

Public Document Pack



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

Julie Muscroft

The Democracy Service
Civic Centre 3
High Street
Huddersfield
HD1 2TG

Tel: 01484 221000

Please ask for: Sheila Dykes

Email: sheila.dykes@kirklees.gov.uk

Tuesday 24 September 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 2 October 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 (Chair)

Councillor James Homewood

Councillor Christine Iredale

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 the 4 September and 18 September 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 a Review of a Premises Licence (2nd Hearing) under S51 Licensing Act 2003 - Beechley Filling Station, Flush Garage, Wakefield Road, Liversedge WF15 6AU** 9 - 82

To consider the application at 9.30am.

Contact: Russell Williams, Group Leader. Tel: 01484 221000

- 7: Licensing Act 2003 - Application to vary a Premises Licence to specify an individual as designated premises supervisor under section 37 of Licensing Act 2003 at Beechley Filling Station, Flush Garage, Wakefield Road, Liversedge WF15 6AU** 83 - 102

To consider the application at 10.30am.

Contact: Mike Skelton, Licensing Officer. Tel: 01484 221000

Contact Officer: Jenny Bryce-Chan

KIRKLEES COUNCIL

LICENSING PANEL

Wednesday 4th September 2019

Present: Councillor Amanda Pinnock (Chair)
Councillor David Hall
Councillor Terry Lyons

In attendance: Russell Williams, Group Leader Licensing Public Protection
Rox Javaid, Licensing Officer
Richard Woodhead, West Yorkshire Police, Licensing Officer PC
Michelle McCluskey, Licensing Officer
PC Steve Nicholls

1 Minutes of Previous Meeting

That the minutes of the meeting held on the 24 July 2019 be approved as a correct record.

2 Interests

No interests were declared.

3 Admission of the Public

That all agenda items be considered in public.

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 - Kaay Off Licence, 187 Blackmoorfoot Road, Crosland Moor, Huddersfield

The Panel considered an application for a review hearing under s51 of the Licensing Act 2003, in respect of Kaay Off Licence, 187 Blackmoorfoot Road, Huddersfield. The Licensing Officer outlined the application advising the Panel that on the 17 July 2019, West Yorkshire Police made an application for the review of the Premises licence under s51 (1) of the Licensing Act 2003. The applicant believed that the licensing objectives of the prevention of crime and disorder, public safety and the protection of children from harm were not being achieved at the premises.

The Panel was informed that a multi-agency visit took place at Kaay's Off Licence on the 11 July 2019, where officers found an artificial wall with a concealed compartment which contained 267 packets of non-duty paid cigarettes and forty five

Licensing Panel - 4 September 2019

pouches of 50g non-duty paid hand rolling tobacco. The approximate retail value of the cigarettes was £2670 of the tobacco pouches, approximately £1080. Upon further inspection, officers also discovered that the electric meter had been bypassed.

West Yorkshire Police, Licensing Officer suggested to the Panel that the abstraction of electricity poses a serious safety risk to staff and customers and is a criminal offence. An extendable baton found in the trading area with no legitimate reason for being there, is an illegal weapon and could serious injury or death. The discovery of non-duty paid tobacco products found concealed behind a false wall, in addition to there being no fire extinguishers on site and no-one being able to work the CCTV system severely undermines the conditions of the license and the licensing objectives.

In reaching its decision, the Panel determined that Premise Licence holder have a duty to ensure that the licensing objectives are being promoted at all times. Abstracting electricity, the wilful concealment of illegal goods and the possession of an illegal weapon, shows a total disregard for the licensing objectives in respect of prevention of crime and disorder, public safety and protection of children from harm.

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

RESOLVED - That the premises licence in respect of Kaay's Off Licence be revoked.

7 Application for Review Hearing under Section 51 Licensing Act 2003 - A & A European Mini Market, 156 Blackmoorfoot Road, Crosland Moor, Huddersfield

The Panel considered an application for a review hearing under s51 of the Licensing Act 2003, in respect of A&A European Mini Market, 156 Blackmoorfoot Road, Huddersfield. The Licensing Officer outlined the application advising the Panel that on the 18 July 2019, West Yorkshire Police made an application for the review of the premises licence. The applicant believed that the licencing objectives of the prevention of crime and disorder and public safety were not being achieved at the premises.

The review was brought following a multi-agency visit at A&A European Mini Market where it was found that a person who did not have the right to employment in the UK, was working at the store. West Yorkshire Police Licensing Officer advised the Panel this was a clear breach of the licence conditions and a disregard for UK law.

Representations were made on behalf of the premises licence holder and the Panel was informed that at the time of the multi-agency visit, the premises licence holder/DPS was on holiday and was unaware that the person he had put in charge had asked another individual to cover the store. A statement was obtained from the individual who stated that he was only asked to cover for one hour and received no payment.

Licensing Panel - 4 September 2019

In reaching its decision, the Panel determined that it is the duty of the Premises Licence Holders to ensure that the licensing objectives are promoted at all times and that the conditions of the licence are adhered to. The Panel felt that in this instance, there had been a breach of the licence condition, a disregard for UK law and a dereliction in promoting the licence objective in respect of the Prevention of Crime and Disorder.

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

RESOLVED -

- (1) The premises licence in respect of A&A Mini Market be suspended for a period of 3 months
- (2) A warning be issued under para 11:17 of the s182 guidance as an important mechanism for ensuring that the licensing objectives are effectively promoted

8 Application for Review Hearing under Section 51 Licensing Act 2003 - Long Lane Convenience Store, 50B Long Lane, Dalton, Huddersfield, HD5 9HL

The Panel considered an application for a review hearing under Section 51 of the Licensing Act 2003, in respect of Long Lane Convenience Store, 50B Long Lane, Dalton, Huddersfield HD5 9HL.

The Licensing Officer presented the application, advising the Panel that, on 24 July 2019, West Yorkshire Police had made an application for the review of the Premises Licence under Section 51 (1) of the Licensing Act 2003. The applicant believed that the licensing objectives of the prevention of crime and disorder and public safety were not being achieved at the premises.

The West Yorkshire Police, Licensing Officer informed the Panel that a multi-agency visit had taken place at Long Lane Convenience Store on 11 July 2019, where non duty paid cigarettes and tobacco with a retail value totalling over £11,000 had been found on the premises. A breach of licensing conditions had also appeared evident as there were no fire extinguishers, there was CCTV on site but no-one could operate the system and there were no first aid facilities for either staff or customers. He considered that the management and day to day running of the shop had had a significant impact on the Licensing Objectives.

Representations were made by the Premises Licence holder who explained that:

- The property had been leased to the owner of the business and he had not been aware that it was necessary to transfer the licence. He had explained about licences to this person.
- He did not run the shop.
- The current owner of the business was willing to take over the licence.
- The CCTV was operational and fire extinguishers were now in place.
- If the licence was revoked the current leaseholder would not be able to run the shop which may mean that they would vacate the property.

