

Public Document Pack



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

Julie Muscroft

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Please ask for: Jenny Bryce-Chan

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Tuesday 25 June 2019

Notice of Meeting

Dear Member

Licensing Panel

The **Licensing Panel** will meet in the **Old Court Room - Town Hall, Huddersfield** at **9.30 am** on **Wednesday 3 July 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".

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 Amanda Pinnock

Councillor Kath Taylor

Councillor Terry Lyons

Agenda

Reports or Explanatory Notes Attached

Pages

1: Minutes of Previous Meeting

1 - 6

To approve the minutes of the meetings of the Panel held on 5th June 2019.

2: Interests

7 - 8

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: Public Question Time

The Committee will hear any questions from the general public.

6: Application for Review Hearing under S51 Licensing Act 2003 - The Cotton Mill, 446 Wakefield Road, Dewsbury, WF12 8PX 9 - 48

To consider the application at 9.30am

Contact: Russell Williams – Group Leader Licensing Public Protection, Tel 01484 221000

7: Application for Review Hearing under S51 Licensing Act 2003: Top News, 55 Colne Road, Huddersfield HD1 3AY 49 - 90

To consider the application at 10.00am

Contact: Beth Jennings, Licensing Officer. Tel 01484 221000

8: Application for Review Hearing under S51 Licensing Act 2003: Cyrus Supermarket, 205 Lockwood Road, Huddersfield HD1 3TG 91 - 128

To consider the application at 10.30am

Contact: Beth Jennings, Licensing Officer. Tel 01484 221000

Contact Officer: Carol Tague

KIRKLEES COUNCIL

LICENSING PANEL

Wednesday 5th June 2019

Present: Councillor Amanda Pinnock (Chair)
Councillor James Homewood
Councillor Paola Antonia Davies

1 Minutes of Previous Meeting

That the minutes of the meeting held on the 10 May 2019 be noted.

2 Interests

No interests were declared.

3 Admission of the Public

That agenda items 1 to 9 be considered in public session.

That the public be excluded from the meeting in accordance with Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005 and Section 100 (A)(4) of the Local Government Act 1972 the public during consideration of agenda item 8.

4 Deputations/Petitions

No deputations or petitions were received.

5 Public Question Time

No questions were asked.

6 Application for Review Hearing under Section 51 Licensing Act 2003 - The Cotton Mill, 446 Wakefield Road, Lockwood, Chickenley, Dewsbury, WF12 8PX

The Panel considered an application for a Review Hearing under Section 51 Licensing Act 2003, in respect of The Cotton Mill, 446 Wakefield Road, Chickenley, Dewsbury, WF12 8PX

The Licensing Officer outlined the application, advising the Panel that on 27 March 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 public nuisance, crime and disorder and public safety were not being achieved at the premises.

The Panel were advised that during the time that the premises had benefitted from a premises licence, there had been a history of complaints from residents on the basis of noise and anti-social behaviour dating back as far as 2014. The frequency of which had compounded over time and this had led to the West Yorkshire Police making an application for review.

West Yorkshire Police Licensing outlined the reasons for requesting a review hearing. In summary, the Panel were informed:-

Licensing Panel - 5 June 2019

- that the premises were currently without a tenant and were closed for business
- of details of complaints and incidents recorded by West Yorkshire Police and Environmental Health since 2016
- the building was not kept in a good state of repair.

The Panel were informed that the premises licence holder had met with the Police on two occasions and that they had expressed a wish to run the premises as a restaurant, with amended licensing conditions, rather than as a public house.

During representations to the Panel, the premises licence holder reiterated that they wished to retain a license to sell alcohol, but modified in line with restaurant conditions.

RESOLVED – The Review Hearing be adjourned to allow discussions between the License holder and the relevant authorities concerning proposed amendments to the current premises licence to take place and the matter to come back to a future meeting of the Licensing Panel for consideration.

7 **Licensing Act 2003 - Application for the Grant of a Premises Licence: Lina Mini Market, 86 Bradford Road, Huddersfield**

The Panel considered an application for the Grant of a Premises Licence: Lina Mini Market, 86 Bradford Road, Huddersfield.

The Licensing Officer outlined the application, advising the Panel that on 10 April 2019, the Licensing Department received an application for the grant of a premises licence for the aforementioned premises. The licensable activity applied for by the applicant was for the supply of alcohol for consumption OFF the premises as follows:-

Monday to Sunday – 0700 to 2400 (24 hours license)

The Panel were informed that 9 representations had been received objecting to the application, which were supported by a petition. All nine representations considered that should the licence be granted, the Licensing Objectives of Public Nuisance, Prevention of Crime and disorder and Public Safety would not be achieved.

The Chair invited the persons making relevant representations against the licence to outline their reasons.

The West Yorkshire Police Licensing Officer advised the Panel that, in their opinion, businesses operating with a 24 hour licence had struggled with crime and disorder in the early hours. Incidents included hate crimes, armed robberies and public nuisance. It was noted that 24 hour supermarkets were more likely to have the resources required to implement security measures and ensure staff safety.

The Panel were advised that the location had seen an increase in crime and disorder and the police were working with an existing 24 hour licence premises holder in the area to minimise incidents.

Environmental Health's objections were on the grounds of the prevention of public nuisance. The officer present stated that the premises were in a mixed retail and

Licensing Panel - 5 June 2019

residential area and the noise from vehicles with amplified music stopping outside the premises, in conjunction with the congregation of people in the area, would have a detrimental effect on residents and that such noise would affect the use and enjoyment of the person's home, including the prevention of sleep.

The Chair invited the applicant to present the case in support of the application. The key points of which are summarised below:-

- The applicant wished to work with the police and the community to improve the area.
- The premises did not sell only alcohol, it sold medication and other items which people needed 24 hours a day.
- It was hoped to employ up to 3 people within the community.
- The application was for a 24 hour licence as there was a demand and need within the area.
- There was parking for 4-5 cars behind the premises, but it was likely that most customers would visit on foot.
- Deliveries would not be made during the evening in order to minimise noise.

In their final submission, the West Yorkshire Police Licensing Officer responded that the police had no objection to the business being open on a 24 basis, but could not support the 24 hour sale of alcohol.

RESOLVED - That the application for the Grant of a Premises Licence on behalf of Lina Mini Market, 86 Bradford Road, Huddersfield, be granted for the supply of alcohol for consumption OFF the premises as follows:-

Monday to Sunday – 0800 am to 2330 pm

And subject to the following condition regarding CCTV:

Subject to the installation of CCTV equipment in line with the specification requirements of West Yorkshire Police.

CCTV to be installed covering all licensable activity areas. The CCTV system be installed and operated in accordance with West Yorkshire Police guidelines. A competent person must be present during licensable activities that can operate the CCTV system. Footage from the CCTV system to be made available for immediate download upon request to a police constable or representative of a responsible authority as defined by the Licensing Act 2003.

8 Licensing Act 2003 - Application for the Grant of a Premises Licence: Golcar United Community Playing Fields, Longfield Avenue, Golcar, HD7 4AZ

The Panel considered an application for the Grant of a Premises Licence: Golcar United Community Playing Fields, Longfield Avenue, Golcar, HD7 4AZ

The Licensing Officer outlined the application advising that on 9 April 2019, the Licensing Department received an application for the grant of a premises licence at Golcar United Community Playing Fields. The applicant was an unincorporated association, which was a registered charity and a trustee was the point of contact for the association.

Licensing Panel - 5 June 2019

The licensable activity applied for was for the sale of alcohol:-

Between 1900 hours and 2300 hours on Tuesdays and Thursdays

Between 1200 hours and 2000 hours on Saturdays

Between 1200 hours and 1600 hours on Sundays

One representation had been received relation to the application which considered that the licensing objectives of Prevention of Public Nuisance and Prevention of Crime and Disorder would not be achieved should the licence be granted.

The objector present at the hearing was invited to put forward representations which included:-

- The bedrooms of nearby properties backed onto the ground. People living in the area, who included elderly and infirm residents, were entitled to peace and quiet.
- When training finished at 2300, people did not leave the area immediately and there was noise from car doors slamming.
- Attendees arrived in cars and parked inconsiderately leaving residents blocked on their drive.
- Children currently climbed on the club roof and the risk of break-in would be exacerbated if it was known that there alcohol was on the premises.

The objector stated that there had been 2 lots of applications and that neighbours had written to the old address and not received a reply. It was also asserted that the notices had not been placed in appropriate locations.

The Licensing Officers present advised that there had been an issue when the notice had been put up and fresh notices had been posted in line with requirements. It was further noted that a licensing officer would have observed the notices and advised if they were not in a suitable location.

The Chair invited the applicant to present the case in support of the application. Key points included:-

- The charity group had been established to develop amenities for recreational use within urban green space. The user group extended beyond the football club and included schools based groups and learning trusts.
- In relation to crime and disorder, the premises were secure and the hospitality area situated a field away from residents' properties was an ex-mobile bank, which had thick steel walls and bolted entry points. CCTV was also in place around this area.
- Advice had been received from Neighbourhood Watch and a resident trustee acted as a security officer.
- With regards to public nuisance concerns, a grant had been received to refurbish the hospitality room, which included toilet facilities.
- An acceptable behaviour policy was in place and appropriate signage as to regard for neighbours in evidence.
- A letter of support had been received from the MP for Colne Valley.
- The application was for limited opening hours with no dancing or music.

