

Public Document Pack



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

Julie Muscroft

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Huddersfield

HD1 9EL

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Please ask for: Jenny Bryce-Chan

Email: jenny.bryce-chan@kirklees.gov.uk

Tuesday 13 September 2022

Notice of Meeting

Dear Member

Licensing Panel

The **Licensing Panel** will meet in the **Council Chamber - Town Hall, Huddersfield** at **10.00 am** on **Wednesday 21 September 2022**.

This meeting will be live webcast. To access the webcast please go to the Council's website at the time of the meeting and follow the instructions on the page.

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

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

Julie Muscroft

Service Director – Legal, Governance and Commissioning

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

The Licensing Panel members are:-

Member

Councillor Amanda Pinnock (Chair)

Councillor Jo Lawson

Councillor Paola Antonia Davies

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

This is where Councillors who are attending as substitutes will say for whom they are attending.

2: Minutes of Previous Meeting

1 - 8

To approve the minutes of the meetings of the Panel held on 3rd August 2022 and 5th September 2022.

3: Interests

9 - 10

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.

4: 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.

5: 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.

6: Public Question Time

The Committee will hear any questions from the general public.

**7: Application for a Review Hearing: Rio Foods, 229A
Bradford Road, Fartown, HD1 6EW**

11 - 44

To determine the application at 10:00am

Contact: Steve Mycroft, Licensing Officer, Tel: 01484 221000

Contact Officer: Nicola Sylvester

KIRKLEES COUNCIL

LICENSING PANEL

Wednesday 3rd August 2022

Present: Councillor Amanda Pinnock (Chair)
Councillor Ammar Anwar
Councillor Adam Gregg

In attendance: David Stickley, Legal Advisor to the Panel
Rox Javaid, Licensing Officer
Fiona Goldsmith, Public Protection Group Leader
Mark Chapman, Environmental Health Officer
Chris Morse, Environmental Health Officer
Jennifer Booth, Planning Officer
Tom Mapplethorpe, Public Health
Lucy Wearmouth, Public Health

Observers Craig Heywood, Licensing Officer

- 1 Site Visit – Playworld, 140 Westbourne Road, Huddersfield**
Site visit undertaken on the 2nd August 2022.
- 2 Minutes of Previous Meeting**
That the minutes of the meeting held on 18th May 2022 were agreed as a correct record.
- 3 Interests**
No interests were declared.

Councillor Adam Gregg declared for transparency purposes a brief conversation with an interested party, advice was not provided.
- 4 Admission of the Public**
All agenda items were considered in public session.
- 5 Deputations/Petitions**
No deputations or petitions were received.
- 6 Public Question Time**
No public questions were asked.

7 Licensing Act 2003 - Application for the variation of a premises Licence: Playworld, 140 Westbourne Road, Huddersfield

The Panel considered a report, which outlined an application for a variation of a premises licence for Playworld, 140 Westbourne Road, Huddersfield.

All parties present confirmed that they had received a copy of amendments submitted by the applicant prior to the hearing.

The Licensing Officer outlined the application, and advised the panel that on 13th June 2022, the Licensing Department received an application for the full variation of existing premises licence for the premises at Playworld, 140 Westbourne Road, Huddersfield.

The licensable activities applied for, both indoors and outdoors, were as follows:

Sale of Alcohol (on and off the premises)

Monday - Sunday 09:00 – 23:45

Performance of Dance

Monday - Sunday 09:00 – 23:45

Indoor Sporting Events

Monday - Sunday 09:00 – 23:45

Live Music

Monday - Sunday 09:00 – 23:45

Recorded Music

Monday - Sunday 09:00 – 23:45

Late Night Refreshments

Friday and Saturday 23:00 – 23:45

The application also includes:

- To increase the premises perimeter to include an outdoor area
- Six occasions per year with an end time of 01:00am with no dates specified

The Panel was informed that in response to the application, 41 representations were received from residents, Ward Councillors, Environmental Health, Planning Services and Public Health. The representations considered the licensing objectives in respect of Public Safety, Prevention of Crime and Disorder, Prevention of Public Nuisance and the Protection of Children from Harm would not be achieved should the licence be granted.

In response to questions from the Panel, the applicant's representative gave an outline of how the business would operate, explaining that the business was purchased in October 2020, and at the time of purchase, the business evidenced a healthy account. When Covid19 restrictions came into force, it resulted in the business closing for seven months. The application to vary the licence would

provide another means of income due to the significant loss of business throughout the Covid19 pandemic, where customers no longer felt comfortable in an enclosed and confined space.

In summary, the Panel was further informed that the business employed approximately 30 staff, however due to the lack of custom, they had lost four members of staff and a chef. There have been no instances of public nuisance or anti-social behaviour and there was CCTV cameras in operation. Environmental Health had visited the premises and set sound limits for music played indoors, and food would be served from inside, where a ventilation system would be in place to minimise food odour.

The Panel then invited the objectors to make representations. Concerns were raised in relation to public safety, road safety issues and the potential for accidents caused by an increase in traffic, noise nuisance from noise emanating from the premises, crime and disorder and protection of children from harm.

The Environmental Health Officer in attendance, advised the Panel that the outdoor area could create noise levels that could not be regulated, and that the door to the south elevation was inadequate, allowing noise to escape and needed to be replaced.

