

AGENDA FOR

LICENSING HEARING SUB COMMITTEE



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To: All Members of Licensing Hearing Sub Committee

Councillors : G McGill (Chair), G Marsden and M Walsh

Dear Member/Colleague

Licensing Hearing Sub Committee

You are invited to attend a meeting of the Licensing Hearing Sub Committee which will be held as follows:-

Date:	Thursday, 11 April 2024
Place:	Virtual meeting via Microsoft Teams
Time:	10.00 am
Briefing Facilities:	If Opposition Members and Co-opted Members require briefing on any particular item on the Agenda, the appropriate Director/Senior Officer originating the related report should be contacted.
Notes:	To view the virtual meeting online, please email m.cunliffe@bury.gov.uk or phone 0161 2535399 who will provide you with a link to view the meeting via MS Teams or telephone you into meeting with the option of audio only.

AGENDA

1 APOLOGIES FOR ABSENCE

2 DECLARATIONS OF INTEREST

Members of the Licensing Hearing Sub Committee are asked to consider whether they have an interest in any matter on the agenda, and, if so, to formally declare that interest.

3 MINUTES OF THE LAST MEETING *(Pages 3 - 10)*

The Minutes of the last Licensing Hearing Sub Committee meeting held at 1.00pm on the 26th March 2024 are attached.

4 AN APPLICATION FROM AN RESPONSIBLE AUTHORITY FOR A REVIEW OF THE PREMISES LICENCE UNDER THE LICENSING ACT 2003 IN RESPECT OF THE OFF LICENCE, 146 TOTTINGTON ROAD, BURY, BL8 1RU *(Pages 11 - 36)*

A report from the Executive Director (Operations) is attached:-

Minutes of: LICENSING HEARING SUB COMMITTEE

Date of Meeting: 26 March 2024

Present: Councillor G McGill (in the Chair)
Councillors G Marsden and M Walsh

Also in attendance: M. Cunliffe (Democratic Services)
L. Jones (Licensing Unit)
C. Riley (Legal Services)
B. Thomson (Assistant Director- Operations Strategy)

PC P. Eccleston (Greater Manchester Police)
I. Oldman (Press)

Public Attendance: The Hearing was held virtually and interested members of the public were provided with a link to access the hearing online via Microsoft Teams or could be telephoned into the meeting via audio only. No members of the public were in virtual attendance.

1 APOLOGIES FOR ABSENCE

Apologies were submitted by M Bridge, (Licensing Unit Manager) and Mr M Shafqat (premises Licence Holder & DPS).

2 DECLARATIONS OF INTEREST

There were no declarations of interest submitted.

3 MINUTES OF THE LAST MEETING(S)

The Minutes of the last Licensing Hearing Sub Committee meetings held at 10.00am on the 29th January 2024, 10.00am on the 2nd February 2024 and 1.00pm on the 18th March 2024 were attached to the agenda.

Resolved:- That the minutes of the Licensing Hearing Sub Committee held at 10.00am on the 29th January 2024, 10.00am on the 2nd February 2024 and 1.00pm on the 18th March 2024 be approved as a correct record.

4 AN APPLICATION FROM GREATER MANCHESTER POLICE FOR A SUMMARY REVIEW OF THE PREMISES LICENCE IN RESPECT OF METRO OFF LICENCE, 66 SPRING LANE, RADCLIFFE, M26 2SZ

The Licensing Authority received an application by the Chief Constable of Greater Manchester Police in respect of the licensed premises, Metro Off Licence, 66 Spring Lane, Radcliffe, M26 2SZ, for a Summary Review of the Premises Licence and for interim steps to be taken in advance of that review in accordance with Sections 53A to 53C of the Licensing Act. The reason for the application was because the police believe that the premises are associated with serious crime.

The nature of the application and consideration of options was detailed in the report which was presented to the Members of the Sub-Committee by the Deputy Licensing Unit Officer, Ms L. Jones.

The options available were:

- To modify the conditions of the licence
- To exclude the retail sale of alcohol from the licence
- To remove the Designated Premises Supervisor from the licence
- To suspend the licence.

ATTENTION WAS DRAWN TO BACKGROUND PAPERS WHICH INCLUDED:

Current Premises Licence

Section 53A application, Certificate and supporting evidence

Bury Council's Licensing Policy

Guidance issued under Section 182 of the Licensing Act 2003

Licensing Act (Hearings) Regulations 2005

Clarity was also provided that the address of the premises was 66 Spring Lane and not 66 Stand Lane as detailed on page 32 of agenda pack within the background information section.

On the 22nd March 2024, Greater Manchester Police submitted an application to the Licensing Authority for a Summary Review in respect of Metro Off Licence, 66 Spring Lane, Radcliffe, M26 2SZ, because they believed that the premises was associated with Serious Crime. The Licensing Authority must consider whether interim steps are required pending a full summary review hearing.

