

## Report of the City Solicitor to the meeting of the Bradford Area Licensing Panel to be held on 13 April 2011.

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### Subject:

Application for a Review of a Premises Licence for Girlington Mini Market, 81 Girlington Road, Bradford.

### Summary statement:

Application for review of a Premises Licence authorising the sale of alcohol for consumption off the premises.

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Suzan Hemingway  
City Solicitor

### Portfolio:

Corporate

Report Contact: Melanie McGurk  
Senior Licensing Officer  
Phone: (01274) 431873  
E-mail: [melanie.mcgurk@bradford.gov.uk](mailto:melanie.mcgurk@bradford.gov.uk)

### Overview & Scrutiny Area:

Corporate



2008-2011  
Improving Rural Services  
Engineering Communities



1830-1836

Suzan Hemingway, Assistant Director Corporate Services (City Solicitor)



**1. SUMMARY**

**1.1 Premises Licence Holder**

Girlington Mini Market Ltd.

**1.2 Designated Premises Supervisor**

Waseem Nazir

**1.3 The Premises**

Girlington Mini Market, 81 Girlington Road, Bradford, BD8 9NN

**1.4 The Current Licence**

The premises have a Premises Licence allowing the sale by retail of alcohol for consumption off the premises.

Hours of licensable activities:

Monday to Sunday: 07.00 to 23.30

**1.5 Steps agreed in the Operating Schedule by the licensee to address the Licensing Objectives**

a) Prevention of crime and disorder

All alcohol shall be stored behind the serving counter.

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

b) Public safety

None.

c) Prevention of public nuisance

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

d) Protection of children from harm will be achieved by;

The Licensee shall enforce an effective recognised "proof of age policy" at all times and ensure appropriate staff training in its operation.

e) General – all four licensing objectives

None.

## **1.6 Conditions attached after Hearing**

Not applicable.

A copy of the Licence is attached at Appendix 1.

## **2. Applications Received asking for a Review of the Licence**

### **Responsible Authorities**

West Yorkshire Trading Standards have submitted an application for review, following three underage sales of alcohol made within a five month period and the conduct of the licensee.

There has also been a breach of Condition 5, as the licensee claimed that the CCTV cameras were not connected to any recording system, therefore no footage could be provided to Trading Standard Officers as requested.

Condition 5: A CCTV system shall be installed at the premises and shall be maintained in good working order and used at all times the premises remain open to the public for licensable activities. Any CCTV footage shall be kept for at least 28 days and available to the Licensing Authority or a Responsible Authority on request.

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

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

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. OVERVIEW AND SCRUTINY COMMITTEE CONSIDERATION**

Not applicable.

## **4. OTHER CONSIDERATIONS**

### **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. The Guidance details how applications for the review of licences should be determined.

An extract of the Guidance is attached to this report at Appendix 4.

- 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.

#### **Statement of Policy Issues**

- 4.6 The following parts of the Licensing Policy are of particular importance; Part 4 (the prevention of crime and disorder) and Part 7 (protection of children from harm).
- 4.7 The Annexes to the Policy sets out various types of model condition that could be considered.

### **5. OPTIONS**

- 5.1 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.
- 5.2 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.

**6. FINANCIAL & RESOURCE APPRAISAL**

There are no apparent finance or resource implications.

**7. RISK MANAGEMENT**

There are no apparent risk management implications.

**8. LEGAL APPRAISAL**

Referred to in part 4 of this report.

**9. OTHER IMPLICATIONS**

**9.1 EQUAL RIGHTS**

There are no apparent equal rights implications.

**9.2 SUSTAINABILITY IMPLICATIONS**

There are no apparent sustainability implications.

**9.3 GREENHOUSE GAS EMISSIONS IMPACTS**

There are no apparent sustainability implications.

**9.4 COMMUNITY SAFETY IMPLICATIONS**

When determining the application the Licensing Authority is required to pay due regard to the licensing objectives referred to in 4.1 of this report.

**9.5 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.

**9.6 TRADE UNION**

Not applicable

**9.7 WARD IMPLICATIONS**

Ward Councillors have been notified of receipt of the application.

**10. NOT FOR PUBLICATION DOCUMENTS**

None.

**11. RECOMMENDATIONS**

Members are invited to consider the information and documents referred to in this report and, after hearing interested parties, determine the related application(s).

