

Name of meeting: Licensing Panel

Date: Thursday 12 October 2017, at 10:00, Meeting Room 4, Huddersfield Town Hall, Ramsden Street, Huddersfield

Title of report: APPLICATION FOR REVIEW HEARING UNDER S51 LICENSING ACT 2003 – Wisla Store, 31-33 John William Street, Huddersfield, HD1 1BL

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?	No
Date signed off by Director & name Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance? Is it also signed off by the Assistant Director - Legal Governance and Monitoring?	No financial implications If yes give date No
Cabinet member portfolio	Give name of Portfolio Holder Cllr Mather

Electoral wards affected: Newsome Ward

Ward councillors consulted: N/A

Public or private: Public

1. Summary

On 22 August 2017 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 two of the four Licensing objectives are not being achieved at this premise. These objectives being:

- The prevention of crime and disorder
- Public safety

Full details of the grounds for the review are contained in the attached review application at **Appendix 1**.

2. Information required to take a decision

The key information required to make a decision is contained in the initial application from West Yorkshire Police. Below is the background information relating to the premise and it's licence.

The premises has benefited from the premises licence, PR(A)1454 since September 2013, a copy of the licence can be seen at **Appendix 2**. The current premises licence holder and current designated premises supervisor is Mr Atar Mohammed Raza. Mr Raza took over the licence in July 2017.

The Premises itself use to have a different premises licence PR(A)1245. This licence was applied for on 22/12/2009 by a Mr Rozhgar Sharif. On 19/08/2011 the police called for a review on the grounds of Mr Sharif selling non-duty paid cigarettes and alcohol as well as selling counterfeit hand rolled tobacco. The premises went to a hearing on 18/10/2011 and the decision made by the panel was to revoke the licence.

On 06/09/2013 a new grant application for a premises licence was applied for by a Mr Rahman Shakhawan Adbul. This is the current premise licence that Mr Raza now has.

3. Implications for the Council

3.1 Policy considerations (extracts from Kirklees Licensing Policy 2015-2020).

Para 2.3 Licensing Objectives

The Policy promotes the four licensing objectives contained in the Act and each has equal weight.

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

Para 7.9 The Licensing Authority will determine any application by considering the Act, the statutory guidance, this Policy and the four licensing objectives including how it may support other key aims, strategies and objectives.

Para 7.10 The following factors would normally be considered (although other relevant matters may be considered as the individual case dictates):

- The type of use, the numbers and type of customers likely to attend the premises;
- The proposed hours of operation;

- The level of public transport accessibility for customers either arriving or leaving the premises and the likely means of public or private transport that would be used by the customers;
- The impact of car parking on local residents or businesses;
- The scope for mitigating any impact;
- How often the activity occurs.

and, in considering any application the Licensing Authority may also take into account

- historical evidence, whether favourable or adverse, relating to activities carried out at the premises, especially on local residents or businesses;
- and where adverse impact has been caused, appropriate measures have been agreed and put into effect by the applicant to mitigate that adverse impact.

3.2 The following provisions of the Secretary of State's guidance apply to this application:

Paras 11.1 – 11.30 – Reviews

Paras 2.1 – 2.5 Crime and disorder

Paras 2.21 – 2.30 Protection from children from harm

4. **Other Representations**

One representation has been made by Ison Harrison Solicitors on behalf of Mr Atar Mohammed Raza this can be seen at **Appendix 3**.

Appendix 4 – Letter from Mr Atar Mohammed Raza giving authority to Ison Harrison Solicitors.

5. **Consultees and their opinions**

6.1 Advertising

The responsible authorities defined under Section 13 (4) of the Licensing Act 2003 have all received a copy of the application for review. Additionally in accordance with regulation 39 of the Licensing Act 2003 (Premises Licences and Club Certificates) Regulations 2005, Officers from Kirklees Licensing Service arranged for advertisement of the review including being posted on the premises for 28 days and on the public notice board at the licensing office. Interested parties and responsible authorities are therefore allowed to make additional representations during that 28 day period. The period of advertisement ended on **19 September 2017**.