Summary reviews can be undertaken when the police consider that the premises concerned are associated with serious crime or serious disorder (or both). The summary review process allows interim conditions to be quickly attached to a licence and a fast-track licence review.

A 10 working-day public consultation exercise will be undertaken in accordance with Licensing Act 2003 regulations; requiring the application to be advertised by the displaying of a blue notice at or on the premises and details of the application published on the Council's website.

Under section 53C of the Licensing Act 2003, the licensing authority must hold a full review of the premises licence and determine the review within 28 days after the day of receipt of the application.

Following the review under section 53C, the licensing authority must then review any interim steps in place and determine whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn.

The premises licence in respect of Metro Off Licence has been held by Mr Mohammad Shafqat since the 3rd October 2022. Mr Shafqat is also the Designated Premises Supervisor and has been since the 23rd December 2022.

The Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006) and the Licensing Act (Hearings Regulations) is the relevant legislation.

Within 48 hours of receiving a summary review application, under s53B of the Licensing Act 2003 the licensing authority must consider whether it is necessary to take interim steps pending the review of the licence for the promotion of the licensing objectives.

The Local Authority is required to consider what interim steps should be imposed for the promotion of the licensing objectives and what the steps should be. Any such measures and the reasons for them must be immediately notified to the premises licence holder.

The Panel will make a decision in relation to interim steps on the day of the hearing and the parties will be verbally notified of that decision. That decision will have immediate effect unless otherwise provided for by the Panel. The parties will also receive written notification of that decision, together with the reasons for it, by letter from the Licensing Office as soon as reasonably practicable following the hearing.

The Chief Superintendent had issued a certificate under section 53A (1)(b) of the Licensing Act 2003 in which he stated the following:-
The premises are associated with serious crime.

Attached to the agenda packs at Appendix 1 was the Application by Greater Manchester Police for the Summary Review. Appendix 2 was the Certificate issued by the Chief Superintendent respectively.

The Premises Licence was attached to the agenda pack at Appendix 3 and showed the current licensable activities and conditions.

In determining whether or not to impose interim steps, pending the summary review of the premises licence which must be held within 28 days from the date of the application being received, members must consider the information presented in relation to serious crime and or serious disorder. If members decide to impose interim steps, the following options are available to the Licensing Authority:

- a. To modify the Conditions attached to the licence
- b. The exclusion of the sale of alcohol from the scope of the licence.
- c. The removal of the Designated Premises Supervisor from the licence.
- d. Suspension of the premises licence

For the purposes of option a, the conditions of a premises licence are modified if any of them are altered or omitted or any new condition is added.

The Secretary of State's Guidance to the Licensing Act 2003 is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key

medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.

Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. The Guidance is therefore binding on all licensing authorities to that extent. However, the Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons.

Departure from the Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.

PC P. Eccleston from Greater Manchester Police provided a summary of the application for a review at the meeting, which was contained at Appendix 1 of the agenda pack.

He explained on Thursday the 29th February 2024, a test purchase was carried out at the above licensed premises which had been organised by Bury Council Trading Standards Department. A successful purchase was made of a pack of 20 Lambert and Butler cigarettes in none standardised packaging for £7 as such it did not comply with the Tobacco and Related Products Regulations 2016.

As a result of the test purchase, at 15:50 hours on Thursday 21st March 2024, Kelly Halligan (Bury Council Trading Standards Unit Manager), Laura Jones (Bury Council Deputy Licensing Officer), Lucy Sutton (Dog Handler from DC Detection Dogs), Immigration Officers and I, attended the above address as part of Greater Manchester Police's day of action, Operation Avro.

On entering the premises, we were greeted by a male member of staff who introduced himself as Adrees Masood. Mr Masood was behind the serving counter at the time and claimed that he was only helping out at the shop. Whilst looking around the store, the dog and handler, went behind the counter and x4 packets of 20 Lambert and Butler cigarettes which were in the same, none standardised packaging as the packet recovered during the test purchase were found. Also found under the counter was a large machete with a blade over 12 inches in length and a hockey stick. As the search continued, 49 disposable vapes which exceeded the maximum capacity and therefore contravened the Tobacco and Related Product Regulations 2016 were also recovered. The cigarettes and the disposable vapes were seized by Kelly Halligan who has provided her own statement and photographs of the machete and hockey stick at appendix A.

There is no legitimate reason as to why a machete or hockey stick would be kept on any licensed premises, other than to cause serious harm to someone in the event of a robbery or other similar theft related incident. Considering this premise is open to members of the public, it is illegal to have such items under Section 1 of the Prevention of Crime Act 1953 (possession of an offensive weapon). As such, I seized

the items as exhibits PE/1 and PE/2 respectively and a picture of the items have been included in appendix B.

