

REPORT OF THE DEPUTY CHIEF EXECUTIVE

LICENSING SUB COMMITTEE – 14 JANUARY 2013

DETERMINATION OF AN APPLICATION FOR A REVIEW OF PREMISES LICENCE UNDER SECTION 52 OF THE LICENSING ACT 2003

191/195 GLENEAGLES ROAD, SUNDERLAND SR4 8JD

Licensee: Mr Harminder Singh

1.0 PURPOSE OF REPORT

- 1.1 To consider an application for the review of a premises licence relating to the above-mentioned premises.

2.0 DESCRIPTION OF DECISION

- 2.1 The Sub-Committee are requested to consider the application and to take such steps as they consider appropriate for the promotion of the licensing objectives.

3.0 INTRODUCTION/BACKGROUND

- 3.1 An application has been received under Section 51 of the Licensing Act 2003 ('the Act') from Northumbria Police applying for a review of the above-mentioned premises licence on the grounds of the Prevention of Crime and Disorder and the Protection of Children from Harm. The application is attached as Appendix 1.

4.0 CURRENT POSITION

- 4.1 Once such an application has been received, the Council, in its role as the Licensing Authority, must advertise on, at or near the premises the fact that a review is to take place and invite representations. This notice was displayed at the premises for the statutory period of 28 days commencing on 17 November 2012.
- 4.2 Before determining the application the Council must hold a hearing to consider it and any relevant representations received. No representations have been received.

5.0 REASONS FOR THE DECISION

- 5.1 To comply with the requirements of Section 52 of the Licensing Act 2003.

6.0 ALTERNATIVE OPTIONS

6.1 None submitted.

7.0 RELEVANT CONSIDERATIONS/CONSULTATIONS

7.1 The provisions of sections 11.16 to 11.23 of the Secretary of State's Guidance (powers of a licensing authority on the determination of a review) apply to this matter.

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

The licensing authority may decide that the review does not require it to take any further steps appropriate 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 informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

However, where responsible authorities such as 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 address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.

Where the licensing authority considers that action under its statutory powers is appropriate, 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.

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 an appropriate and proportionate response.

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.

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.

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 appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

8.0 GLOSSARY

8.1 No acronyms or abbreviations have been used in this report.

9.0 LIST OF APPENDICES

9.1 Appendix 1 - Application Form.

10.0 BACKGROUND PAPERS

10.1 None.

Appendix 1

Sunderland City Council

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 Chief Inspector Sean McKenna on behalf of Northumbria Police

(Insert name of applicant)

apply for the review of a premises licence under section 51 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 Londis (Grindon) 191-195 Gleneagles Road Sunderland	
Post town Sunderland	Post code (if known) SR4 8JD

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

Number of premises licence or club premises certificate (if known) OOCMPREM00416

Part 2 - Applicant details

I am

Please tick ✓ yes

- 1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

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

Please tick ✓ yes

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

Surname

First names

I am 18 years old or over

Please tick ✓ yes

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Chief Inspector Sean McKenna Northumbria Police Gillbridge Police Station Gillbridge Avenue Sunderland SR1 3AW
Telephone number (if any) 0191 5636655
E-mail address (optional)

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

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

Please tick one or more boxes ✓

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

Please state the ground(s) for review

Due to the high number of alcohol related anti social behaviour incidents in Grindon a joint operation was carried out with Northumbria Police and Gentoo. The operation comprised of uniform Police Officers in marked vehicles and Gentoo staff in unmarked vehicles.

On 27th July 2012 the Gentoo vehicle was parked on Gleneagles Road. A number of youths were seen to congregate outside the Londis store now know as Bargain Booze and 3 youths entered. Police in marked vehicles attended the area and waited for the youths to come out of the premises. The youths were seen to exit the premises by the Gentoo staff, 1 youth in particular was carrying a number of blue carrier bags that were believed to contain alcohol. This youth handed 2 carrier bags to the 2 other youths and walked away with 1 bag. The youth was stopped by Police and identified as a male who had just turned 16. The carrier bag contained alcohol. He admitted buying the alcohol in the shop and giving some to his friends.

The other 2 youths were stopped by Police and identified as males both aged 16 years. They both had blue carrier bags full of alcohol and stated the other male had bought it for them.

The male who purchased the alcohol was wearing a very distinctive 'onesy' and was easily identifiable. Police entered the premises and spoke to Mrs Mohinder Kaur, she stated she had sold alcohol to a male in a 'onesy'. She was asked if she had asked for ID and she stated she had not as she had sold him alcohol in the past. She was informed that the youth was only 16 and then she stated that the shop had been very busy and she could not remember the incident.

Police requested to see the shop CCTV footage of the incident and were informed that it was not working. Also present was Mr Harminder Singh the husband of Mrs Kaur, both persons stated the CCTV always works and this was a one off incident. However on several previous occasions that Police have been to the premises to view CCTV it has never been working.

Mrs Kaur became increasingly argumentative throughout the discussion. She was informed that she was going to be issued a £80 penalty notice and she became very argumentative, angry and obstructive. Mrs Kaur went on to blame the Police for the youth problems in the area.

