

Report of the Assistant Director Corporate Services to a Hearing before the Bradford Area Licensing Panel to be held on 30 March 2009.

P

Subject:

Application for a Review of a Premises Licence for Funkys, 14-18 Ivegate, Bradford.

Summary statement:

Application for review of a Premises Licence authorising the sale of alcohol, the provision of regulated entertainment and the provision of late night refreshment.

Suzan Hemingway
Assistant Director Corporate Services
(City Solicitor)

Report Contact: Melanie McGurk
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Portfolio:

Corporate

Improvement Committee Area:

**Corporate Improvement Committee
Safer and Stronger Communities**



2006-2007
Improving Rural Services
Empowering Communities



INVESTOR IN PEOPLE

Suzan Hemingway, Assistant Director Corporate Services (City Solicitor)



1. **Summary**

1.1 **Premises Licence Holder**

Ronald Derek Greenaway.

1.2 **Designated Premises Supervisor**

Ronald Derek Greenaway

1.3 **The Premises**

Funkys, 14-18 Ivegate, Bradford.

1.4 **The Current Licence**

The premises have a Premises Licence allowing the sale by retail of alcohol for consumption on and off the premises, the provision of regulated entertainment and the provision of late night refreshment (from 23.00).

Hours of licensable activities:

Sunday to Thursday:	11.30 to 02.00
Friday and Saturday:	11.00 to 06.00
Christmas Eve & New Years Eve:	11.00 to 06.00
Non Standard Timings:	11.00 to 06.00

Every statutory Bank Holiday and the Sunday immediately preceding statutory Bank Holiday Monday.

1.4 **Steps agreed in the Operating Schedule by the Licensee to address the Licensing Objectives**

a) Prevention of crime and disorder

All staff shall be trained in appropriate circumstances ways to refuse custom e.g. to those appearing to be already drunk or underage.

b) Public Safety

The licensee shall ensure that glass bottles and glass drinking receptacles are cleared ongoing throughout the opening hours of the premises.

The Licensee shall take all steps necessary in order to ensure that all exits and entrances (including emergency escape routes) are not obstructed by furniture, appliances or for any other reason during licensable activities.

c) Prevention of public nuisance

The Licensee shall maintain working arrangements with local taxi/private hire operators and take reasonable steps to communicate this to patrons in order to ensure orderly booking, arrival and departure of customers in such vehicles.

d) Protection of children from harm

None.

e) General – all four licensing objectives

All first aid facilities shall be maintained in good working order and all staff (including temporary staff) adequately trained in their use.

1.5 **Conditions Attached after Hearing**

Only entertainment in the form of recorded music (for avoidance of doubt this specifically excludes live music, disc jockeys, dancing and karaoke entertainment) shall be allowed before 1800 hours.

Noise from amplified and non-amplified music, singing and speech arising from regulated entertainment at the premises shall not be audible at the nearest noise sensitive premises.

All external doors and windows to the licensed premises where regulated entertainment is being provided shall remain closed during the course of the entertainment, other than for normal access and egress.

No external doors to the licensed premises (including fire doors or patio doors) shall be propped open during the course of the regulated entertainment.

Speakers used to relay amplified music, singing or speech as part of the regulated entertainment shall not be positioned so they are directed out through external doors, windows or similar openings nor shall they be positioned outside the premises.

All amplified music, singing or speech provided as part of the regulated entertainment shall be played through a sound amplification system incorporating a sound-limiting device that has been installed and set to the express satisfaction of the Responsible Authority for Public Nuisance (Environmental Protection, City of Bradford MDC). The sound-limiting device shall be retained and maintained throughout the life of the licence and no alteration to the approved shall be made without the express approval of the Responsible Authority.

All amplified music, singing and speech provided as part of the regulated entertainment shall only be played through the in-house sound amplification system.

Prominent, clear notices shall be displayed at all exits requesting customers and staff to respect the needs of local residents and leave the premises and area quietly.

No customers shall be allowed to drink or carry out glass receptacles or consume hot food outside the premises at any time.

The disposal of waste bottles into external receptacles shall not take place between the hours of 23.00 and 07.00.

No entertainment of an adult or sexual nature shall be allowed at any time.

No under 21's shall be allowed on the premises at any time.

The licensee shall operate a "Check 21" policy at all times and train staff appropriately with regard to implementation.

A minimum of one SIA registered door supervisor shall be employed at the premises from the start of business until 22.00 hours.

A minimum of two SIA registered door supervisors shall be employed at the premises between 22.00 hours and 23.00 hours.

A minimum of three SIA registered door supervisors shall be employed at the premises between 23.00 hours and midnight.