Although no other items were recovered as evidence, we did find copies of the lease agreement for the premises which named two other individuals which had signed the agreement. The third named person was Mr Masood however there was no signature next to his details. He was asked numerous questions in relation to his involvement in the business and he continued to claim that he had nothing to do with and had only been working in the store over the last couple of weeks as a shop assistant.

At the time, there was some confusion as to who the premises license holder and designated premises supervisor were as the business was had recently been bought and was under new management. As such further enquiries were made by Laura Jones from Bury Council Licensing Department who was able to make contact with the named PLH and DPS, Mr Shafqat later that day. He claimed that he sold the business on the 1st November 2023 to a Qasim (no further details provided) and as far as he was concerned, has had nothing more to do with the business since. This conversation was confirmed via email which has been included at appendix C.

Due to the email received from Mr Shafqat, I returned to the premises in company with Bury Council Licensing Enforcement Officer, Luke Solczak on the following day, Friday 22nd March 2024. We spoke to a different member of staff stood behind the counter who introduced himself as Bardh Patel. He insisted that we spoke to his 'boss' and so rang him on his mobile phone and both I and Luke were able to have a conversation via the loudspeaker facility. The male we spoke to introduced himself as the owner of the business and provided his personal details, introducing himself as Mohammed Quasim Khan. We explained that because of the email from Mr Shafqat, there was no DPS in place to authorise the sale of alcohol and therefore was in breach of the Licensing Act and as such was required to either remove the alcohol from the store or close the business until such time the premises license could be transfer and a new DPS be nominated. At the time the request was complied with, and he informed us both that he would be in touch with the previous DPS, Mr Shafqat to see if he would reconsider.

I also took the opportunity to ask him questions in relation the machete which was found under the counter. He claimed that the machete had been taken off someone who attempted to rob the shop early in the previous week. He claimed that a report had been made to the police and police had attended to collect CCTV which had captured the individuals responsible but not them entering with the machete or being confronted and having the machete taken from them. What I do find extraordinary about Mr Khans account is the CCTV's ability to capture those responsible but not the machete or the confrontation as the machete is being removed from those that have entered. Furthermore, and what is even more suspicious, is the claim that police had been contacted and had been to the store to recover CCTV, yet the machete was never handed over the police and on checking police computer systems, there is no record of a report being made to Greater Manchester Police. In fact, the last reported incident to the police which involved the premises directly was on the 20th October 2023, which was in relation to a robbery.

Since the conversation with Mr Khan, a further email has been received by Bury Council Licensing Department from Mr Shafqat, asking to be reinstated as DPS at the premises. This email has been included at appendix D.

It is my opinion that an expedited review of the premises licence is necessary to allow the licence authority to impose interim steps not only for the safety of the staff but also members of the public. It is quite clear for all to see, that they are unable to run the business within the limits of the relevant laws and legislation. Having a lethal weapon on the premises plus offering for sale illicit tobacco products is not in any way promoting the licensing objectives and it is for those reasons that as a delegated licensing officer acting on behalf of the Chief Officer, I am requesting the panel to seriously consider the DPS be removed from the license and the premises license be suspended until such time a full review hearing can be heard due to the likelihood that the licensing objectives will continue to be undermined.

PC Eccleston highlighted Appendix A and B in the agenda pack which detailed photographs taken from within the premises of the weapons found and a statement from Trading Standards.

Members questioned PC Eccleston if the CCTV system was working and was there a refusal log. It was confirmed the CCTV was working and the till system had a button to record refusal sales.

The Chair sought clarity on how rare it would be for a crime reported to them not be recorded. GMP had searched their records and even checked with the Neighbourhood Crime Team, but no such incident had been recorded at the premises as alleged.

The Chair confirmed that the Premises Licence Holder and DPS Mr Shafqat was not present at the meeting and had submitted no representations.

The Sub-Committee then duly retired to consider the matter and all of the information provided.

The Members of the Sub-Committee were advised by the Legal Adviser as to their duties under Section 4 of the Licensing Act 2003 to at all times consider the promotion of the Licensing Objectives, these being:

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

The Members were also advised of their duties in carrying out those functions in relation to relevant provisions of national guidance and the Council's licensing policy statement.

In addition, Members were advised to give appropriate weight to the steps that are appropriate to promote the licensing objectives and the representations presented at the meeting.

DELEGATED DECISION

The Sub-Committee carefully considered the representations and evidence provided which demonstrated serious crime. It was therefore unanimously decided to **remove the Designated Premises Supervisor from the licence** and to **suspend the licence** in order to promote the licensing objectives.

The Sub-Committee was therefore satisfied that there was sufficient evidence to mean interim steps were necessary to remove the Designated Premises Supervisor from the licence and to suspend the licence under the licensing objectives recommended by GMP:-

The evidence presented at the meeting had demonstrated the following licensing objectives had not been met:-

- The prevention of crime and disorder
- Public safety
- The protection of children from harm

The reasons by the sub-committee, included:-

- 2 dangerous weapons found under the counter
- Accounts of an alleged incident provided by the Licence Holder in relation to the weapons being present were not believable.