The Planning Officer informed the Panel that the business was not operating within the hours stipulated by planning, and an application submitted in 2014 to amend those hours was not progressed. Therefore, the authorised operating hours for the business remains as 9am to 9pm.

The Panel was further advised that the land between the building and the properties on Westbourne Road has been vacant until recently and was not part of the curtilage for Playworld. For this area to be used as an outdoor play area, an application for a change of use would be required.

The Public Health Officer advised the Panel that noise radiating from the premises throughout the day and at night, could impact on residents' mental health and subsequently impact on physical health. The Panel was further advised that Public Health had also made recommendations regarding the sale of alcohol.

The Panel highlighted the concerns raised by local Ward Councillors relating to public nuisance, noise, and the proposed opening hours and the impact this could have on neighbouring residents.

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

RESOLVED:

That the application for the variation of a premises licence be approved with additional conditions/amendments which are:

- Removal of the existing external door and replacement with an appropriate door approved by Environmental Health,

- That it be noted the amended application on appendix E did not include the car park area, and the licence be amended accordingly,
- That recorded music in the outdoor area be non-intrusive background music only, and restricted to the hours of 09:00 to 19:00 Friday and Saturday and 09:00 to 18:00 Sunday to Thursday,
- That the sale of alcohol in the outdoor area be restricted to the hours of 09:00 to 19:00 Friday and Saturday and 09:00 to 18:00 Sunday to Thursday,
- That the occasional extension to the license of up to 6 times a year from 09:00 – 23:45 be refused with a suggestion of a Temporary Events Notice to be requested for these events.

Contact Officer: Jenny Bryce-Chan

KIRKLEES COUNCIL

LICENSING PANEL

Monday 5th September 2022

Present: Councillor Amanda Pinnock (Chair)
Councillor Ammar Anwar
Councillor Andrew Marchington

In attendance: Mike Skelton, Senior Licensing Officer
Steve Mycroft, Licensing Officer

1 Interests

No Interests were declared.

2 Admission of the Public

No public questions were asked.

3 Deputations/Petitions

No deputations or petitions were received.

4 Public Question Time

No public questions were asked.

5 Application for the grant of a premises licence: Batley Superstore, 91 Commercial Street, Batley WF17 5EF

The Panel considered a report which outlined an application under section S51 of the Licensing Act 2003, for the Grant of a premises Licence, Batley Super Store Ltd, 91 Commercial Street, Batley.

The Panel was advised that on the 11th July 2022, the Licensing Department received an application for the new grant of a premises licence for Batley Super Store Ltd, 91 Commercial Street, Batley, WF17 5EF.

The licensable activities applied for were as follows:

Sale of alcohol (off the premises)

Sunday – Thursday – 07:00 – 23:00

Friday – Saturday – 07:00 – 23:59 (Midnight)

In response to the application, one of the ward councillors for the area expressed concern that should the licence be granted the licensing objectives in respect of the prevention of crime and disorder and the prevention of public nuisance would not be achieved.

Licensing Panel - 5 September 2022

The Panel was advised that West Yorkshire Police were consulted and had no concerns regarding alcohol issues and anti-social behaviour in the area. No representations were made by any of the other Responsible Authorities regarding the application.

The applicant's representative explained that the business was a small shop, selling everyday goods in a commercial area. The business had held a licence since 2016 with no complaints or problems. The applicant's representative advised that one of the main principles of the application was to ensure that the application fully supported the licensing objectives and was confident that the operating schedule put forward, satisfied those criteria.

RESOLVED:

That the application for the Grant of a Premises Licence: Batley Super Store Ltd, 91 Commercial Street, Batley, WF17 5EF be granted as requested.

6 Application for the variation of a Premises Licence: Woodman Inn, 6 Hartley Street, Dewsbury, WF13 2BJ

The Panel considered a report which outlined an application under the Licensing Act 2003, for the variation of a premises licence, Woodman Inn, 6 Hartley Street, Dewsbury.

The Panel was advised that on the 19th July 2022, the Licensing Department received an application for the variation of a premises licence for Woodman Inn, 6 Harley Street, Dewsbury, WF13 2BJ.

The applicant requested that condition 2, which was set by the Licensing Panel on 3rd March 2021, which stipulated that there should be "a minimum of two door staff to be employed on a Friday and Saturday night from 8pm until all customers have left", should be removed.

The Panel was advised that West Yorkshire Police had no objections to the request that condition 2 be removed. In addition, Environmental Health had reviewed the application and had no reports of any recent complaints.

The Designated Premises Supervisor, explained that it was no longer financially viable to employ two door staff, due to the low numbers of customers, and the premises no longer attracted younger customers.

RESOLVED:

That the application for the variation of a Premises Licence, specifically the removal of condition 2, which stipulates "A minimum of two door staff be employed on a Friday and Saturday night from 8pm until all customers have left", set by the Licensing Panel in March 2021, be granted.

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

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

(b) either -

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

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



Name of meeting: Licensing Panel

Date: Wednesday 21st September 2022 at 10am

Title of report: Application for Review Hearing under S51 Licensing Act 2003: Rio Foods, 229A Bradford Road, Huddersfield, HD1 6EW.

