises licence in respect of Beechley Filling Station, Flush Garage, be revoked.

The Panel was sufficiently persuaded that revocation of the licence was a necessary and proportionate step.

7 **Application for Review Hearing under Section 51 Licensing Act 2003 - Empire Restaurant, 163 Wakefield Road, Huddersfield**

The Panel considered an application for a review hearing under S51 of the Licensing Act 2003, in respect of Empire Restaurant, 163 Wakefield Road, Huddersfield.

The Licensing Officer outlined the application, advising that on 18 February 2019, West Yorkshire Police made an application for the review of the premises licence as they believed that the licensing objectives of prevention of crime and disorder and public safety were not being achieved at the premises.

West Yorkshire Police Licensing Officer, advised the Panel that on 24 January 2019, a person connected to the premises was convicted of sexual offences at Leeds Crown Court. Concerns were expressed that an agent might be appointed on their behalf to sell the property as a licensed premises, or appoint a designated premises supervisor to manage the restaurant while the sentence was being served. The Panel were informed that the licence could remain in place indefinitely or it could be transferred unless revoked.

Following careful consideration of all the representations both verbally and in writing, the Panel decided that:

RESOLVED – The premises licence in respect of Empire Restaurant be revoked.

The Panel was sufficiently persuaded that revocation of the licence was a necessary and proportionate step.

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KIRKLEES COUNCIL				
COUNCIL/CABINET/COMMITTEE MEETINGS ETC				
DECLARATION OF INTERESTS				
Licensing Panel				
Name of Councillor				
Item in which you have an interest	Type of interest (eg a disclosable pecuniary interest or an "Other Interest")	Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]	Brief description of your interest	

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

- (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
- (b) either -

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Name of meeting: Licensing Panel

Date: Friday 10th May 2019, at 9.00am – Huddersfield Town Hall, Ramsden Street, Huddersfield

Title of report: Application for Review Hearing under S51 Licensing Act 2003 – Lano Mini Market, 75a Swan Lane, Lockwood, Huddersfield, HD1 3UB

Purpose of report: To determine the application

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable .
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	Not applicable
The Decision - Is it eligible for call in by Scrutiny?	Not applicable
Date signed off by <u>Strategic Director</u> & name	Russell Williams – Group Leader Licensing (as agreed by Karl Battersby – Strategic Director – Economy and Infrastructure)
Is it also signed off by the Service Director (Finance)?	Not applicable
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Not applicable
Cabinet member portfolio	Cllr Naheed Mather

Electoral wards affected: Crosland Moor & Netherton

Ward councillors consulted: Not Applicable

Public or private: Public

GDPR Implications:

GDPR has been considered and appropriate sections of the report have been ammended

1 Summary

- 1.1 On 27th March 2019 West Yorkshire Police made an application for the review of the premises licence under Section 51(1) of the Licensing Act 2003. The applicant believes that the Licensing objectives of the prevention of crime and disorder and public safety are not being achieved at the premises.
- 1.2 Full details of the grounds for the review are contained in the attached review application at **Appendix A**.

2 Information required to take a decision

Background

- 2.1 On the 19th March 2019 a multi-agency visit took place at Lano Mini Market, where non-duty paid cigarettes and alcohol were found hidden in the premises. Along with the non-duty paid products, an illegal worker was also found at the premises. Furthermore, a breach of Licensing conditions appeared evident at the premises. A copy of the review application is attached at **appendix A**.
- 2.2 The current premises licence was first issued on the 12th February 2019, under premises licence number PR00013, a copy of the premises licence is attached at **appendix B**.

Licensing Policy

Members considering the application should take note of the Authority's Statement of Licensing Policy, which provides the following guidance on how Members should approach the application and representation:

1.0 – Executive Summary

1.2 In exercising its duties and responsibilities under the terms of the Licensing Act 2003, the Council will operate within the statements and procedures mentioned in this policy statement. Notwithstanding this statement, all applications will be treated on their merits and judged accordingly. The council will have regard to any relevant guidance issued by the Secretary of State in exercising its powers under the Act.

2.0 – Purpose and Scope of the Licensing Policy

2.7 The Licensing Authority recognises that each licence application must be considered on its own individual merits in the context of the four licensing objectives, and that unless relevant representations are received from responsible authority's or interested parties, there is no provision for a Licensing Authority to impose conditions on a licence other than those proposed within an application. Only conditions which have been volunteered by the applicant or which have been determined at a Licensing Panel hearing can be attached to a licence or certificate. If no relevant representations are made in respect of an application, the Licensing Authority is obliged to issue the licence on the terms sought.

Licensing Objectives.

1. Public Safety
2. Prevention of crime & disorder
3. Prevention of public nuisance
4. Protection of children from harm

Members also need to consider statutory guidance issued, by the Secretary of State, under Section 182 of the Licensing Act 2003. As the review relates to prevention of crime and disorder and public safety, Members attention is drawn to Section 2 of this Guidance, the relevant parts of which may be found at **Appendix C**.

