

REPORT OF THE DEPUTY CHIEF EXECUTIVE

LICENSING SUB COMMITTEE – 16 FEBRUARY 2015

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

OXCLOSE CONVENIENCE STORE, UNIT 1 OXCLOSE VILLAGE CENTRE, WASHINGTON, NE38 0LZ

Licensee: Mandeep Sandhu

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 under Section 51 of the Licensing Act 2003 ('the Act') has been received from Sunderland City Council Trading Standards 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 the fact that a review is to take place and invite representations. Such notices were displayed for the statutory period of 28 days commencing on 30 October 2014.
- 4.2 Before determining the application the Council must hold a hearing to consider it and any relevant representations received. Representations have been received from Northumbria Police, Councillor George Thompson and four individuals (attached as Appendix 2).
- 4.3 This matter was referred for the consideration of the Licensing Sub Committee on 16 December 2014, however Members agreed to defer consideration of this matter at the request of the applicant's Solicitor to initially to 4 February 2015. Following another request from the premises licence holder's solicitor for a further adjournment due to his unavailability and with the agreement of the applicant and Northumbria

Police, the matter was further adjourned until 16 February 2015.

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.

9.2 Appendix 2 – Relevant representations.

10.0 BACKGROUND PAPERS

10.1 None.

Appendix 1

Sunderland City Council – Trading Standards

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 Sunderland City Council

(Insert name of applicant)

apply for the review of a premises licence under section 51 / ~~apply for the review of a club premises certificate under section 87~~ of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Oxclose Convenience Store Unit 1 Oxclose Village Centre	
Post town Washington	Post code (if known) NE38 0LZ

Name of premises licence holder or club holding club premises certificate (if known) Mandeep Sandhu
--

Number of premises licence or club premises certificate (if known) 00CMPREM00495

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

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Trading Standards Jack Crawford House Commercial Road Sunderland SR2 8QR
Telephone number (if any) 0191 561 1710
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 (please read guidance note 2)

ON 8 March 2013 a test purchase exercise at these premises was undertaken by Trading Standards and Northumbria Police. A 15 year old female volunteer purchased a bottle of Orange WKD alcoholic drink. The seller was the Premises Licence Holder Mandeep Sandhu. Following the sale Mandeep Sandhu accepted a Simple Caution for the sale of alcohol to a child, a section 146 offence under the Licensing Act 2003. A Minor Variation was also submitted putting additional conditions on the operating schedule of the premises licence;

3) A refusals register shall be kept on the premises to record incidents where the sale of age restricted products have been refused and be available for inspection by Police Staff and Authorised Officers of the Council, at all times the premises are open to the public..

4) A CCTV system must be designed, installed and maintained in proper working order, to the satisfaction of the licensing authority and Northumbria Police. Such a system must:

- Ensure coverage of all entrances and exits to the licensed premises both internally and externally
- Ensure coverage of 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 recordings must be retained (on tape or otherwise) for 28 days and must be supplied to an Officer of the Council or a Police Officer on request.
- 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.

5) A staff training record shall be maintained at the premises;

All staff will receive this training before they are allowed to serve alcohol or age restricted products. Such training will include responsibilities under the Licensing Act 2003 with particular focus upon offences and underage sales. All members of staff, paid or unpaid, shall receive this training. 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.

6) A Challenge 25 scheme, where persons who appears to be under the age of 25 years are challenged as to their age, to operate on the premises and all challenged persons must be asked to provide either a recognised proof of age card accredited under the Proof of Age Standards Scheme (PASS), a photographic Driving Licence, oa passport or official HM Forces or EU ID card bearing a photograph and date of birth to prove they are aged 18 or over. The Licensee must provide prominent notices at each entrance to the Premises to this effect.

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

On 20 July 2014 vodka was sold at the premises to a 16 year old male. This was identified following an examination of CCTV footage obtained from the store by Northumbria Police. PC 8584 Grainger identified the purchaser from the CCTV footage. A 16 year old boy has been interviewed by Northumbria Police in relation to an offence under the Licensing Act 2003. The footage does not show any challenge by the seller of the person who appears under 25 and no form of identification is shown. The sale was made by Harbhajan Kaur Sanhu, who was issued with a Fixed Penalty Notice by Northumbria Police.