Purpose of report: To determine the application.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	Not applicable
The Decision - Is it eligible for call in by Scrutiny?	Not applicable
Date signed off by Strategic Director & name	Fiona Goldsmith – on behalf of Colin Parr Strategic Director (Environment and Climate Change)
Is it also signed off by the Service Director (Finance)?	Not applicable
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Not applicable
Cabinet member portfolio	Cllr Will Simpson

Electoral wards affected: Greenhead Ward

Ward councillors: Cllr Carole Pattison
Cllr Mohan Sokhal
Cllr Sheikh Ullah

Public or private: Public

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

1 Summary

1.1 On 4th August 2022, West Yorkshire Police made an application for the review of the premises licence under Section 51 of the Licensing Act 2003. The applicant believes that the following Licensing Objectives are not being met.

- Prevention of Crime and disorder
- Public Safety

Full details of the grounds for the review & exhibits are contained in the attached review application along with a location map at **Appendix A**.

2 Information required to take a decision.

2.1 Background

2.1.1 On 18th July 2022, the premises known as Rio Foods, 229A Bradford Road, Huddersfield was inspected by West Yorkshire Police and Trading Standards. During the inspection, they found concealed 2,357 packets of illegal cigarettes. If these were sold at the price of UK duty paid cigarettes, approximately £10.50 per packet, the value would be £24,748. A concealment was found hidden in the rear of a cabinet for 'pick n mix' sweets. Another concealment was found in a storeroom in the back yard of the premises.

2.1.2 West Yorkshire Police have submitted all the findings in the review application which includes the following: Exhibits 229A – 229F, statements from a Police Officer and a Trading Standards Officer. This can be seen at **Appendix A**.

2.1.3 The current licence PR(A)1446 was issued on 5th September 2013, and can be seen at **Appendix B**.

2.2 Licensing Policy

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

1.0 – Executive Summary

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

2.0 – Purpose and Scope of the Licensing Policy

2.7 The Licensing Authority recognises that each licence application must be considered on its own individual merits in the context of the four licensing objectives, and that unless relevant representations are received from

responsible authority's or interested parties, there is no provision for a Licensing Authority to impose conditions on a licence other than those proposed within an application. Only conditions which have been volunteered by the applicant or which have been determined at a Licensing Panel hearing can be attached to a licence or certificate. If no relevant representations are made in respect of an application, the Licensing Authority is obliged to issue the licence on the terms sought.

Licensing Objectives.

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

2.3 Secretary of State Guidance

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

3 Implications for the Council

3.1 Working with People

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

3.2 Working with Partners

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

3.3 Place Based Working

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

3.4 Improving outcomes for children

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

3.5 Financial Implications of people living or working in Kirklees

Any decision taken by members may have a financial impact on the applicant and or any objectors.

3.6 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

A review has been called by the West Yorkshire Police. Consultation has taken place in accordance with the requirements under the Licensing Act 2003. There have been no matters arising from the other responsible authorities.

5 Next steps and timelines

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

- a) Modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition);
- b) Exclude a licensable activity from the scope of the licence;
- c) Remove the designated premises supervisor;
- d) Suspend the licence for a period not exceeding three months;
- e) Revoke the licence.

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

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

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

6 Officer recommendations and reasons

6.1 Members of the Panel are requested to determine the application.

7 Cabinet portfolio holder's recommendations

Not applicable

8 Contact officer

Steve Mycroft, Licensing Officer, Licensing Service

Tel: 01484 221000 ext. 74196

Email: steve.mycroft@kirklees.gov.uk

9 Background Papers and History of Decisions

9.1 Appendix A – Review Application from West Yorkshire Police & Location Map

9.2 Appendix B – Copy of Premises Licence PR(A)1446

9.3 Appendix C - Secretary of State Guidance

10 Service Director responsible

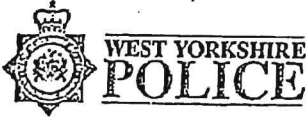
Katherine Armitage

Service Director – Climate Change and Environmental Strategy

Tel: 01484 221000

Email: katherine.armitage@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

- 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:	
Rio Foods, 229A Bradford Road, Fartown, Huddersfield	
Town/City: Huddersfield	Postcode: HD1 6EW

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)1446

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	<input type="checkbox"/>
(b) a body representing persons living in the vicinity of the premises	<input type="checkbox"/>
(c) a person involved in business in the vicinity of the premises	<input type="checkbox"/>
(d) a body representing persons involved in business in the vicinity of the premises	<input type="checkbox"/>
2. A responsible authority (please complete C below)	<input checked="" type="checkbox"/>
3. A member of the club to which this application relates (please complete A below)	<input type="checkbox"/>

A – Details of individual applicant		
Surname:	Forename(s):	
I am 18 years old or over:	<input type="checkbox"/>	
Current postal address if different from premises address:	Town/City:	Postcode:
Daytime contact telephone number:		
E-mail address (optional):		

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B – Details of other applicant

Surname: Forename(s):
Address:
Town/City: Postcode:
Daytime contact telephone number:
E-mail address (optional):

C – Details of responsible authority applicant

Other title, e.g. R PC
Surname: Forename(s):
Address: West Yorkshire Police Licensing, Flint Steet
Town/City: Huddersfield Postcode: HD1 6LG
Daytime contact telephone number:
E-mail address (optional): r@westyorkshire.police.co.uk

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):

A partnership operation was put in place between West Yorkshire Police and West Yorkshire Trading Standards inspecting shops in the Huddersfield area for illegal none duty paid and/or counterfeit tobacco products. The date of the inspections was Monday 18th July 2022. Food Off Licence Rio Foods, 229A Bradford Road was found to have concealed 2,357 packets of illegal cigarettes if these were sold at the price of UK duty paid cigarettes, approximately £10.50 per packet, then the value would be £24,748.