3 Implications for the Council

3.1 Working with People

Residents of Kirklees need to be confident that under the Licensing Act 2003 licence holders under the Licensing Act 2003 are in a position to uphold the four licensing objectives. The committee is required to take appropriate and necessary action against licence holders where they fall short of their duties under the Licensing Act 2003. This will support both the licensing objectives and support the corporate outcomes of citizens in Kirklees living in cohesive communities, feeling safe and protected from harm.

3.2 Working with Partners

The Council's licensing team work closely with partnering agencies, named 'Responsible Authorities' under the Licensing Act 2003. Responsible authorities include Planning, West Yorkshire Police, Trading Standards, Environmental Health, Fire Service, and Safe Guarding Children team.

3.3 Place Based Working

Working closely with Responsible Authorities the Licensing Authority can address issues within the districts that make up Kirklees.

3.4 Improving outcomes for children

A key objective of the Licensing Act is the protection of children from harm, and any decision made by the Council, in its capacity as Licensing Authority, will have to have regard to this objective.

3.5 Other (e.g. Legal/Financial or Human Resources)

In determining the application Members should have regard to the Authority's licensing policy statement and the Secretary of State's Guidance. The applicant or any other person who made relevant representations in relation to the application have a right of appeal to the Magistrates' court.

4 Consultees and their opinions

4.1 Consultation has taken place in accordance with the Act, and no further representations have been received.

5 Next steps and timelines

5.1 When determining the review application Members, having had regard to the information in the application, may take any of the following steps as they consider appropriate:

- 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 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.

5.2 Findings on any issues of fact should be on the balance of probability.

5.3 In arriving at a decision Members must have regard to the relevant provisions of statutory guidance and the licensing policy statement and reasons must be given for any departure.

5.4 The decision should be based on the individual merits of the application.

6 Officer recommendations and reasons

6.1 Members of the Panel are requested to determine the application

7 Cabinet portfolio holder's recommendations

7.1 Not applicable

8 Contact officer

8.1 Russell Williams
Group Leader – Licensing
01484 221000
russell.williams@kirklees.gov.uk

9 Background Papers and History of Decisions

9.1 Appendix A – Review Application

9.2 Appendix B – Copy of Premises Licence

9.3 Appendix C – Secretary of States Guidance

10 Strategic Director responsible

Karl Battersby – Strategic Director Economy and Infrastructure
Tel: 01484 221000
Email: karl.battersby@kirklees.gov.uk

RESTRICTED



**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, (insert name of applicant) Richard Woodhead

- **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**

Part 1 – Premises or Club Premises details

Postal address of premises or, if none, Ordnance Survey map reference or description:

Lano Mini Market 75a Swan Lane, Lockwood

Town/City: Huddersfield

Postcode: HD1 3UB

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

Number of premises licence or club premises certificate (if known): PER00013

Part 2 – Applicant details

Please 'check' appropriate box(es)

I am:

1. An interested party (please complete A or B below)

27 MAR 2029

(a) a person living in the vicinity of the premises

(b) a body representing persons living in the vicinity of the premises

(c) a person involved in business in the vicinity of the premises

(d) a body representing persons involved in business in the vicinity of the premises

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

Mr

Surname:

Forename(s):

I am 18 years old or over:

Current postal address if different from premises address:

Town/City:

Postcode:

Daytime contact telephone number:

E-mail address (optional):

B – Details of other applicant

Surname: Forename(s):

Address:

Town/City:

Postcode:

Daytime contact telephone number:

E-mail address (optional):

C – Details of responsible authority applicant

Other title, e.g. R Mr

Surname: Woodhead Forename(s): Richard

Address: West Yorkshire Police Licensing, Flint Steet

Town/City: Huddersfield

Postcode: HD1 6LG

Daytime contact telephone number:

E-mail address (optional):

This application to review relates to the following licensing objective(s): (Please 'check' one or more boxes)

(a) The prevention of crime and disorder

(b) Public Safety

(c) The prevention of public nuisance

(d) The protection of children from harm

State the ground(s) for review (please read Guidance note 1):

The licence for this shop had been granted on the 12th Feb 2019, less than 60 days before the request for the review has been requested.

A series of complaints and intelligence had been received by West Yorkshire Police, that the mini market was selling none duty paid products, both alcohol and tobacco.

A joint operation was put in place between trading standards and West Yorkshire police on the 19th of March.

None duty paid products were found inside the premise for sale along with an illegal employee who was the only person in the shop at the time of the visit. There were also breaches in the licence conditions.

We are calling for the review on grounds due to the following licensing objectives have been impacted upon.

- 1) Crime and Disorder
- 2) Public Safety.

LANO MINI MARKET at SWAN LANE, This is a very newly opened licenced premise run as an eastern European type shop selling alcohol and cigarettes. We had intelligence coming in about the sales of non-duty or counterfeit cigarettes, as well as none duty paid alcohol. Before the multi-agency visit the shop had been inspected 3 times prior to the licence being granted, and the staff had been informed about selling illegal products from a licensed premises.