It was noted that other factors of concern could be dealt with and finalised at the full review hearing.

COUNCILLOR G MCGILL
Chair

(Note: The meeting started at 1.00pm and ended at 1.48pm)

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	Classification Open / Closed	Item No.
Meeting:	Licensing Hearings Sub-Committee	
Meeting date:	11 April 2024	
Title of report:	AN APPLICATION FROM AN RESPONSIBLE AUTHORITY FOR A REVIEW OF THE PREMISES LICENCE UNDER THE LICENSING ACT 2003 IN RESPECT OF THE OFF LICENCE, 146 TOTTINGTON ROAD, BURY, BL8 1RU	
Report by:	Executive Director (Operations)	
Decision Type:	Council	
Ward(s) to which report relates	Elton	

Executive Summary:

This report relates to an application pursuant to section 51 of the Licensing Act 2003 from a Responsible Authority for a review of the premises licence in respect of the Off Licence, 146 Tottington Road, Bury, BL8 1RU.

Recommendation(s)

That:

- To revoke the licence
- To suspend the licence for a period not exceeding three months
- To remove the Designated Premises Supervisor
- To exclude a licensable activity from the scope of the licence
- To modify the conditions of the licence

1.0 BACKGROUND

1.1 The Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations are the relevant legislation.

- 1.2 The Panel will make a decision on the day of the hearing and the parties will be notified subsequently of the decision and the reasons for it by letter from the Licensing Office.
- 1.3 At the time of the submission of this review application on the 14 February 2024, the Premises Licence in respect of the Off Licence, 146 Tottington Road, Bury, BL8 1RU is held by Ms Guljeet Kaur, 68a Commercial Road, Newport, South Wales, NP202PF. Mr Surbir Singh Bhatia 15 Gilnow Gardens, Bolton, BL1 4LG is the Designated Premises Supervisor (DPS).

2.0 PROCEDURE

- 2.1 The Responsible Authority has complied with all the necessary procedural requirements laid down by the Act.
- 2.2 As part of the statutory process the Responsible Bodies and interested parties are entitled to make representations in relation to the review of a licence. The Licensing Authority has given Notice of the application by placing a Notice on the premises, at the Council Offices and on the Council web site. Where further representations are made by either the Responsible Authorities or from local residents / businesses and not withdrawn, Members are required to determine them.
- 2.3 Representations must be relevant to the licensing objectives defined within the Act. The objectives are: -
- a) the prevention of crime and disorder
 - b) public safety
 - c) prevention of public nuisance and
 - d) protection of children from harm

3.0 CURRENT LICENSABLE ACTIVITIES

- 3.1 The current licensable activities are as follows:

a. The Supply of alcohol – For consumption off the premises:

Monday to Sunday 08.00 to 22.00

b. Opening Hours

Monday to Sunday 07.00 to 22.00

4.0 CURRENT CONDITIONS ATTACHED TO THE PREMISES LICENCE:

- 4.1 The conditions, consistent with the premises operating schedule are attached to the current premises licence are attached at appendix 6:

5.0 REPRESENTATIONS FROM RESPONSIBLE AUTHORITY

- 5.1 The Trading Standards Service will shortly expand upon the reason(s) for their application to review the Premises Licence in relation to these premises. The representation is attached at appendix 1 which contains a further 5 Appendices. The appendices are marked 2 to 5 respectively.

6.0 REPRESENTATIONS FROM RESPONSIBLE AUTHORITY

6.1 The Licensing Authority will shortly expand upon the reason(s) for their representation in relation to these premises. The representation is attached at appendix 6.

7.0 REPRESENTATIONS FROM RESPONSIBLE AUTHORITY

7.1 Greater Manchester Police will shortly expand upon the reason(s) for their representation in relation to these premises. The representation is attached at appendix 6.

8.0 SECTION 182 LICENSING ACT GUIDANCE (December 2023)

Section 3.7 states the following:-

From 1 April 2017, businesses which sell alcohol (for example, retailers of alcohol and trade buyers) will need to ensure that the UK wholesalers that they buy alcohol from have been approved by HMRC under the Alcohol Wholesaler Registration Scheme(AWRS). They will need to check their wholesalers Unique Registration Number (URN) against the HMRC online database. This is an ongoing obligation and if a business is found to have bought alcohol from an unapproved wholesaler, they may be liable to a penalty or could even face criminal prosecution and their alcohol stock may be seized.