**12. APPENDICES**

1. Premises Licence.
2. Application for review submitted by West Yorkshire Trading Standards.
3. Supporting documents from West Yorkshire Trading Standards and others. (In the interests of economy this document has been sent to Members of the Panel only).
4. Extract from the Government Guidance.

**13. BACKGROUND DOCUMENTS**

Application form, plan etc.

APPENDIX I

Licensing Act 2003  
Premises Licence

**BD/PRA1227**

Date Issued: 22/03/2011

## Part 1 - Premises Details

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

#### Girlington Mini Market

81 Girlington Road, Girlington, Bradford, West Yorkshire, BD8 9NN.

Telephone 01274 676483

### WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

### LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- 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
M. The sale by retail of alcohol for consumption OFF the premises only	Monday to Sunday	7:00am	11:30pm

### THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	7:00am	11:30pm

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

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

## Part 2

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

Girlington Mini Market LTD

Girlington Mini Market, 81 Girlington Road, Bradford, West Yorkshire, BD8 9NN.  
Telephone 01274 676483

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

Girlington Mini Market LTD

5680129

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

Waseem NAZIR

81 Girlington Road, Girlington, Bradford, West Yorkshire, BD8 9NN.  
Telephone 01274 543137 or 07966809383

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

Licence No. BD/PER2184

Issued by Bradford

### ANNEXES

#### Annex 1 - Mandatory Conditions

Date First Granted: 07/01/2008

(Annual Fee Date - Statutory Instrument 2005 No. 79 - Licensing Act 2003 (Fees) Regulations 2005)

## Licensing Act 2003 Premises Licence

**BD/PRA1227**

**Date Issued: 22/03/2011**

### ANNEXES continued ...

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

### **Annex 2 - Conditions Consistent with Operating Schedule**

All four Licensing Objectives:

None

#### **The Prevention of Crime & Disorder:**

4. All alcohol shall be stored behind the serving counter.
5. A CCTV System shall be installed at the premises and shall be maintained in good working order and used at all times the premises remain open to the public for licensable activities. Any CCTV footage shall be kept for at least 28 days and available to the Licensing Authority or a Responsible Authority on request.

#### **Public Safety:**

None

#### **The Prevention of Public Nuisance:**

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

#### **The Protection of Children from Harm:**

7. The Licensee shall enforce an effective recognised "proof of age policy" at all times and ensure appropriate staff training in its operation.

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

Not Applicable.

G:\Legal Services\LLC & Licensing\Licensing\DEV\TEMPLATE\LIC.STD\LICENCE CONDITIONS\GIRLINGTON MINI MARKET - BDPRA1227



**Licensing Act 2003  
Premises Licence**

**BD/PRA1227**

**Date Issued: 22/03/2011**

## Licensing Act 2003 Premises Licence Summary

**BD/PRA1227**

Date Issued: 22/03/2011

### Premises Details

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

### Girlington Mini Market

81 Girlington Road, Girlington, Bradford, West Yorkshire, BD8 9NN.

Telephone 01274 676483

#### WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

#### LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- the sale by retail of alcohol

#### THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
M. The sale by retail of alcohol for consumption OFF the premises only	Monday to Sunday	7:00am	11:30pm

#### THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	7:00am	11:30pm

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

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

#### NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Girlington Mini Market LTD

Girlington Mini Market, 81 Girlington Road, Bradford, West Yorkshire, BD8 9NN.

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

Girlington Mini Market LTD

5680129

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

Waseem NAZIR

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

No restrictions

APP 2



Licensing Team, Room 402, City Hall, Bradford, BD1 1HY

**Application for a 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 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 David Louis Mullins apply for the review of a premises licence under section 51 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 club premises, or if none, Ordnance Survey map reference or description**

Girlington Mini Market  
81 Girlington Road

**Post town**  
Bradford

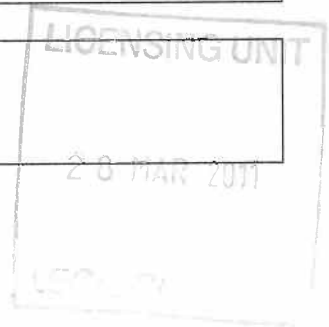
**Post code (if known)**  
BD8 9NN

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

Girlington Mini Market Ltd

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

BD/PRA1227



**Part 2 – Applicant details**

I am

Please tick ✓

1) An interested party:

- 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

<input type="checkbox"/>
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<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>

please complete (A) or (B) below

please complete (A) or (B) below

please complete (A) or (B) below

please complete (A) or (B) below

please complete (C) below

please complete (A) below

2) A responsible authority

3) A member of the club to which this application relates

**(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)**

Mr

Mrs

Miss

Ms

Other title   
(for example, Rev)

Surname

First names

Please tick

I am over 18 years old or over

Current address

Post Town

Postcode

Daytime contact telephone number

Email address (optional)

**(B) DETAILS OF OTHER APPLICANT**

Name

Address

Telephone number (if any)

E-mail (optional)

**DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name	West Yorkshire Trading Standards Service
Address	<p>PO Box 5                  Nepshaw Lane South                  Morley                  Leeds                  LS27 0QP</p> <p>(Case Officer: Andrew Bibby and Joanne Hamer)</p>
Telephone number (if any)	0112 253 0241
E-mail (optional)	abibby@wyjs.org.uk

**This application to review relates to the following licensing objectives(s)**

**Please tick one or more boxes ✓**

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

✓
✓
✓
✓

**Please state the ground(s) for review (please read guidance note 1)**

On 25<sup>th</sup> May 2010 West Yorkshire Trading Standards Service (WYTSS) received an anonymous complaint that Girlington Mini Market, 81 Girlington Road, Bradford, BD8 9NN was selling cigarettes and alcohol to children under the age of eighteen. The Premises Licence is held by Girlington Mini Market Ltd.

Girlington Mini Market had previously received a responsible retailer visit from an officer of WYTSS on 4<sup>th</sup> November 2009. The purpose of the Responsible Retailer visits is to provide retailers with guidance and advice on how to prevent underage sales. During the visit the retailer is provided with a comprehensive guidance pack that includes posters, training material and a refusals book.

On 12<sup>th</sup> June 2010 as a result of the complaint, WTYSS conducted a test purchase using a 15 year old test purchase volunteer. On this occasion both cigarettes and alcohol were sold to the minor who was not challenged for their age or any ID.

The WYTSS officer that witnessed the sale introduced herself to the man behind the counter and asked him for his name. The man behind the counter was immediately obstructive and said that it was not necessary for him to give his name as he did not work in the shop and was merely covering for the owner. The man behind the counter than made a phone call and minutes later Nadeem Nazir arrived. Nadeem Nazir said that he was the owner of the shop and that his brother Waseem Nazir was the Designated Premises Supervisor (DPS). Nadeem Nazir was also obstructive to the officer and when asked for the name of the seller he would not provide it. He was also unwilling to provide an address and telephone number for himself and advised the officer to

write to him at the shop.

On the same evening WYTSS visited five premises with the same test purchase volunteer to attempt to buy age restricted products. Girlington Mini Market was the only premises that allowed the sale. All the other premises recognised that the volunteer was underage and refused the sale.

A formal interview with Nadeem Nazir, the company secretary of Girlington Mini Market Ltd was arranged for 29<sup>th</sup> June 2010. Nadeem Nazir failed to attend.

On 2<sup>nd</sup> July 2010 an officer of WYTSS contacted Nadeem Nazir to arrange another date for the formal interview to take place. At this time, Nadeem Nazir was asked to provide the details of the person who made the sale on 12<sup>th</sup> June 2010. He stated that the person was Amjad Nazir, his brother but that he did not have any contact details for him.

On 15<sup>th</sup> July 2010 Nadeem Nazir was formally interviewed under caution in accordance with PACE.

During the formal interview Nadeem Nazir stated that he was the Managing Director of Girlington Mini Market Ltd, he is, in fact, the company Secretary. He confirmed that his brother, Waseem Nazir was the Designated Premises Supervisor (DPS) at Girlington Mini Market and a Director of the company.

Nadeem Nazir explained that three people were employed at Girlington Mini Market, Taldeer Nazir, Waseem Nazir (DPS) and himself. He said he was not working at the time of the sale on 12<sup>th</sup> June 2010.

Nadeem Nazir said he was aware of the Responsible Retailer visit being conducted at Girlington Mini Market on 4<sup>th</sup> November 2009 but could not remember the details of the visit. He did say that he thought the officer provided some guidance and leaflets which were somewhere in the shop. He said that Girlington Mini Market did not have or operate a refusals book. All Responsible Retailer packs contain a refusals book and guidance on how to complete them. Nadeem Nazir confirmed that there are no till prompts at the premises but that they ask for ID and most of their customers are regulars so they know them.