A minimum of six SIA registered door supervisors shall be employed at the premises between midnight and close of business, when the premises are open for licensable activities.

A CCTV system (with satisfactory internal and external coverage) shall be installed at the premises and be maintained in good working order and used at all times the premises remains open to the public for licensable activities. Any CCTV footage shall be kept for at least 28 days and be available to the Licensing Authority or a Responsible Authority on request.

The licensee shall cooperate fully with any Drugswatch and Night Watch initiatives promoted in the City Centre.

West Yorkshire Police shall be notified seven days in advance of any proposed event at the premises which will extend beyond 03.00 hours.

A copy of the Licence is included at Appendix 1.

2. Applications Received asking for a Review of the Licence

2.1 Responsible Authorities

West Yorkshire Police have submitted an application for review due to concerns over breaches of the Operating Schedule. Condition 3, states all doorstaff shall be licensed with the Security Industry Authority. However a recent check revealed that an unregistered male was working as a doorman. West Yorkshire Police are also not being informed of events taking place beyond 03.00 hours in accordance with Condition 25. There are also concerns over incidents of disorder taking place outside the premises, where Funkys doorstaff are allegedly involved and excessive force is being used.

A copy of the application for review is attached at Appendix 2.

Included with the application are supporting documents from West Yorkshire Police and Others.

A copy of the supporting documents is attached at Appendix 3. (In the interests of economy this document has been sent to Members of the Panel only.)

3. **Representations**

3.1 **Interested Parties**

A representation has been received from Bradford City Centre Residents' Association on behalf of local residents. The representation relates to allegations of incidents of disorder, underage children gaining access to the premises and breaches of the Operating Schedule.

A copy of the representation is attached at Appendix 4.

Other supporting documents are not being circulated in the interest of sustainability.

4. **Legal Appraisal**

4.1 The Licensing Act 2003 requires the Council to carry out its various licensing functions so as to promote the following four licensing objectives:

- a) the prevention of crime and disorder
- b) public safety
- c) the prevention of public nuisance
- d) the protection of children from harm

4.2 The Council must also have regard to the Guidance issued by the Department of Culture Media and Sport under Section 182 of the Licensing Act 2003. Regard must also be taken of the Council's statement of Licensing Policy for the District. Paragraph 5.99 to 5.111 of the Guidance specifically details how applications for review of licences should be determined.

An extract of the Guidance is attached to this report at Appendix 5.

4.3 Where it is decided it is necessary to depart from the statutory guidance or the Licensing Policy on the merits of a particular case; then special reasons justifying this must be given that can be sustained.

4.4 Only "relevant representations" by or expressly on behalf of a defined "interested party" or "responsible authority" can be taken into account. In order to be "relevant" a representation must fairly relate to achieving a licensing objective. If it does not, it must be discounted.

4.5 Any licensing conditions that Members may propose attaching must also relate to achieving one of the licensing objectives; be tailored to the actual premises and style of licensable activity; must be reasonably achievable by the applicant and in his/her control.

5. Statement of Policy Issues

5.1 The following parts of the Licensing Policy are of particular importance; Part 4 (prevention of Crime & Disorder), Part 5 (Public Safety), Part 6 (prevention of Public Nuisance), Part 7 (protection of Children from Harm).

5.2 The Annexes to the Policy sets out various types of model condition that could be considered.

6. Legal Options

6.1 Members may:

- (a) Refuse the application for review of the licence; or
- (b) Decide not to impose any further restrictions on the licence; or
- (c) Decide to impose additional restrictions or remove any licensable activities on the licence, where necessary in order to address the licensing objectives; or
- (d) Suspend the licence for a period not exceeding 3 months; or
- (e) Revoke the premises licence; or
- (f) Remove the named Designated Premises Supervisor from the Licence.

6.2 Should the licensee or any other party to the hearing feel aggrieved at any decision with regard to the licence or to any conditions or restrictions attached by Members they may appeal to the Magistrates Court within 21 days of being notified of the decision.

7. Financial and resource appraisal

7.1 There are no apparent finance or resource implications.

8. Other implications

8.1 Equal Rights

There are no apparent equal rights implications.

8.2 Community safety implications

There are no apparent community safety implications.

8.3 Human Rights Act

The following rights are applicable:

Article 1 First Protocol to the Convention – Right to peaceful enjoyment of possessions subject to the state’s right to control the use of property in accordance with the general interest.

The Council’s powers set out in the recommendations fall within the states right. A fair balance must be struck between public safety and the applicant’s rights.

Article 6 – A procedural right to a fair hearing. As refusal of the application is an option, adherence to the Panels’ usual procedure of affording a hearing to the applicant is very important. The applicant should also be able to examine the requirements of the fire authority. If the decision is to refuse then reasons should be given.