Due to the actions of the Premises Licence Holder and Designated Premises Supervisor Mr of the business the below licensing objectives have been impacted upon:

Prevention of crime and disorder.
Public safety

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

Trading Standards had received intelligence that a number of shops in the Huddersfield area were selling illegal products. West Yorkshire Police had also been informed by members of the public that illegal cigarettes were being sold from Rio Foods.

The partnership agencies entered the shop and requested no customers enter the store while the search was carried out. A specialist tobacco dog was also used to search the premises.

The male behind the counter, Mr. _____ was informed a full search would be carried out of the premises, the lead agency was West Yorkshire Trading Standards.

The tobacco dog indicated that tobacco was hidden in the rear of a display for 'pick and mix sweets'. It was not immediately obvious where the tobacco was and took Trading Standards an amount of time to find a concealment hidden in the rear of the display cabinet. See photo 229a. This concealment had to be opened by a long pin hidden near to the cabinet which pressed a micro switch inside the cabinet and opened the concealment. 229b shows the cigarettes found.

Further cigarettes were found in a storeroom that was located in the back yard of the premises. Keys belonged to Mr _____ as they had his car keys on them, opened a black side door 229c and then a brown door 229d where boxes and bags of cigarettes were found 229e and 229f.

When the cigarettes were found _____ stated to PC 4346, _____ that he regretted selling the cigarettes and he would not sell them again. He went onto ask if he would lose his alcohol licence.

It is illegal to sell none duty paid tobacco products in the United Kingdom. The packets do not carry the correct health warnings, the warnings are not written in English and the act of selling none duty paid deprives the Treasury of much needed funds in this current economic climate.

The act of selling counterfeit cigarettes goes much further, not only removing finances from the U.K. Government, but is a major health risk to the people buying the tobacco. The substances used to bulk out the substandard tobacco does range greatly, none of which is fit for use by the tobacco industry.

None duty paid tobacco also encourages young people to smoke due to the price. Intelligence suggest that they are retailed between £5-7 where duty paid retails between £10-£14.

The Designated Premises Supervisor and the staff working in this shop have absolutely no regard for UK Law by selling such products. West Yorkshire police feel that the only option the panel should consider is revocation.

Officers attending the shop on 18th July 2022 noticed that the CCTV cameras were not pointing towards and were not filming the till counter area and also the concealment area. This would suggest that evidence of any sales was being concealed. It is a condition on licence PR(A)1446 Annex 2: for CCTV to be installed covering all licensable activity areas, the public entrances to the premises and entrance foyers and that alcohol will be stored behind the counter and will only be sold with assistance of staff.

The cameras not covering the till counter area is a breach of their current licence.

It was also observed by Officers that this premises does not sell any duty paid cigarettes but sells lighters and cigarette papers

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Further legal action may be taking place to those involved; however the removal of the alcohol licence is a measure the panel can put in place to show that Kirklees Council will not support or tolerate such illegal activities that is a definite risk to the people of Kirklees.

I have attached a statement from Mr [redacted] who is the lead officer concerning illegal tobacco products detailing the full search.

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

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

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

Please 'check' appropriate box(es)

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements, my application will be rejected

It is an offence, liable on conviction to a fine up to Level 5 on the standard scale, under Section 158 of the Licensing Act 2003, to make a false statement in, or in connection with this application

Part 3 – Signatures (please read Guidance note 3)

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

Signature:..... Date: 01/08/22

Capacity: Police Constable

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

Surname:

Forename(s):

Address:

Town/City:

Postcode:

Telephone number (if any):

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

Notes for Guidance

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.

WITNESS STATEMENT

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

Statement of:	
Age of witness: <i>(if over 18 enter 'over 18')</i>	Over 18
Occupation:	Regulatory Compliance Officer
This statement (consisting of 3 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.	
	26/07/22
Dated:	Signature:

I am the lead cheap and illicit tobacco officer employed by West Yorkshire Trading Standards Service (WYTSS). I am an authorised officer for the purposes of the Trade Marks Act 1994, the Tobacco and Related Products Regulations 2016, the Standardised Packaging of Tobacco Regulations 2015 and the Consumer Rights Act 2015.

On 18th July 2022, I was in company with Trading Standards and Police officers when I took part in an inspection visit at Rio Foods, 229A Bradford Road, Fartown, HD1 6EW. Working at the store was a male called Mr. _____ who was served with a Consumer Rights Act 2015 entry notice. Mr. _____ stated he owned the business.