When asked if there was any CCTV at the premises, Nadeem Nazir said that there were cameras but that these were not connected to any recording equipment. It is a mandatory condition of Girlington Mini Market's Premises Licence to have a CCTV system installed at the premises and to keep the footage for 28 days, making it available to responsible authorities on request. Failure to operate such a system is a breach of the licence.

Nadeem Nazir said that he had not received any training on underage sales and that his brother, Waseem Nazir (DPS) had not provided him with any. He said that it was just common sense and he read any manuals and leaflets he received. Nadeem Nazir said that he generally challenges people for ID that look under the age of 25 years but this did not seem to be a formal policy.

Nadeem Nazir said the seller on the evening of 12<sup>th</sup> June 2010 was Amjad Nazir, his younger brother. He said that Amjad Nazir was not employed by the business. Nadeem Nazir claimed the reason Amjad Nazir was working behind the counter on that day of the sale was because he needed the toilet and he had asked his brother to cover the shop for a few minutes. He said that his brother had not had any training but knew to ask for ID if the customer didn't look old enough. He said that it was not a regular thing for his younger brother to cover the shop and that this was the only time he had done it.

Nadeem Nazir said that Amjad Nazir thought the test purchase volunteer looked about 20 or 23 years of age. The volunteer was in fact 15 years old and as previously stated all the other premises subject to a test purchase on the same evening refused the sale to the volunteer.

Nadeem Nazir said that he did not know his brother's address but that he had a mobile telephone number for him which he provided. At this point Nadeem Nazir was reminded of the importance of being forthcoming with this information in order for WYTSS to conclude their investigation.

Despite repeated attempts, WYTSS were unable to arrange a formal interview with Amjad Nazir

and to date have never been provided with any further contact details for him despite further requests made to Nadeem Nazir.

On 17<sup>th</sup> July 2010 West Yorkshire Police (WYP) conducted a test purchase of alcohol at Girington Mini Market using two underage volunteers (14 and 16 years of age). On this occasion a sale of alcohol was made and no attempt was made to ask for ID. The sellers name was Waseem Nazir. When asked by the WYP officer if he had a personal licence he said that he did but that he didn't have it with him. When asked to describe the licence he said he couldn't as it had been over a year since he had taken it. Waseem Nazir also said that he did not know where the Premises Licence was (it was later found in the shop window). Waseem Nazir was then issued with a Fixed Penalty Notice. Waseem Nazir's attitude to the WYP officers was aggressive and obstructive. It was not until after the fixed penalty notice was issued that it was established that Waseem Nazir was in fact the DPS. At no point did Waseem Nazir make any attempt to inform the WYP officers of his position and role of DPS.

At this point, a man claiming to be the owner of the shop arrived and demanded to know why WYP were there and stated that WYP should not be sending anyone under the age of eighteen into the shop to buy alcohol. A WYP officer attempted to explain that test purchase operations were legal and on-going in the division but at this point both man became aggressive to the WYP officers. The officers left the premises before they were able to establish the identity of the man claiming to be the owner. As the WYP officers left the premises they were immediately followed which suggested that they were being followed to locate the test purchase volunteers.

On the same evening WYP visited eight premises with the same test purchase volunteers to attempt to buy alcohol. Only two premises, Girington Mini Market being one, allowed the sale to the underage volunteers. All the other premises recognised that the volunteers were underage and refused the sale.

On 15<sup>th</sup> October 2010 an infringement report was sent to Girington Mini Market Ltd in relation to the underage sale of cigarettes that took place on 12<sup>th</sup> June 2010.

On 22<sup>nd</sup> October 2010, WYP conducted a further test purchase of alcohol at Girington Mini Market using two underage volunteers (both 15 years old). On this occasion a sale of alcohol was made and again, no attempt was made to ask for ID. The WYP officers that witnessed the sale believed that the cashier was more interested in watching the television than paying attention to the customers.

The seller on this occasion was Nadeem Nazir. When asked by the officers why he did not request proof of ID from the test purchase volunteers he answered "they looked old enough to me". Nadeem Nazir was off hand with the officers that witnessed the sale and when further police arrived at the premises he became aggressive. Nadeem Nazir was issued with a fixed penalty notice but he refused to sign his copy. When he was provided with the copy he immediately screwed it up. Nadeem Nazir was asked the location of the Premises Licence and the name of the DPS. He responded that he didn't know and didn't care. The WYP officers then left the premises as Nadeem Nazir was becoming more aggressive and obstructive and it was believed that had the officers remained further problems would have occurred.