No response was received from each of the responsible authorities; however information from Environmental Health is contained in the representation made by Licensing.

6. Next steps

Not applicable

7. Officer recommendations and reasons

In determining the application the panel can take such any of the steps as it considers necessary for the promotion of the licensing objectives, which are:

- Issue warning with licence unaffected;
- modify conditions of the licence;
- exclude a licensable activity from the scope of the licence;
- remove the designated premise supervisor;
- suspend the licence for a period not exceeding 3 months;
- revoke the licence

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

8. Cabinet portfolio holder recommendation

Not applicable

9. Contact officer and relevant papers

Stephanie Mashiter – Assistant Licensing Officer – 01484 221000 Ext 70530

Appendix 1 – Application for review from West Yorkshire Police

Appendix 2 – Premises Licence PR(A)1454

Appendix 3 – Ian Anderson (Ison Harrison Solicitors) representation

Appendix 4 – Letter of authority from Atar Mohammed Raza

10. Background Papers and History of Decisions

The premise previously appeared before the committee in October 2011, the papers and decision can be viewed at

<https://democracy.kirklees.gov.uk/CeListDocuments.aspx?Committeeld=156&MeetingId=4184&DF=18%2f10%2f2011&Ver=2>

11. Assistant Director responsible

Joanne Bartholomew

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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.

BUILDING CONTROL & LICENSING SERVICE RECEIVED 22 AUG 2017

I, (insert name of applicant) RICHARD WOODHEAD

- Apply for the review of a Premises Licence under Section 51
Apply for the review of a Club Premises Certificate under Section 87 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 - Premises or Club Premises details
Postal address of premises or, if none, Ordnance Survey map reference or description:
Wisla Store, 31-33 John William Street,
Town/City: Huddersfield Postcode: HD1 1BL

Name of premises licence holder or club holding club premises certificate (if known):
Mr Atar Raza
Number of premises licence or club premises certificate (if known): pr (a) 1454

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
Surname: Forename(s):
I am 18 years old or over:
Current postal address if different from premises address: Town/City: Postcode:
Daytime contact telephone number:
E-mail address (optional):

Kirklees Copy

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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

Mr
 Surname: WOODHEAD Forename(s): RICHARD
 Address: West Yorkshire Police Licensing, Flint Steet
 Town/City: Huddersfield Postcode: HD1 6LG
 Daytime contact telephone number: _____
 E-mail address (optional): _____

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

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

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

On Saturday the 22nd July 2017 a joint visit was carried out by West Yorkshire Police and West Yorkshire Trading Standards , where a large number of none duty paid goods were discovered. The tobacco products were not destined for the UK market, and were incorrectly marked and not compliant with the tobacco and related product regulations 2016. The actions of the premises licence holder, who is also the DPS has impacted on both the public safety licensing objective, and the crime prevention objection.

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A joint operation was carried out by West Yorkshire police and trading standards on Sat July 22nd 2017 to a number of town centre shops retailing alcohol and tobacco products.

The Wisla store was visited and Mr Raza was behind the counter and stated he had recently purchased the business, around 12 weeks prior to the operation

During the visit, which was aimed at sales of illegal cigarettes, a number of hidden compartments were located by a sniffer dog that was in use. The compartments were in the rear kitchenette area, as well as in the cellar area. The dog is specially trained, and is used by Wagtail UK, who specialise in tobacco sniffer dogs. These compartments were under the stairs within the shop and in the basement area. (Please see appendices 1 and 2)

In total, 16,280 sticks of cigarettes and 550g of hand rolling tobacco was found and seized by TRADING STANDARDS. A prosecution is now pending. A further £12,000 in BANK OF ENGLAND notes was found under the shop counter area which was also seized under the proceeds of crime act.

The shop previously lost its licence to sell alcohol after a review in 2011 where both alcohol and tobacco were found to be for sale. (Please see appendices 4)
A new owner bought the business and it was relicensed on the 5th Oct 2013.