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

Dated...26/07/22..... Page 1 of 3
010911

B4.0.9a

WITNESS STATEMENT

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

A search of the store was conducted and illegal tobacco was found concealed in the back store room built in to the back of the sweets shelf. The concealment was opened using a pin to press a micro switch.

Keys were found leading to the store room accessed via the back yard. The store room was full of illicit tobacco products and other stock for the shop. Illegal vapes were also seized.

I visually examined the tobacco products and could see they were not in the standardised format as required by The Standardised Packaging of Tobacco Products Regulations 2015 and were in violation of the Tobacco and Related Products Regulations 2016 as the prescribed health warnings were not present in English. From discrepancies in the packaging on some cigarettes and from the foreign excise stamps present on others it was clear to me the cigarettes were a mix of counterfeit and smuggled items. The total amount seized was 47,140 cigarettes (2,357 x 20 packets of cigarettes) & 13 disposable vapes.

A criminal investigation is ongoing.

The sale of Counterfeit/Illicit Tobacco products is not a minor breach of regulations but is in fact Serious Organised Criminality. These items which cannot be legally sold in the UK are smuggled into the country on a vast scale to be sold at stores like Rio Foods. The Profits of this illegal trade going to criminals while the treasury is deprived of the Tax/Excise. The current yearly loss in revenue is in excess of £2.5 billion which in turn deprives public services of funding.

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

Dated...26/07/22..... Page 2 of 3
010911

B4.0.9a

WITNESS STATEMENT

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

Smoking is the leading cause of Preventable Diseases in the UK and over half of long term smokers will die prematurely from smoking related diseases. Tobacco taxes are a proven strategy to reduce smoking and extend lives. The illegal cheap sale of this product removes this incentive of helping people to quit and also makes cigarettes more affordable to children, making it more likely they will start.

The supply of illegal tobacco not only causes harm to people but also causes genuine businesses to lose income and potentially close. This damages local communities with reduced employment and the loss of essential services.

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

(Signed) ...

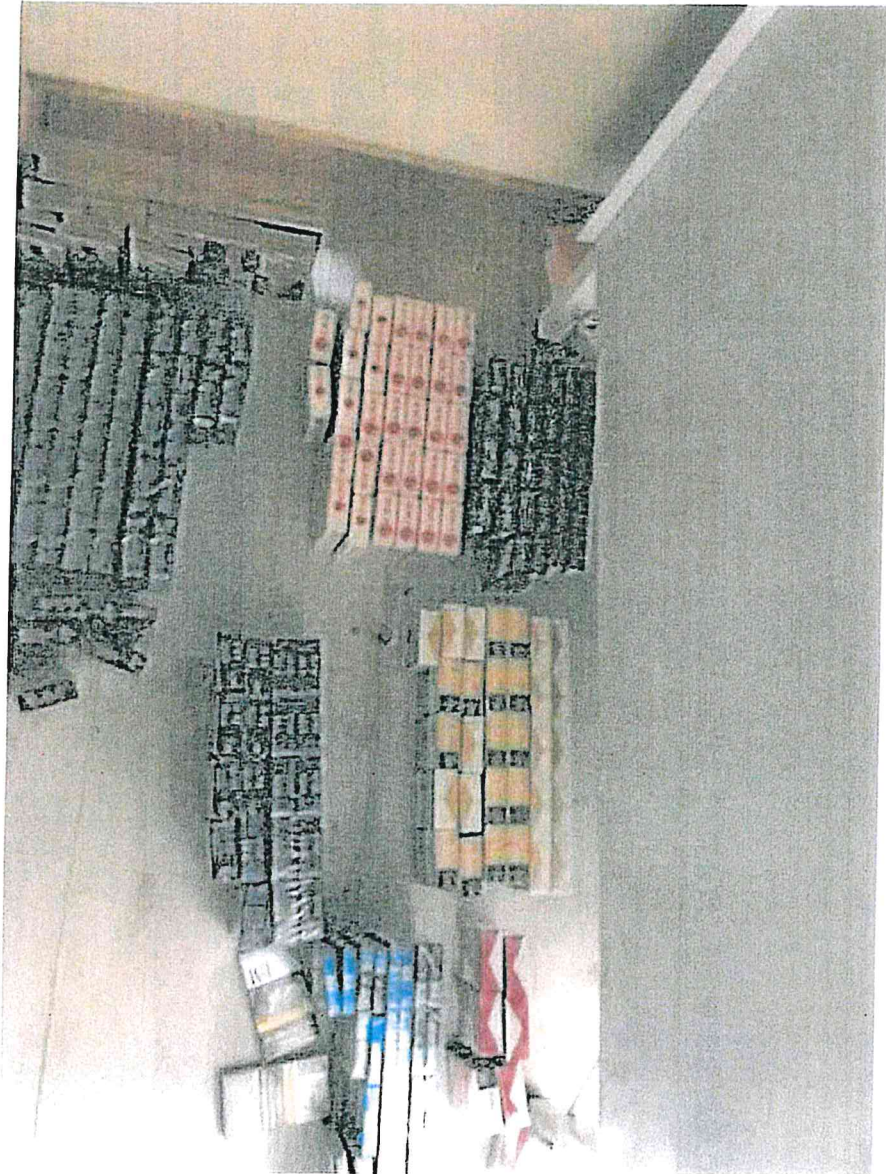
**Dated...26/07/22:..... Page 3 of 3 -
010911**