9. **Not for publication documents**

9.1 None

10. **The Role of the Panel**

10.1 Members are invited to consider the information and documents referred to in this report and, after hearing interested parties, determine the related application for review of the premises licence.

11. **Appendices**

1. Premises Licence.
2. Application for Review.
3. Supporting documents from West Yorkshire Police & Others. *
4. Representation from local residents.*
5. Extract from the Government Guidance.

*In the interests of economy Appendices 3 & 4 are being distributed to Members of the Panel only.

12. **Background documents**

Licence, representations etc

Licensing Act 2003 Premises Licence

BD/PRA1215

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDANCE SURVEY MAP REFERENCE OR DESCRIPTION

Funkys

14-18 Ivegate, Bradford, West Yorkshire, BD1 1SW.

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- a performance of live music
- any playing of recorded music
- entertainment of a similar description to that falling within a performance of live music, any playing of recorded music or a performance of dance
- entertainment facilities for making music
- entertainment facilities for dancing
- entertainment of a similar description to that falling within entertainment facilities for making music or dancing
- provision of late night refreshment
- the sale by retail of alcohol

THE TIMES THE LICENCE AUTHORIZES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
E. Performance of live music (Indoors)	Sunday to Thursday	11:30am	2:00am
	Friday and Saturday	11:00am	6:00am
	Christmas Eve & New Years Eve	11:00am	6:00am
	Non Standard Timings:	11:00am	6:00am
	Every statutory Bank Holiday and the Sunday immediately preceding statutory Bank Holiday Monday.		
F. Playing of recorded music (Indoors)	Sunday to Thursday	11:30am	2:00am
	Friday and Saturday	11:00am	6:00am
	Christmas Eve & New Years Eve	11:00am	6:00am
	Non Standard Timings:	11:00am	6:00am
	Every statutory Bank Holiday and the Sunday immediately preceding statutory Bank Holiday Monday.		
H. Entertainment of a similar description to that falling within E, F, or G (Indoors)	Sunday to Thursday	11:30am	2:00am
	Friday and Saturday	11:00am	6:00am
	Christmas Eve & New Years Eve	11:00am	6:00am
	Non Standard Timings:	11:00am	6:00am
	Every statutory Bank Holiday and the Sunday immediately preceding statutory Bank Holiday Monday.		
I. Provision of facilities for making music (Indoors)	Sunday to Thursday	11:30am	2:00am
	Friday and Saturday	11:00am	6:00am
	Christmas Eve & New Years Eve	11:00am	6:00am
	Non Standard Timings:	11:00am	6:00am
	Every statutory Bank Holiday and the Sunday immediately preceding statutory Bank Holiday		

Licensing Act 2003 Premises Licence

BD/PRA1215

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

Activity (and Area if applicable)	Description	Time From	Time To
I. Provision of facilities for making music (Indoors) continued ...	Monday.		
J. Provision of facilities for dancing (Indoors)	Sunday to Thursday	11:30am	2:00am
	Friday and Saturday	11:00am	6:00am
	Christmas Eve & New Years Eve	11:00am	6:00am
	Non Standard Timings:	11:00am	6:00am
	Every statutory Bank Holiday and the Sunday immediately preceding statutory Bank Holiday Monday.		
K. Provision of facilities for entertainment of a similar description to that falling within I or J (Indoors)	Sunday to Thursday	11:30am	2:00am
	Friday and Saturday	11:00am	6:00am
	Christmas Eve & New Years Eve	11:00am	6:00am
	Non Standard Timings:	11:00am	6:00am
	Every statutory Bank Holiday and the Sunday immediately preceding statutory Bank Holiday Monday.		
L. Late night refreshment (Indoors)	Sunday to Thursday	11:00pm	2:00am
	Friday and Saturday	11:00pm	5:00am
	Christmas Eve & New Years Eve	11:00pm	5:00am
	Non Standard Timings:	11:00pm	5:00am
	Every statutory Bank Holiday and the Sunday immediately preceding statutory Bank Holiday Monday.		
M. The sale by retail of alcohol for consumption ON and OFF the premises	Sunday to Thursday	11:30am	2:00am
	Friday and Saturday	11:00am	6:00am
	Christmas Eve & New Years Eve	11:00am	6:00am
	Non Standard Timings:	11:00am	6:00am
	Every statutory Bank Holiday and the Sunday immediately preceding statutory Bank Holiday Monday.		

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Sunday to Thursday	11:30am	3:00am
Friday and Saturday	11:00am	7:00am
Christmas Eve & New Years Eve	11:00am	7:00am
Non Standard Timings:	11:00am	7:00am
Every statutory Bank Holiday and the Sunday immediately preceding statutory Bank Holiday Monday.		