Licensing Panel - 5 June 2019

RESOLVED - That the application for the Grant of a Premises Licence on behalf of Golcar United Community Playing Fields, be granted as stipulated in the application.

9 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 item 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.

10 Application to Review Personal Licence

RESOLVED - That no action be taken in relation to the Personal Licence.

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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: Wednesday 3rd July 2019, at 09:30 – Huddersfield Town Hall, Ramsden Street, Huddersfield

Title of report: Application for Review Hearing under S51 Licensing Act 2003 – The Cotton Mill, 446 Wakefield Road, Dewsbury, WF12 8PX

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 Rob Walker

Electoral wards affected: Dewsbury East.

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 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 public nuisance, 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**.
- 1.3 The review was heard by Members of the 5th June 2019 Licensing Panel, who took the decision to adjourn the matter pending an agreement being reached, between the premises licence holder and West Yorkshire Police, on additional conditions that would alleviate the concerns raised by West Yorkshire Police.

2 Information required to take a decision

Background

- 2.1 The Cotton Mill was first granted a premise licence under the Licensing Act 2003 in February 2007 and at the time operated as The Spinners Arms. Since this time the licence has been transferred on three occasions prior to Clifton Properties Ltd, taking over the licence in January 2011. A Copy of the current Premises Licence PR(A)1139 is attached at **appendix B**.
- 2.2 During the time this premise has been licenced there has been a history of complaints from residents on the basis of noise and anti social behaviour, dating back as far as 2014. The frequency of which have compounded of late leading West Yorkshire Police to make an application for review of the Premise Licence section (51) licensing Act 2003. A copy of the review application is attached to this report as **appendix A**
- 2.3 At the Licensing Panel meeting of the 5th June 2019, Members heard the application for review. Following representations by the Police and the Premises licence holder, Members of the Panel agreed to adjourn the hearing pending further discussions taking place between the premises licence holder and the police, with a view to agreeing additional conditions that would alleviate the concerns raised by the Police that resulted in the review taking place.
- 2.4 As a result of discussion between the police and the premises licence holder the following conditons are being put forward by the police and the premises licence holder –
 - 1) Alcohol sales to be ancillary to a table meal, “table meal” means a meal eaten by a person seated at a table, or at a counter or other structure which serves the purpose of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure serving the purpose of a table;
 - 2) Alcohol sales can only be made by table service, customers must order alcohol via waiting staff.
 - 3) A personal licence holder to be on duty when all alcohol sales take place.
 - 4) CCTV to be installed covering all licensed areas, the entrances, exits and any external trading areas. CCTV must record for 28 days, and be of evidential quality. Copies must be made available on request from any authorised persons such as a police officer, fire officer, environmental health officer or a local authority officer.
 - 5) A terminal hour of 23.30 to be in place for all licensable activities to cease. The premises to be closed to the public at midnight.

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*

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 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 took place in accordance with the Act, and a further representation was received from a local resident. A copy is attached at **appendix D**.

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

7.1 Not applicable

8 Contact officer

8.1 Russell Williams
Licensing Officer
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

9.4 Appendix D - Supporting Representation.

9.5 Matter heard by Members of the 5th June 2019 Licensing Panel, who adjourned the hearing pending discussions between West Yorkshire Police and the premises licence holder -

10 Strategic Director responsible

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

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Appendix A



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 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:

The Cotton Mill, Wakefield Road

Town/City: Dewsbury

Postcode: WF12 8PX

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

Clifton Properties (Yorkshire) Ltd, 50 Commercial Street, Batley, WF17 5EP

Number of premises licence or club premises certificate (if known): PR(A) 1139

Part 2 - Applicant details

Please 'check' appropriate box(es)

I am:

27 MAR 2009

- 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

Surname:

Forename(s):

I am 18 years old or over:

checkbox

Current postal address if different from premises address:

Town/City:

Postcode:

Daytime contact telephone number:

E-mail address (optional):

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RESTRICTED

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

Surname: [REDACTED]

Forename(s):

Address:

Licensing Office, Flint Street Depot, Flint Street,

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 Cotton Mill is owned by Clifton Properties (Yorkshire) Ltd. It is currently without a tenant and is closed due to the [REDACTED] Designated Premises Supervisor (DPS) handing the keys back after [REDACTED] found it impossible to deal with the customers, and to make the business pay. [REDACTED] [REDACTED] had been with [REDACTED] to assist in the day to day running, but as a team they found it extremely difficult to manage. There has been a number of different people who have, over the past years, tried to make this business a success, but all have failed.

Since 2016 West Yorkshire police and Environmental Health have received complaints regarding noise and anti-social behaviour occurring at this Premises. The only respite in complaints have been when the Premises has been closed between tenants.

We are requesting a review on the premises due to the business impacting on the following lice objectives.

- 1) Public Safety.
- 2) Public Nuisance
- 3) Crime and disorder.

Due to the Premises re-opening on the 1st November 2018 there has been a marked increase in complaints from local residents to both West Yorkshire Police and Environmental Health. There has been an increase in crime and disorder at the Premises and complaints of excessive noise.

Please provide as much information as possible to support the application (please read Guidance note 2)

For the benefit of the review West Yorkshire police have only referred to incidents since the new tenant took the business over in November 2018. However to demonstrate the noise issues witnessed by Environmental Health and local residents, we have gone back to 2016.

The following have been reported to West Yorkshire Police

Disorder 2nd November 2018

This was the opening night of the Premises with the new DPS. Loud music and voices was heard coming from the Premises until 02:00hrs.

Disorder 3rd November 2018 02:10hrs

Loud music and voices was heard coming from the Premises until 02:00hrs. Residents of Heath Road reported witnessing a fight on Heath Road between males who had come from the Premises.

Affray 22nd December 2018 at 00:50hrs

A number of males were seen fighting in the ginnel situated at the side of Premises where knives have been involved. The suspects have made off on foot before the police arrive. One male is arrested but was later released without charge due to lack of independent evidence.

Assault 29th December 2018 20:30hrs

Two ex ██████ have a verbal argument in the carpark of the Premises. Resulting in a ██████ punching a ██████ on the side of the forehead. The ██████ leaves the scene before the police arrive and the ██████ later declined to prosecute resulting in no further police action.

Affray 31st December 2018

Approximately 7 males were seen fighting outside the Premises, the police were called. These ██████ had dispersed before the police arrived. No further police action taken due to their being no suspects

or independent witnesses.

Section 47 Assault 9th February 2019 01:30hrs

On leaving the Premises a [REDACTED] customer was punched to the head by an unknown [REDACTED] causing [REDACTED] to fall over, lose consciousness and sustain a cut to his head. Enquiries into this assault are still ongoing, no suspect has been identified as yet.

22nd February 2019 01:30hrs

Customers of the Premises were seen throwing glass bottles at vehicles driving along Wakefield Road. Approximately 30 youths were seen by residents hanging about in the carpark of the Premises shouting and swearing at each other.

Disorder 1st March 2019 10:30pm

Large group of males seen fighting in Health Road. They had come from the Premises. One was seen to hit another over the head with a piece of wood.

Residents who wish to remain anonymous have reported that every time the Premises opens with a new tenant fights, disorder and noise ensue. This has resulted in residents suffering from stress and anxiety and struggling to sleep on a weekend. One resident has lived in Heath Road since [REDACTED] during this time the Premises has re-opened on 3 occasions. On each occasion there has been instances of crime, noise and anti-social behaviour. Another resident moved there in [REDACTED] but now wishes to move away from the area as a result of the issues at The Premises.

Since the 1st November 2018 West Yorkshire police spoke with and met with the Designated Premises Supervisor, [REDACTED] on a number of occasions, to try and assist in reducing crime and disorder linked to the pub. At the last meeting door staff were suggested, but the tenant was not in a financial position to employ them.

Complaints to Environmental Health were received from a number of different complainants. These do stem back over a further time period, but are used to demonstrate the problems local neighbours are encountering when the premises is open.

One of the worst complaints is that the car park adjoining the pub since 1st November 2018 had become a saw mill, with the [REDACTED] of the Designated Premises Supervisor using the facilities to chop up logs with a chain saw and advertise them as fire wood.

28/05/2016 - Night Time Noise Service (NTNS) called re loud music.

31/05/2016 - Complaint received about noise from loud karaoke music.

04/06/2016 - Night Time Noise Service (NTNS) called but the complainant didn't want a visit due to fear of reprisals.

10/06/2016 - Further complaint received using rear area for smoking causing noise from customers and loud music as door is open.

16/01/2017 - Complaint logged advising noise nuisance every weekend. Warning letters sent to DPS on 23 1 2017. No further complaints received.

08/11/2018 - Further complaint received stating pub had reopened and on first weekend noise until 2am. This led to formal letters sending to the DPS. Record sheets were received from the complainant and a meeting was held with Police licensing and DPS. Warnings put in place about further action should they not control the noise and antisocial behaviour.

02/12/2018 - Further complaint received.

02/02/2019 - Complaint received about noise at weekend evenings. The complainant was being woken between 12am and 3am.

25/02/2019 - Complaint received stating loud music continues after midnight.

This pub is no longer in a position to become a successful business without it impacting upon local residents. Geographically it is located in a built up residential area, and over the years, residents have suffered due to a string of different licensees trying to make the pub become successful.