On the same evening WYP visited eight premises with the same test purchase volunteers to attempt to buy alcohol. Only three premises, Girington Mini Market being one, allowed the sale to the underage volunteers. All the other premises recognised that the volunteers were underage and refused the sale.

In summary, Girington Mini Market Ltd have allowed three underage sales of alcohol to take place in a five month period. One of these sales also included the underage sale of cigarettes and another was allowed by the DPS. Throughout the process, representatives of the business have had a disregard for both WYTSS and WYP, have been obstructive and on occasions aggressive. It is believed that the premises is also operating in breach of a mandatory condition of the Premises Licence in relation to the provision of a CCTV system.

In these circumstances WYTSS seek a review of the Premises' Licence and would recommend the full revocation of the licence and/or removal of Waseem Nazir as DPS.

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

Please see attached package of papers.

This includes documentary evidence to support the review in the form of witness statements, exhibits and supporting documentation.

The documentary evidence includes;

- Sc.9 Statement from Richard Bland (WYTSS)
- Sc.9 Statement from Claire Hundsdoerfer (WYTSS)
- Sc.9 Statement from Susan Jenkins (WYTSS)
- Sc.9 Statement from Linda Manby (Parent of volunteer)
- Sc.9 Statement from Andrew Bibby (WYTSS)
- Sc.9 Statement from Helen Charles (WYTSS)
- Complaint 561864
- Sc.9 Statement from Joanne Hamer
- Copy of premises licence
- Credit safe report
- Sc.9 Statements from PC 5413 Licensing Officer Susanne Dawson (WYP)
- Copy of Penalty Notice 0050760 1
- Sc.9 Statement from SC 8216 Jordan Croft (WYP)
- Sc.9 Statement from SC 8366 Sharon Smithies (WYP)
- Sc.9 Statement from SC 8857 Zoe Mitchell (WYP)



Please tick ✓

Have you made an application for review relating to this premises before?

If yes please state the date of that application

Day		Month		Year	

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

No representation previously made by West Yorkshire Trading Standards Service

Please tick ✓

- 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 .....

*24/3/11*

Capacity .....

*DIVISIONAL MANAGER*

**Contact Name (where not previously given) and address for correspondence associated with this application** (please read guidance note 5)

Graham Hebblethwaite  
Chief Officer West Yorkshire Joint Services  
PO Box 5  
Nepshaw Lane South  
Morley

Post town Leeds

Post code  
LS27 0QP

Telephone number (if any) 0113 253 0241

If you would prefer us to correspond with you by e-mail 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.

Information on the Licensing Act 2003 is available on the website of the Department of Culture, Media and Sport ([http://www.culture.gov.uk/alcohol\\_and\\_entertainment](http://www.culture.gov.uk/alcohol_and_entertainment)) or from Bradford Metropolitan District Council (<http://www.bradford.gov.uk/council/licensing>), your local licensing authority.

# 11. Reviews

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## 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 The Regulations allow applications for reviews to be made electronically, as long as the licensing authority agrees and the applicant submits a subsequent written application. The licensing authority may also agree in advance that the application need not be given in writing. However, these applications are outside the formal electronic application process and may not be submitted via businesslink or the licensing authority's electronic facility.
- 11.4 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.
- 11.5 Licensing officers may not initiate their own reviews of premises licences, but elected members of the licensing authority may request reviews if they are concerned about licensed activities at a premises or such matters are brought to their attention (see paragraph 8.15 above). Officers of the local authority who are specified as responsible authorities under the 2003 Act, such as environmental health officers, may also request reviews on any matter which relates to the promotion of one or more of the licensing objectives.
- 11.6 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.
- 11.7 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.
- 11.8 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.
- 11.9 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.

- 11.10 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.
- 11.11 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

- 11.12 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.
- 11.13 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.
- 11.14 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.
- 11.15 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

11.16 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.

11.17 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.

11.18 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.

11.19 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.

11.20 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.

11.21 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.

11.22 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

11.23 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.

11.24 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.

11.25 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.

11.26 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.

11.27 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.

11.28 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

11.29 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.