Licensing Panel - 4 September 2019

In arriving at the decision, the Panel took into consideration the written representations and the evidence presented at the hearing. The Panel also took into account the Council's Statement of Licensing Policy, the Licensing Act 2003, Regulations made thereunder, guidance issued by the Secretary of State under Section 182 of the Act and the Licensing Objectives themselves.

The Panel accepted that you had no day to day input to the business but, as the Premises Licence Holder and the Designated Premises Supervisor, you were ultimately responsible for its management and day to day running. Non duty paid tobacco products, with a retail value of circa £11,800, had been found at the premises, there were no fire extinguishers or first aid facilities for staff or customers and no-one was able to operate the CCTV system.

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

RESOLVED - That the Premises Licence for Long Lane Convenience Store be revoked as the licensing objectives of the prevention of crime and disorder, public safety and the protection of children from harm are not being achieved.

9 **Licensing Act 2003 - Application to vary a Premises Licence to specify an individual as designated premises supervisor under Section 37 of Licensing Act 2003 at Beechley Filling Station, Flush Garage, Wakefield Road, Liversedge, WF15 6AU**

The Panel considered a report to vary a premises licence to specify an individual as designated premises supervisor under Section 37 of Licensing Act 2003 at Beechley Filling Station, Flush Garage, Wakefield Road, Liversedge.

At the start of the hearing the Panel was advised that written representations had been received from the representative of the premises licence holder requesting that the meeting be adjourned to a later date to allow more time to fully prepare the bundle of documents that would be relied upon during the application hearing.

The Panel also heard from West Yorkshire Police Licensing Officer who explained that West Yorkshire Police would formally object to any deferment and asked that the Panel proceed with the hearing.

Following consideration of the representations both verbally and in writing, the Panel decided that the hearing to consider the application to vary the premises licence to specify an individual as Designated Premise Supervisor, in respect of Beechley Filling Station, be adjourned to a later date.

RESOLVED - That the application to vary a premises licence be deferred until the 2 October 2019.

Contact Officer: Carol Tague

KIRKLEES COUNCIL

LICENSING PANEL

Wednesday 18 September 2019

Present: Councillor Amanda Pinnock (Chair)
Councillor Karen Allison
Councillor Christine Iredale

1 Membership of the Committee

Not applicable.

2 Interests

No interests were declared.

3 Admission of the Public

That all agenda items be considered in public session.

4 Deputations/Petitions

No deputations or petitions were received.

5 Public Question Time

No questions were asked.

**6 Licensing Act 2003 - Application for the Grant of a Premises Licence:
Westbourne News, 81 Westbourne Road, Marsh, Huddersfield, HD1 4LG**

The Panel considered an application for the Grant of a Premises Licence in respect of Westbourne News, 81 Westbourne Road, Marsh, Huddersfield, HD1 RLG.

The Licensing Officer outlined the application for the grant of the licence. In summary, the Panel were advised that on 24 July 2019, the Licensing Department received an application for the grant of a premises licence for Westbourne News.

The licensable activity applied for was for the sale of alcohol OFF the premises. The times applied for were Monday to Sunday, 00:00 – 00:00.

Two representations from Ward Councillors had been received in relation to the application. Both representations 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.

In presenting the case in support of the application, the applicant advised the Panel that there had been no objections from the police or other agencies and they wanted to increase business, keep staff in employment and respond to requests from the local community who wished to use the facility. Since taking over in July 2019, investment had been made in renovations that would enhance the property and area.

Licensing Panel - 18 September 2019

It was noted that the applicant had previously held a 24-hour licence at another location and there had been no complaints or issues with the police. The applicant confirmed that they were aware of Challenge 25 and the regulations regarding the selling of alcohol, adding that they had run their previous premises as a family business for 10 years.

With regards to concerns relating to nuisance and anti-social behaviour referred to in the written submissions, the Panel noted that CCTV was currently in place and there were plans to upgrade the system. The applicant referred to statistical data from the Police UK website which did not indicate that drugs or antisocial behaviour were an issue in the area. The Licensing Officer stated that no objections had been raised by the police, but advised that the data presented, whilst legitimate, did rely on people reporting issues to the police and did not necessarily mean that there was not any anti-social behaviour.

The Panel were informed that whilst there was a flat above the shop and houses to the rear, people in the locality had indicated that they wanted this service. The shop had been open for several years, currently operated between 0400 – 1700 hours and traffic was minimal.

The Panel noted that home delivery of alcohol was not currently offered but might be in the future. The applicant advised that they had provided this service at their previous business and anyone who ordered goods needed to be of legal age to purchase alcohol and this was checked on delivery.

In their final submission, the applicant reiterated that they had previously run a 24-hour licensed business which had successfully passed the test purchases that had taken place on an annual basis. They concluded by telling the Panel that they would not countenance any illegal activities on their premises and wanted to provide a service for the community.

Resolved: The application for the Grant of a Premises Licence on behalf of Westbourne News, 81 Westbourne Road, Marsh, Huddersfield, HD1 RLG, be granted as stipulated in the application.

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 2nd October 2019, at 9:30am – Old Court Room, Huddersfield Town Hall, Ramsden Street, Huddersfield

Title of report: Application for a Review of a Premises Licence (2nd Hearing) under S51 Licensing Act 2003 – Beechley Filling Station, Flush Garage, Wakefield Road, Liversedge WF15 6AU

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 <u>Council's Forward Plan (key decisions and private reports?)</u>	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 <u>portfolio</u>	Cllr Naheed Mather

Electoral wards affected: Heckmondwike

Ward councillors consulted: Not Applicable

Public or private: Public

GDPR Implications:

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

1 Summary

- 1.1 On 26th February 2019 West Yorkshire Police made an application for the review of the premises licence under Section 51(1) of the Licensing Act 2003. The applicant believes that the Licensing objectives of the prevention of crime and disorder, 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**.
- 1.3 The Panel heard this review application on 16.04.2019 and a decision was taken to revoke the licence; a copy of the published minutes from that hearing can be found at **Appendix D**.
- 1.4 An appeal was lodged at the Kirklees Magistrates Court against the Panel decision. The court ruled that the Review would be remitted back to the Licensing Panel to be re-heard.