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

- M. The sale by retail of alcohol for consumption ON and OFF the premises

Part 2

Licensing Act 2003

Premises Licence

BD/PRA1215

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

Ronald Derek Greenaway

5 Bolton Hall Road, Bolton Woods, Bradford, West Yorkshire, BD21 1BE.
Telephone 01274 531867 or 07800707471

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

Ronald Derek GREENAWAY

5 Bolton Hall Road, Bolton Woods, Bradford, West Yorkshire, BD21 1BE.
Telephone 01274 531867 or 07800707471

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. BD/PER1310

Issued by Bradford

ANNEXES

Annex 1 - Mandatory Conditions

1. No supply of alcohol may be made under the premises licence;-
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3. All persons primarily engaged under or employed on the premises to vet, regulate and control persons entering the premises; or engaged, used or employed in the supervision of patrons once inside in order to ensure the maintenance of good order, public safety and internal security shall be licensed with the Security Industry Authority.

Annex 2 - Conditions Consistent with Operating Schedule

All four Licensing Objectives:

4. All first aid facilities shall be maintained in good working order and all staff (including temporary staff) adequately trained in their use.

The Prevention of Crime & Disorder:

5. All staff shall be trained in appropriate circumstances ways to refuse custom e.g. to those appearing to be already drunk or underage.

Public Safety:

6. The licensee shall ensure that glass bottles and glass drinking receptacles are cleared ongoing throughout the opening hours of the premises.
7. The Licensee shall take all steps necessary in order to ensure that all exits and entrances (including emergency

Licensing Act 2003

Premises Licence

BD/PRA1215

ANNEXES continued ..

escape routes) are not obstructed by furniture, appliances or for any other reason during licensable activities.

The Prevention of Public Nuisance:

8. The Licensee shall maintain working arrangements with local taxi/private hire operators and take reasonable steps to communicate this to patrons in order to ensure orderly booking, arrival and departure of customers in such vehicles.

The Protection of Children from Harm:

None

Annex 3 - Conditions attached after a hearing by the Licensing Authority

9. Only entertainment in the form of recorded music (for avoidance of doubt this specifically excludes live music, disc jockeys, dancing and karaoke entertainment) shall be allowed before 1800 hours.
10. Noise from amplified and non-amplified music, singing and speech arising from regulated entertainment at the premises shall not be audible at the nearest noise sensitive premises.
11. All external doors and windows to the licensed premises where regulated entertainment is being provided shall remain closed during the course of the entertainment, other than for normal access and egress.
12. No external doors to the licensed premises (including fire doors or patio doors) shall be propped open during the course of the regulated entertainment.
13. Speakers used to relay amplified music, singing or speech as part of the regulated entertainment shall not be positioned so they are directed out through external doors, windows or similar openings nor shall they be positioned outside the premises.
14. All amplified music, singing or speech provided as part of the regulated entertainment shall be played through a sound amplification system incorporating a sound-limiting device that has been installed and set to the express satisfaction of the Responsible Authority for Public Nuisance (Environmental Protection, City of Bradford MDC). The sound-limiting device shall be retained and maintained throughout the life of the licence and no alteration to the approved shall be made without the express approval of the Responsible Authority.
15. All amplified music, singing and speech provided as part of the regulated entertainment shall only be played through the in-house sound amplification system.
16. Prominent, clear notices shall be displayed at all exits requesting customers and staff to respect the needs of local residents and leave the premises and area quietly.
17. No customers shall be allowed to drink or carry out glass receptacles or consume hot food outside the premises at any time.
18. The disposal of waste bottles into external receptacles shall not take place between the hours of 23.00 and 07.00.
19. No entertainment of an adult or sexual nature shall be allowed at any time.
20. No under 21's shall be allowed on the premises at any time.

Licensing Act 2003

Premises Licence

BD/PRA1215

ANNEXES continued

21. The licensee shall operate a "Check 21" policy at all times and train staff appropriately with regard to implementation.
22. A minimum of one SIA registered door supervisor shall be employed at the premises from the start of business until 22.00 hours.
A minimum of two SIA registered door supervisors shall be employed at the premises between 22.00 hours and 23.00 hours.
A minimum of three SIA registered door supervisors shall be employed at the premises between 23.00 hours and midnight.
A minimum of six SIA registered door supervisors shall be employed at the premises between midnight and close of business, when the premises are open for licensable activities.
23. A CCTV system (with satisfactory internal and external coverage) shall be installed at the premises and be maintained in good working order and used at all times the premises remains open to the public for licensable activities. Any CCTV footage shall be kept for at least 28 days and be available to the Licensing Authority or a Responsible Authority on request.
24. The licensee shall cooperate fully with any Drugswatch and Night Watch initiatives promoted in the City Centre.
25. West Yorkshire Police shall be notified seven days in advance of any proposed event at the premises which will extend beyond 03.00 hours.