The owners Clifton Properties (Yorkshire) Ltd do not keep the building in a good state of repair and do not maintain the outside of the property to an acceptable standard. Local residents have expressed their concerns about the state of the property to Kirklees Licensing.

Loud music, discos and karaoke may attract a certain customer base but at the detrimental effect to others. The customers this pub has attracted in the past has also lead to an increase in crime and disorder both at the pub or in the immediate area. Therefore West Yorkshire police request serious consideration be given to revoking the licence for the premises.

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

If 'YES', please state the date of that application:

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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: 27/3/19.....

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:

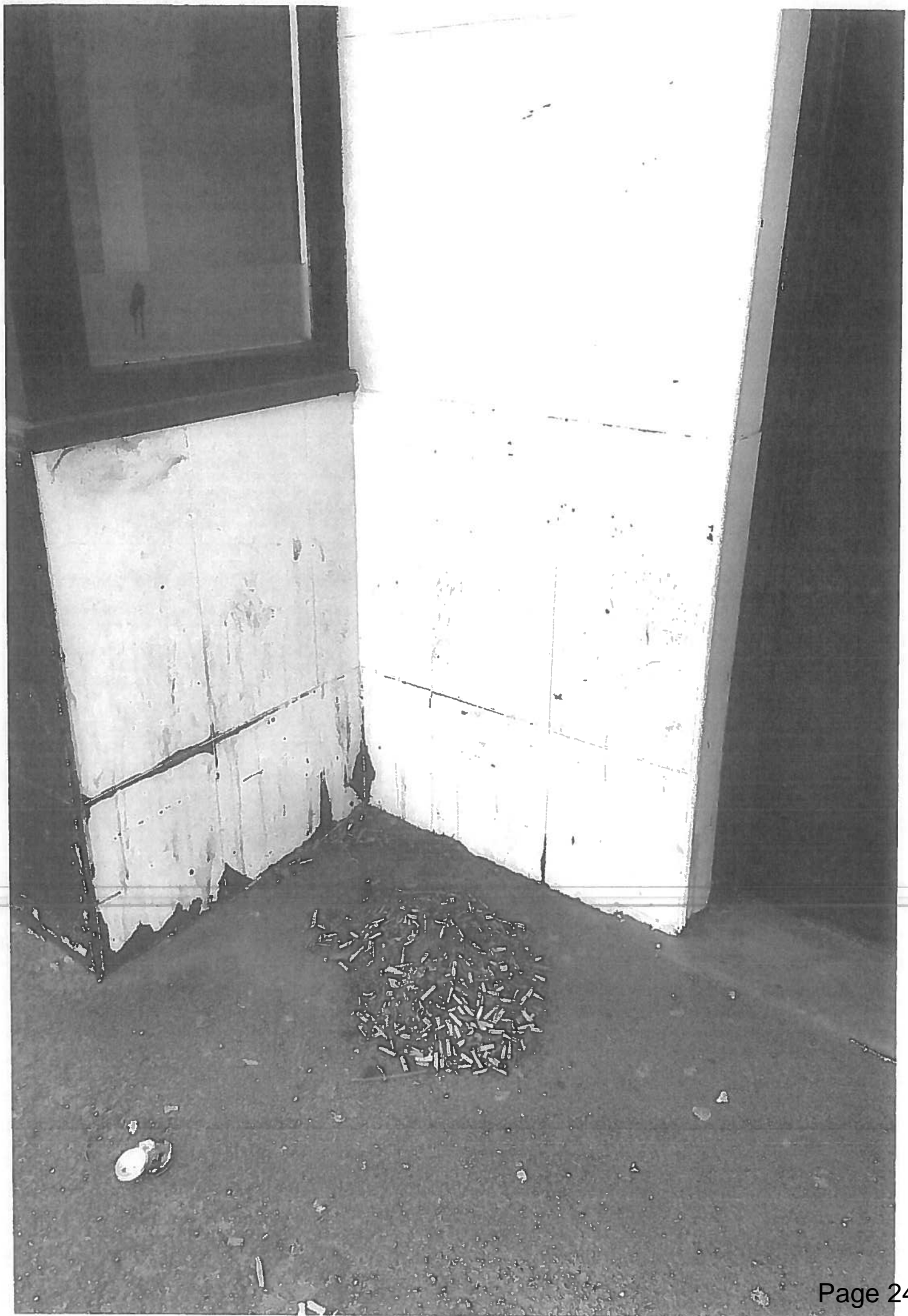
Postcode:

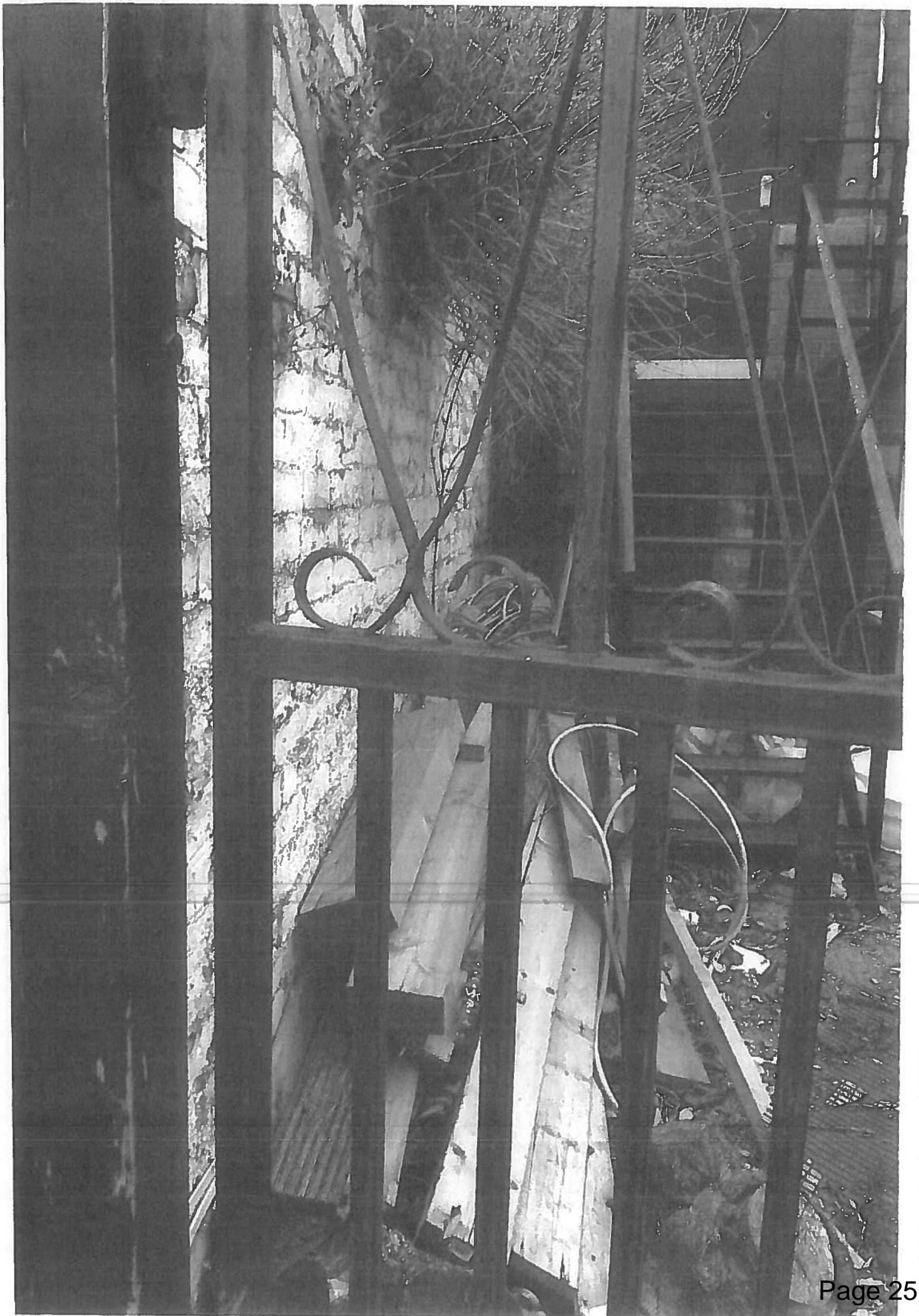
Telephone number (if any):