2 Information required to take a decision

Background

- 2.1 On the 19th February 2019 a test purchase was carried out at the premises by three plain clothed police cadets, aged 13, 14 and 15. They were sold a 700ml bottle of WKD which has a 4% alcohol content. The test purchasers did not have any form of identification with them.
- 2.2 On interviewing the individual who served the test purchasers, he gave information to West Yorkshire Police to indicate he was being paid cash in hand for working at the filling station at a rate of £5.00 per hour. He also could not provide training documents to highlight what training he had received and could not operate the CCTV system to supply West Yorkshire Police with footage of the test purchase incident.
- 2.3 The Premises Licence holder was notified of the failed test purchases by telephone and requested to attend a meeting on Tuesday 26th February 2019. He failed to attend this meeting.
- 2.4 In the three months preceding the review application, the filling station has been linked to seven instances of crimes or assaults, details of which can be found in the attached review application.
- 2.5 On the 26th February 2019, Trading Standards visited the premises and purchased an illegal packet of 20 Rothmans Royals cigarettes for £6.50, which they believe have been smuggled into the UK without the required taxes being paid. A witness statement from the Officer conducting the test purchase is appended to the review application.
- 2.6 A copy of the full review application is appended to this report at **Appendix A**.
- 2.7 On 27th March 2019, West Yorkshire Police carried out a further visit to the premises to discuss the review procedure. During this visit, a carton of non-duty paid cigarettes were seen on the counter. Officers were informed this belonged to night staff employed at the premises. On further investigation, a further seven packets of non-duty paid Rothmans cigarettes and one packet of Benson and Hedges cigarettes were found behind the counter. Information regarding this additional visit, along with photographs of the cigarettes seized on 27th March 2019 are appended to this report at **Appendix B**.

- 2.8 The current premises licence was first issued on the 4th October 2005, under premises licence number PR(A)0287; a copy of the premises licence is attached at **Appendix C**.
- 2.9 Following the original hearing, West Yorkshire Police were requested to provide additional information regarding the police incidents reference in the Review Application. A witness statement fulfilling this request is appended to the report at **Appendix E**.

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 F**.

3 Implications for the Council

3.1 Working with People

Residents of Kirklees need to be confident that under the Licensing Act 2003 licence holders under the Licensing Act 2003 are in a position to uphold the four licensing objectives. The committee is required to take appropriate and

necessary action against licence holders where they fall short of their duties under the Licensing Act 2003. This will support both the licensing objectives and support the corporate outcomes of citizens in Kirklees living in cohesive communities, feeling safe and protected from harm.

3.2 Working with Partners

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

3.3 Place Based Working

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

3.4 Improving outcomes for children

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

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

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

4 Consultees and their opinions

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

5 Next steps and timelines

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

- a) Modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing 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
Group Leader – Licensing
01484 221000
russell.williams@kirklees.gov.uk

9 Background Papers and History of Decisions

9.1 Appendix A – Review Application

9.2 Appendix B – Information from WYP regarding further premises visit

9.3 Appendix C – Copy of Premises Licence (PR(A)0287)

9.4 Appendix D – Published Minutes from Licensing Panel Hearing of 16.04.2019

9.5 Appendix E – Additional Police Witness Statement

9.6 Appendix F – Secretary of States Guidance

10 Strategic Director responsible

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

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 4346 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:

Beechley Filling Station, Flush Garage, Wakefield Road

Town/City: Liversedge

Postcode: WF15 6AU

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) 0287

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):

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 PC 4346

Surname:

JAGGER

Forename(s):

KATIE

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):

West Yorkshire Police find that Beechley Filling Station, Liversedge is not being managed adequately for it to be complying with its alcohol licensing conditions. The actions, or lack of actions have impacted on the licensing objectives, have put staff at risk of being victims of crime and hate crime and has supplied alcohol to children on a test purchase operation which was carried out on the 19th Feb 2019.

Also on the 26th Feb 2019 a test purchase was carried out by trading standards where the officer bought none duty paid illegal tobacco products.

RESTRICTED

The Premises is a petrol station with a large shop. The stock in the shop consists mainly of alcohol, with a small side line of snacks. It is situated off a busy main road in Heckmondwike. The shop is one of the very few premises in Kirklees that benefit from having a 24 hour alcohol licence.

It is our aim today to demonstrate to the panel that the business and the way that is conducted is not fit to benefit from a premises licence.

The owner of the business and also the premises licence holder [REDACTED] shows no regard for the licensing process and is not putting the relevant measures in place to ensure that the licensing conditions are met.

The Designated Premises Supervisor (DPS), [REDACTED] appears to be in name only and does not have involvement in the day-to-day running of the business and the authorisation of the sales of alcohol. At the time of writing the review [REDACTED] is residing in Pakistan. [REDACTED] was appointed DPS 12th December 2018. We have been unable to inform the DPS the failed test purchase of alcohol on the 26th February 2019.

On the 19th February 2019 at 15:05hrs three police cadets aged 13, 14 and 15 in plain clothes carried out a test purchase at the Premises. They were sold a 700ml bottle of WKD which has a 4% alcohol content. These test purchases did not look 18 and had no form of identification with them. The person who served these test purchases was called [REDACTED] born [REDACTED] ([REDACTED] years of age). [REDACTED] stated that [REDACTED] asked the children for I.D. However when they said they did not have any form of I.D. [REDACTED] continued to serve them. [REDACTED] did not ask their age. [REDACTED] left the Premises with the bottle of WKD having paid £3.00 although the price was £2.99. A photograph of the Police Cadets was taken on the day and can be produced at the Licence review hearing for the panel to view. **Exhibit KJJ.1.** You will see from the photograph they did not look 18 years or older.

Conditions on the premises licence states: the premises licence holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol. Although a challenge 21 poster was in the public sales area, the member of staff did not know what the policy was or how to enforce it.

Sales of alcohol to children can lead to devastating consequences.

~~Children who are under the influence of alcohol can cause crime and antisocial behaviour, or they themselves become victims of crimes such as assaults, robbery or sexual assaults.~~

It is against the law to sell alcohol to a person under the age of 18. It has been proven that underage drinking plays a significant role in unwanted, unintended and unprotected sexual activity.

Exhibit KJJ.2 is a copy of the Premises Licence PR(A)02

When interviewed by PC Jagger and Richard Woodhead after the test purchase sale of alcohol it became apparent that [REDACTED] did not have a good command of English. [REDACTED] was very unsure on licensing laws and age relate products. [REDACTED] is of Pakistani origin, but [REDACTED] identification was confirmed with a photograph of [REDACTED] Spanish passport. This male is not known to West Yorkshire Police, immigration have been requested to confirm that this [REDACTED] has the right to work in the United Kingdom. [REDACTED] stated [REDACTED] had only been working at the Premises for two weeks. The first week was a trial period and [REDACTED] did not get paid for this. [REDACTED] stated [REDACTED] was now being paid £5.00 per hour. We asked if [REDACTED] had a

RESTRICTED

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

RESTRICTED

wage slip highlighting wages, tax contributions along with national insurance details on. said had not been given a wage slip, but was paid £5.00 an hour cash in hand.

The National minimum wage which is £5.90 for a person between 18-20yrs old was unaware of this. West Yorkshire police feel that this highlights staff are not being paid in the correct manor and that the business owner is bypassing tax and national insurance contributions by paying cash in hand with no financial audit trail.

stated that trained to work at the Premises and had spoken to the owner a couple of times. could not give any further details about

There was no other member of staff present in the shop when the alcohol was purchased by the police cadets on the 19th February 2019 and confirmed was working on own.

When asked to produce training documents highlighting what training had received could not.

did not know how to work the CCTV system and could not supply us with footage of the incident.