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Licensing Act 2003

Premises Licence Summary

BD/PRA1215

Premises Details

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

Funkys

14-18 Ivegate, Bradford, West Yorkshire, BD1 1SW.

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- a performance of live music
- any playing of recorded music
- entertainment of a similar description to that falling within a performance of live music, any playing of recorded music or a performance of dance
- entertainment facilities for making music
- entertainment facilities for dancing
- entertainment of a similar description to that falling within entertainment facilities for making music or dancing
- provision of late night refreshment
- the sale by retail of alcohol

THE TIMES THE LICENCE AUTHORIZES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
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	Friday and Saturday	11:00am	6:00am
	Christmas Eve & New Years Eve	11:00am	6:00am
	Non Standard Timings:	11:00am	6:00am
	Every statutory Bank Holiday and the Sunday immediately preceding statutory Bank Holiday Monday.		
F. Playing of recorded music (Indoors)	Sunday to Thursday	11:30am	2:00am
	Friday and Saturday	11:00am	6:00am
	Christmas Eve & New Years Eve	11:00am	6:00am
	Non Standard Timings:	11:00am	6:00am
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H. Entertainment of a similar description to that falling within E, F, or G (Indoors)	Sunday to Thursday	11:30am	2:00am
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	Non Standard Timings:	11:00am	6:00am
	Every statutory Bank Holiday and the Sunday immediately preceding statutory Bank Holiday Monday.		
I. Provision of facilities for making music (Indoors)	Sunday to Thursday	11:30am	2:00am
	Friday and Saturday	11:00am	6:00am
	Christmas Eve & New Years Eve	11:00am	6:00am

Licensing Act 2003

Premises Licence Summary

BD/PRA1215

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

Activity (and Area if applicable)	Description	Time From	Time To
I. Provision of facilities for making music (Indoors) continued ...	Non Standard Timings: Every statutory Bank Holiday and the Sunday immediately preceding statutory Bank Holiday Monday.	11:00am	6:00am
J. Provision of facilities for dancing (Indoors)	Sunday to Thursday Friday and Saturday Christmas Eve & New Years Eve Non Standard Timings: Every statutory Bank Holiday and the Sunday immediately preceding statutory Bank Holiday Monday.	11:30am 11:00am 11:00am 11:00am	2:00am 6:00am 6:00am 6:00am
K. Provision of facilities for entertainment of a similar description to that falling within I or J (Indoors)	Sunday to Thursday Friday and Saturday Christmas Eve & New Years Eve Non Standard Timings: Every statutory Bank Holiday and the Sunday immediately preceding statutory Bank Holiday Monday.	11:30am 11:00am 11:00am 11:00am	2:00am 6:00am 6:00am 6:00am
L. Late night refreshment (Indoors)	Sunday to Thursday Friday and Saturday Christmas Eve & New Years Eve Non Standard Timings: Every statutory Bank Holiday and the Sunday immediately preceding statutory Bank Holiday Monday.	11:00pm 11:00pm 11:00pm 11:00pm	2:00am 5:00am 5:00am 5:00am
M. The sale by retail of alcohol for consumption ON and OFF the premises	Sunday to Thursday Friday and Saturday Christmas Eve & New Years Eve Non Standard Timings: Every statutory Bank Holiday and the Sunday immediately preceding statutory Bank Holiday Monday.	11:30am 11:00am 11:00am 11:00am	2:00am 6:00am 6:00am 6:00am

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Sunday to Thursday	11:30am	3:00am
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Non Standard Timings: Every statutory Bank Holiday and the Sunday immediately preceding statutory Bank Holiday Monday.	11:00am	7:00am

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

- M. The sale by retail of alcohol for consumption ON and OFF the premises

Licensing Act 2003

Premises Licence Summary

BD/PRA1215

NAME (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Ronald Derek Greenaway