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

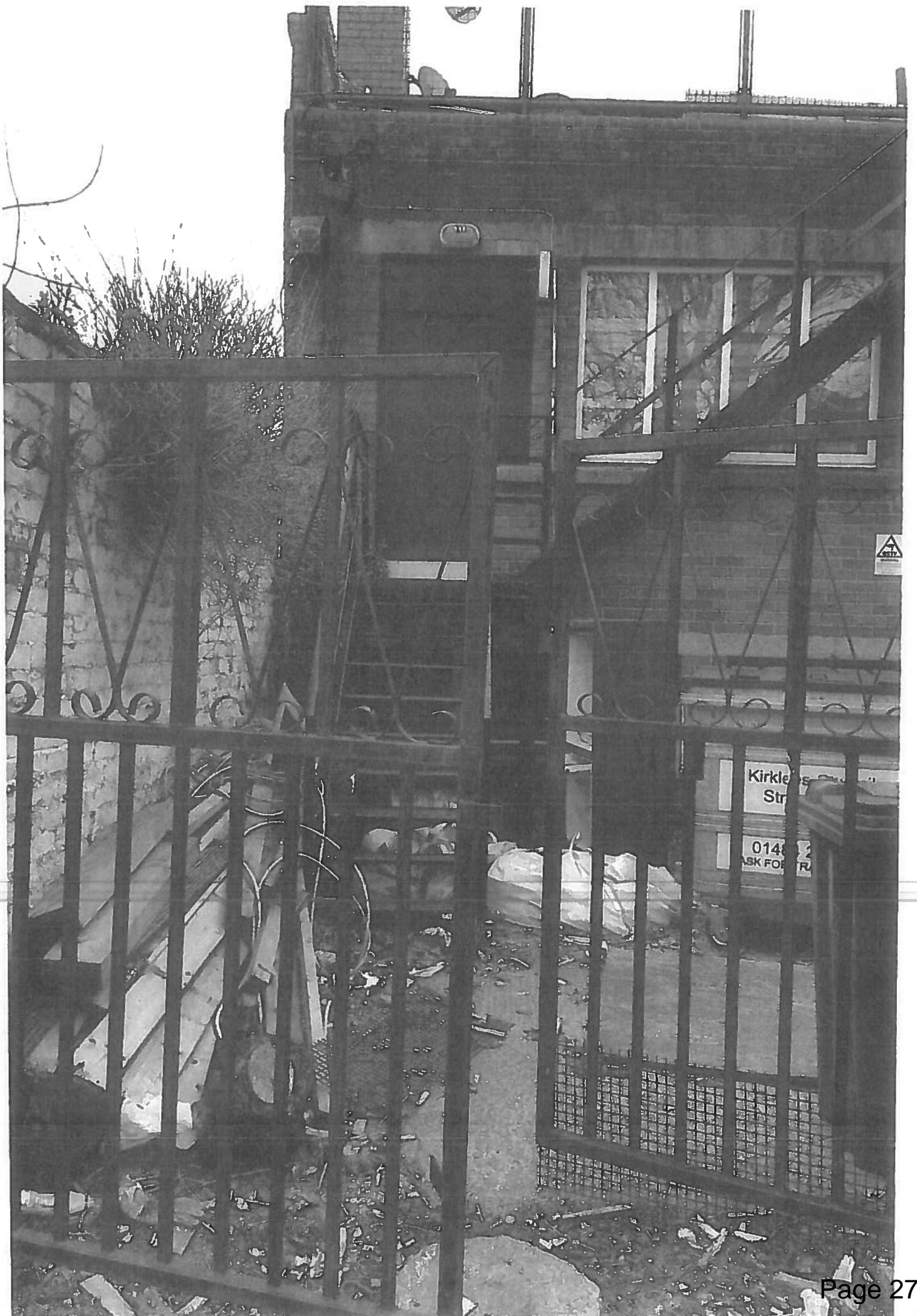
Notes for Guidance

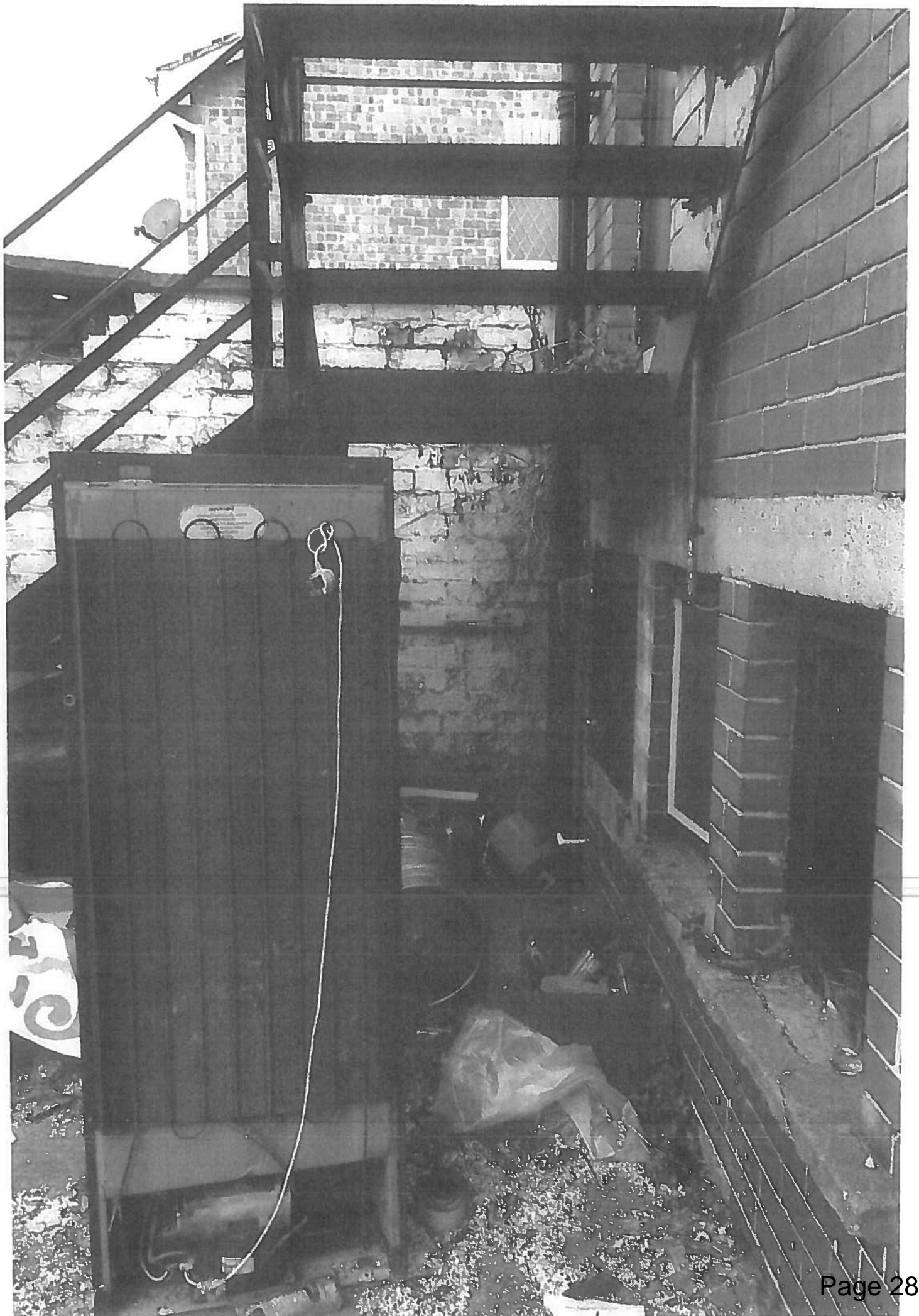
1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) 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.

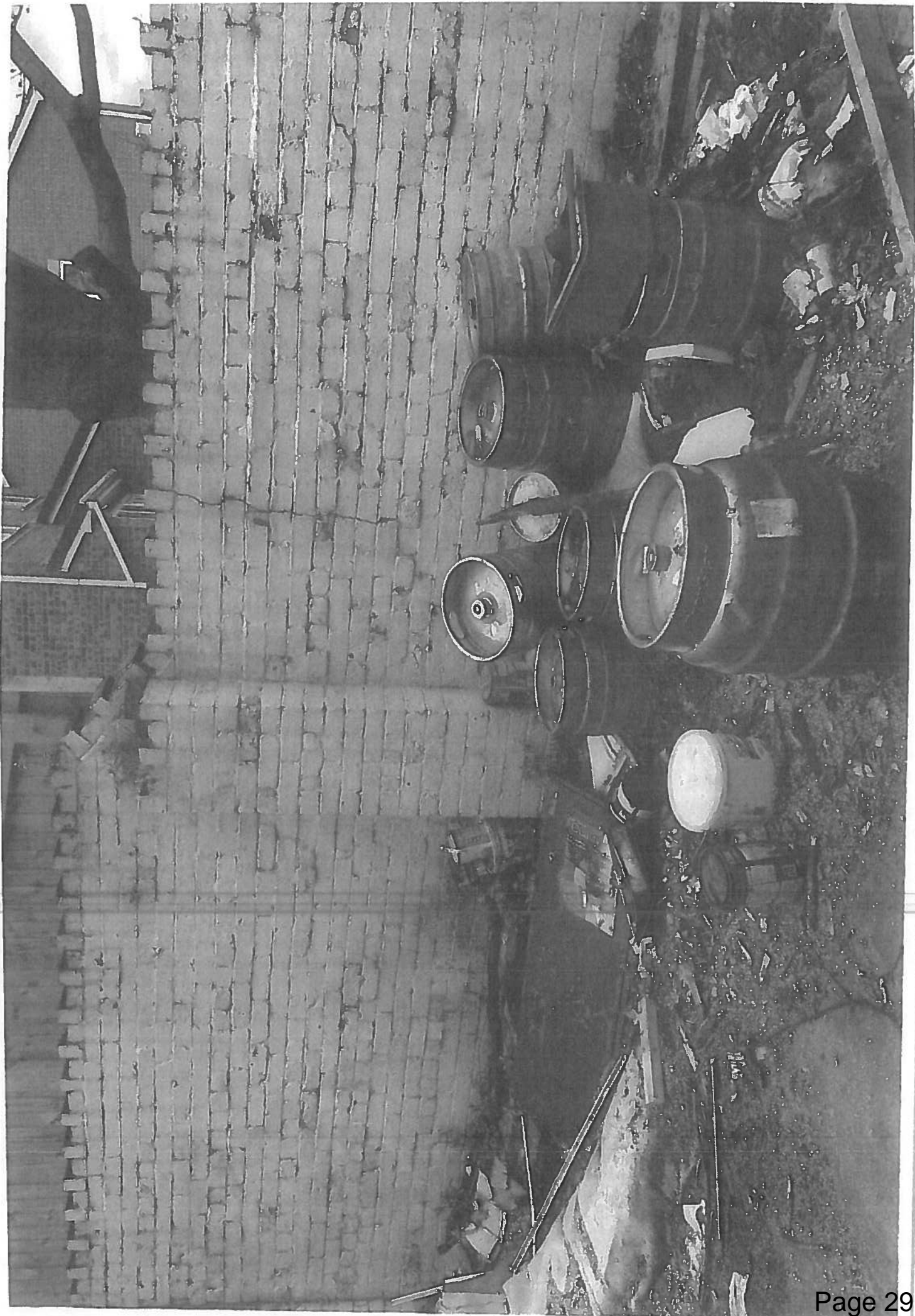












Appendix B

PREMISES LICENCE

Licensing Act 2003

PR(A)1139**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

The Cotton Mill
The Cotton Mill, 446 Wakefield Road, Chickenley, Dewsbury, WF12 8PX,