As well as failing the test purchase this licensed premises had over the past 3 years caused problems for both West Yorkshire Police and the local authority. At the time of writing this report payment for the premises licence is outstanding, even though the council licensing staff have chased the payment up on a number of times.

See licensing notes Exhibit KJJ.3.

The Premises Licence Holder told Kirklees licensing that was applying for his personal licence with Bradford Licensing to enable to become the DPS. Numerous phone calls and were made to but it seems is yet to have personal licence granted.

I notified of the failed test purchase and requested attend a meeting with myself and Richard Woodhead on Tuesday 26th February 2019 to discuss our concerns. This was also opportunity to explain what measures will put in place to ensure that no further sales to underage persons will be made. It was also an opportunity for to discuss with us our concerns over illegal employment methods, attacks on staff members, and ASB issues that are linked to the shop. did not turn up for the meeting, no method of communication was received to say could not attend, even though agreed the time and date verbally on the telephone and was sent an e-mail confirming the meeting. was in possession of my mobile number and my e mail address.

The shop has been linked to various assaults and crimes, however for the benefit of review purposes we have only gone back 3 months to highlight the problems encountered by West Yorkshire police and by the employees at the business.

2nd February 2019: 02:43hrs - Hate crime and criminal damage. A customer racially abused the member of staff working at the garage, then smashed one of the windows with a fire extinguisher.

29th January 2019: 03:13hrs a member of staff was racially abused by a customer which has been recorded as a hate crime

RESTRICTED

30th December 2018: 02.20hrs. Two suspects enter the shop, steal alcohol from the shelves. The person working in the shop follows them out to confront them, the thieves then deliberately drive the car at the shop worker. The worker was on their own and working solo.

29th December 2018: 01:33hrs. Two customers are in the shop, when one assaults the other one.

20th December 2018: 22:35hrs. Criminal damage, two customers arguing on the petrol forecourt when one gets into [REDACTED] car and deliberately rams the other person's car.

19th December 2018: 17:38hrs. Robbery, 4 masked males enter the shop armed with hammers, go behind the counter to the stock room and take £1,500 cash, they also ask the staff member to open the till who refused, the masked intruders then took the till and £170 from a shelf beneath the till.

15th December 2018: 01:54 hrs. Public order offence when a staff member is threatened by a customer.

As I was in the process of writing the report for the review we had notification that West Yorkshire Trading Standards had carried out a tobacco test purchase at the Premises and the officer, Mr Jason Bethel bought none duty paid tobacco products from the shop.

This is a real concern, as none duty paid tobacco products do not have health warnings on them, they are more attractive in both price and packaging to young people and the sale of it has been linked with funding organised criminal gangs.

I have attached his statement as KJJ.4

The premises licence holder has proven [REDACTED] has a complete disregard to the laws of this Country.

[REDACTED] actions have impacted on licensing law, young people have been served alcohol while on police test purchase operations.

Employees have been paid cash in hand and under the minimum rate for a 19 year old.

The Government no doubt have been cheated from tax and national employment contributions being bypassed.

Staff have been subjected to violence and hate crime incidents.

West Yorkshire police have had valuable resources tied up in dealing with problems caused by this shop being open 24 hours and selling alcohol.

While this report was being compiled, we were notified by trading standards that illegal tobacco products were on sale in this shop, only 7 days after the alcohol test purchase took place.

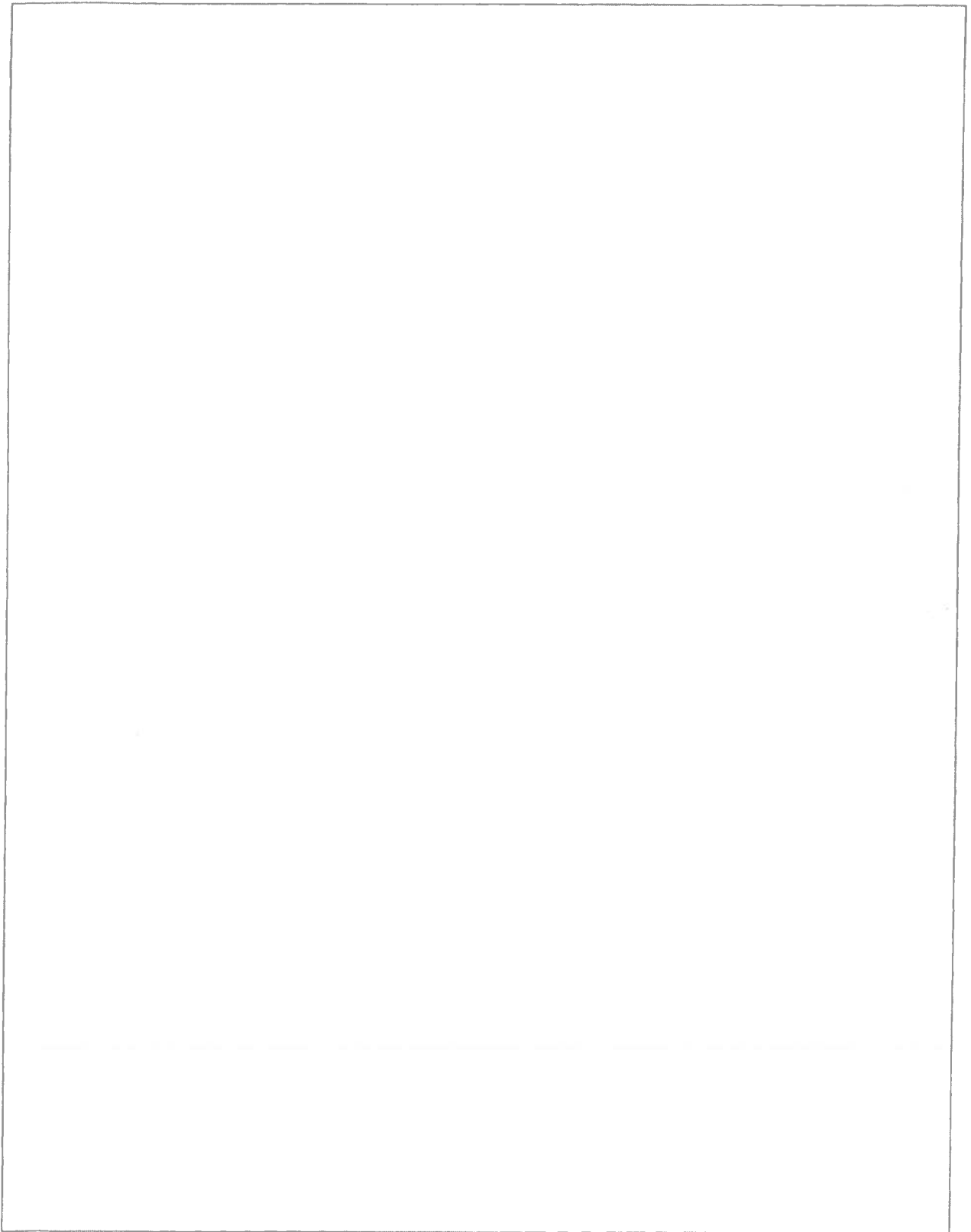
The DPS has been unavailable to contact since the test purchases, the premises licence holder has missed scheduled appointments.