On arrival there was one member of staff sat behind the counter conducting sales.

██████ was found to be an ██████ national who claimed initially that ██████ was not staff and was not working. Checks with the immigration centre revealed the ██████ was known to Immigration services and was an asylum seeking in the UK with NO RIGHT TO WORK. ██████ was in accommodation provided by Immigration services and had no public funds entitlement. The person present working and conducting sales clearly was working under the direction and designation of the DPS and had received no training and upon questioning did not know of any objectives under the licencing Act.

██████ was unsure of age restrictions and was not aware the premise had a challenge 25 policy in place.

There was no signage up about challenge 25 as per the licence conditions.

The staff member had no knowledge about use of the CCTV or downloading footage which is a licence condition.

Checks of the premise immediately reveal an amount of counterfeit /non duty paid cigarettes in a rear storage area immediately behind the counter. These were in a carrier type bag immediately accessible to persons present and were not concealed. They were not in the salespersons personal bag and ██████ denied any knowledge of these items. There were 33 packets of none duty paid cigarettes, with an approximate retail value of £300.

The premise although small had excessive amounts of super strength foreign labelled alcohol beers stacked up behind the till area. The same beers were also on sale within the fridges in the sales area. The prices of these individually marked tins was at such a low price that they could not have had the UK DUTY paid.

The owner of the business was contacted by phone and ██████ stated ██████ was not available to attend at shop and was on ██████ way to Manchester. ██████ was asked about the alcohol located within the store and if ██████ could provide the invoices for such goods. ██████ could not provide any and as such was informed that WYP would seize the goods under the S139 CUSTOMS AND EXCISE MANAGEMENT ACT on behalf of HMRC as it was believed that duty had not been paid.

41 CASES containing 24 tins was seized by WYP. There was no invoices or receipts available for this alcohol. These were seized and have been surrendered to H.M.R.C.

The DPS and premises licence holder has a blatant disregard for criminal law, employment law and licensing law. Illegal cigarettes were found on site, none duty paid alcohol was found on site, an illegal person was found working who could not work the CCTV and did not have a basic grasp of the most simplest of licensing law or conditions.

Therefore, West Yorkshire Police respectfully request the panel give strong consideration to revoking this licence.

RESTRICTED

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

no

Please 'check' appropriate box(es)

- 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 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (see guidance note 4). If signing on behalf of the applicant, please state in what capacity:

Signature



Date: 27th March 19

Capacity:

Police Licensing Officer

Contact name (where not previously given) and postal address for correspondence associated with this application (please read Guidance note 5):

Surname:

Forename(s):

Address:

Town/City:

Postcode:

Telephone number (if any):


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

Notes for Guidance

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

PREMISES LICENCE Licensing Act 2003	PR00013
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THIS LICENCE IS ISSUED BY

	<p style="text-align: right;">LICENSING Flint Street Depot Flint Street Fartown Huddersfield HD1 6LG</p> <p style="text-align: right;">Tel: 01484 456868 Email: licensing@kirklees.gov.uk</p>
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POSTAL ADDRESS OF PREMISES

Lano Mini Market
75A Swan Lane, Lockwood, Huddersfield, Kirklees, HD1 3UB,

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

Sale of Alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Sale of Alcohol (Indoors)

Day(s)	From - To
Monday to Sunday	07:00 - 23:00

THE OPENING HOURS OF THE PREMISES

DAY(S)	FROM	TO
Friday	07:00	23:00
Monday	07:00	23:00
Saturday	07:00	23:00
Sunday	07:00	23:00
Thursday	07:00	23:00
Tuesday	07:00	23:00
Wednesday	07:00	23:00

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND/OR OFF SUPPLIES

Alcohol is supplied for consumption off the Premises

NAME (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF THE PREMISES LICENCE HOLDER

[REDACTED]
 Mobile Number [REDACTED]

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)	
NAME, ADDRESS OF THE DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL	
[REDACTED]	
PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OR PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR (WHERE THE PREMISES AUTHORISES THE SUPPLY OF ALCOHOL)	
PERSONAL LICENCE NUMBER: LICENSING AUTHORITY:	[REDACTED] Kirklees Council

ANNEXES**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, 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.
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. 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.

For the purposes of this condition -
 - (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 amount 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; and
 - (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
5. Where the permitted price 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.
6. (1) Sub-paragraph (2) applies where the permitted price 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 CONSISTANT WITH THE OPERATING SCHEDULE

A tamper-proof digital colour CCTV system must be installed and maintained at the premises.

The system must run and record continuously 24/7 and recorded footage must be stored for a minimum of 28 days.

The system must provide a clear head and shoulders view to an evidential quality on every entry/exit route and within any other vulnerable areas.

Recorded footage must be provided to a representative of any responsible authority on request, in an immediately viewable format, and must include any software etc. which is required to view the footage.