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

Sale of Alcohol
 Live Music
 Late Night Refreshment
 Recorded Music

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

Day(s)	From - To
Friday	10:00 - 01:00 The Following Morning
Non Standard Timings	-
New Year's Eve	10:00 - 02:00 The Following Morning
Other	10:00 - 02:00 The Following Morning
Saturday	10:00 - 02:00 The Following Morning
Sunday to Thursday	10:00 - 23:30
Christmas Eve	10:00 - 01:00 The Following Morning

Non-Standard Timings

An additional hour into the morning is allowed for Bank Holiday Sundays and Mondays. In the event of the transmission of any recognised international football or rugby match which falls outside the current hours to permit the premises to supply alcohol, commencing one hour before and finishing one hour after the match

Live Music

Day(s)	From - To
Monday to Sunday	08:00 - 22:30

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

Clifton Properties (Yorkshire) Ltd
59 Commercial Street Batley West Yorkshire WF17 5EP
Email address [REDACTED]

Email address [REDACTED]

Mobile Number

Mobile Number

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

West Yorkshire HD16LG

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:

ANNEXES**ANNEX 1 – MANDATORY CONDITIONS****ANNEX 2 – CONDITIONS CONSISTANT WITH THE OPERATING SCHEDULE**

ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE Alcohol shall not be sold or supplied except during permitted hours as shown on the licence. General: none 1. The Designated Premise Supervisor will join the local 'PubWatch' scheme. 2. Where appropriate the Designated Premise Supervisor to refuse admission/service to persons who are drunk or disorderly. 3. Staff to receive training on drugs awareness. 4. Taxis will be ordered by members of staff for any customer, who will be informed when taxi has arrived, staff will also instruct those firms for vehicles drivers' not to sound car horns. 5. The external smoking area will be monitored at all times. 6. Children only permitted on premises when accompanied by an adult and must vacate premises by 21.30 hours. 7. Proof of age checks will be carried out at the premises. Environmental Health:none 8. Noise from amplified and non-amplified music, singing and speech arising from regulated entertainment emanating from inside the premises shall be controlled so as to be inaudible inside any noise-sensitive location in the vicinity of the premise. To enable the applicant to check whether this condition is being met, suitable monitoring position(s) may be agreed with the Responsible Authority. To comply with the condition, noise from the premises shall not be audible at this point. Informative Note: Licensees are advised to carry out a simple sound check outside the nearest noise sensitive property by listening to the music etc. coming from regulated entertainment. If the music etc. is clearly audible then it is likely that this condition is being breached. Therefore steps should be taken to reduce the volume of the noise. In case of dispute, the applicant can verify inaudibility by demonstrating u61623? Lsub Aeq, 1 minnosupersub (EN) should not exceed LA90 (WEN) u61623? Lsub 10 nosupersub (5 min) (EN) should not exceed L 90 (WEN) in any 1/3 octave band from 40Hz to 160Hz. (EN = Entertainment Noise Level - WEN = Representative background noise level without the entertainment noise, both measured inside the noise-sensitive premises.) 9. Any noise that arises from regulated entertainment shall be monitored at least once an hour by the licensee, or their representatives. This monitoring shall take place at positions (accessible by the public) adjacent to noise sensitive properties in the vicinity of the licensed premises. If noise is audible at these monitoring positions action shall be taken by the licensee or their representative shall take action to reduce the level of noise. A written log of this monitoring shall be kept and will include; the date, time and place of the monitoring, the person carrying out the monitoring, a description of any noise and a description of remedial action taken. This log shall be readily available to the Responsible Authority. 10. No loudspeaker used to relay singing, speech and amplified music provided as part of the regulated entertainment shall be positioned outside the premises of the building. Internal loudspeakers shall not be positioned so that the sound they produce is directed through external doors, windows or any other openings in the structure. 11. Clear and conspicuous notices shall be displayed at all entrances, exits and in outdoor areas (e.g. beer gardens) requesting patrons to respect the needs of the local residents and to leave the premises and area quietly. All staff shall be trained in ensuring the quiet dispersal of patrons. 12. The disposal of waste bottles, glass and other materials into external receptacles shall not take place between 22:00 and 08:00 hours and any such waste receptacle shall not be removed from the premises between those hours.

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:

Date Commences/Varied:

Head of Public Protection Service

PREMISES LICENCE SUMMARY

Licensing Act 2003

PR(A)1139**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**The Cotton Mill****The Cotton Mill, 446 Wakefield Road, Chickenley, Dewsbury, WF12 8PX,****LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE**

Sale of Alcohol
 Live Music
 Late Night Refreshment
 Recorded Music

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

Day(s)	From - To
Friday	10:00 - 01:00 The Following Morning
Non Standard Timings	-
New Year's Eve	10:00 - 02:00 The Following Morning
Other	10:00 - 02:00 The Following Morning
Saturday	10:00 - 02:00 The Following Morning
Sunday to Thursday	10:00 - 23:30
Christmas Eve	10:00 - 01:00 The Following Morning

Non-Standard Timings

An additional hour into the morning is allowed for Bank Holiday Sundays and Mondays. In the event of the transmission of any recognised international football or rugby match which falls outside the current hours to permit the premises to supply alcohol, commencing one hour before and finishing one hour after the match

Live Music

Day(s)	From - To
Monday to Sunday	08:00 - 22:30

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE
Clifton Properties (Yorkshire) Ltd 59 Commercial Street Batley West Yorkshire WF17 5EP,...
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
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:

Date Commences/Varied:



Head of Public Protection Service

Appendix C

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.

Public nuisance

2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance.

2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

2.17 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.

2.18 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the morning.

2.20 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.

2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

Appendix D



The cotton mill (the spinners arms)

Objections.

2015 this trouble goes back to.

This latest nuisance started trouble in dec 2018. Owners let any rent it then put their name on license.

- Drug dealing every Saturday and Sunday [REDACTED]
[REDACTED] In car park started Dec 4 2018. Till march 2019

1. Fighting in the road. 24 feb 2019
2. Making noise till 31 feb 2019 4am The cotton mill Chickenley (spinners arms) fighting in st again. someone hit someone with a weapon a snooker ball in sock looked like. dealing drugs again aswelll. Pub turned lights off said [REDACTED]
[REDACTED] what happened Feb 2019 or there aabouts
3. ~~This tenant had a chainsaw and each weekend would start~~ petrol chainsaw early Saturday morning till Sunday. Complained to owner who wasn't interested.
4. [REDACTED] were attacked by two individuals in the street. Told pub owner who just laughed
5. Drug and anti-social or criminal behaviour is a matter for the Police. You are welcome to report to the local Authority also if this is linked to the licensed premise, However, the first point of

reporting should be the Police, who have the necessary powers and resources to deal with this type of criminal activity.

6. Damaging passing cars. With bottles purchased in spinners arms.
7. Attacking neighbours. On heath road feb 2019 a man was attack by drinkers [REDACTED] said police were called
8. When u contact owners who let the pub these [REDACTED] [REDACTED] nothing gets done.

I phoned the police atleast twenty times

9. Smashing of windows..of pub virtually all the windows were smashed and boarded up for 6 months in 2018 really looks bad having a drug den [REDACTED] street.

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Name of meeting: Licensing Panel

Date: Wednesday 3rd July 2019, at 10.00am – The Old Court Room, Huddersfield Town Hall, Ramsden Street, Huddersfield

Title of report: Application for Review Hearing under S51 Licensing Act 2003: Top News, 55 Colne Road, Huddersfield HD1 3AY

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 Rob Walker

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 15 May 2019, West Yorkshire Police made an application for the review of the premises licence at Top News, 55 Colne Road, Huddersfield HD1 3AY under Section 51 of the Licensing Act 2003. The applicant believes that the licensing objectives of the prevention of crime and disorder, the prevention of public nuisance, 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 Top News has a 24-hour alcohol licence. It is located in a very densely populated area of the town, next to Halls of Residence that service students of the University of Huddersfield. Across the road is a pre-school that offers places for 3-5 year olds.
- 2.1.2 On 9th May 2019, Top News was visited as part of a partnership operation to investigate criminal activities linked to licensed premises in the Huddersfield area.
- 2.1.3 PC Steve Nicholls attended the premises in this visit. Details of his findings at this visit are included in the review application, which can be found at **Appendix A**.
- 2.1.4 A witness statement from PC Nicholls is appended to this report at **Appendix B**.
- 2.1.5 A statement from Engie Power Limited, detailing the estimation of the theft of electricity at Top News is appended to this report at **Appendix C**.
- 2.1.6 The current premises licence was first issued on 6 July 2006, under premises licence number PR(A)1070; a copy of the premises licence is attached at **Appendix D**.