West Yorkshire police respectfully request that the only consideration the panel must give is for revocation of this licence.

RESTRICTED

Have you made an application for review relating to this premises before? NO
If 'YES', please state the date of that application:

RESTRICTED



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: [Redacted] Date: 26/2/19

Capacity: PC 4348 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.

PR(A)0287 BEECHLEY FILLING STATION, LIVERSEEDGE


27.09.17	Debt recovery informed me that [REDACTED] no longer responsible - business rates showing new tenant [REDACTED] from 10/04/17 [REDACTED]
29.09.17	Not able to contact [REDACTED] spoke to [REDACTED] who left [REDACTED] a msg to call [REDACTED] back.
11.10.17	LS/RFW visited premises and stopped sales of alcohol. The person in the shop was not competent so all alcohol was moved to the store room
17.10.17	Told LS no application received, [REDACTED] will visit again. I later found out that the previous licence holder, [REDACTED] went into Customer Services on 13.10.17 to say that [REDACTED] would continue as DPS until [REDACTED] sorted out [REDACTED] Personal Licence. [REDACTED] also paid the outstanding invoice.
28.11.17	JS call out- Mobile, no opportunity to leave msg landline, call cannot be taken please try later Shop, lady said [REDACTED] never comes in – gave me [REDACTED] mobile number which matched the one we had.
04.12.17	JS spoke to [REDACTED] will complete the transfer application and email with a copy of [REDACTED] passport today.
18.12.17	JS spoke to [REDACTED] has applied to Bradford for a Personal Licence. Needs to apply for Transfer NOW – [REDACTED] will email.
04.04.18	RJ/JS visited premises late in the evening. The sales assistant got [REDACTED] on the phone and arranged for [REDACTED] to visit Flint Street to see JS tomorrow. Must bring Personal Licence and passport with him. Failure to do so will result in proceedings to suspend the Premises Licence.
05.04.18	[REDACTED] visited Flint St for meeting with JS. Completed Transfer and Vary DPS forms. Bradford told [REDACTED] that [REDACTED] needed a new DBS. [REDACTED] already had an Enhanced certificate but they needed one within the last 30 days. Once [REDACTED] obtained a new DBS they would issue his Personal Licence immediately. [REDACTED] will call me with the Personal Licence Number so I can add it to the Vary DPS application.
07.06.18	JS spoke to [REDACTED] – [REDACTED] will ring me back before 1pm tomorrow
08.06.18	[REDACTED] did not call JS and did not answer his phone.
15.08.18 23.08.18 24.08.18	No answer on mobile, no opportunity to leave a msg Called Premises, call cannot be completed

Exhibit K55 3

06.09.18	New landline from Police. JS rang and it was his home, left a message to call me but no response.
04.10.18	<p>Visit by KJ/RFW followed by several calls and texts with KJ</p> <p>JS told [REDACTED] that if [REDACTED] has not yet obtained a Personal Licence [REDACTED] needs to find someone who does and make them DPS</p> <p>We received a copy of a Personal Licence for [REDACTED]</p> <p>KJ sent text/msg to [REDACTED] for meeting at Flint St on 29.11.18 at 2.00pm</p>
29.11.18	Meeting at Flint Street with KJ/JS – [REDACTED] did not turn up for the meeting and did not call to say [REDACTED] would not attend.
	<p>RFW has spoken to [REDACTED] who has said [REDACTED] has nothing to do with Beechley Filling Station anymore.</p> <p>WE NEED:</p> <p>A Personal Licence Number for [REDACTED] so we can complete the Vary DPS application that we received 09.04.18</p> <p>IF [REDACTED] DOES NOT HAVE A PERSONAL LICENCE:</p> <p>Is [REDACTED] prepared to be the DPS at Beechley Filling Station?</p> <p>If so [REDACTED] needs to complete a Consent form to be DPS</p> <p>We can change the name of the proposed DPS on the Vary DPS application form that we already have from 09.04.18</p> <p>IF NEITHER OF THE ABOVE:</p> <p>There is no DPS at the premises and they should not be selling alcohol.</p> <p>This leaves the question – Is [REDACTED] a fit and proper person to be a DPS as [REDACTED] does not appear to be aware of [REDACTED] responsibilities.</p>

WITNESS STATEMENT

Criminal Procedure Rules, r 27.2
Criminal Justice Act 1967, S. 9
Magistrates Courts Act 1980, 5B

Statement of:	Jason Lee BETHELL
Age of witness: (if over 18 enter 'over 18')	Over 18
Occupation:	Regulatory Compliance Officer
<p>This statement (consisting of 1 pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.</p>	
Dated:	26/02/2019
Signature:	

I am a Regulatory Compliance Officer employed by West Yorkshire Trading Standards Service (WYTSS). I am an authorised officer for the purposes of the Trade Marks Act 1994, Consumer Protection Act 1987, the Tobacco and Related Products Regulations 2016 and the Standardised Packaging of Tobacco Regulations 2015.

On Tuesday 26th February 2019 I was in plain clothes when I attended at Beechley Filling Station(Flush Garage), Wakefield Road, Liversedge, WF15 6AU to carry out a test purchase for illegal tobacco. I was able to purchase an illegal Packet of 20 Rothmans Royals Cigarettes for £6.50. The Cigarettes did not conform to the Tobacco and Related products Regulations 2016 in that they did not have the required health warnings/pictures or the Standardised Packaging of Tobacco Regulations 2015 in that the packaging was not the specified colour. The Cigarettes have a foreign excise duty stamp on them so I believe they have been smuggled into the UK without the required taxes been paid. I was served by

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

(Signed)

Dated.....26/02/19..... Page 1 of 2

010911

B4.0.9a

Exhibit KJJ 4.

WITNESS STATEMENT

**Criminal Procedure Rules, r 27.2
Criminal Justice Act 1967, S. 9
Magistrates Courts Act 1980, 5B**

an [REDACTED] with [REDACTED] but [REDACTED] who obtained the illegal cigarettes from under the service counter. The Cigarette Gantry hung on the wall behind the counter had been left constantly open with the tobacco products inside it on display. This is also a breach of the tobacco legislation.



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

(Signed) ...