Any storage media onto which footage is transferred must be provided by the premises and sufficient stock of such storage media must be kept on the premises at all times.

The DPS must ensure that the CCTV system is checked at least once a week by a suitably trained member of staff. This check must include the operation of the cameras, the recording facilities, the facilities for providing footage and the accuracy of the time & date.

A written record of these checks must be kept, including a signature of the person carrying out the check. This record must be kept on the premises at all times and made available to a representative of any responsible authority on request.

The premises are secured with roller shutters at the front when closed.

Spirits of high ABV will be sold behind the counter.

When the DPS is not on duty, a contact telephone number will be available at all times.

An incident book, with sequentially numbered pages, must be kept on the premises and made available for inspection by responsible authorities. This must record the following:

Any incident of violence or disorder on or immediately outside the premises

Any other crime or criminal activity on the premises

Any refusal to serve alcohol to persons who are drunk

Any refusal to serve alcohol to under 18s or anyone who appears to be under 18

Any call for police assistance to the premises

Any ejection from the premises

Any first aid/other care given to a customer

A refusals book must be kept at the premises and used to record all refusals to sell alcohol for any reason, or any refusal to sell any age restricted products to underage persons or persons who appear to be underage. The book must be made available for inspection by responsible authorities on request, and the details recorded must be as follows:

Time, day and date of refusal,

Item refused,

Name & address of customer (if given),

Description of customer,

Details of ID offered (if shown)

Quiet Notices will be displayed asking customers to leave the area quickly and quietly.

A Challenge 25 policy shall be operated at the premises at all times.

Signage for Challenge 25 scheme shall be displayed at the premises.

A documented training programme shall be introduced for all staff in a position to sell alcohol and shall be made available for inspection at the request of Trading Standards, Licensing Authority Officers and Police.

A written record shall be kept of the content of the training.

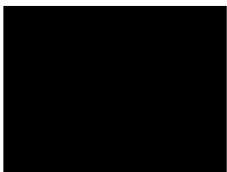
ANNEX 3 – CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

ANNEX 4 – PLANS OF PREMISE

As outlined in the operating schedule and attached plan

Date Granted: 12 February 2019

Date Commences/Varied: 12 February 2019



Head of Public Protection Service

PREMISES LICENCE SUMMARY

Licensing Act 2003

PR00013**THIS LICENCE IS ISSUED BY**

LICENSING
 Flint Street Depot
 Flint Street
 Fartown
 Huddersfield
 HD1 6LG

Tel: 01484 456868
 Email: licensing@kirklees.gov.uk

POSTAL ADDRESS OF PREMISES

Lano Mini Market
75A Swan Lane, Lockwood, Huddersfield, Kirklees, HD1 3UB,

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

Sale of Alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES**Sale of Alcohol** (Indoors)

Day(s)	From - To
Monday to Sunday	07:00 - 23:00

THE OPENING HOURS OF THE PREMISES

DAY(S)	FROM	TO
Friday	07:00	23:00
Monday	07:00	23:00
Saturday	07:00	23:00
Sunday	07:00	23:00
Thursday	07:00	23:00
Tuesday	07:00	23:00
Wednesday	07:00	23:00

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND/OR OFF SUPPLIES

Alcohol is supplied for consumption off the Premises

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

[REDACTED]

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

[REDACTED]

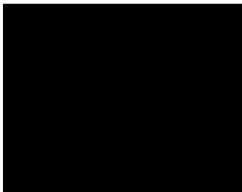
STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

As per Licensing Act 2003

Any conditions applicable to these premises are attached to the licence

Date Granted: 12 February 2019

Date Commences/Varied: 12 February 2019



Head of Public Protection Service

Relevant Sections of Secretary of State Guidance – Under Section 182 of Licensing Act 2003

Crime and disorder

2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).

2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority (“SIA”) as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.

2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.

2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances

where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

2.6 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.

Public safety

2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.

2.8 A number of matters should be considered in relation to public safety. These may include:

- Fire safety;
- Ensuring appropriate access for emergency services such as ambulances;
- Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
- Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
- Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
- Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
- Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and

Appendix C

- Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).

2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38-8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

2.10 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:

- Providing information on the premises of local taxi companies who can provide safe transportation home; and
- Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

2.11 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it would be inappropriate for a licensing condition to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it would be permissible for licensing authorities, if they receive relevant representations from responsible authorities or any other persons, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible authorities – such as health and safety authorities – should therefore make their expectations clear in this respect to enable prospective licence holders or clubs to prepare effective operating schedules and club operating schedules.

2.12 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.

2.13 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act¹, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.