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 E**.

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, has 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 – Statement from PC Nicholls, West Yorkshire Police
- 9.3 Appendix C – Statement from Engie Power Limited
- 9.4 Appendix D – Copy of Premises Licence PR(A)1070
- 9.5 Appendix E – 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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Appendix A



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:

Top News, 55 Colne Road

Town/City: Huddersfield

Postcode: HD1 3AY

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

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

Part 2 - Applicant details

Please 'check' appropriate box(es)

15 MAY 2019

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) [checked]

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: [checked]

Current postal address if different from premises address:

Town/City:

Postcode:

Daytime contact telephone number:

E-mail address (optional):

RESTRICTED

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 owner of the shop has been found to have been tampering with the electricity supply within the shop. This is not only a criminal act but is a reckless, stupid act as it puts the owners, staff, customer and the people of Kirklees at risk of death or serious injury. Large catering knives have been found behind the counter, and the shop does not cater, the knives were not for sale but appear to there for the protection of the staff.

RESTRICTED

Please provide as much information as possible to support the application (please read Guidance note 2)

On the 9th May 2019 a partnership operation was put in place to investigate criminal activities linked to licensed premises in the Huddersfield area.

One of the shops that were visited was Top News, 55 Colne Road, Aspley, Huddersfield. It has an alcohol licence, and has the added bonus the licence is a 24 hour licence, The shop is located in a very densely populated of the town, and next to the students hall of residence that houses the students for Huddersfield University. Across the road from the shop is a pre-school that offers places 3 to 5 year olds.

Pc Steve Nichols carried out the enforcement visit to Top News and below is a statement he sent explaining what was found at the time and date of the visit.

'On examination of the electricity supply at this location I could see that there had been interference with the electricity supply. Closer inspection could see that a screw had been inserted in to the meter to stop it registering.

I have spoken to the supplier who confirmed that NORTHERN POWER did arrive last night and found substantial damage to the meter and equipment and made safe.

I have expressed by concerns over this criminal act and that they should consider revisiting and terminating this supply.

This type of behaviour is not only criminal but highly dangerous.

The shop is surrounded by student flats and other businesses that could have resulted in fire or explosion.'

On a previous visit to the shop 24th Jan 2019 Located directly underneath the shop sales counter were 3 very large chef type knives that were dirty and did not appear to be for cooking or catering. These items were in very easy reach of staff. There is no catering facilities within the shop, and there can really be no legal excuse for the knives to be in such a place within the shop.

The premise has a basement entered from the rear external area of shop. The door is heavily secured with metal bars.

~~Alcohol is stored in the basement in very bad hygienic conditions. Even though alcohol is sold in either bottles or cans, it is still a food-stuff and should be stored in a correct and hygienic manner.~~

Within the cellar there is a further large room containing a large amount of car parts. A green Audi has been dismantled and the wings and doors are present along with a grey motor vehicle. This is not a garage and it will have been very difficult to place these items in here.

Last year in the early hours of the morning the shop was the subject of an armed robbery where the person being the counter was threatened with a hand gun as well as a machete.

The premise has 4 flats above shop accessed from a rear door in the rear yard.

The shop deny involvement with flats. Police enquiries with council shows [REDACTED] the shop owner, to be the owner of the flats

The DPS [REDACTED] whilst previously owning TOP NEWS in Town centre had abstracted electric for the shop, but had sold the business before criminal procedures were brought.

RESTRICTED

West Yorkshire police feel that this business is impacting on all four licencing objectives, and the owner has disregard to staff welfare, to customer safety, and is willing to participate in criminal activities to further [redacted] own gain.

Therefore we request that strong consideration be given to revocation of this licence.

Have you made an application for review relating to this premises before? NO

If 'YES', please state the date of that application:

RESTRICTED

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

[Empty box for representations]


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: 15th May 2019
Capacity: Police Licensing Offices

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.

Appendix B

WITNESS STATEMENT

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

NICHE Ref. No:	<input type="text"/>	URN:	<input type="text"/>
Statement of:	PC 58 STEVE NICHOLLS		
Date of birth:	Over 18	Occupation:	POLICE CONSTABLE
This statement (consisting of: <input type="text"/> page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.			
Signature:	<input type="text"/>	Date:	14/05/2019
Time and date statement taken: 06:40HRS 14/05/2019			

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

I am a Police Constable with West Yorkshire Police (hereafter referred to as WYP) and I currently work as a ward manager responsible for Huddersfield Town centre within the Kirklees District. As part of my role I deal with partnership working, problem solving and repeat calls for service. In addition I plan, co-ordinate and conduct planned operations dealing with neighbourhood issues with partners from other agencies.

I make this statement in relation to a planned operation conducted on the 9th May 2019 under the name of This operation was conducted with partners from HMRC, KIRKLEES COUNCIL LICENCING, IMPERIAL TOBACCO, INTERK9 and specialist officers from West Yorkshire Police.

The operation commenced at 9.30am on the morning of 9th May 2019.

At approximately 13:00hrs we attended at the premise of TOP NEWS. 55 COLNE ROAD, HUDDERSFIELD. This shop has a current premise licence issued by Kirklees council allowing the sales of alcohol.

On arrival there was one person conducting sales and stated that was called

Checks were conducted by Officers from HMRC using their powers under the Customs and excise management Act. During the search of the property for illicit / counterfeit goods It was noted that there was a number of outer wrappers from tobacco products located on the floor area behind the counter. These wrappers were from products that were not UK duty paid and were not consistent with goods that could be purchased from local wholesalers. No explanation was provided by as to why these outer wrappers were there.

No illicit tobacco products were declared to be on premises and none could be found at the time of the visit.

Signature:

Signature witnessed by:

OFFICIAL (when complete)

NICHE Ref. No:		URN:	
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Continuation Statement of **STEVE NICHOLLS**

The premise consists of a small retail shop accessed from the pavement outside on Colne Road. The sales area is over the ground floor only. The shop does not have a rear door.

To the rear of the premise is some external stone steps leading down to a cellar area. The exterior door is heavily secured with a steel door that was locked on arrival. The keys were obtained from [REDACTED] and access gained.

Inside the cellar was an amount of goods that were being stored and were to be sold including tins of alcohol. It was immediately apparent that this cellar area was damp, dirty and not consistent with keeping goods in storage for sale at a later time. The cellar was open to access by rodents that could contaminate the goods .

At the rear of the cellar area was a separate room that had numerous chopped up car parts and appeared to comprise of two vehicles.

Within this area was also a large adult size mountain bike that was red in colour.

I could see that the electricity supply was located here and upon closer inspection of the supply I could see that the meter was not going round.

The numeric dials on the meter were remaining static and were not moving in a manner that I would expect to see. Closer inspection showed that there had been a screw inserted in to the bottom of the electricity meter causing it to stop registering. I could also see damage to the electricity service fuse holder that had a large crack across it. The paper seals applied to the meter itself appeared to have been broken at some time and gave the impression someone had interfered with the apparatus.

I called the police operator to request that NORTHERN POWER GRID attend to inspect and make safe the electricity supply.

The premise is located within an area densely populated by students and businesses and the property itself has a number of flats above. Tampering with the electricity supply is not only a criminal matter but a highly dangerous situation when tampering has occurred by an unqualified person.

The premise operates 7 days per week and open nearly 24 hours per day. The loss of revenue to the supplier is vast bearing in mind the premise has a large number of chilled display counters that will consume vast amounts of electricity.

Signature: STEVEN NICHOLLS

MG11a

Signature Witnessed by:

OFFICIAL (when complete)

(Revised 1.9.11)

NICHE Ref. No:	[REDACTED]	URN:	[REDACTED]
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Continuation Statement of STEVE NICHOLLS

This criminal act can only have been done by a person who had access to the cellar area that was secured by a lock and the person in possession of the key at the time of our arrival was [REDACTED]

The property itself and business is believed to be owned by a [REDACTED] called [REDACTED]

At approximately 22:00hrs – 23:00hrs electrical engineers arrived from NORTHERN POWER GRID and examined the electricity supply and meters and confirmed damage had been caused to the supply and associated measuring equipment. The equipment was made safe and a new meter installed. The original equipment has been recovered by NORTHERN POWER GRID and I believe secured as evidence.

On the 10th May 2019 I contacted a [REDACTED] from ENGIE.COM on [REDACTED] to clarify the situation regarding the supply and a report of the incident. [REDACTED] confirmed engineers did attend and a full report can be obtained from [REDACTED] when [REDACTED] has received it from NORTHERN POWER GRID who attended on their behalf.