Any trader who buys alcohol from a wholesaler for onward sale to the general public (known as a 'trade buyer') does not need to register unless they sell alcohol to other businesses. Examples of trade buyers would be pubs, clubs, restaurants, cafes, retailers and hotels. However, they will need to check that the wholesaler they purchase alcohol from is registered with HMRC. Further information may be found at:

<https://www.gov.uk/guidance/the-alcohol-wholesaler-registration-scheme-awrs>

Section 10.2 states the following:-

Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. Failure to comply with any condition attached to a licence or certificate is a criminal offence, which on conviction is punishable by an unlimited fine or up to six months' imprisonment. The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided.

Section 11.24 states the following:-

A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of

firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

Section 11.26 states the following: -

Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.

Section 11.27 states the following: -

There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale or storage of smuggled tobacco and alcohol.

Section 11.28 states the following: -

It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

9.0 OBSERVATIONS

- 9.1 After hearing the representations made and the evidence presented, Members are obliged to determine the application with a view to promoting the licensing objectives and having regard to the Authority's Licensing Policy and National Guidance.

Community impact/links with Community Strategy

Not Applicable

Equality Impact and considerations:

Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

The public sector equality duty requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.

Equality Analysis	<i>Please provide a written explanation of the outcome(s) of either conducting an initial or full EA.</i>
<i>The Licensing Service have considered the Equality Act 2010 and due to each application being dealt with on its own merits there is no positive or negative on any of the protected characteristics.</i>	

Assessment of Risk:

The following risks apply to the decision:

Risk / opportunity	Mitigation
There are no specific issues from the report other than potential costs/risks associated with legal appeals.	

Consultation:

Not Applicable

Legal Implications:

Yes, under the legislation the Council is required to determine representations. The report is in accordance with the appropriate legislation.

Financial Implications:

The cost of the licensing function are funded through the fees and charges levied by the Council. There may be additional costs if appeals are lodged with the Magistrates and Crown Courts.

Report Author and Contact Details:

For further information on the details of this report, please contact:

Mr M Bridge
Licensing Office
Town Hall
Bury
Telephone No: 0161 253 5209
Email: m.bridge@bury.gov.uk

Background papers:

List of Background Papers: -
Application form
Representation received

Please include a glossary of terms, abbreviations and acronyms used in this report.

Term	Meaning

Appendix One

**Review application for Off
Licence, 146 Tottington Road,
Bury, BL8 1RU**

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 Kelly Halligan

 (Insert name of applicant)

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 (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
Off Licence, 146 Tottington Road,	
Post town Bury	Post code (if known) BL81RU

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

Number of premises licence or club premises certificate (if known) PL1004

Part 2 - Applicant details

I am

Please tick ✓ yes

- 1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)
- 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 (fill in as applicable)

Please tick ✓ yes

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Kelly Halligan Unit Manger – Trading Standards Licensing – Bury Council 3 Knowsley Place Duke Street Bury BL9 0EJ
Telephone number (if any) 0161 253 5901
E-mail address (optional) k.j.halligan@bury.gov.uk

This application to review relates to the following licensing objective(s)

- | | |
|---|---------------------------------------|
| | Please tick one or more boxes ✓ |
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> X |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> X |

Please state the ground(s) for review (please read guidance note 2)

The prevention of crime and disorder

- Illicit cigarettes and illegal vapes on the premises.

The protection of children from harm

- complaints about selling to children
- (close proximity to a children's home)

More information on the above is provided in the section below.

The possession of non-duty paid tobacco is an offence contrary to Section 144 of the Licensing Act 2003. The maximum penalty for this offence is a fine of £1000. The possession of counterfeit tobacco and counterfeit cigarettes is a criminal offence under Section 92 of the Trade Marks Act 1994. Each item found is a separate offence, and the penalty for this offence is fine of up to £5000 or imprisonment. the possession of oversized, nicotine inhaling products is an offence under the Tobacco and Related Product Regulations 2016, and carries a penalty of on summary conviction to imprisonment for a term not exceeding three months, or a fine or both, or on indictment to imprisonment for a term not exceeding 2 years, or a fine, or both.

Please provide as much information as possible to support the application (please read guidance note 3)

Off licence, 146 Tottington Road, Bury, BL81RU, is also known as Tottington Off Licence and Convenience, Best One and Sid's. The premises licence holder is Guljeet Kaur and the DPS is Surbir Singh Bhatia. The business is actually a limited Company called Rumney Value Food & wine Ltd, company number 11412837, the directors are Guljeet Kaur, who was a director from 13/6/18 to 1/4/23, and lives in Newport in Wales, Daljeet Singh Arorra, from 1/7/19 to 1/4/23, also resides in Newport in Wales, and Surbir Singh Bhatia, director from 1/1/22 who resides in Bolton.

Rumney Value Food & Wine Ltd is liable for the business rates for the Ground Floor, 146 Tottington Road, Bury BL8 1RU from 25/04/2019 to date.