Appendix C

2.14 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

Name of meeting: Licensing Panel

Date: Friday 10 May 2019, at 9.30am – Huddersfield Town Hall, Ramsden Street, Huddersfield

Title of report: Application for Review Hearing under S51 Licensing Act 2003: Westgate News, 24 Westgate, Huddersfield HD1 1NU

Purpose of report: To determine the application

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable .
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	Not applicable
The Decision - Is it eligible for call in by Scrutiny?	Not applicable
Date signed off by Strategic Director & name	Russell Williams – Group Leader Licensing (as agreed by Karl Battersby – Strategic Director – Economy and Infrastructure)
Is it also signed off by the Service Director (Finance)?	Not applicable
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Not applicable
Cabinet member portfolio	Cllr Naheed Mather

Electoral wards affected: Newsome

Ward councillors consulted: Not Applicable

Public or private: Public

GDPR Implications: GDPR has been considered and appropriate sections of the report have been amended

1 Summary

- 1.1 On 28 March 2019, West Yorkshire Police made an application for the review of the premises licence at Westgate News, 24 Westgate, Huddersfield under Section 51 of the Licensing Act 2003. The applicant believes that the licensing objectives of the prevention of crime and disorder, the protection of children from harm and public safety are not being achieved at the premises.
- 1.2 Full details of the grounds for the review are contained in the attached review application at **Appendix A**.

2 Information required to take a decision

2.1 Background

- 2.1.1 Westgate News is a licensed premises selling groceries, newspapers, cigarettes and tobacco products. It benefits from an alcohol licence; although it does not retail alcohol currently.
- 2.1.2 The premises has been inspected numerous times by town centre officers due to intelligence received by West Yorkshire Police about the sale of non-duty/counterfeit cigarettes to minors. Staff have been informed and educated about selling illegal products from a licensed premises.
- 2.1.3 On 21 February 2019 a test purchase operation resulted in two single cigarettes being sold to West Yorkshire Police test purchase children. The person who made the sale stated when challenged that they were not employed there and were standing in while the owner attended hospital.
- 2.1.4 A telephone conversation with the owner, resulted in them informing Officers that the sale of tobacco to youths would not happen from their shop again and that this incident had happened due to them being taken into hospital. The owner was warned that further test purchasing would be taking place.
- 2.1.5 Contact was made with Trading Standards requesting their history of illegal sales that had taken place from the shop. The following information was supplied:
 - April 2018 – sale of e-Cig liquid to child volunteer – training session and standard warning letter issued June 2018.
 - 26 March 2019 – search warrant executed at premises – single cigarettes, non-duty paid cigarettes and flavoured tobacco were found to be on sale.
- 2.1.6 Full details of the review application, including the information received from Trading Standards can be found at **Appendix A**.
- 2.1.7 The current premises licence was first issued on 29 August 2005, under premises licence number PR(A)0103; a copy of the premises licence is attached at **Appendix B**.

2.2 Licensing Policy

Members considering the application should take note of the Authority's Statement of Licensing Policy, which provides the following guidance on how Members should approach the application and representation:

1.0 – Executive Summary

1.2 In exercising its duties and responsibilities under the terms of the Licensing Act 2003, the Council will operate within the statements and procedures mentioned in this policy statement. Notwithstanding this statement, all applications will be treated on their merits and judged accordingly. The council will have regard to any relevant guidance issued by the Secretary of State in exercising its powers under the Act.

2.0 – Purpose and Scope of the Licensing Policy

2.7 The Licensing Authority recognises that each licence application must be considered on its own individual merits in the context of the four licensing objectives, and that unless relevant representations are received from responsible authority's or interested parties, there is no provision for a Licensing Authority to impose conditions on a licence other than those proposed within an application. Only conditions which have been volunteered by the applicant or which have been determined at a Licensing Panel hearing can be attached to a licence or certificate. If no relevant representations are made in respect of an application, the Licensing Authority is obliged to issue the licence on the terms sought.

Licensing Objectives.

1. *Public Safety*
2. *Prevention of crime & disorder*
3. *Prevention of public nuisance*
4. *Protection of children from harm*

2.3 Secretary of State Guidance

Members also need to consider statutory guidance issued, by the Secretary of State, under Section 182 of the Licensing Act 2003. As the representations relate to all four licensing objectives, Members attention is drawn to Section 2 of this Guidance, the relevant parts of which may be found at **Appendix C**.

3 Implications for the Council

3.1 Working with People

Residents of Kirklees need to be confident that persons holding licences under the Licensing Act 2003 are in a position to uphold the 4 licensing objectives. Taking appropriate and necessary action against licence holders where they fall short of their duties under the Licensing Act 2003 will prevent harm to residents

3.2 Working with Partners

The Council's licensing team work closely with partnering agencies, classed as 'Responsible Authorities' under the Licensing Act 2003, these include Planning, West Yorkshire Police, Trading Standards, Environmental Health, Fire Service, and Safe Guarding Children team.

3.3 Place Based Working

Working closely with Responsible Authorities the Licensing Authority can address issues within the districts that make up Kirklees.

3.4 Improving outcomes for children

A key objective of the Licensing Act is the protection of children from harm, and any decision made by the Council, in its capacity as Licensing Authority, have to have regard to this objective.