Signature [REDACTED]

MG11a

Signature Witnessed by:

OFFICIAL (when complete)

(Revised 1.9.11)

Appendix C



ENGIE Power Limited - Theft of Electricity

This statement is to confirm that ENGIE Power Limited are the current supplier of electricity to MPAN: [REDACTED] for customer [REDACTED] of 55 Colne Road, Huddersfield, HD1 3AY since 1st December 2015.


We were made aware by West Yorkshire Police on 9th May 2019, that the customer had fully by-passed the meter at the property, using a screwdriver to stop the dials turning. We estimate the theft occurred between the period of 1st November 2018 and 9th May 2019, based off the last actual read we received from the customer.

Using the DCUSA energy theft calculator, which is generally accepted across the industry, the kWh energy stolen over the by-pass period and the relative monetary loss to ENGIE Power Limited were derived.

This calculation provided an estimated consumption over the theft period of 30,106.9 kWh, minus 23,121.9 kWh of consumption already invoiced for, leaving an estimated total theft of 6,985 kWh. This consumption was multiplied by the customer contracted unit rate of 14.33 p/kwh to equal £1000.90

Appendix D

PREMISES LICENCE Licensing Act 2003	PR(A)1070
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THIS LICENCE IS ISSUED BY	
	<p>LICENSING Flint Street Depot Flint Street Fartown Huddersfield HD1 6LG</p> <p>Tel: 01484 456868 Email: licensing@kirklees.gov.uk</p>

POSTAL ADDRESS OF PREMISES
Top Shop Newsagents Top News, 55 Colne Road, Huddersfield, HD1 3AY,

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE
Sale of Alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES				
Sale of Alcohol				
<table style="width: 100%;"> <tr> <th style="text-align: left;">Day(s)</th> <th style="text-align: left;">From - To</th> </tr> <tr> <td>Monday to Sunday</td> <td>00:00 - 23:59 24 Hours A Day</td> </tr> </table>	Day(s)	From - To	Monday to Sunday	00:00 - 23:59 24 Hours A Day
Day(s)	From - To			
Monday to Sunday	00:00 - 23:59 24 Hours A Day			

THE OPENING HOURS OF THE PREMISES						
<table border="1" style="width: 100%;"> <tr> <th style="text-align: left;">DAY(S)</th> <th style="text-align: left;">FROM</th> <th style="text-align: left;">TO</th> </tr> <tr> <td>Monday to Sunday</td> <td>00:00</td> <td>23:59</td> </tr> </table>	DAY(S)	FROM	TO	Monday to Sunday	00:00	23:59
DAY(S)	FROM	TO				
Monday to Sunday	00:00	23:59				

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
<div style="background-color: black; height: 15px; width: 100%; margin-bottom: 5px;"></div> <div style="background-color: black; height: 15px; width: 80%; margin-bottom: 5px;"></div> <div style="background-color: black; height: 15px; width: 20%; margin-bottom: 5px;"></div> <div style="background-color: black; height: 15px; width: 40%; margin-bottom: 5px;"></div>

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:	
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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

ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE Alcohol shall not be sold or supplied except during permitted hours as shown on the licence. General: none Those specified within the application.

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:

Date Commences/Varied:



Head of Public Protection Service

PREMISES LICENCE SUMMARY

Licensing Act 2003

PR(A)1070

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

Top Shop Newsagents
Top News, 55 Colne Road, Huddersfield, HD1 3AY,

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

Sale of Alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Sale of Alcohol

Day(s)	From - To
Monday to Sunday	00:00 - 23:59 24 Hours A Day

THE OPENING HOURS OF THE PREMISES

DAY(S)	FROM	TO
Monday to Sunday	00:00	23:59

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

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

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:

Date Commences/Varied:

A handwritten signature in black ink, appearing to read "J. Blakely". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

Head of Public Protection Service

Appendix E

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.

Public nuisance

2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance.

2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

2.17 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.

2.18 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the morning.

2.20 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.

2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

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.

Name of meeting: Licensing Panel

Date: Wednesday 3rd July 2019, at 10.30am – The Old Court Room, Huddersfield Town Hall, Ramsden Street, Huddersfield

Title of report: Application for Review Hearing under S51 Licensing Act 2003: Cyrus Supermarket, 205 Lockwood Road, Huddersfield HD1 3TG

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 Rob Walker

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 16 May 2019, West Yorkshire Police made an application for the review of the premises licence at Cyrus Supermarket, 205 Lockwood Road, Huddersfield HD1 3TG under Section 51 of the Licensing Act 2003. The applicant believes that the licensing objectives of the prevention of crime and disorder, the prevention of public nuisance 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 On 5th April 2019 a test purchase was carried out by a Kirklees Licensing Officer. A sale of alcohol took place at 21:05. The licence ceases at 20:30. The shop was not made aware of this failure at the time of the offence due to scheduled partnership visits that were to take place.
- 2.1.2 On 18th April 2019, a visit was made to Cyrus Supermarket as part of a partnership operation to investigate criminal activities linked to licensed premises in the Huddersfield area. At this visit, a Trading Standards member of staff was sold 20 Richmond cigarettes for £4.00 by the member of staff working behind the counter. The police attended the premise with Trading Standards following the purchase. The designated premises supervisor was present and an attending Officer asserted that he spoke little English and knew nothing of running a shop.
- 2.1.3 A search of the premises revealed a large number of non-duty paid cigarettes hidden between drinks cans in the storeroom behind the counter.
- 2.1.4 A car key fob was also found in the waste bin behind the counter and a search of the vehicle revealed a further large amount of non-duty paid cigarettes. The vehicle owner was inside the shop and had keys for the shop in his possession.
- 2.1.5 A statement from the Trading Standards Officer is appended to this report at **Appendix B**.
- 2.1.6 Pharmacy type products were also found on sale at the premises which did not have any English writing on the outer box and which were believed to be medicinal product that can only be sold by a registered pharmacy. These were seized and sent to MHRA (Medicines and Healthcare Products Regulatory Agency) in London for assessment, as foreign livery medication cannot be sold in the UK.
- 2.1.7 A copy of the response letter from the MHRA is attached at **Appendix C**.
- 2.1.8 On 9th May 2019 a further partnership visit took place. Police Officers attended and spoke to the man now known to be the named designated premises supervisor. They found his English was poor and he could not understand requests for training records, for the first aid box, to operate the CCTV or to discuss the 'Challenge 25' policy. He showed Officers a phone number for the person he stated owned the premises, and when

asked who the designated premises supervisor was at the premises, stated he did not know.

2.1.9 On this visit, Officers found a total of 71 packets of non-duty paid cigarettes in three separate locations. They also found a clear money bag containing 3 small bags of cannabis in a red documents folder in a storage room.

2.1.10 Additionally, 49 blue tablets were found in the drawers underneath the till. West Yorkshire Police believed these to be a type of erectile dysfunction tablet, which can only legally be sold in pharmacies after the pharmacist has determined the appropriateness of the treatment for the patient.

2.1.11 Full details of the review application can be found at **Appendix A**.

2.1.12 The current premises licence was first issued on 12 April 2011, under premises licence number PR(A)1321; a copy of the premises licence is attached at **Appendix D**.

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 E**.

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 – Statement from Trading Standards Officer

9.3 Appendix C – Letter from Medicines and Healthcare Products Regulatory Agency
MHRA

9.4 Appendix D – Copy of Premises Licence PR(A)1321

9.5 Appendix E – 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

Appendix A

PR00067

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 4346 Katie JAGGER

- 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:

CYRUS
205 Lockwood Road, Lockwood

Town/City: Huddersfield

Postcode: HD1 3TG

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

Number of premises licence or club premises certificate (if known): PR A 1321

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):

I am 18 years old or over: [checked]

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
Surname: JAGGER Forename(s): Katie
Address: West Yorkshire Police Licensing, Flint Steet
Town/City: Huddersfield Postcode: HD1 6LG
Daytime contact telephone number: [REDACTED]
E-mail address (optional): [REDACTED]

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):

In April and May 2019 none duty paid tobacco products were seized from this Premises as were pharmacy type products that did not have any English writing on the outer box, which were believed to be prescribed type products.
They were also selling alcohol outside the permitted hours
Blue tables, believed to be Viagra were found under the counter, these can only be sold after seeking medical advice, and only be retailed from a pharmacy.
The Designated Premises Supervisor appears to be in name only.
The persons working in the shop are unaware of their responsibilities, and don't even know what hours the shop can trade.

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Please provide as much information as possible to support the application (please read Guidance note 2)

On the 5th April 2019 a test purchase was carried out by a Kirklees licensing officer after the hours that the licence were in effect. The sale took place at 21.05 hours, and the licence ceases at 20.30 hrs. At the time of the offence the shop was not made aware of the failure due to the scheduled partnership visits that were to take place.

On the 18th April 2019 a partnership operation was put in place to investigate criminal activities linked to licensed premises in the Huddersfield area.

One of the shops visited was Cyrus, 205 Lockwood Road, Huddersfield.

The [REDACTED] working behind the counter [REDACTED] sold a member of staff from Trading Standards 20 Richmond cigarettes for £4.

Once the test purchase had taken place Trading Standards returned to the shop with Police Officers.

The Designated Premises Supervisor, [REDACTED] born [REDACTED] was present at the shop. One of the attending officer reported that [REDACTED] could speak little English and knew nothing about the running of the shop.

A full search of the shop was carried out and found inside the Premises were a large number of none duty cigarettes hidden between drinks cans in the store room behind the counter.