Dated.....26/02/19..... Page 2 of 2

010911

B4.0.9a

PREMISES LICENCE

Licensing Act 2003

PR(A)0287**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

Beechley Filling Station
Flush Garage Wakefield Road Liversedge West Yorkshire WF15 6AU

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 - 00:00

Non-Standard Timings
24 hours

THE OPENING HOURS OF THE PREMISES

DAY(S)	FROM	TO
Monday to Sunday	00:00 24 Hours	00:00

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

Supply of alcohol for consumption OFF the premises only

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

Email address
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

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:

Bradford City Council

ANNEXES**ANNEX 1 – MANDATORY CONDITIONS**

1. No supply of alcohol may be made under the premises licence –
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.
4. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

For the purposes of this condition -
 - (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - (b) "permitted price" is the price found by applying the formula –

$$P = D + (D \times V)$$

where -
 - (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence –
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
5. Where the permitted price would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
6. (1) Sub-paragraph (2) applies where the permitted price on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

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

ANNEX 2 – CONDITIONS CONSISTANT WITH THE OPERATING SCHEDULE

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

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

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

None

ANNEX 4 – PLANS OF PREMISE

As outlined in the operating schedule and attached plan

Date Granted: 4 October 2005

Date Commences/Varied: 12 December 2018



Head of Public Protection Service

PREMISES LICENCE SUMMARY

Licensing Act 2003

PR(A)0287**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

Beechley Filling Station
Flush Garage Wakefield Road Liversedge West Yorkshire WF15 6AU

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

Sale of Alcohol

THE TIMES THE LICENCE AUTHORIZES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Sale of Alcohol

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

Non-Standard Timings
 24 hours

THE OPENING HOURS OF THE PREMISES

DAY(S)	FROM	TO
Monday to Sunday	00:00 24 hours	00:00

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

Supply of alcohol for consumption OFF the premises only

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 AUTHORIZES 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: 4 October 2005

Date Commences/Varied: 12 December 2018

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

Head of Public Protection Service

Appendix B



WEST YORKSHIRE POLICE

Licensing Dept.
Flint Street
Huddersfield.

Kirklees Licensing Dept.

Tel:
Fax:
Email:

Your Ref: Review Beechley

Our Ref:

27 March 2019

Dear Licensing.

As you are aware West Yorkshire police have called for a review on the Beechley Filling Station.

This morning we met with the new site manager [REDACTED] who has been employed at the garage for the last two weeks. [REDACTED] said [REDACTED] had full responsibility for the day to day running of the shop along with staff training. However [REDACTED] does not possess [REDACTED] personal licence, and cannot authorise alcohol sales. The reason for the meeting was to discuss the review procedure and how the process works.

Present alongside [REDACTED] was [REDACTED] who is the premise licence holder, and has been for a long while. [REDACTED] initially stated [REDACTED] had not received a copy of the review, even though we had sent one to [REDACTED] home address in [REDACTED] as well as to the garage. [REDACTED] also stated [REDACTED] had only taken over the running of the business on the 7th March 2019, but any phone calls or correspondence we have had with issue over the last few years have always been with premises licence holder [REDACTED] who never once said the business wasn't [REDACTED].

However as we held a discussion about the review it became apparent [REDACTED] had read the review papers, and had seen them as [REDACTED] went on to discuss issues mentioned in the paper I had not spoken to [REDACTED] about.

I feel [REDACTED] was trying to indicate that [REDACTED] had not been served any papers, but from our discussion [REDACTED] was well aware of the contents of the review file.

While in the office I noticed a carton of none duty paid cigarettes on the desk, and asked both [REDACTED] and [REDACTED] if they were theirs. Both denied it and said it was cigarettes the night staff must have left.

My colleague P.G. Katie Jagger did a quick check behind the counter in the public area and found a further 7 sealed packets on none duty paid Rothmans cigarettes and one packet of Benson and Hedges stashed below the counter. The cigarettes have been seized and trading standards have confirmed they are smuggled none duty paid, from the Ukraine, the same batch as the previous test purchase carried out by trading standards at the garage.

I feel I have to inform you of this meeting for two reasons.

- 1) Further none duty paid cigarettes have been found at the shop
- 2) I strongly feel [REDACTED] or [REDACTED] representative will try and argue they only took the business over on the 7th March 2019 and were unaware of the review. [REDACTED] is well aware of the review and has been served the review papers on the 26th Feb 2019.

Yours Sincerely

R.Woodhead.



DEMI

DEMI

DEMI

DEMI

DEMI

ROYALS

ROYALS

ROYALS

ROYALS

ROYALS

ROYALS

ROYALS

ROYALS

ROYALS

ROYALS

ROYALS

ROYALS

ROYALS

ROYALS

ROYALS

ROYALS

ROYALS

ROYALS

ROYALS

ROYALS

ROYALS

Куріння

вбиває

Куріння

вбиває

Куріння

вбиває

Куріння

вбиває

Куріння

вбиває



Appendix C

PREMISES LICENCE

Licensing Act 2003

PR(A)0287**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

Beechley Filling Station
 Flush Garage
 Wakefield Road
 Millbridge
 Liversedge
 WF15 6AU

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 - 00:00

Non-Standard Timings
 24 hours

THE OPENING HOURS OF THE PREMISES

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

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

Alcohol is supplied for consumption off the Premises

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

Email address

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	
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:	Bradford City Council

ANNEXES**ANNEX 1 – MANDATORY CONDITIONS****ANNEX 1 - MANDATORY CONDITIONS**

Alcohol:

1. No supply of alcohol may be made under this 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. 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.

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.

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 the condition set out in paragraph 1 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" mean 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

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

(a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;

(b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;

(c) the sale of alcohol to a trader or club for the purposes of the trade or club;

(d) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;

Alcohol shall not be sold in an open container or be consumed in the licensed premises.

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

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)0287**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**Beechley Filling Station**

Flush Garage
 Wakefield Road
 Millbridge
 Liversedge
 WF15 6AU

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 - 00:00

Non-Standard Timings
 24 hours

THE OPENING HOURS OF THE PREMISES

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

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

Alcohol is supplied for consumption off the Premises

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

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 D



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

Julie Muscroft

The Democracy Service
First Floor, Civic Centre 3
High Street
Huddersfield
HD1 2TG

Tel: 01484 221000

Decision Summary

Committee:

Date:

Committee Clerk:

TEL:

LICENSING PANEL

TUESDAY 16 APRIL 2019

Carol Tague

01484 221000

Chair

Councillor Carole Pattison

Councillors Attended

Councillor Karen Allison

Councillor Kath Taylor

1 Minutes of Previous Meeting

To approve the minutes of the meetings of the Panel held on 19 March 2019.

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

2 Interests

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.

No interests were declared.

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.

That all agenda items be considered in public session.

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.

No deputations or petitions were received.

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

To consider the application at 9.30am.

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

That the application for the Grant of a Premises Licence on behalf of MRH Midway, 237 Bradford Road, Batley, WF17 6LG, be granted as stipulated in the application.

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

To consider the application at 10.15am.

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

The Panel determined that the premises licence in respect of Beechley Filling Station, Flush Garage, Wakefield Road, Liversedge, WF15 6AU be revoked.

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

To consider the application at 11.00am.

Contact: Rox Javid, Licensing Officer. Tel 01484 221000. Email: rox.javid@kirklees.gov.uk

The Panel determined that the premises licence in respect of Empire Restaurant, 163 Wakefield Road, Huddersfield, be revoked.