A similar operation was carried out in Oct 2014 where again none duty paid products were available for sale at the store.(Please see appendices 3). However, the then owner Mr Habeb then agreed to a series of conditions put forward by West Yorkshire Police to avoid the review process.

Mr Raza stated he had recently purchased the business.

The actions of selling none duty paid cigarettes in the UK is a criminal offence. The products are illegal due to them not being marked in a correct and proper manner for the UK market, as they were not compliant with the tobacco and related products regulations and the standardised packaging of tobacco products regulations 2016. This impacts on the Public safety objective.

All though the sale of tobacco is not a licensable activity, the crime and disorder objective has been impacted on. A licensed premises was used to store and sell tobacco from to the general public.

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The offence of possession and sale of unmarked tobacco products is a relevant conviction under the licensing act (section 8G of the tobacco products duty act 1979), as is, the use of premises for the sale of unmarked tobacco products, (section 8H of the tobacco products duty act 1979).

We feel that if Mr Raza was willing to indulge in criminal activities by selling none duty paid tobacco products so soon after purchasing the business, it would not be long before illegal none duty paid alcohol, or even counterfeit alcohol would be made available from the shop.

The licence on a premises allowing it to sell alcohol greatly increases the value of an existing business, however the ability to sell alcohol is not a right but is a privilege granted by the issue of a premises licence to a person who understands and complies with UK law and regulations.

Due to the criminal activity of Mr Raza we feel the only way forward is to remove and revoke the licence to send a strong message out that activities such as this will not be tolerated in Kirklees, and we respectfully request the panel consider that revocation is the only method of doing so.

I have also attached the report from trading standards, dated the 15th Aug 2017 (appendices 5)

RESTRICTED

[Empty rectangular area for content]

Have you made an application for review relating to this premises before? YES
If 'YES', please state the date of that application: 18/09/2010

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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 see appendices 4 which details the original review.

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

Signature: Date: 22nd Aug 17.
 Capacity: Police Licensing Officer

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

Surname: _____ Forename(s): _____
 Address: _____
 Town/City: _____ Postcode: _____
 Telephone number (if any): _____
 If you would prefer us to correspond with you using an e-mail address, please state your e-mail address (optional): _____

Notes for Guidance

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

Appendices ①



22/07/2017 23:12



22/07/2017 23:06



West Yorkshire
Trading
Standards Service

West Yorkshire Joint Services

WITNESS STATEMENT

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

Statement of: David James CLUTTERBROOK

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

Over 18

Occupation:

Trading Standards Officer

This statement (consisting of 2 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.

Dated:

05 November 2014

Signature:

I am a Trading Standards Officer employed by West Yorkshire Trading Standards Service and am an authorised officer under the Licensing Act 2003, The Consumer Protection Act 1987, The Trade Marks Act 1994 and The Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002.

On **30th October 2014** I was involved in a multi agency operation inspecting retail premises in Huddersfield town centre believed to be dealing in illicit tobacco.

At approximately **17:00hrs** I entered **Wisla Supermarket, 31 John William Street, Huddersfield** with my colleague **Safina SHER** (Enforcement Officer) and introduced myself to a man behind the counter who gave his name as **Mohammed Sabah HABEB** and confirmed he was the owner of the business. I then explained to him that we would be inspecting the shop. I witnessed **Mr HABEB** being issued a notice of powers and rights by my colleague **Safina SHER** shortly before **17:10hrs**. The dog and it's handler entered the premises and I accompanied him around the premises including the basement. When returning the shop counter my colleague **Safina SHER** informed me

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

(Signed)

Dated..... Page 1 of 2
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West Yorkshire
Trading
Standards Service
West Yorkshire Joint Services

WITNESS STATEMENT

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

that a shoe box filled with foreign labelled and suspected counterfeit cigarettes had been found behind the counter by **Michael CARPENTER**, HM Revenues and Customs Officer. My colleague **Safina SHER** and I counted the amount of cigarettes and tobacco which totalled 66 packets of cigarettes which did not bear statutory health warnings in English contrary to The Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002 and the Consumer Protection Act 1987 and suspected to be counterfeit contrary to The Trade Marks Act 1994. All of the illicit tobacco was subsequently forfeited by **Mr HABEB** to **Safina SHER** for destruction.