5 Bolton Hall Road, Bolton Woods, Bradford, West Yorkshire, BD21 1BE.

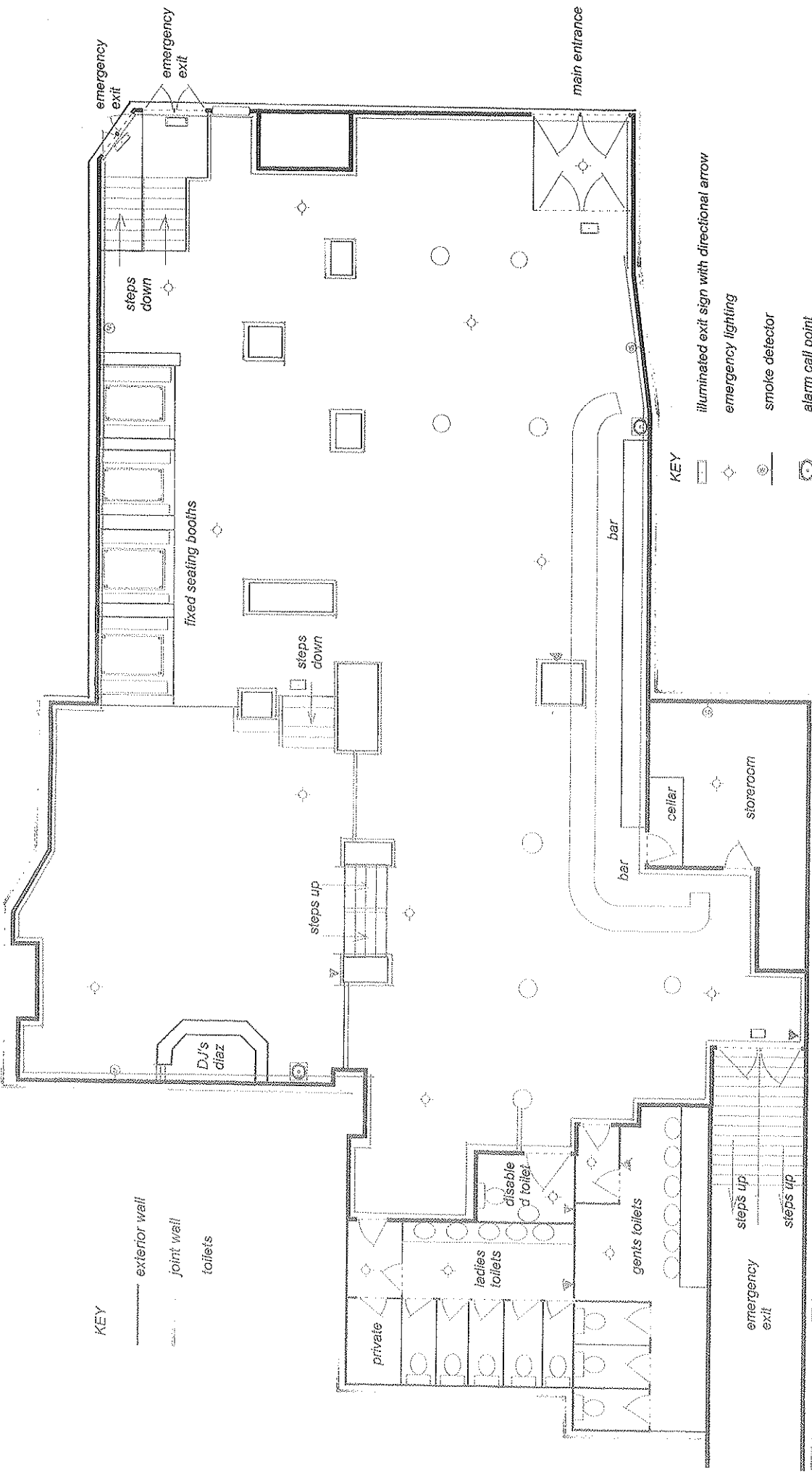
REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Ronald Derek GREENAWAY

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

No persons under 18 years of age will be allowed on the premises.



KEY

- exterior wall
- - - joint wall
- toilets

KEY

- ◻ illuminated exit sign with directional arrow
- ◇ emergency lighting
- ⊙ smoke detector
- ⊕ alarm call point
- ▲ alarm sounder
- FD fire door
- △ fire extinguishers
- sale & consumption of food & alcohol
- fixed pillars

14 - 18 IVEGATE, (formerly "EDWARDS BAR")

scale 1:100

Funky's



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) **West Yorkshire Police**

- **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:

Funkys, 14 – 18 Ivegate

Town/City: **Bradford**

Postcode: **BD1 1SW**

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

Mr Ronald Derek Greenaway

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

BD/PRA 1215

Part 2 – Applicant details

Please 'check' appropriate box(es)

I am:

- 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
- A responsible authority (please complete C below)
- 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):

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:

Tyson

Forename(s):

John

Address:

Trafalgar House, Nelson Street

Town/City:

Bradford

Postcode: BD5 0DX

Daytime contact telephone number:

01274 376695

E-mail address (optional):

bradford.licensing@West Yorkshire Police

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):

These premises have the benefit of a Premises Licence which authorises the sale by retail of alcohol for consumption ON or OFF the premises together with the provision of regulated entertainment

The grounds for this review are as follows:

The holder of the Premises Licence at the present time is Mr Ronald Derek Greenaway. In addition he is also the Designated Premises Supervisor.