Appendix E

WITNESS STATEMENT

(Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s.5B;
Criminal Procedure Rules, Rule 16.2)

NICHE Ref. No:

URN:

Statement of: PC 4346 Jagger

Date of birth: Over 18

Occupation: Police Officer

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

Signature:

Date: 26/06/19

Time and date statement taken: 26/06/19

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

I am a Police Officer in the West Yorkshire Police Force. I currently work in Kirklees Partnerships at the Licensing Officer.

On the 26th February 2019 I prepared an application for the review of a premises licence under the Licensing Act 2003 for Beechley Filling Station, Wakefield Road, Liversedge.

I have been asked to clarify the police incidents included in this review.

02/02/19 02:35hrs Hate crime and criminal damage. A customer racially abused the member of staff working at the garage, then smashed one of the windows with a fire extinguisher.

This was reported to the police via the telephone – NICHE 13190059604/13190059593 refers. A hate crime and criminal damage were recorded.

This crime was reported to the police by who stated at the time he was working at the garage. Police attended and arrested one male who was later found guilty of racially aggravated criminal damage at Kirklees Magistrates Court.

29/01/19 03:13hrs - a member of staff was racially abused by a customer.

This was reported to the police on the telephone – NICHE 13190051531 refers, this was recorded as a public order hate crime. It was reported by member of staff

. Police attended and removed the known-suspect. did not wish to provide a statement or progress the matter further. Due to this no further police action taken.

30/12/18 02:20hrs Two suspects enter the shop, steal alcohol from the shelves. The person working in the shop follows them out to confront them, the suspects then deliberately drive their car at the shop worker. The worker was on their own and working solo.

This was reported to the police on the telephone – NICHE 13180651519/13180653004 refers, this was recorded as an assault and theft. Police attended and spoke to the reporting person - He stated he did not wish to provide a statement to the police or pursue the matter further. No CCTV was provided by the garage. This crime was filed pending any further contact from the victim.

29/12/18 01:233hrs Two customers are in the shop, when one assaults the other one.

Signature:



Signature witnessed by:

MG11

(Revised 1.12.16)

NICHE Ref. No:		URN:	
----------------	--	------	--

Continuation Statement of PC 4346 Jagger

Reported to the police – NICHE 13180649754 by [REDACTED] Police did not attend at the time but later spoke on the telephone to the complainant. The complainant did not wish to pursue a complaint and would not provide a statement. As a result of this no further action was taken by the police

20/12/18 22:35hrs Criminal damage, two customers were arguing on the petrol forecourt when one gets into car and deliberately rams the other person's car. This was reported to the police on the telephone by one of the persons involved – NICHE 13180649754 refers. The complainant later declined to prosecute so no further action was taken. The Police did not attend the forecourt.

19/12/18 17:38hrs Robbery, four masked males enter the shop armed with hammers, go behind the counter to the stock room and take £1,500 cash. They also ask the staff member to open the till, this was refuse so the masked intruders then took the till and £170 from the shelf beneath the till.

This was reported to the police by [REDACTED] – NICHE 1318065334 refers. [REDACTED] and [REDACTED] were also present at the garage. Police attend, obtain statements, seized CCTV and carried out house to house enquires. Crime Scene Investigators also attended. All lines of inquiry investigated by CID to no gain. Suspects not identified.

15/12/18 01:54hrs Public order offence when a staff member was threatened by a customer when a refund has been refused.

This was reported to the police on the telephone by [REDACTED] NICHE 13180627508 refers. Police did not attend, they later spoke to caller on the phone, suspect unknown. No further police action taken.

I can confirm that the application for the review of the premises licence that I prepared was posted to the home address of [REDACTED] this being [REDACTED]. This is the address on the Premises Licence holder. A copy was also posted to Beechley Filling Station, Flush Garage, Wakefield Road. Both envelopes were addressed to the Premise Licence holder [REDACTED] and posted on the 27th February 2019.

As a result of this application being posted a [REDACTED] called [REDACTED] contacted me on the telephone. [REDACTED] told me that [REDACTED] was the site manager and had full responsibility for the day to day running of Beechley Filling Station along with staff training. [REDACTED] requested that myself and Richard Woodhead attend at Beechley Filling Station to discuss this review. As a result of this request we attended at Beechley Filling Station on the 27th March 2019. On this date we took a further copy of the application for the review of the premises licence and this was handed to [REDACTED]. [REDACTED] was present at the garage, [REDACTED] was serving customers and also involving [REDACTED] in the meeting we were having with [REDACTED]. [REDACTED] initially stated [REDACTED] had not received a copy of the application for the review of the premises licence. I did not believe this as [REDACTED] was fully aware of the review and had requested a meeting and had told me that [REDACTED] had discussed it fully with [REDACTED].

During the meeting it became apparent that [REDACTED] was aware of the review papers as [REDACTED] started to question me about the police incidents that I had documented in the review. [REDACTED]

Signature:

Signature Witnessed by:

NICHE Ref. No:		URN:		
----------------	--	------	--	--

Continuation Statement of PC 4346 Jagger

was saying that they were hearsay and not proven. I had not mentioned these incidents during the meeting I was having with [REDACTED]



Signature: *[Handwritten Signature]*

Signature Witnessed by:

Appendix F

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

Crime and disorder

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

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

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

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

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

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

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

Public safety

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

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

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

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

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

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

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

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

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

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

Protection of children from harm

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Name of meeting: Licensing Panel

Date: Wednesday 2nd October 2019, at 10:30am – Old Court Room, Huddersfield Town Hall, Ramsden Street, Huddersfield

Title of report: Licensing Act 2003 – Application to vary a Premises Licence to specify an individual as designated premises supervisor under section 37 of Licensing Act 2003 at Beechley Filling Station, Flush Garage, Wakefield Road, Liversedge, WF15 6AU

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 <u>Council's Forward Plan (key decisions and private reports?)</u>	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 as agreed by Karl Battersby
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 <u>portfolio</u>	Cllr Rob Walker

Electoral wards affected: Heckmondwike

Ward councillors consulted: Cllr Aafaq Butt
 Cllr Steve Hall
 Cllr Viv Kendrick

Public or private: **Public**

GDPR Implications:

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

1 Summary

The purpose of this report is to inform Members of an application to vary a premises licence; which as a result of representations received, has been referred to this Panel for determination.

2 Information required to take a decision

2.1 Application

2.1.1 On 29th July 2019 the Licensing department received an application to vary a Premises Licence to specify an individual as designated premises supervisor. This application was made by [REDACTED]. A copy of this application may be seen at **Appendix A**.

2.1.2 A Representation has been received relating to this application from West Yorkshire Police. West Yorkshire Police consider that the following licensing objectives would not be achieved, should this licence be granted:

- Prevention of Crime and Disorder
- Protection of Children from Harm
- Public Safety

A copy of this representation may be seen at **Appendix B**.

2.1.3 The premise licence in place at Beechley Filling Station has been in place for a number of years. However, the licence was revoked by members at a Licensing Panel hearing on 16th April 2019, after a review of the licence was submitted by West Yorkshire Police. The revocation of the licence has been appealed to Kirklees Magistrates court. As a result of the hearing at Kirklees Magistrates court on 31st July 2019, the court has directed that the appeal is to be referred back to the licensing panel for determination of the application.