I left the premises at approximately **18:00hrs**.

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

(Signed)

Dated..... Page 2 of 2

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 4629 Richard Farrand

- 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:

Wisla Supermarket, 31 John William Street, Centre

Town/City: Huddersfield

Postcode: HD1 1BL

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

Mr Rozhgar Sharif

Number of premises licence or club premises certificate (if known): PR(A) 1245

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

Surname:

Forename(s):

I am 18 years old or over:

Current postal address if
different from premises
address:

Town/City:

Postcode:

Daytime contact telephone number:

E-mail address (optional):

Appendix 1 - Previous review

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

Chief Officer of Police, West Yorkshire Police

Surname:

Forename(s):

Address:

Police Licensing, Riverbank Court, Wakefield Road, Aspley

Town/City:

Huddersfield

Postcode: HD5 9AA

Daytime contact telephone number:

01484 450850

E-mail address (optional):

rf109@westyorkshire.pnn.police.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):

Wisla Supermarket has been visited on six occasions between 10th September 2010 and 5th August 2011 by officers from HM Revenue and Customs assisted on occasions by Police and Trading Standards.

Over this period the premises licence holder and DPS has been Mr Rozhgar Sharif.

On each occasion non-duty paid cigarettes and alcohol has been seized, including counterfeit hand rolling tobacco. HMRC estimate that £1392.78 of excise has been evaded on the seized goods.

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

On Friday 5th August 2011 multi-agency visits were carried out by Police, HM Revenue and Customs and Trading Standards officers in the Huddersfield area.

At 10am that day a revenue check was carried out at Wilsa Supermarket, 31 John William Street, Centre, Huddersfield by HM Revenue and Customs officers supported by the Police licensing officer and Trading Standards Officers. Present at the time of the inspection was the premises licence holder and designated premises supervisor Mr Rozhgar Sharif.

During the inspection 6 brown cardboard cases containing 20 x 50cl bottles of beer were located at the rear of the store. These were 2 x cases of Tyskie beer, 2 x cases of Lech beer and 2 x cases of Debowe beer. The brown cases were not standard cases for the beer stored inside.

See attached photograph RPF 1.

These three types of beer were on display for sale in the supermarkets' cooler cabinet. Photograph RPF 2.

Mr Sharif was unable to produce an invoice for the 6 cases of beer and this was detained by HMRC officers as being non-duty paid.

A search of the rear of the counter area of the supermarket revealed a false panel behind which were secreted tobacco products. 460 cigarettes and 800gms of hand rolling tobacco. Photographs RPF 3 and RPF 5.

Trading Standards officer Hannah McRobert inspected the cigarettes and 400gms of hand rolling tobacco and found that they did not comply with The Tobacco Products (Manufacture, Presentation and Sale) (Safety) (Amendment) Regulations 2007 as they were not labelled correctly. She also inspected the other 400gms of hand rolling tobacco and concluded that in her opinion it was counterfeit. This was due to poor quality print and sealing of the packets.

A condition of the premises licence states, "CCTV fitted in accordance with police requirements".

PC 4629 Farrand, the Kirklees Licensing Enforcement Officer, inspected the shops CCTV system. He found that the camera covering the rear of the store's counter had been disconnected. He also found the camera covering the till area had been moved so as not to cover transactions taking place at the till.

As a result of the visit PC Farrand contacted HMRC officer Steven Potter and requested information on all non-duty paid goods seized by HM Revenue and Customs since Mr Sharif had been the premise licence holder. Officer Potter checked the HM Revenue and Customs database and provided the following information.