An inspection at the premises by Trading Standards on 23 July 2014 identified that the brand of vodka supplied to the 16 year old did not bear a Lot Mark required under food labelling requirements causing doubt as to the legitimacy of its manufacture. Harbhajan Kaur Sanhu was serving behind the counter at the time of the visit.

Further bottles of a different brand do not have a Lot Mark making it also suspicious as to authenticity and also constitutes an offence under the Food Labelling Regulations 1996. These goods were seized by Trading Standards for investigation of potential offences. Subsequent analysis shows the second brand 'Activ Vodka' contained only 33.2% alcohol by volume (ABV) rather than the declared 37.5% ABV. The sample also contained ethyl acetate, a solvent. The quantity of ethyl acetate was not harmful but the Public Analyst was unable to account for its presence. This gives rise to offences under the Food Safety Act 1990 and Consumer Protection from Unfair Trading Regulations 2008.

In summary the premises have been responsible for two underage sales and the supply of alcohol that fails to meet the requirements of food and trading standards legislation. This raises concerns over the operation of the business.

tick ✓ **yes**

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

Please

If yes please state the date of that application

Day Month Year

↓	↓	↓	↓	↓	↓	↓	↓	↓
---	---	---	---	---	---	---	---	---

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

tick ✓ yes

Please

- 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 Richard Thomas

Date 29 OCTOBER 2014

Capacity TRADING STANDARDS AND LICENSING MANAGER

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

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.

Appendix 2

From:
Sent: 27 November 2014 09:26
To: Licensing
Subject: Oxclose Store [RESTRICTED]

Northumbria Police are deeply concerned with regard to the management and disregard for the Licensing objectives by everyone concerned in the running of this shop.

On 8th March this year a sale of alcohol was made to a 15yrs old volunteer by the current DPS Mandeep Sandhu no ID was asked for and the volunteer was clearly underage.

A further unauthorised sale was investigated by Northumbria Police following a tragic accident in Mowbray Park Sunderland on the weekend commencing Friday 18th July 2014 (see press cuttings attached) this resulted in CCTV being seized from the store and a local youth aged 16 was identified purchasing the alcohol from Harbajan Kaur Sandhu dob 7/7/1944 the mother of the DPS.

The Police have been contacted on a number of occasions by members of the public reporting suspicious activity at the store and the police hold intelligence regarding criminal activity surrounding the staff involved with the premises.

A report outlining the generic anti social behaviour in the area will be forwarded when available.


Regards Bill Sproates

5867

NORTHUMBRIA POLICE PRIVACY AND CONFIDENTIALITY NOTICE

The information contained in this message and any attachment(s) is confidential and intended only for the attention of the named organisation or individual to whom it is addressed. The message may contain information that is covered by legal, professional or other privilege. No mistake in transmission is intended to waive or compromise any such privilege. This message has been sent over public networks and the sender cannot be held responsible for its integrity.

If you are not the intended recipient be aware that any disclosure, copying, distribution or action taken in reliance of the information contained herein is strictly prohibited, and is contrary to the provisions of the Copyright Designs and Patents Act, 1988 and of the Data Protection Act, 1998.

Any views expressed are those of the sender and, unless specifically stated, do not necessarily represent the view of Northumbria Police.

We cannot accept any liability for any loss or damage sustained as a result of software viruses. It is your responsibility to carry out such virus checking as is necessary.

If you have received this message in error, please notify the sender by e-mail at once and delete the message immediately.

For more information about Northumbria Police please visit our website - <http://www.northumbria.police.uk>

Name George Thompson
Occupation Elected Councillor for Washington South Ward

I am an elected Local Councillor representing the constituents of Washington South Ward within Sunderland City Council. The ward that I represent includes Oxclose Village and Holley Park.

I have been made aware of a review of the Licence to sell Alcohol at the Oxclose Village Convenience Store in Oxclose Village Centre. I am submitting this statement as a Community Impact Report relating to the effects that underage drinking has in this area.

During the past 12-15 months I have been aware of a substantial increase in the amount of underage drinking around Oxclose Village and Holley Park. I became aware of this because of my own personal observations, feedback from the Local Police Team, feedback from Youth Workers and feedback from local residents.