2.1.4 At the appeal hearing, a request was made by the premises licence holders representative that the application be referred back to the licensing panel. This was because the premises licence holder was unable to attend the appeal hearing due to ill health. The magistrates agreed with this request.

2.1.5 This matter, the objection to the variation of the Designated Premises Supervisor, was first heard on Wednesday 4th September 2019, where at the request of the applicants representative the matter was adjourned.

2.2 Licensing Policy

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

1.0 – Executive Summary

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

2.0 – Purpose and Scope of the Licensing Policy

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

Licensing Objectives.

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

2.3 Secretary of State Guidance

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

3 Implications for the Council

3.1 Working with People

Residents of Kirklees need to be confident that 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

Consultation has taken place in accordance with the Act. West Yorkshire Police have made a representation.

5 Next steps and timelines

5.1 When determining the application Members, having had regard to the representation, may take such steps as they consider appropriate for the promotion of the licensing objectives. The steps are

- grant the application,
- grant the application with the appropriate conditions,
- exclude from the scope of the licence any of the licensable activities which relate to this application, or
- reject the application

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

Mike Skelton, Licensing Officer, Licensing Service
Tel: 01484 221000 ext. 70540
Email: mike.skelton@kirklees.gov.uk

9 Background Papers and History of Decisions

- 9.1 Appendix A – Application to vary a premises licence to specify an individual as designated premises supervisor under Licensing Act 2003
- 9.2 Appendix B – Representation from West Yorkshire Police
- 9.3 Appendix C – Relevant sections of Secretary of State Guidance – Section 182 of Licensing Act 2003

10 Strategic Director responsible

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

Appendix A



29-07-19
CHQ
£23—
R037749

Application to vary a premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003

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 / we

[Redacted name]

(full name(s) of premises licence holder)

Being the premises licence holder, apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003

Premises licence number

BRA 0287

Part 1 - Premises details

Postal address of premises or, if none, Ordnance Survey map reference or description	
BEECHER GILWE STATION FLYH ENRER, WATKINSON ROAD	
Post town	Post code (if known)
LIVERPOOL	WF15 6AU
Telephone number (if any)	

Description of premises (please read guidance note 1)
GILWE STATION WITH CONDUITANCE STORE AND OFF-LICENCE

Part 2- Proposed supervisor details

Full name of proposed designated premises supervisor

[REDACTED]

Nationality

[REDACTED]

Place of birth

[REDACTED]

Date of birth

[REDACTED]

[REDACTED]

Personal licence number of proposed designated premises supervisor and issuing authority of that licence (if any)

[REDACTED]

BARRONS COUNCIL

Full name of existing designated premises supervisor (if any)

[REDACTED]

Please tick yes

I would like this application to have immediate effect under

section 38 of the Licensing Act 2003 (please read guidance note 2)

I have enclosed the premises licence or relevant part of it

(If you have not enclosed the premises licence, or relevant part of it, please give reasons why not)

Reasons why I have failed to enclose the premises licence or relevant part of it

Please tick yes

I have made or enclosed payment of the fee

I will give a copy of this application to the chief officer of police (please read guidance note 3)

I have enclosed the consent form completed by the proposed premises supervisor

I have enclosed the premises licence, or relevant part of it or explanation

I will notify the existing premises supervisor (if any) of this application (please read guidance note 4)

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

It is an offence, under Section 158 of the Licensing Act 2003, to knowingly or recklessly make a false statement in or in connection with this application. Those who make a false statement may be liable on summary conviction to a fine of any amount.

It is an offence under section 24B of the Immigration Act 1971 for a person to work when they know, or have reasonable cause to believe, that they are disqualified from doing so by reason of their immigration status.

Those who employ an adult without a valid leave to enter or remain in the UK or an adult who is subject to conditions which would prevent that person from taking up employment will be liable to a civil penalty under Section 15 of the Immigration, Asylum and Nationality Act 2006 and, pursuant to section 21 of the same act, will be committing an offence where they do so in the knowledge, or with reasonable cause to believe, that the employee is disqualified by virtue of their immigration status.

Part 3 – Signatures (please read guidance note 5)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 6). If signing on behalf of the applicant please state in what capacity.

Signature

[Redacted signature]

Date

26-7-19

Capacity

AGENT FOR THE APPLICANT

For joint applicants signature of 2nd applicant, 2nd applicant's solicitor or other authorised agent (please read guidance note 7). If signing on behalf of the applicant please state in what capacity.

Signature

Date

Capacity

Appendix B

Stephanie Mashiter

From: Woodhead, Richard <[REDACTED]>
Sent: 29 July 2019 14:17
To: June Sparkes
Cc: Licensing; Russell Williams; Stephanie Mashiter; Jagger, Kathryn
Subject: RE: Vary DPS Beechley Filling Station

Dear June and All,

West Yorkshire police wish to object to the transfer of the DPS for Bechley service station.

The gentleman who wishes to become DPS, is [REDACTED] himself, he has been premises licence holder, and was present when we found the none duty paid cigarettes, he was in charge when the shop failed the test purchase, and has been acting as general manager of the site since he transferred the premises licence.

Therefore we feel he is not suitable to take on responsibility of being a DPS, as his track record proves he is unsuitable, and so we object to this transfer.

Many thanks

R.Woodhead.

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

From: June Sparkes [mailto:[REDACTED]]
Sent: 29 July 2019 14:10
To: Woodhead, Richard <[REDACTED]>; Jagger, Kathryn
Subject: Vary DPS Beechley Filling Station

Hello

Please see attached application to Vary the DPS at Beechley Filling Station.

Thank you

June

June Sparkes | Business Support | Licensing | Place – Investment & Regeneration | Kirklees Council | Flint Street, Fartown, Huddersfield, HD1 6LG | ☎ 01484 456868 | ✉ june.sparkes@kirklees.gov.uk

This email and any attachments are confidential. If you have received it in error – notify the sender immediately, delete it from your system, and do not use, copy or disclose the information in any way. Kirklees Council monitors all emails sent or received.

<<http://www.kirklees.gov.uk>>

[http://www.kirklees.gov.uk/beta/assets/global/img/logo_kirkleesCouncil_x2.png]

Website<<https://www.kirklees.gov.uk>> | News<<http://www.kirkleestogether.co.uk>> | Email

Updates<<http://www.kirklees.gov.uk/stayconnected>> | Facebook<<https://www.facebook.com/liveinkirklees>> |

Twitter <<https://twitter.com/KirkleesCouncil>>

This email and any attachments are confidential. If you have received this email in error – please notify the sender immediately, delete it from your system, and do not use, copy or disclose the information in any way. Kirklees Council monitors all emails sent or received.

This email has been scanned by the Symantec Email Security.cloud service.

For more information please visit <http://www.symanteccloud.com>

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.