3.5 Other (e.g. Legal/Financial or Human Resources)

In determining the application Members should have regard to the Authority's licensing policy statement and the Secretary of State's Guidance. The applicant or any other person who made relevant representations in relation to the application have a right of appeal to the Magistrates' court.

4 Consultees and their opinions

Consultation has taken place in accordance with the Act. There have been no matters arising from responsible authorities.

5 Next steps and timelines

5.1 When determining the review application Members, having had regard to the information in the application, may take any of the following steps as they consider appropriate:

- 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.

5.2 Findings on any issues of fact should be on the balance of probability.

5.3 In arriving at a decision Members must have regard to the relevant provisions of statutory guidance and the licensing policy statement and reasons must be given for any departure.

5.4 The decision should be based on the individual merits of the application.

6 Officer recommendations and reasons

6.1 Members of the Panel are requested to determine the application

7 Cabinet portfolio holder's recommendations

Not applicable

8 Contact officer

Beth Jennings, Licensing Officer, Licensing Service
Tel: 01484 221000 ext. 71609
Email: beth.jennings@kirklees.gov.uk

9 Background Papers and History of Decisions

9.1 Appendix A – Review Application from West Yorkshire Police

9.2 Appendix B – Copy of Premises Licence PR(A)0103

9.3 Appendix C – Relevant sections of Secretary of State Guidance

10 Strategic Director responsible

Karl Battersby – Strategic Director Economy and Infrastructure
Tel: 01484 221000
Email: karl.battersby@kirklees.gov.uk

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RESTRICTED

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, (insert name of applicant) **PC Katie Jagger 4346**

- **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**

Part 1 – Premises or Club Premises details

Postal address of premises or, if none, Ordnance Survey map reference or description:

24 Westgate, Huddersfield.

Town/City: **Huddersfield** Postcode: **HD1 1NU**

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

[REDACTED]

Number of premises licence or club premises certificate (if known): **PR(A)0103**

Part 2 – Applicant details

Please 'check' appropriate box(es)

I am:

1. An interested party (please complete A or B below)
 - (a) a person living in the vicinity of the premises
 - (b) a body representing persons living in the vicinity of the premises
 - (c) a person involved in business in the vicinity of the premises
 - (d) a body representing persons involved in business in the vicinity of the premises
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

Mr

Surname: _____ Forename(s): _____ **28 MAR 2029**

I am 18 years old or over:

Current postal address if different from premises address: _____ Town/City: _____ Postcode: _____

Daytime contact telephone number: _____

E-mail address (optional): _____

B – Details of other applicant

Surname:

Forename(s):

Address:

Town/City:

Postcode:

Daytime contact telephone number:

E-mail address (optional):

C – Details of responsible authority applicant

Other title, e.g. R PC 4346

Surname: Jagger

Forename(s): Katie

Address: Kirklees Police Licensing, Flint Steet

Town/City: Huddersfield

Postcode: HD1 6LG

Daytime contact telephone number:

E-mail address (optional):

This application to review relates to the following licensing objective(s): (Please 'check' one or more boxes)

- (a) The prevention of crime and disorder
- (b) Public Safety
- (c) The prevention of public nuisance
- (d) The protection of children from harm

State the ground(s) for review (please read Guidance note 1):

This shop has been found selling cigarettes to children.
This shop is not only selling cigarettes to children but selling single unpackaged cigarettes which is illegal. Single cigarettes do not come with any health warning markers and are more affordable and accessible to children.
The cigarette that have been sold are also counterfeit, none duty paid cigarettes.

We are calling for the review on grounds that the following licensing objectives have been impacted upon.

- 1) Crime and Disorder.
- 2) Public Safety.
- 3) Protection of children from harm.

RESTRICTED

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

no

Please 'check' appropriate box(es)

- 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 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (see guidance note 4). If signing on behalf of the applicant, please state in what capacity:

Signature:.....

Date: 28/3/19

Capacity:.....

PC 4346 Jagger Kirbles Licensing

Contact name (where not previously given) and postal address for correspondence associated with this application (please read Guidance note 5):

Surname:

Forename(s):

Address:

Town/City:

Postcode:

Telephone number (if any):

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

Notes for Guidance

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

Westgate News is on Westgate, Huddersfield. This is a licensed premises in the town centre that sells groceries and newspapers along with cigarettes and tobacco products. It does not at the moment retail alcohol however it does benefit from having an alcohol licence, which greatly increases the value of the business.

West Yorkshire Police have received intelligence about the sales of non-duty or counterfeit cigarettes to minors from this shop. The shop has been inspected countless times by town centre officers and staff have been informed and educated about selling illegal products from a licensed premises.