The premises operate as a Nightclub, operating in the main on Friday and Saturday nights each week and on Public Holidays.

On October 2008 Mr Greenaway submitted an application to Bradford Council to extend the hours of operation at the premises

The Police liaised with Mr Greenaway in respect of his application, which was to extend the operating hours on a daily basis until from 11:00hrs until 06:00hrs the following morning. As a result of the meeting Mr Greenaway agreed to the requirement of the police, particularly in respect to the number of door staff to be employed, and advance notification in respect of events which would extend beyond 03:00hrs.

The application was heard before the Licensing Panel on 25th November when representations were heard from local residents and business who were objecting to the proposed changes and Mr Greenaway and his business partner Mr Martin Dibb also gave assurance about the manner in which the premises would be run to prevent any disturbances or problems.

After hearing all the representation the variation was granted with conditions attached to the licence in its current format.

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

On the evening of Friday 28th November 2008 Police Constable Su Dawson, The Bradford South Divisional Licensing Officer together with Officers from the Security Industry Authority (S.I.A.) were carrying out checks at licensed premises within the city centre with particular emphasis on inspecting premises where door staff (Security Operatives) were employed to ensure that the regulations were being adhered to and that all staff so employed were correctly registered by the Authority.

On visiting Funkys at 00:45hrs Saturday 29 November 2008 it was ascertained by the officers that there were six door staff (Security Operatives) working at that time. Subsequent checks by S.I.A. staff revealed that one of the men working that night was not registered with the S.I.A. and was therefore not authorised to do so.

This man was subsequently interviewed by Police Constable Dawson and admitted working at the premises knowing that he was not authorised to do so, and in addition stated he had worked there on a previous occasion and also that he had never been spoken to or checked by any of the management of the club.

In addition to the above incident which occurred *only a matter of days* after assurance had been given to the Licensing Panel, there have been the following incidents of concern.

02:31hrs Saturday 10th January 2009. City Centre CCTV reveals a large disturbance taking place in Ivegate outside the premises.

04:52hrs Saturday 17th January 2009, again City Centre CCTV reveals a disturbance taking place outside the premises.

In both incidents the CCTV footage has been retained and examined. The footage clearly shows that Door staff (Security Operatives) on duty at Funkys are involved and that excessive force is being used

At 02:20hrs on Sunday 1st February, police were called to Ivegate to a report that a window had been smashed at Funkys Nightclub. On arrival the officers ascertained that in fact a window had been smashed at adjacent business premises and that a male person had been detained by club door staff (Security Operatives) who were the main witnesses to the incident. The person allegedly responsible for the damage was subsequently arrested.

However of concern to the police is that when an officer later returned to obtain statements, none of those staff involved and who were witness to the incident were then prepared to give supporting statements to the police.

In addition there is evidence to show that prior to the damage described above being caused, the person involved had been ejected from the club and been subjected to excessive force by members of those staff.

Statements and recorded CCTV footage evidencing the above are attached for reference.

In addition there have recently been submitted a number of applications to either transfer the licence or to vary it to change the designated premises licence holder, all of which have been withdrawn and tends to suggest there is some instability in the ownership or conduct of the business.

It is the view of the police that these premises are seriously impacting on the Licensing Objectives in that Mr Greenaway and other persons involved in a managerial capacity at the premises are failing to operate the premises in line with the requirements of the conditions of the premises licence and that despite continuing advice and consultation with the police, they are being conducted with apparent blatant disregard for legislation, and the Licensing Authority.

In conclusion West Yorkshire Police are not being informed of events taking place beyond 03:00hrs in accordance with condition 24 attached to the licence.

It is requested therefore that the Premises Licence be reviewed by the Licensing Authority with a view to:

Removing Mr Greenaway as the Designated Premises Supervisor at the premises, and

Revoking the premises licence.

Have you made an application for review relating to this premises before? YES 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: *[Handwritten Signature]* Date: *10-02-09*

Capacity: *Licensing Officer*

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

Mr

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.