Mrs Guljeet Kaur has been the Premises Licence Holder since June 2019, and Mr Subir Bhatia has been the DPS since June 2019.

On the 2nd July 2019, as a result of a complaint received, we visited the premises known as Tottington Off Licence with GMP and Licensing, and seized 117 blunts, 40 cyclones, 460 cigarettes and 100g of hand rolling tobacco, all of which didn't comply with the relevant legislation. We also advised on underage sales whilst at the premises. As this was a new Premises Licence, and our first contact with the trader we decided to issue a warning letter and have all items signed over to this authority. On 8 July 2019 I attended a meeting with the DPS and Laura Jones from Licensing regarding the visit on 2 July. The DPS was given a warning letter by myself to give to the owner and premises licence holder, and Laura Jones provided him with Challenge 21 signage for the shop. Mrs Kaur returned the letter signing the items over on the 29th July 2019.

In December 2021 a complaint was received that Sid's was selling illicit tobacco. As a result of this complaint and as part of a day of action, Sid's 146 Tottington road was visited on the 23/3/22, also on the visit was Greater Manchester Police and we also had the assistance of the tobacco dog, provided by Wagtail. Whilst on the premises, we found illicit tobacco hidden in the printer, and more illicit tobacco and counterfeit Viagra hidden with the crisps. We seized 59 packets of cigarettes and 12 packets of hand rolling tobacco, and 42 Viagra tablets. The cigarettes and tobacco have been examined and confirmed as either counterfeit or not for the UK market. The DPS told us that he sold them, but then he quickly said that he gives them to a friend, but stated he doesn't know where they came from.

At the beginning of August 2022, a further complaint was received that the shop was selling nitrous oxide to children. On the 17th August 2022 with colleagues from Licensing and Greater Manchester Police, another visit was carried out to the premises. Found and seized was 226x 3500 puff vapes and 15 x 7000 puff vapes, and 2x 20 B&H cigarettes. The cigarettes were sent off and confirmed as being counterfeit. The vapes were examined and confirmed not to comply with the Tobacco and Related Product Regulations 2016 due to exceeding maximum capacity permitted.

On the 6th October 2022, a further complaint was received alleging the shop was selling counterfeit vapes. The person who purchased the item had been hospitalised and had confirmed with the manufacturer that it wasn't a genuine item.

On the 20th March 2023 a further complaint was made that the shop was selling illegal cigarettes, alcohol, drugs to young people, and the shop was also selling balloons (nitrous oxide).

On the 23rd March 2023, the DPS, PL holder and Directors of the business were interviewed under caution at the Trading Standards Offices. Mrs Guljeet Kaur was interviewed first, she confirmed she was a director of the business as well as the Premises Licence holder, she also confirmed she lived in Newport and doesn't visit the shop very often she left the day to day running to her brother who was also a director Surbir Bhatia. She had no idea what the registered office address was or where it was, she said all director issues are dealt with by her husband. She had no idea about the stock, where it came from or who it was sold to, she knew nothing of the employees, and didn't visit the shop or have anything to do with the day to day running of the business. We suggested that she transferred the premises licence to her brother which she said she would do, but stated that it hadn't happened as he hadn't finished paying for the purchase of the business, to date that hasn't happened.

Next, we interviewed Mr Daljeet Arorra, husband of Guljeet Kaur, also a director of the business. He admitted to being a director and stated that the lease for the premises was in his personal name. Again, he lives in Newport, so has no day today running of the business and leaves it all to Mr Bhatia, as he runs his own shop in Newport. He is not involved with the staff, the buying of stock, and is not involved with the books, his accountant does them. Neither he or his wife had any idea or knew of the items we had seized, where they had come from and or who bought them, as they do not visit the premises.

Finally, we interviewed Mr Bhatia, who is the DPS and has been a director since the 1/1/22 (so a directing mind for all 3 seizures). He gave a completely different address in interview to the one on the licence, so he was advised to get that changed. He stated he bought the infringing products off a man who came into the shop, who he has not got any details of. He said he was responsible for the day to day running, but he didn't know why the tobacco was hidden. He was asked about the licensing objectives, but he didn't know what they were.

On the 20th April 2023 as part of Operation Avro, the premises was visited again, with colleagues from GMP, Licensing, immigration, and Wagtail. Seized were 5 illicit vapes, 50g of hand rolling tobacco and 80 cigarettes, and a stripe of blue tablets (Viagra). The vapes exceeded maximum capacity and therefore didn't comply with the Tobacco and Related Product Regulations, the cigarettes and tobacco have been confirmed as either counterfeit or not for the UK market.