This problem has directly linked with an increase in the number of youth ASB incidents in the same area. The main locations for the underage drinking and ASB are:-

- Oxclose Village Centre
- Holley Park
- Raby Road pedestrian underpass
- Lumley Close pedestrian underpass
- St John Boste Church pedestrian underpass

Oxclose Village Centre.

Immediately adjacent to and overlooking the village centre there are 55 retirement bungalows. The residents are generally over 65 years old and many live alone.

Several of these elderly residents have attended my Ward Surgery complaining that during the past 12 months there has been a big increase of Youth ASB in the area. They told me that bus shelter windows have been smashed repeatedly, week after week. The perspex roof of the bus shelters has had holes burnt in them with cigarette lighters. Abandoned shopping trolleys and wheely bins have been rammed down paths against the front doors of the bungalows. Beer cans and bottles are often strewn about the area and thrown into gardens. The residents also tell me they are regularly disturbed on a late evening by noise from young people but most don't look out or contact the Police for fear of retribution.

They and other Oxclose residents have also told me that they are regularly approached in the village centre by under-age children who ask them to buy alcohol for them at the village shop. Some of the residents tell me that they

feel intimidated by this. On Fridays this request to buy often happens as early as 1pm.

One resident, who is a retired licensee, tells me that he has personally visited the Oxclose Convenience Store and told the staff that people were regularly buying alcohol for the children outside. He even identified one local teenager to them who he had seen buying for the younger ones, but he says the staff were not interested. He was so exasperated by their response that he now no longer uses that shop.

During this past summer Washington has commemorated the 50th Anniversary as a new town. As part of the 'Washington 50' celebrations large planters were bought and placed in all of the village centres across the town. Because they were being repeatedly overturned, sometimes across the middle of the road, the council have had to remove these planters from Oxclose Village Centre.

There is a paved seating area immediately outside the shop and paving stones have been repeatedly torn up and smashed. These have had to be replaced and made good by the council at considerable cost.

As a councillor I have had to make additional requests for litter picks in Oxclose Village Centre because beer cans and bottles have been strewn about.

Holley Park

The park is located about 400 meters to the south of Oxclose Village Centre and during the past 12 months residents have suffered large congregations of young people drinking in the park. The local Police team tell me that sometimes these youths number in excess of 100. They tell me many of these are underage and they regularly pour out abandoned alcohol when they attend the scene.

The problem was deemed so bad that the Police have recently had to implement an Emergency Exclusion Order to tackle the underage drinking and ASB. This was widely publicised in the local newspapers.

There is a play park within Holley Park that has had the 'basket swing' set on fire causing £10,000 worth of damage. Due to current financial situation it is highly unlikely that the council can afford to replace it, so the local children have now lost out.

The play park is regularly strewn with broken drink bottles and recently a small child suffered a cut to his hand on broken glass in the play park.

In order to try and combat these problems the council are being forced to demolish and remove a cobble & concrete seating area where the youths congregate in the park. The cost of this work is almost £3,000.

The council have to regularly carry out additional litter picks in the area collecting beer cans and bottles, particularly around the play park, which has to be intensively checked for broken glass 7 days per-week.

The dog waste bins in the park are regularly vandalised and the contents strewn around the footpaths which the council have to cleanup.

Remnants of rubbish fires occasionally have to be removed from the park by the council.

Raby Road Pedestrian Underpass

The underpass is located about 500 meters east of Oxclose Village Centre and is a regular congregation point for young people drinking alcohol. I have witnessed this myself.

There are a set of disused steps beside the underpass where young people regularly congregate and drink. In order to try and tackle the problem the council are looking to remove the steps at considerable expense.

The youths occasionally set small rubbish fires beside the steps, which the council have to remove.

In August wheely bins were pulled into the underpass and set on fire. The fire appears to have 'bleezed' through the underpass and the heat was so intense that it shattered the facia of the concrete walls; melted the wheely bins into the tarmac path so they are now fused into one another; the lighting system was totally burnt out and all the shrubbery and trees for several yards either side of the underpass were scorched. We don't know yet if the shrubbery and trees will re-grow or have to be removed and replaced. The estimated cost to the council of repairing this arson in the underpass is £20,000.