Also found in the waste bin behind the counter was a car key fob which had recently been placed there. This was found to be key fob for a car outside the shop, registration number [REDACTED]. This vehicle was searched and a further large amount of none duty paid cigarettes were found. The car belonged to [REDACTED] who was inside the shop when the partner agencies first went inside. [REDACTED] had a very good understanding of the running of this shop, and had keys for premise in [REDACTED] possession.

Within the Premises were items on sale that were pharmacy type products that did not have any English writing on the outer box and were believed to be prescribed type products. These were seized and were sent to the Medicines and Healthcare products Regulatory Agency (MHRA) in London for assessment as foreign livery medication cannot be sold in the UK.

On the 9th May 2019 a further partnership operation took place and Police Officers again attended at Cyrus. Working at the shop was the Designated Premises Supervisor [REDACTED] born [REDACTED]. Police Officers found [REDACTED] English was poor and [REDACTED] could not understand when Officers asked [REDACTED] to produce [REDACTED] training records, first aid box, operate the CCTV or discuss the challenge 25 policy. When asked who owned the businesses [REDACTED] could only answer [REDACTED] and on request showed the phone number [REDACTED] had for [REDACTED]. [REDACTED] was asked who the Designated Premises Supervisor was and [REDACTED] said [REDACTED] did not

know. Later paperwork was found in the Premises stating that ■ was in fact the DPS. Kirklees Licensing can confirm that ■ became the DPS for this premises on 20/11/18.

Behind the serving counter in a drawer below the till in a carrier bag, 18 packets of none duty paid cigarettes were found, 4 further packets were found close by next to the CCTV recorder. Hidden inside a tray of polish beers in the storage room situated directly behind the till were a further 49 packets of none-duty paid cigarettes.

Also in this storage room, inside a red document holder was a clear money bag containing 3 small bags of cannabis.

During a further search of the drawers underneath the till 49 blue tablets were found. These were believed by Officers to be a type of Erectile Dysfunction Tablets. These tablets can only be legally sold at a pharmacy after the pharmacist has determined whether treatment is appropriate for the patient.

West Yorkshire police feel that this business is impacting on three of the licencing objectives, and the owner has disregard to customer safety, and is willing to participate in criminal activities to further his own gain.

The selling of none duty cigarettes are more attractive in both price and packaging to young people, leading them to become addicted to tobacco from a young age. None duty cigarettes do not come with the statutory health warnings required by the Tobacco and Related Products Regulations 2016 and do not have the plain packaging as required by the Standardised Packaging of Tobacco Products Regulations 2015. The supply of this cheap tobacco undermines the government's policy of using tax to maintain the high price for tobacco to help reduce smoking. The dealers in this tobacco reap the financial benefits of supplying cheap cigarettes and tobacco at the expense of legitimate retailers by providing unfair competition to shops selling the genuine tax paid products. This may lead to honest retailers closing and causing local economies to suffer. It has also been linked with funding organised crime gangs.

Therefore we request that strong consideration be given to revocation of this licence.

Have you made an application for review relating to this premises before? NO

If 'YES', please state the date of that application:

RESTRICTED

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

[Empty box for representations]

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: 16/5/19

Capacity: Police Constable

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

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

Appendix B



Statement of:

Age of witness: (if over 18 enter 'over 18')

Over 18

Occupation:

Enforcement Officer

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

Dated:

15/05/2019

Signature:

I am employed by West Yorkshire Trading Standards Service (WYTSS) as a Regulatory Compliance Officer.

On 18 April 2019, at 20:00 hours I entered Cyrus, 205 Lockwood Road, Huddersfield. There was a [redacted] behind the counter, approximately 5'8 tall, short black hair, slim build of Middle Eastern appearance who I later found out was [redacted]. Also present behind the counter were 2 other [redacted]. I asked for 20 Richmond cigarettes and [redacted] stepped into the store room behind the counter and returned with a box of 20 Richmond which he sold to me for £4.

I left the premises but then returned with my colleagues [redacted] and [redacted] and Officers from West Yorkshire Police. We searched the premises and I found boxes of cigarettes hidden in between drink cans in the store room behind the counter. I also witnessed PC Steve Nichol search [redacted] car and found 2 bags of illicit tobacco. The items were seized by WYTSS and we left the premises.

NOTE : If statements are typed double spacing should be used.
One side only of this paper should be used.

(Signed) [redacted]

Dated..... 15.5.19

Page 1 of 1

010911

Appendix C



Medicines & Healthcare products
Regulatory Agency



MHRA

10 South Colonnade
Canary Wharf
London
E14 4PU
United Kingdom

Telephone

+44 (0)203 080 6330

Email

casereferrals@mhra.gsi.gov.uk

CYRUS EASTERN EUROPEAN FOODS

██████████ LOCKWOOD ROAD

Huddersfield
West Yorkshire
HD1 3TG

07/05/2019

Ref: INC 15692

Dear ██████████

The Human Medicines Regulations 2012 (SI 2012/1916) – Sale of medicine in non-English language packaging, Prescription only medicines, and Pharmacy medicines.

It has been brought to our attention that you are selling products that are defined as medicinal products.

In the United Kingdom, there are legal controls on the retail sale, supply and advertisement of medicinal products for human use. It is unlawful for medicinal products to be imported, marketed, manufactured, distributed and sold or supplied except in accordance with the appropriate licenses or exemptions. The United Kingdom has three legal classes of authorized medicines:

- General sale list medicines are suitable for sale and normal use without supervision or advice from a pharmacist or doctor
- Pharmacy medicines can only be obtained from a pharmacy and are sold or supplied under the supervision of a pharmacist
- Prescription-only medicines must be prescribed by an authorized healthcare professional, for example a doctor, dentist or independent prescriber

Prescription-only and pharmacy medicines may only be legally sold or supplied to the public through registered pharmacy premises, by or under the supervision of a pharmacist. Additionally, prescription-only medicines may only be sold or supplied in response to a prescription from an authorized healthcare professional (such as a doctor, dentist, or certain trained nurses and pharmacists). Prescription-only medicines cannot be advertised directly to the public.

Although there are no formal restrictions on an individual importing a medicinal product into the United Kingdom, provided that the product is strictly for use by that person or a member of their immediate family, if the product is sold or supplied onwards, it will be subject to a requirement to hold an appropriate licence.

The Medicines and Healthcare Products Regulatory Agency (MHRA) (an Executive Agency of the Department of Health) is the United Kingdom competent authority charged with the regulation of products falling under the definition of a medicinal product for human use and/or medical devices.

In order to comply with UK regulatory requirements, appropriate licences must be held in order to sell and supply these products.

A breach of the regulatory requirements may constitute a criminal offence. Penalties on conviction for an offence under medicines regulations range from an unlimited fine to a term of imprisonment of up to two years.

This letter is issued with a view to seeking your compliance in this matter. We require that you cease any such activity with immediate effect and send us your written confirmation that you have done so, within **fourteen (14) days** of the receipt of this letter.

This letter is issued without prejudice to any future action the Agency may consider appropriate.

Please contact the MHRA if you wish to discuss this letter.


Thank you for your co-operation.

Yours sincerely,

[REDACTED]
[REDACTED]
MHRA
Enforcement Group
Case Referral Centre

10 South Colonnade, Canary Wharf, London, E14 4PU
Email: casereferrals@mhra.gsi.gov.uk
Tel: 0203 080 6330

Appendix D

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>

POSTAL ADDRESS OF PREMISES
Mini Supermarket Cyrus Supermarket, 205 Lockwood Road, Lockwood, Huddersfield, HD1 3TG,

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE
Sale of Alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES	
Sale of Alcohol	
Day(s) Monday to Sunday	From - To 10:00 - 20:30

THE OPENING HOURS OF THE PREMISES		
DAY(S)	FROM	TO
Monday to Sunday	10:00	20:30

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
<div style="background-color: black; width: 100px; height: 15px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 350px; height: 15px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 80px; height: 15px; display: inline-block;"></div> <div style="background-color: black; width: 170px; height: 15px; display: inline-block;"></div>

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] [REDACTED]

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

1. The CCTV system shall be maintained to a good working standard, all images to be retained for a minimum of 31 days and to be made available on request to authorised officers. The CCTV system will monitor the interior of the premises.
2. The premises are secured and alarmed when closed with roller shutters on the front.
3. Records of incidents will be maintained in hardbacked registers and all information of refusals for the sale of alcohol/ cigarettes will be recorded and retained for a period of one year.

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:

Date Commences/Varied:



Head of Public Protection Service

PREMISES LICENCE SUMMARY

Licensing Act 2003

PR(A)1321**THIS LICENCE IS ISSUED BY**LICENSING
Flint Street Depot
Flint Street
Fartown
Huddersfield
HD1 6LGTel: 01484 456868
Email: licensing@kirklees.gov.uk**POSTAL ADDRESS OF PREMISES****Mini Supermarket**
Cyrus Supermarket, 205 Lockwood Road, Lockwood, Huddersfield, HD1 3TG,**LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE**

Sale of Alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

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THE OPENING HOURS OF THE PREMISES

DAY(S)	FROM	TO
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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]

[REDACTED]

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:

Date Commences/Varied:

A handwritten signature in black ink, appearing to read "J. Blakely". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

Head of Public Protection Service

Appendix E

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.

Public nuisance

2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance.

2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

2.17 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.

2.18 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the morning.

2.20 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.

2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