As part of the operation a Bottlewatch scheme has been set up in the area. A UV marker has been given to each licensed premises in the area to mark up alcohol. If alcohol is subsequently found in the possession of persons under 18 the mark will identify which premises the alcohol came from. Resources can then be targeted to the correct places to see if alcohol has been sold directly to under 18's or by way of proxy sales. Community Support Officers who look after the scheme within the Grindon area have concerns that this premise has not been very compliant with the scheme, which has lead to underage sales of alcohol.

On 20th November 2010 a joint operation took place with Trading Standards and Northumbria Police to carry out test purchases. On this date a test purchase volunteer attended the premises and was sold 2 bottles of cider by Mr Harminder Singh. Mr Singh was prosecuted for this offence by Trading Standards.

On 25th September 2012 the Premises Licence Holder and DPS, Harminder Singh attended Gillbridge Avenue Police Station to discuss the underage sales of alcohol. Details of the meeting are below;

- Mr Singh stated that he had no knowledge of the Licensing Objectives.
- Mr Singh had not kept himself up to date with the sale of age restricted products.
- Mr Singh was not clear on the restrictions of tobacco and tobacco product sales.
- Mr Singh employs 3 members of staff that work for him in the premises.
- Staff are told to ask for ID, although it is not stipulated what sort of ID is acceptable.
- The seller of the alcohol on 27th July 2012 was Mr Singh's wife Mrs Mohinder Kaur.
- Mr Singh is not sure if his wife is a personal licence holder.
- Mr Singh thought that Mrs Kaur had some training about 6 to 7 years ago at a place in Jesmond, Newcastle.

Please provide as much information as possible to support the application

It was requested that Mr Singh add some further conditions to his licence by way of a minor variation, as it is clear that even since the first sale in 2010 Mr Singh has not attempted to promote the licensing objectives by updating himself and his staff's knowledge of age restricted products. Mr Singh has chosen not to make a minor variation to the licence which is why the review has been submitted. The premises licence holder is not taking the ongoing responsibilities under the Licensing Act seriously, and if left to continue in such a way then further underage sales will take place.

Northumbria Police take matters of underage sales of age restricted products very seriously. Youth disorder is clearly related to the consumption of alcohol.

- Offences by youths, such as criminal damage, drunken disorderly behaviour and violence is often as a result of underage drinking.
- Youths under 18 are more vulnerable when drunk, particularly when they have been drinking excessively and when unsupervised as is often the case with street drinking.
- Significant public nuisance is also caused when groups of youths congregate in the Local area in the ready expectation of obtaining alcohol. Broken bottles, criminal damage and unruly behaviour by drunken youths causes distress to local residents and reduces the quality of life for those living in the area.

Northumbria Police would request that the licensing committee are minded to add the following conditions to the premises licence in order to promote the licensing objectives;

1. A CCTV system must be designed, installed and maintained in proper working order and be correctly time and date stamped. Such a system must;
 - Ensure coverage of all entrances and exits to the licensed premises both internally and externally and such areas as may be required by the licensing authority and Northumbria Police.
 - Provide continuous recording for each camera to the Home Office Scientific Development Branch (HOSDB) standard for identification (CCTV Operational Requirements Manual 2009 No. 28/09). Such recording must be retained for a minimum of 28 days and must be supplied to an Officer of the Council or a Police Officer on demand.
 - Be in operation at all times the premises are in use.
 - An operational daily log report must be maintained endorsed by signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded.
2. All members of staff at the premises shall seek credible photographic proof of age evidence from any person who appears to be under the age of 25 years and who is seeking to purchase alcohol on the premises. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or a Proof of Age card carrying a 'PASS' logo.
3. A staff training record shall be maintained at the premises;
 - All members of staff shall receive training on their responsibilities, with particular focus on issues surrounding age restricted products.
 - A record of training shall be kept at the premises containing the training that each member of staff has received, and be available on request to an Officer of the Council or Police Staff.
 - All members of staff shall receive refresher training at least every 6 months.
4. All alcohol will be kept in a particular area of the premises separate from general food sales, that can be monitored at all times by staff working in the premises.
5. A refusals register shall be maintained at the premises for all refusals of age restricted products. This register shall be made available to an Officer of the Council or Police Staff.
6. There shall be displayed at the point of entry to the premises and inside the premises at any points of sale, suitably worded signage advising customers that underage sales of alcohol are an offence and that they will be asked to produce proof of age evidence.

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

Please tick ✓ yes

If yes please state the date of that application

Day Month Year

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

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yes

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 4)

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

Signature

 CHIEF INSPECTOR

Date

16/11/12

Capacity **Chief Inspector**

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6) Sarah Howson Licensing Coordinator Gillbridge Police Station Gillbridge Avenue	
Post town Sunderland	Post Code SR1 3AW
Telephone number (if any) 0191 5636655	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) sarah.howson.4672@northumbria.pnn.police.uk	

Notes for Guidance

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