On 21st Feb 2019 I carried out a test purchase operation in the town centre and the shop sold two single cigarettes to our test purchase children. I returned into the shop and told the person working in the shop that [REDACTED] had failed a test purchase, and had sold single cigarettes to minors. On questioning, the [REDACTED] working in the store said [REDACTED] was not employed there and was only standing in while the owner attended hospital. The next day I spoke to the owner [REDACTED] on the telephone. [REDACTED] told me that sales of tobacco to youths would not happen from [REDACTED] shop again and this incident had happened due to [REDACTED] being taken into hospital. [REDACTED] was warned that further test purchasing would be taking place.

Due to this failed test purchase we contacted trading standards and asked for their history of illegal sales that had taken place from the shop. The following was sent back to us:

Re : Update On Westgate News

In April of last year (2018) there was a sale of E Cig Liquid to one of our child volunteers. For a first offence we now offer them a training session for a charge and follow it up with a standard warning letter, this was done in June of last year. [REDACTED] stated that [REDACTED] did not sell age restricted cigarettes or alcohol, only nicotine inhaling products and adult magazines.

On Tuesday 26th March 2019 I assisted with a search warrant at Westgate News, 24 Westgate, Huddersfield. I was asked to observe persons entering the shop for the 30 minutes prior to the warrant being executed at 4pm. I observed a steady stream of youths, some in school uniform, enter the shop and leave approximately one minute later. Some had items in their hands such as cans of drink or crisps but others it was not obvious what they had bought. At 3.45pm I observed two young [REDACTED] enter the shop who were approximately 15 years of age. They left the shop a minute later and one of the [REDACTED] on leaving the shop had a lit cigarette in [REDACTED] mouth.

At 4pm the warrant was executed. The only person in the shop was the owner [REDACTED]

Under the sales counter, I observed police officers find two packets of open cigarettes. One was Lambert & Butler and the other was Rothmans Royals. Next to the open cigarettes was a red leather purse full of silver change. [REDACTED] was asked if [REDACTED] smoked and [REDACTED] said [REDACTED] did not. I told [REDACTED] that I had observed a [REDACTED] who looked 15 leave the store smoking a cigarette. [REDACTED] admitted that [REDACTED] had sold this cigarette as a single to this [REDACTED] for 60 pence. [REDACTED] was then asked if the cigarettes under the counter were for sale as single cigarettes and [REDACTED] admitted that they were. It is an offence to sell single cigarettes and when I observed the packaging it was clear that these were none duty paid cigarettes.

A large box of matches was found to the left of the till, these were not for sale and [REDACTED] could not give a reason as to why they were in the shop. Also one of the search officers found a half used lighter situated by the exit to the shop. Again [REDACTED] could give no explanation as to why it was there but I believe it was positioned so that any person buying a single cigarette could light it before leaving the shop.

There was no gantry for sales of cigarettes, just a tray which was kept under the counter. In this tray was packets of Benson and Hedges and Lambert and Butler cigarettes, all of which appeared to be none duty paid. Also found under the counter were 10 packets of Rothmans Royals still in cellophane, these again appeared to be none duty. When asked for wholesale receipts for the tobacco products none could be produced, however [REDACTED] said they were from Batley's Cash and Carry.

Trading Standards were in attendance and have seized these cigarettes.

During the search 3 boxes of small cellophane bags were found. These were not on sale but were situated behind the till. These bags are what the police refer to as "dealer bags" because drugs such as cannabis and crack cocaine are often sold in these bags.

[REDACTED] could give no explanation as to why these bags were in [REDACTED] shop.

Four tobacco grinders were on sale, although the shop did not sell tobacco to grind and in the rear of the shop was a tobacco grinder.

A number of flavoured blunts were found in the shop and were seized by Trading Standards. These are ready made cigarettes made out of flavoured rolling tobacco and are attractive to youths as they come in a variety of flavours such as Watermelon, Cosmopolitan, Mango and Jamaican Rum. It is illegal to sell flavoured tobacco.

The DPS and premises licence holder has a blatant disregard for criminal law, illegal cigarettes were sold on separate occasions to children. The staff seem to have no knowledge of laws governing age related products, and no training has been apparent. Alcohol is not available for sale, but like I mentioned earlier the benefit of an alcohol licence greatly increases the resale value of this town centre premises. Kirklees Licensing believe that if the current DPS wishes to sell alcohol due to having a licence [REDACTED] would sell to underage persons. Therefore, West Yorkshire Police respectfully request the panel give strong consideration to revoking this licence.