11. Reviews

THE REVIEW PROCESS

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences represent a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a premises licence.
- 11.2 At any stage, following the grant of a premises licence, a responsible authority, or an interested party, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 In addition, a review of the licence will normally follow any action by the police to close down the premises for up to 24 hours on grounds of disorder or noise nuisance as a result of a notice of magistrates' court's determination sent to the licensing authority.
- 11.4 Licensing authorities may not initiate their own reviews of premises licences. Officers of the local authority who are specified as responsible authorities under the 2003 Act, such as environmental health officers, may however request reviews on any matter which relates to the promotion of one or more of the licensing objectives.
- 11.5 Representations made by a department of the local authority which is a responsible authority should be treated by the licensing authority in precisely the same way that they would treat representations made by any other body or individual.
- 11.6 In every case, the representation must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of the licensing objectives. After a licence or certificate has been granted or varied, a complaint relating to a general (crime and disorder) situation in a town centre should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.7 Representations must be in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing.
- 11.8 It is important to recognise that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between these groups in a way that would undermine the benefits of co-operation. It is good practice for authorised persons and responsible authorities to give licence holders early warning of their concerns about problems identified at the premises concerned and of the need for improvement. A failure to respond to such warnings is expected to lead to a decision to request a review.
- 11.9 Where the request originates with an interested party – e.g. a local resident, residents' association, local business or trade association – the licensing authority must first consider whether the complaint made is relevant, vexatious, frivolous or repetitious.

11.10 Further information for interested parties about the review process is available in "Guidance for interested parties: applying for a review" which can be found on the DCMS website.

REPETITIOUS REPRESENTATIONS

11.11 Relevance, vexation and frivolousness were dealt with in paragraphs 9.8 – 9.13 above. A repetitious representation is one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in relation to the same premises licence which has already been determined; or
- representations considered by the licensing authority when the premises licence was first granted; or
- representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement;

and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or the grant of the licence.

11.12 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a second bite of the cherry following the failure of representations to persuade the licensing authority on earlier occasions. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, the Secretary of State recommends that more than one review originating from an interested party should not be permitted within a period of twelve months on similar grounds save in compelling circumstances or where it arises following a closure order.

11.13 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one request for a review of a premises within a 12 month period.

11.14 When a licensing authority receives a request for a review from a responsible authority or an interested party or in accordance with the closure procedures described in Part 8 of the 2003 Act, it must arrange a hearing. The arrangements for the hearing must follow the provisions set out by the Secretary of State in regulations. The details may be viewed on the DCMS website. The Secretary of State considers it particularly important that the premises licence holder is fully aware of the representations made in respect of the premises, any evidence supporting the representations and that they or their legal representatives have therefore been able to prepare a response.

POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

11.15 The 2003 Act provides a range of powers for the licensing authority on determining a review that it may exercise where it considers them necessary for the promotion of the licensing objectives.

11.16 The licensing authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such warnings as an important mechanism for ensuring that the licensing

objectives are effectively promoted and that warnings should be issued in writing to the holder of the licence. However, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach.

11.17 Where the licensing authority considers that action under its statutory powers are necessary, it may take any of the following steps:

- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence.

11.18 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than a necessary and proportionate response.

11.19 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.20 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems which impact upon the licensing objectives.

11.21 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as a necessary means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is necessary and proportionate to the promotion of the licensing objectives.

REVIEWS ARISING IN CONNECTION WITH CRIME

- 11.22 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 or money laundering by criminal gangs or the sale of contraband or stolen goods there or the sale of firearms. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts of law. The role of the licensing authority when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted. Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. Some reviews will arise after the conviction in the criminal courts of certain individuals but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go behind any finding of the courts, which should be treated as a matter of undisputed evidence before them.
- 11.23 Where the licensing authority is conducting a review on the ground 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 licensee 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 necessary steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual holder of the premises licence.
- 11.24 As explained above, it is not the role of a licensing authority to determine the guilt or innocence of individuals charged with licensing or other offences committed on licensed premises. There is therefore no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. As stated above, at the conclusion of a review, it will be for the licensing authority to determine on the basis of the application for the review and any relevant representations made, what action needs to be taken for the promotion of the licensing objectives in respect of the licence in question, regardless of any subsequent judgment in the courts about the behaviour of individuals.
- 11.25 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 and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;

- for the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for unlawful gaming and gambling; and
- for the sale of smuggled tobacco and alcohol.

11.26 It is envisaged that licensing authorities, the police 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. We would also encourage liaison with the local Crime and Disorder Reduction Partnership.

11.27 It should be noted that it is unlawful to discriminate or to refuse service on grounds of race or by displaying racially discriminatory signs on the premises. Representations made about such activity from responsible authorities or interested parties would be relevant to the promotion of the crime prevention objective and justifiably give rise to a review.

REVIEW OF A PREMISES LICENCE FOLLOWING CLOSURE ORDER

11.28 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review: The determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within 10 working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than 5 working days before the first hearing day. There must be five clear working days between the giving of the notice and the start of the hearing.