10/09/2010	5120 cigarettes seized.	Revenue evaded £848.44
13/09/2010	120 cigarettes seized.	Revenue evaded £ 20.03
14/12/2011	19lts Vodka seized.	Revenue evaded £169.58
17/05/2011	80 cigarettes seized.	Revenue evaded £14.96
16/07/2011	250grms flavoured tobacco & 4.9ltrs vodka seized.	Revenue evaded £66.47
05/08/2011	460 cigarettes, 800gms tobacco & 60lts beer seized.	Revenue evaded £273.30

Mr Sharif clearly has no regard for the law or trying to achieve the licensing objectives of crime and disorder or public safety. The keeping of smuggled goods is contrary to section 144 of the Licensing Act 2003.

Sect 11.26 of the Amended Guidance issued under Section 182 of the Licensing Act 2003 states, "There is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously. These are the use of the licensed premises:

- for the sale of smuggled tobacco and alcohol.

These premises have been visited on six separate occasions and on each occasion non-duty paid tobacco or alcohol has been seized along with a breach of the premises licence. Therefore the police request that the premises licence be revoked.

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

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

RESTRICTED

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

[Empty box for representations]

Please 'check' appropriate box(es)

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

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

Part 3 – Signatures (please read Guidance note 3)

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

Signature:..... Date:.....

Capacity:.....

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

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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: Noreen AKHTAR

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

Occupation: Enforcement Officer

This statement (consisting of 2 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.

Dated: 15th August 2017

Signature:

I am employed by West Yorkshire Trading Standards service as an Enforcement Officer. I am an authorised officer for the provisions of the Trade Marks Act 1994, Tobacco & Related Products Regulations 2016, The Standardised Packaging of Tobacco Products Regulations 2015 and The Consumer Rights Act 2015.

On Saturday 22nd July 2017 I was involved in a multi agency operation with West Yorkshire Police, West Yorkshire Trading Standards and Wagtail UK.

At approximately 22:25 hours on the day I entered the premises of Wisla Supermarket Ltd, 31-33 John William Street, Huddersfield, HD1 1BL. I issued a Notice of Powers & Rights to Mr **Atar Mohammed RAZA** D.O.B 05/06/1984 who was behind the counter. He stated he was the director of the company.

A search of the premises was then carried out by Wagtail UK specialist tobacco detection trained dog. The dog gave a positive indication in the kitchenette, around the shelving above the sink. A concealment here revealed a quantity of illicit tobacco. The dog also gave a positive indication in the cellar area where another concealment revealed a further quantity of illicit tobacco.

Append 5.

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

(Signed)

Dated..... Page 1 of 2

WITNESS STATEMENT

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

All of the tobacco products found in the concealments were not compliant with the Tobacco & Related Products Regulations 2016 and The Standardised Packaging of Tobacco Products Regulations 2015.

All of the tobacco products from the concealments were seized, placed in sealed evidence bags and logged on a Record of Property seized. 16280 cigarettes and 550g of hand rolling tobacco were seized. A copy of the Record of Property Seized was given to Mr **RAZA**.

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

(Signed)

Dated..... **Page 2 of 2**

Licensing Act 2003
Premises Licence
PR(A)1454

Part 1 - Premises Details

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

31-33 John William Street, Huddersfield, West Yorkshire, HD1 1BL.

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- the supply of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
J. Supply of alcohol for consumption OFF	the premises only Monday to Saturday Sunday		

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Saturday	9:00am	11:00pm
Sunday	9:00am	10:00pm

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

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

Part 2



LICENSING
Flint Street Depot
Flint Street
Fartown
Huddersfield HD1 6LG

Tel: (01484) 456868
Fax: (01484) 456857

E-mail:licensing@kirklees.gov.uk
Website:http://www.kirklees.gov.uk

Licensing Act 2003 **PR(A)1454**
Premises Licence

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

Atar Mohammed Raza
43 Macauley Road, Huddersfield, West Yorkshire, HD2 2US.
ataraza@hotmail.co.uk

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

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

Atar Mohammed RAZA
43 Macauley Road, Huddersfield, West Yorkshire, HD2 2US.