I produce as appendixes the following –

1. The details of the company
2. Typed transcript of interview with Guljeet Kaur
3. Typed transcript of interview with Daljeet Arorra
4. Typed transcript of interview with Surbir Bhatia
5. Witness statements from the Trade Mark holders

In section 11 of the Statutory guidance made under section 182 of the Licensing Act, it talks about certain criminal activity which should be treated as particularly serious. One of the items listed is the use of premises for the sale or storage of smuggled tobacco. Smuggled would include in this context, not duty paid, counterfeit and other grey market tobacco. These types of products have been found on the premises on 3 occasions.

Despite the number of visits to this premises and advice given on those visits to stop selling the illicit items, product was found again on a 3rd visit after all three responsible parties had been interviewed, showing that the people responsible are not listening to the advice being given. This premise has the business rates paid by a limited company Rumney Value Food & Wine Ltd, when the first 2 visits occurred all the people interviewed were directors. On the 1st April 2023, Daljeet Arorra and Guljeet Kaur both resigned as directors leaving Subir Bhatia to be the only director on the 3rd visit to the premises. To complicate matters further, Mr Bhatia is the DPS and Mrs Kaur the PL, despite at interview us asking her to change this as she has nothing to do with this business and lives and works in Newport in Wales. I would recommend due to the issues with this business and their lack of listening to advice, and the fact that the premises licence holder has nothing to do with the business, that the licence is revoked. If the panel is minded not to revoke the licence, then I would ask that the DPS is removed as he has been the one responsible for the day to day running on the 3 visits we have made, and I would also ask for the following conditions to safeguard for future events.

The conditions I would ask for are as follows.

The Prevention of Crime and Disorder

- A Personal Licence holder must be on the premises at all times when open to the public.

Or

A Personal Licence holder must be on the premises on Thursday, Friday and Saturday between 15.00 hrs and close of business and have a personal licence on their person which can be produced on request by police / authorised officers of the Licensing Authority.

- Staff training shall take place on the Licensing Act and Licensing objectives every six months and a written record of this training to be maintained and made available to the police and any authorised officer of the Council for inspection on request.

Protection of Children from Harm

- The premises will operate a “Challenge 25” proof of age policy and signage to this effect is to be prominently displayed within the premises. Persons who appear to be under the age of 25 must produce for thorough scrutiny by staff, proof of identity/age before being sold / supplied alcohol. Only a passport or photo-card driving licence should be accepted as proof of age.

A documented Challenge 25 scheme will be operated at the premises. The Challenge 25 scheme shall be actively promoted and advertised at the premises and will ensure that any person purchasing alcohol, who appears to be under 25 years of age, shall be asked to provide acceptable identification to prove that they are 18 years of age or over. Failure to supply such identification will result in no sale or supply of alcohol to that person.

Where a purchaser is asked for Identification, only the following forms of identification will be acceptable:-

- (a) Photo driving licence
- (b) Passport or
- (c) Her Majesty’s Forces Warrant Card

- The premises is to maintain a refusals book to record the details of incidents / descriptions of individuals whenever a member of staff has refused to sell alcohol to a person suspected of being under the age of 18. The book must be made available to the police / authorised officers of the Licensing Authority on request.
- All individual alcohol containers (e.g. bottles/cans/cartons) before going on display for sale are to be uniquely and indelibly marked in a manner approved by the Greater Manchester Police and Bury Council.

Please tick ✓ yes

Have you made an application for review relating to the premises before

If yes please state the date of that application

Day	Month	Year

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

No

Please tick ✓

yes

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

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant’s solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**



Signature

.....

Date

.....13/2/24.....

...

Capacity Trading Standards – Unit Manger

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Data Protection agreement

In this form, we may ask for some personal information (such as name, address, date of birth, etc.) in order to fulfil your request for information or services.

This information will be held securely and will be used to provide you with the service you have requested.

Any processing will be performed in line with the requirements of the Data Protection Act 2018 and the General Data Protection Regulation.

Bury Council is the Data Controller for the information you give us. Further details about how we process personal data can be found in our privacy notice at:

<https://www.bury.gov.uk/privacy>

Consent

I consent to the Council capturing and storing the personal details in this form for providing the service requested. I understand that I can request for my details to be removed from your records



Signed Applicant _

Date ___13/2/24___

Notes for Guidance

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

Privacy Policy

Please visit www.bury.gov.uk/privacy to read our recently updated Privacy Policy which explains how Bury Council uses and shares your personal data to give you the best possible experience across our services.

**Appendices 2 to 5
respectively that
accompany the Review
Application from Trading
Standards in their capacity
as a Responsible Authority.**

- Appendix 1 – Company Information
- Appendix 2 – Typed Transcript – Kaur
- Appendix 3– Typed Transcript – Arorra
- Appendix 4– Typed Transcript – Bhatia
- Appendix 5 – Trademark Holders statements

Appendix 6

Conditions contained on the Premises Licence

LICENSING ACT 2003

CONDITIONS ATTACHED TO THE GRANT OF THIS LICENCE

This licence is granted subject to any Mandatory Conditions imposed by the Licensing Act 2003, and conditions volunteered on the application form to be undertaken by the applicant and where necessary, conditions imposed by the Licensing Authority in order to promote the Licensing Objectives.