Lumley Close Pedestrian Underpass

This underpass is located about 400 meters east of Oxclose Village Centre and is an occasional congregation point for underage drinking. I have witnessed this myself.

This underpass does not seem to be as attractive to the young people as the previous three locations because they cannot run away and 'escape' so easily when they see the Police arriving.

However it is occasionally used and I have had to request additional litter picks to collect broken bottles, beer cans and abandoned shopping trolleys which the youths have used as seating.

During the past year the play park adjacent to the underpass was subjected to an arson attack and two items of play equipment were damaged. One was so badly damaged that it has been removed by the council and it is not envisaged that it will ever be replaced. The other piece of equipment, a basket

swing, was burnt out and has still not been replaced as there is no available council funding.

St John Boste Church Pedestrian Underpass

This underpass is about 400 meters north east of Oxclose Village Centre and like Lumley close is occasionally used by underage drinkers. I have witnessed this myself.

The underpass is adjacent to St John Boste RC Church and during conversations with a member of the Church Council I was told that over the past year they have had several windows broken in the church. These windows are all on the side adjacent to the underpass. The parishioner was aware that the underpass was used by young people who were drinking and believed they were probably responsible for the damage.

I have had to request that the underpass be swept on a couple of occasions to remove broken glass, broken bottles and beer cans.

It is quite apparent that my constituents believe that the underage drinking and associated ASB problems that we are suffering are directly linked to the Oxclose Convenience Store.

On behalf of the residents that I represent I request that the Licensing Committee deal with this review firmly and appropriately so that local residents can feel safe; so the council and the police do not have to commit costly resources to tackling the associated problems and our young people are safe from the detrimental effects of consuming alcohol.

Signed



George Thompson

27/11/14.



19-11-14

To Whom it may concern,

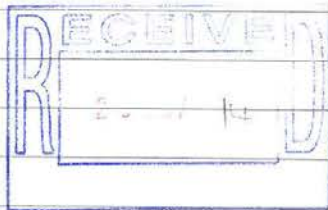
The Sandhu family have done an excellent job set the Circle Convenience. The shop before was run down and there was always people hanging around the area drinking.

Now it is a very good shop and me and my family feel safe going there. The area is very difficult and I know that Chet Sandhu chases any people hanging around.

You should concentrate on

improving the Shopping Centre
at Oxles. It is run down
and you should spend money
on improving it, instead of
persecuting the Sanchez family.
They are a credit to the
Society of Oxles.

Regards.



20 November 2014.

Dear Sir/Madam,

It is with some surprise that i saw your public notice outside Oxclose Village General Store re their conduct.

As a regular visitor over the last eleven years, I must express my disbelief at this notice. You will be aware of the circumstances that the last occupants left in.

In my opinion the current occupant has fitted into our community very well and I can personally vouch for her vigilance against under age purchasers. In particular she does not tolerate youths hanging around the shop doors.

I personally welcome this attitude and feel the store has once again become part of the community.

Yours Faithfully



20/11/14

TO WHOM IT MAY CONCERN:

I HAVE KNOWN and SHOPPED at ~~Alamy~~
OXCLOSE CONVENIENCE STORE FOR LAST FEW
YEARS. I CAN CONFIDENTALLY SAY THAT SINCE
THE NEW OWNER HAS TAKEN OVER, I HAVE SEEN
MASSIVE IMPROVEMENT IN THE AREA.

I CAN GO THERE WITHOUT ANY FEAR WHEREAS
BEFORE I USED TO BE VERY AFRAID THERE.

I SUPPORT THEM HAVING OFF-LICENCE AND
SOME GOES FOR MY FAMILY AND FRIENDS



20/11/14

To the Council.

I myself and my family frequently visit the shop, Oxclose convenience store, I can say that since the new owners have taken over the shop around two years ago I have seen a massive improvement in the surrounding area. I used to be scared of going there because children used to drink outside and around the village centre.

Since the new owners have taken over there has been a vast improvement in both the shop and the surrounding areas and I support them having an affiliation and so do all my family and most my friends.