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

Licence No. NL26423 Issued by North Lincolnshire



Licensing Act 2003
Premises Licence

PR(A)1454

ANNEXES

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

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ANNEXES continued ...

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.

ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

1. CCTV to be installed covering all licensable activity areas, the public entrances to the premises, 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.
2. A point of sale prompt shall be available within the premises for all alcohol sales which require the operator to confirm the age of the customer to be over 18 years before selling alcohol. Refusals information shall be documented on the point of sale system and be available to the Police and other regulatory authorities upon reasonable request.
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 the 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.
4. All records of alcohol purchases which must be retained for a period of one year from time of purchase. These documents must be made available for inspection on request to a police constable, officer from HM Revenue and Customs or representative of a responsible authority as defined by the Licensing Act 2003.

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ANNEXES continued ...

5. Must be a member of the Huddersfield retail radio scheme. Staff must have access at all times licensable activities are taking place to a retail radio.
6. Challenge 25 Policy to be adopted.
7. In order to promote the prevention of crime and disorder and the prevention of public nuisance, the premises licence holder must ensure that the premise does not sell super strength beer, lager or cider with an alcohol content of 6.5% ABV (alcohol by volume) or greater. This restriction shall not apply in respect of specialist branded, premium priced products - for example craft ales, local or microbrewery specialist products, boxed gifts or national celebratory/commemorative beer, lager or cider with an alcohol content of 6.5% ABV or greater.
8. In order to promote public safety and the protection of children from harm licensing objectives, the premise shall not sell any type of mind altering psychoactive substance or so called "legal highs". None of these type of products should be kept in or any area of the premise.

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

Date granted: 05/10/2013

Date commences/varied: 12/07/2017



Head of Planning and Building Control Services

Licensing Act 2003

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Premises Licence Summary

Premises Details

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

31-33 John William Street, Huddersfield, West Yorkshire, HD1 1BL.

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- the supply of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
J. Supply of alcohol for consumption OFF the premises only	Monday to Saturday Sunday		

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Saturday	9:00am	11:00pm
Sunday	9:00am	10:00pm

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

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

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Atar Mohammed Raza

43 Macauley Road, Huddersfield, West Yorkshire, HD2 2US.

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

Atar Mohammed RAZA

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

Licensing Act 2003

Premises Licence Summary

PR(A)1454

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

As per Licensing Act 2003

Any conditions applicable to these premises are attached to the Licence

Date granted: 05/10/2013

Date commences/varied: 12/07/2017



Head of Planning and Building Control Services

Our Ref: IJA/IJA/505310.Raza
 Your Ref: 141283
 Please ask for: Ian Anderson
 Date: 11 September 2017



ison harrison

Kirklees Council
 Licensing Department

By Email To: licensing@kirklees.gov.uk

Dear Sirs

**Our Client Atar Mohammed Raza – Wisla Supermarket
 Review of Premises Licence / Certificate Application Number 141283**

We write in respect of the above. We have been instructed by Atar Mohammed Raza, the Designated Premises Supervisor and Licence Holder for Wisla Supermarket, situated at 31-33 John William Street, Huddersfield, HD1 1BL.

The DPS was served with a Section 51 Notice which expires on 18 September 2017. We have been requested to make the following representations on behalf of the DPS:

1. On 5 June 2017 Mr Mohammed Raza (hereinafter our client) purchased the lease for Wisla supermarket. He paid £7,000 for the lease, stock and some fittings (shelving). Since that day he has been involved in the business, but prior to 5 June 2017 he had no involvement in the business in any way
2. Our client became a DPS for Wisla Supermarket on 12 July 2017
3. As such, at the time of the inspection by Trading Standards and West Yorkshire Police our client had the lessee for the premises for a little over six weeks and had been the DPS for 10 days
4. Our client was unaware of the allegedly non-duty paid cigarettes said to be at the premises on 22 July
5. It is submitted that the considerable value and quantity of non-duty paid cigarettes at the premises suggests that the person(s) responsible for the purchase and supply of the same have been involved in supplying non-duty paid cigarettes for some considerable time
6. Our client employed an individual by the name of Bahman Mohammed Hoseini to work as a sales assistant at Wisla Supermarket