Mandatory Conditions:

- a No supply of alcohol may be made under the Premises Licence at a time when there is no Designated Premises Supervisor (DPS) in respect of the Premises Licence OR at a time when the Designated Premises Supervisor does not hold a Personal Licence or his/her Personal Licence has been suspended.
- b Every supply of alcohol under the Premises Licence must be made or authorized by a person who holds a Personal Licence.

Mandatory Conditions pursuant to The Licensing Act 2003 Mandatory Licensing Conditions (Amendment) Order 2014

- (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.

Definition:

Responsible person - as defined by section 153 (4) Licensing Act 2003 -

(a) In relation to a licensed premises -

- (i) The holder of a premises licence in relation to a premise
- (ii) The designated premises supervisor (if any) under such a licence.
- (iii) Any individual aged 18 or over who is authorized for the purposes of this section by such a holder or supervisor.

(b) 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 him to prevent the supply in question.

The Licensing Act 2003 (Mandatory Conditions) Order 2014

1. 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.
2. For the purposes of the condition set out in paragraph 1 -
 - (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
 - (b) "permitted price" is the price found by applying the formula-

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

Where-

- (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence-
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) "Value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 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.
 4. Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 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.

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.

Conditions consistent with the Operating Schedule

1. The premises are to operate an effective CCTV system which is to be maintained in good working order at all times the premises is open for business. The recording medium (e.g. discs / tapes / hard drive etc) and associated images are to be retained and securely stored for a minimum period of 28 days and are to be made available to the police / Authorised Officers of the Licensing Authority upon reasonable request in line with data protection.
2. The premises licence holder or designated premises supervisor is to provide the police with the contact details of at least one member of staff (or other person(s) who are trained and familiar with the operation of the equipment so that, at the expense of the premises licence holder, they are able to check that the equipment is operating properly and that they are able to provide copies of recorded data upon request and within no more than 12 hours from the time of the request.
3. The premises licence holder or the Designated Premises Supervisor must notify the licensing office or the Police in the event of CCTV breakdown or malfunction as soon as is reasonably practicable and in any event within 24hrs.
4. On an annual basis the premises licence holder or the DPS is ensure the system has been checked, maintained to any recognised specification and is in working order. An action plan to be agreed to rectify any recorded malfunction or planned alterations.
5. A written record shall be kept every time images are recorded of any incidents by CCTV and shall include details of the recording medium used, the time and date recording commenced and finished. This record shall identify the person responsible for the recording and shall be signed by him / her. Where the recording is on a removable medium (i.e. videotape, compact disc, flash card etc). A secure storage system to store those recording mediums shall be provided.
6. Staff training shall take place on the licensing Act and Licensing objectives when employment commences and / or every six months and a written record of this training to be maintained and made available to the police and any authorised officer of the council for inspection on request.
7. No person in possession of an alcoholic drink in an unsealed container shall be allowed to enter the premises.
8. No alcoholic drink shall be removed from the premises in an unsealed container.
9. The management or DPS/ Licence holder or trusted members of staff must be adequately trained with regard to the full operation of the CCTV system at the premises.

10. Prominent, clear and legible notices must be displayed at all exits requesting that customers respect the needs of the local residents and to leave the premises and area quietly.
11. No refuse shall be disposed of or collected from the premises between the hours of 9pm and 7am daily, where such disposal or collection is likely to cause disturbance to the local residents and community.
12. Management and staff are to use their best endeavours to prevent persons loitering outside the premises and to ensure that persons refused entry or ejected are asked to leave the vicinity of the premises, if it is safe to do so.
13. The premises will operate a "Challenge 21" proof of age policy and signage to this effect is to be prominently displayed within the premises. Persons who appear to be under the age of 21 must produce for thorough scrutiny, proof of identity / age before being sold / supplied alcohol.
14. Only a passport or photo card driving licence or a proof of age card bearing the official "PASS" accreditation hologram should be accepted as proof of age.
15. The premises is to maintain a refusals book to record the details of incidents / descriptions of individuals whenever a member of staff has refused to sell alcohol to a person suspected of being underage of 18. The book must be made available to the police / authorised officers of the Licensing Authority on request.
16. That the following alcoholic drinks be kept behind the counter or in a place where customers do not have direct access to these products without the assistance of a member of staff namely
17. :- All Spirits.
18. The front and rear exterior of the premises are to be kept free of litter. Where the premises provide food for consumption off the premises, the public area immediately surrounding the premises shall be cleared of waste food, food containers, wrapping etc. at the end of trading on each day. Such refuse shall be placed in a container designed for the storage and disposal of refuse and waste foods.

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