B4.0.9a

229 A



229b



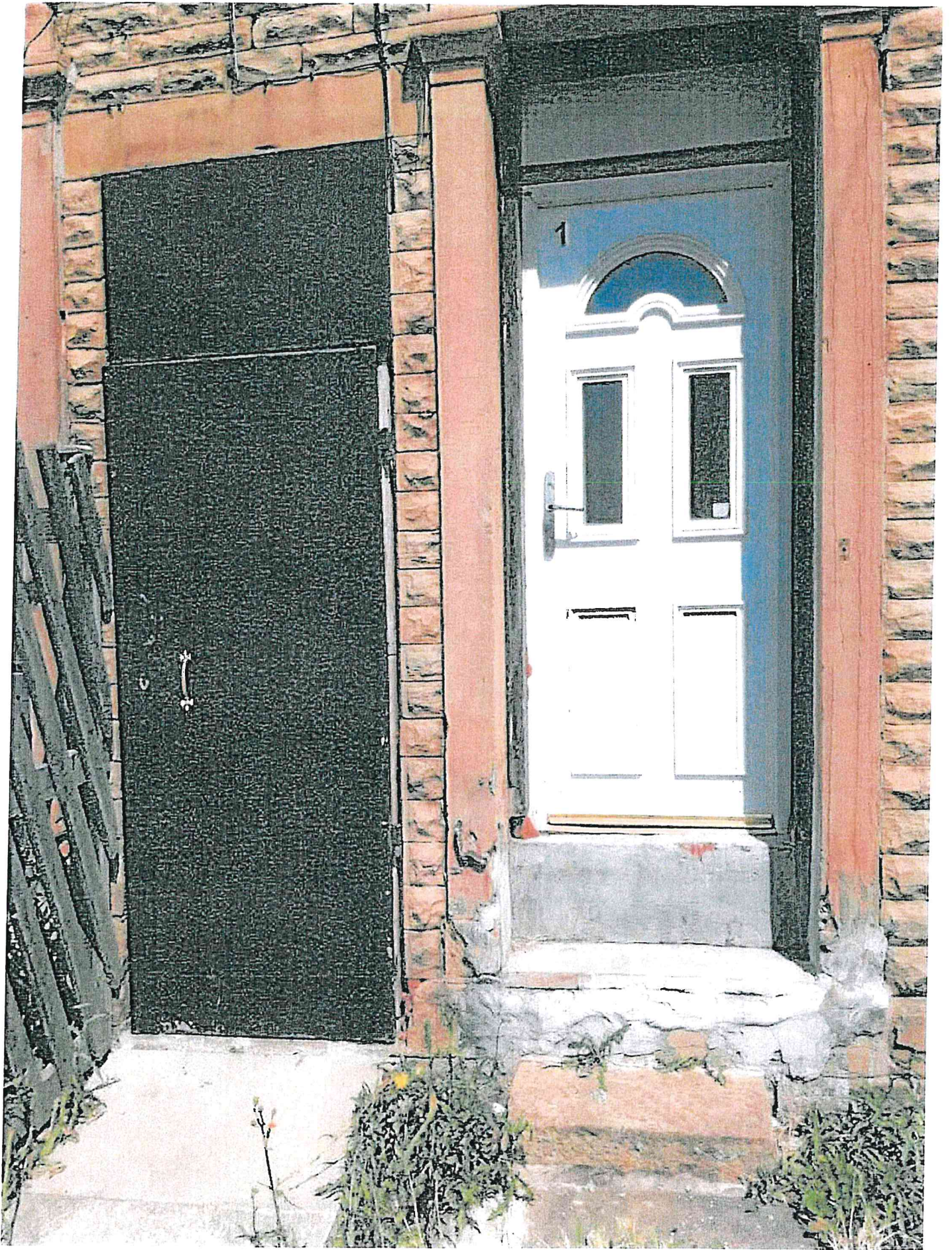


Exhibit 229 C

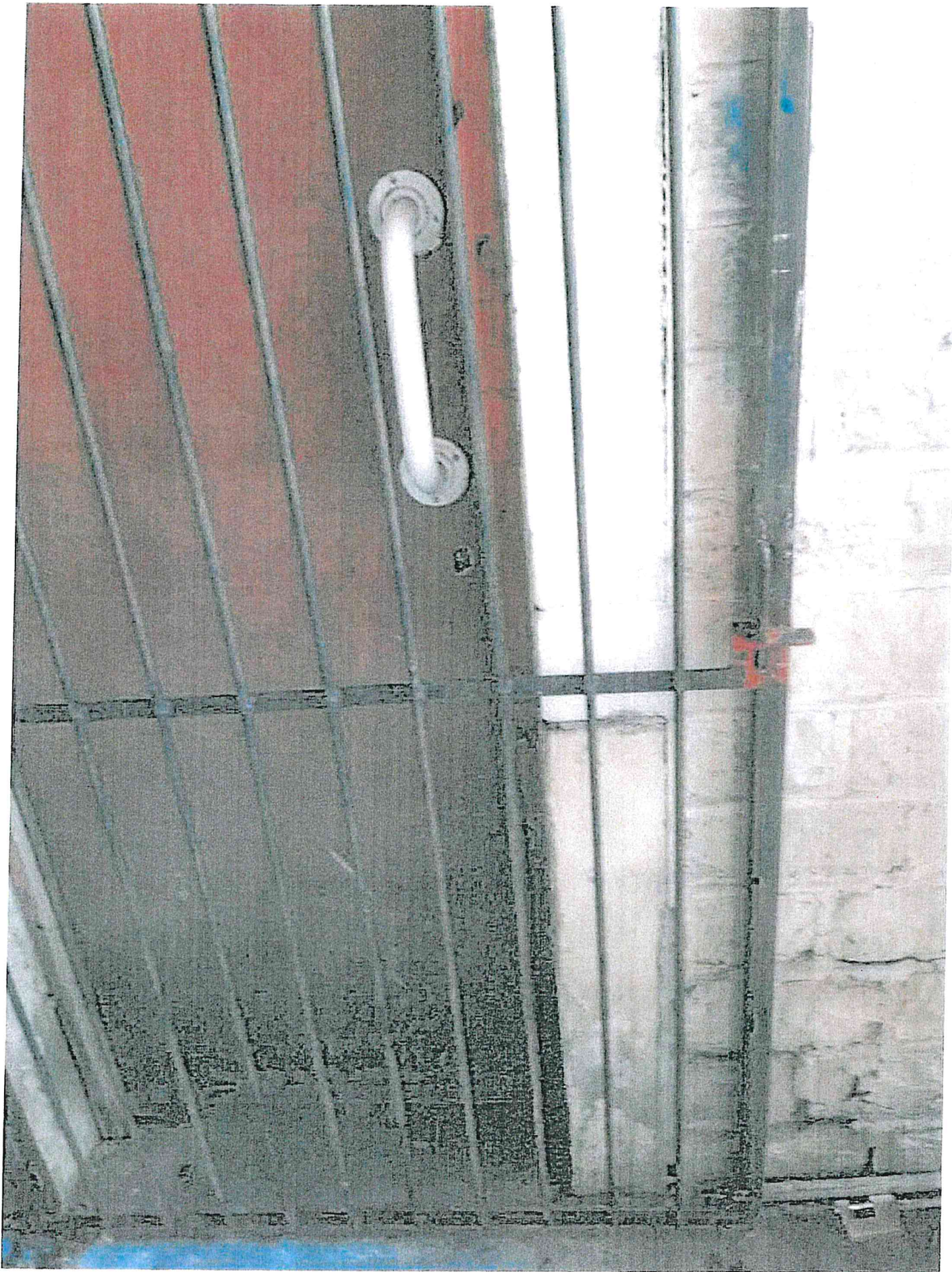


Exhibit 229 D

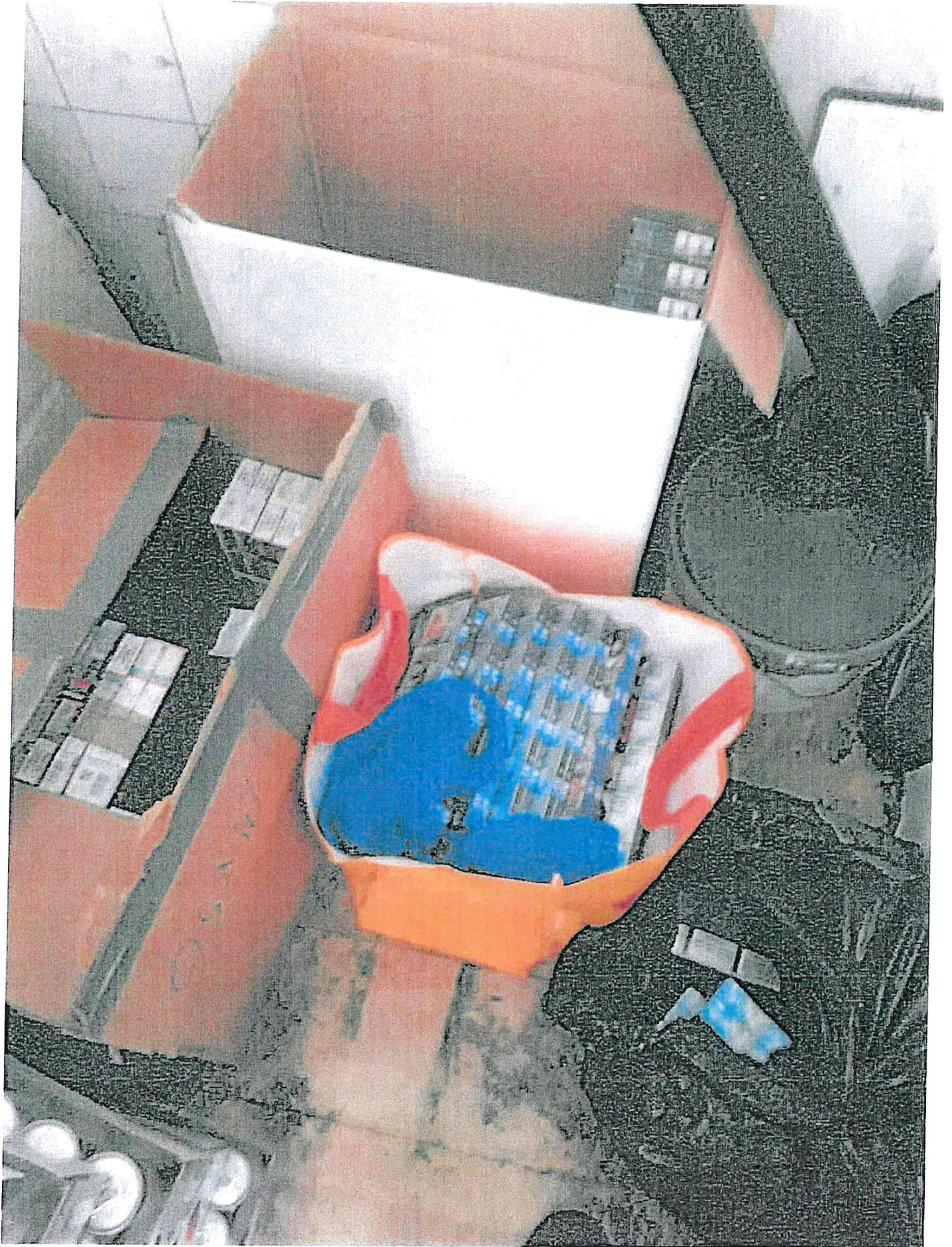


Exhibit 22a E

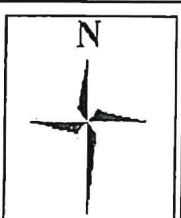


Exhibit 229F



Kompass
Kirklees Mapping Service

Rio Foods, 229A-229B Bradford Road, Fartown,
Huddersfield, HD1 6FW
Scale = 1:275,280
maps@kirklees.gov.uk



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Appendix B

PREMISES LICENCE Licensing Act 2003	Licence number:	Online Reference number:
	PR(A)1446	PR00319

THIS LICENCE IS ISSUED BY

	Kirklees Council Public Protection Services Licensing Department PO Box 1720 Huddersfield HD1 9EL
	Tel: 01484 456868 Email: licensing@kirklees.gov.uk

POSTAL ADDRESS OF PREMISES

Rio Foods
 Food Off Licence
 229A - 229B Bradford Road
 Fartown
 Huddersfield
 HD1 6EW

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	06:00 - 00:00
Tuesday	06:00 - 00:00
Wednesday	06:00 - 00:00
Thursday	06:00 - 00:00
Friday	06:00 - 00:00
Saturday	06:00 - 00:00
Sunday	06:00 - 00:00

THE OPENING HOURS OF THE PREMISES

DAY(S)	FROM	TO
Monday to Sunday	06:00	00:00

NON STANDARD TIMINGS FOR OPENING HOURS (IF ANY)

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
<p>██████████ 229A - 229B Bradford Road Fartown Huddersfield HD1 6EW</p>

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
<p>██████████ 229A - 229B Bradford Road Fartown Huddersfield HD1 6EW</p>

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:	Kirklees 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

West Yorkshire Police Conditions