Licensing Act 2003
Premises Licence

PR(A)0103

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Westgate Newsagents

24 Westgate, Huddersfield, West Yorkshire, HD1 1NU.

Telephone 01484 541059

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- the supply of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
J. Supply of alcohol for consumption OFF the premises only	Monday to Sunday	8:00am	11:00pm
	Sunday	10:00am	10:30pm
	Good Friday	8:00am	10:30pm
	Christmas Day	Noon	3:00pm
	Christmas Day	7:00pm	10:30pm

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday		None stated

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption OFF the premises only

Part 2

Licensing Act 2003
Premises Licence

PR(A)0103

NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

[Redacted Name and Address]

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORIZES THE SUPPLY OF ALCOHOL

[Redacted Supervisor Name and Address]

PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORIZES FOR THE SUPPLY OF ALCOHOL

Licence No. [Redacted] Issued by [Redacted]

Licensing Act 2003

Premises Licence

PR(A)0103

ANNEXES

ANNEX 1 - MANDATORY CONDITIONS

No supply of alcohol may be made under the premises licence:

- (a) at a time when there is no Designated Premises Supervisor (DPS) in respect of the premises, or
- (b) at a time when the DPS does not hold a personal licence or his/her personal licence is suspended

Every sale/supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence

ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

The times the premises licence authorises the sale by retail of alcohol do not prohibit:

- (a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;
 - (b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
 - (c) the sale of alcohol to a trader or club for the purposes of the trade or club;
 - (d) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
- Alcohol shall not be sold in an open container or be consumed in the licensed premises.

ANNEX 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY


None

ANNEX 4 - PLANS OF PREMISE

As outlined in the Operating Schedule and attached plan

Date granted: 29/08/2005

Date commences/varied: 24/11/2005



Head of Planning and Building Control Services

Licensing Act 2003

PR(A)0103

Premises Licence Summary

Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Westgate Newsagents

24 Westgate, Huddersfield, West Yorkshire, HD1 1NU.

Telephone 01484 541059

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- the supply of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
J. Supply of alcohol for consumption OFF the premises only	Monday to Sunday	8:00am	11:00pm
	Sunday	10:00am	10:30pm
	Good Friday	8:00am	10:30pm
	Christmas Day	Noon	3:00pm
	Christmas Day	7:00pm	10:30pm

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday		None stated

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption OFF the premises only

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

[REDACTED]

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

[REDACTED]

Licensing Act 2003

PR(A)0103

Premises Licence Summary

STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

None

Any conditions applicable to these premises are attached to the Licence

Date granted: 29/08/2005

Date commences/varied: 24/11/2005



Head of Planning and Building Control Services

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Relevant Sections of Secretary of State Guidance – Under Section 182 of Licensing Act 2003

Crime and disorder

2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).

2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority (“SIA”) as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.

2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.

2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular

premises, poor management competency could give rise to issues of crime and disorder and public safety.

2.6 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.

Public safety

2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.

2.8 A number of matters should be considered in relation to public safety. These may include:

- Fire safety;*
- Ensuring appropriate access for emergency services such as ambulances;*
- Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);*
- Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;*
- Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);*
- Ensuring appropriate and frequent waste disposal, particularly of glass bottles;*
- Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and*
- Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).*

2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38-8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

2.10 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:

- Providing information on the premises of local taxi companies who can provide safe transportation home; and
- Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

2.11 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it would be inappropriate for a licensing condition to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it would be permissible for licensing authorities, if they receive relevant representations from responsible authorities or any other persons, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible authorities – such as health and safety authorities – should therefore make their expectations clear in this respect to enable prospective licence holders or clubs to prepare effective operating schedules and club operating schedules.

2.12 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.

2.13 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act¹, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.

2.14 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

Protection of children from harm

2.22 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.

2.23 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:

- adult entertainment is provided;*
- a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);*
- it is known that unaccompanied children have been allowed access;*
- there is a known association with drug taking or dealing; or*
- in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.*

2.24 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and licensing authorities will need to consider this point carefully. This would broadly include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.

2.25 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to

events at their premises, is not displayed at a time when children are likely to be near the premises.

2.26 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.

2.27 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:

- restrictions on the hours when children may be present;*
- restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;*
- restrictions on the parts of the premises to which children may have access;*
- age restrictions (below 18);*
- restrictions or exclusions when certain activities are taking place;*
- requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult);*
- full exclusion of people under 18 from the premises when any licensable activities are taking place.*

2.28 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.

2.29 Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.

2.30 The 2003 Act provides that, where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the

admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself. Further details are given in Chapter 10.

2.31 Theatres may present a range of diverse activities and entertainment including, for example, variety shows incorporating adult entertainment. It is appropriate in these cases for a licensing authority to consider restricting the admission of children in such circumstances. Entertainments may also be presented at theatres specifically for children. It will be appropriate to consider whether a condition should be attached to a premises licence or club premises certificate which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of the children during any emergency.

2.32 Licensing authorities are expected to maintain close contact with the police, young offenders' teams and trading standards officers (who can carry out test purchases under section 154 of the 2003 Act) about the extent of unlawful sales and consumption of alcohol by minors and to be involved in the development of any strategies to control or prevent these unlawful activities and to pursue prosecutions. Licensing authorities, alongside the police, are prosecuting authorities for the purposes of these offences, except for the offences under section 147A (persistently selling alcohol to children). Where, as a matter of policy, warnings are given to retailers prior to any decision to prosecute in respect of an offence, it is important that each of the enforcement arms should be aware of the warnings each of them has given.

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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