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7. Mr Hoseini had previously held a sales assistant role at Wisla Supermarket. Mr Hoseini approached our client to ask if he could continue in that role and our client agreed to that proposition
8. Mr Hoseini has admitted to our client that it is he (Hoseini) who was responsible for obtaining the non-duty paid cigarettes and for secreting them at the premises. Mr Hoseini's full details have been provided to the police / Trading Standards and can be provided on request
9. Our client states that the cash found at the premises has been generated in the proper course of business. Our client can account for the turnover of the business by reference to his till-roll and his expenditure by reference to invoices. Our client has proof of his purchases of duty paid cigarettes from a reputable business (Buca). Our client will state that the sum seized was due to be used to be pay for rent, wages, suppliers and business rates
10. It is of relevance, we say, that the cash was being stored in the safe at the premises, but the allegedly contraband cigarettes were not. Mr Hoseini did not have access to the safe.
11. Our client employs an accountant by the name of Abdul Mullick from West Yorkshire Accountancy Services, a long-established accountancy practice in Huddersfield. Mr Mullick is willing to assist in providing financial documentation if required
12. Our client has dismissed Mr Hoseini and will not contest the forfeiture and destruction of the cigarettes should they be proven to be non-duty paid. Our client has assisted the police and Trading Standards in their enquiry and continues to do so. Our client has not been charged with any offence and it is not anticipated that he will be
13. Whilst it cannot be said that the premises has had an entirely trouble-free existence, we submit that it should be borne in mind that none of the previous breaches or incidents can be attributed to our client. Our client has no connection whatsoever with Mr Habeb or those who preceded him
14. It is submitted that the assertion put forward by Mr Woodhead on behalf the police that "it would not be long before illegal non-duty paid alcohol, our even counterfeit alcohol would be available from the shop" is speculative in the extreme and is not a proper ground for review. There is no evidence to suggest that any such action would follow from the circumstances which took place
15. The reference by Woodhead on behalf of the Police to a conviction for a relevant offence for possession and sale of tobacco products is misleading. It is misleading as at the present time our client has not been convicted of any such offence. In fact, our client has yet to be *charged* with any relevant offence
16. The Statement of David Clutterbrook dated 5 November 2014 and the Application for Review at Appendix 4 from August 2011 are otiose and no evidential weight should be attached to the documentation. Our client cannot usefully comment on evidence which does not concern him or his activities in any way and in respect of which he is not in a position to respond or rebut. It is submitted that the evidence from 2011 is prejudicial and of no probative value in this particular case
17. It is submitted that for the reasons above the premises licence should not be revoked. Revocation is the most serious step, and should be reserved for the most serious breach of the regulations. Given the length of time which our client had been involved in the business, it is submitted that the only logical conclusion which can be drawn is that he is not directly responsible for the breach.

18. It is suggested that perhaps the proper course of action, given that our client is new to the industry, is for him to undertake further training and for the local authority to remind him of his responsibilities

We ask that the representations above are considered by the licensing authority. We have forwarded a copy of the above to the Police.

Ian Anderson
ISON HARRISON SOLICITORS

Form of Authority

I, ATAR RAZA, DOB [REDACTED] OF
 31-33 JOHN WILLIAM ST HEREBY AUTHORISE IAN
 ANDERSON SOLICITORS OF 54 WELLINGTON STREET,
 LEEDS, LS1 2EE TO TAKE OVER CONDUCT OF MY
 CASE BEFORE THE HUDDERSFIELD P/S AND IN RESPECT
 OF THE LICENSING AND TRADING STANDARDS INVESTIGATIONS.

PLEASE FORWARD MY FILE OF PAPERS TO:

IAN ANDERSON
 IAN ANDERSON SOLICITORS
 DAVE MUSE
 54 WELLINGTON ST
 LEEDS
 LS1 2EE

SIGNED

DATED 6/9/17