1. CCTV to be installed covering all licensable activity areas, the public entrances to the premises and entrance foyers.

The CCTV system installed and operated in accordance with Home Office/ACPO guidelines as adopted by West Yorkshire Police.

A competent person must be present during licensable activities that can operate the CCTV system.

Footage from the CCTV system to be made available on request to a police constable or representative of a responsible authority as defined by the Licensing Act 2003 where the images are to be used in the prevention or detection of crime, the prosecution or apprehension of offenders or where the disclosure is required by law.

The disclosure and request must be in accordance with the Data Protection Act 1998.

2. Incident and accident books to be maintained along with a refusal register detailing any attempted purchases by under age or drunken customers. These books to be made available for inspection on request of any police constable or representative of a responsible authority as defined by the Licensing Act 2003

3. Staff training records to be maintained recording training in relation to the Licensing Act 2003 and must cover section 144 of the Act, Keeping of Smuggled Goods on Licensed Premises. These records to incorporate authorisation for staff to sell alcohol. These records to be made available for inspection on request of a police constable or representative of a responsible authority as defined by the Licensing Act 2003.

General

4. Alcohol will be stored behind the counter and will only be sold with the assistance of staff.

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: 5th September 2013

Date Commences/Varied: 21st February 2019



Head of Public Protection Service

PREMISES LICENCE SUMMARY

Licensing Act 2003

PR(A)1446**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

Rio Foods
Food Off Licence
229A - 229B Bradford Road
Fartown
Huddersfield
HD1 6EW

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	06:00 - 00:00
Tuesday	06:00 - 00:00
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Friday	06:00 - 00:00
Saturday	06:00 - 00:00
Sunday	06:00 - 00:00

THE OPENING HOURS OF THE PREMISES

DAY(S)	FROM	TO
Monday to Sunday	06:00	00:00

NON STANDARD TIMINGS FOR OPENING HOURS (IF ANY)

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
██████████ 229A - 229B Bradford RoadFartownHuddersfieldHD1 6EW
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: 5th September 2013

Date Commences/Varied: 21st February 2019



Head of Public Protection Service

Appendix C

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

Crime and disorder

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

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

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

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

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

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

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

Public safety

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

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

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

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

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