

LICENSING ACT 2003 SUB COMMITTEE

Thursday, 15th March, 2018
10.00 am





LICENSING ACT 2003 SUB COMMITTEE

Thursday, 15th March, 2018 at 10.00 am

Members are reminded that if they have detailed questions on individual reports, they are advised to contact the report authors in advance of the meeting.

AGENDA

1) *Appointment of Chair*

To consider the appointment of Chair for the meeting

2) *Apologies for Absence*

To receive any apologies for absence

3) *Minutes of the last Meetings*

5 - 8

To approve as a correct record the Minutes of the last Licensing Act 2003 Sub Committee meetings held on 12th and 20th December 2017.

4) *Additional Items of Business*

To determine whether there are any additional items of business which, by reason of special circumstances, the Chair decides should be considered at the meeting as a matter of urgency

5) *Declaration of Interest*

In accordance with the Regulations, Members are required to declare any personal or personal and prejudicial interests they may have and the nature of those interests in respect of items on this agenda and/or indicate if S106 of the Local Government Finance Act 1992 applies to them.

6) *Exclusion of the Public*

To determine during which items, if any, the public are to be excluded from the meeting

7) *Determination of a Review of a Premises Licence -Lifesyle Express, Anglesey Avenue, Burnley.*

9 - 34

To determine a Review of a Premises Licence under the Licensing Act 2003 relating to Lifestyle Express on Anglesey Avenue, Burnley.

MEMBERSHIP OF COMMITTEE

Councillor Bill Brindle
Councillor Ida Carmichael

Councillor Anne Kelly
Councillor Ann Royle

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Monday 5th March 2018

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BURNLEY BOROUGH COUNCIL LICENSING ACT 2003 SUB COMMITTEE

BURNLEY TOWN HALL

Tuesday, 12th December, 2017

PRESENT

MEMBERS

Councillor Ann Royle in the Chair;

Councillors J Cunningham, A Royle and C White

OFFICERS

Eric Dickinson	– Democracy Officer
Alison McEwan	– Democracy Officer
David Talbot	– Senior Solicitor

6 Appointment of Chair

Councillor Ann Royle was appointed as Chair for this meeting.

7 Minutes of the last Meeting held on 2nd June 2017

The Minutes of the last meeting held on the 2nd June 2017 were agreed as a correct record.

8 Exclusion of the Public

That the determination for review of a Premises Licence at Vogue Night Club, 77 Hammerton Street, Burnley under Section 52 of the Licensing Act 2003 be held in public.

9 Determination of a Premises Licence Application- Vogue

John Yardley reported on a review of a Premises Licence at Vogue Night Club, 77 Hammerton Street, Burnley under Section 52 of the Licensing Act 2003 and presented his case on behalf of the Licensing Authority.

Sergeant James Middleton and John Clucas presented their case on behalf of Lancashire Constabulary.

Rick Wilson presented his case on behalf of Lancashire County Council Trading Standards Service.

Rebecca McQuoid and James McQuoid presented their case on behalf of Vogue Night Club.

Members and the relevant parties set out above asked questions regarding the review.

DECISION AND REASONS FOR DECISION

After considering the review and all representations it was a very difficult decision but it was decided to accept the conditions and hours proposed by the Police and Vogue Night Club as proposed on 6th December 2017, which replace the existing conditions set out in Annex 2.

The Police's approach for them to be proactive and to review the licence again should that be relevant was agreed to.

The reason for the decision was having regard to the prevention of crime and disorder licensing objective.



BURNLEY BOROUGH COUNCIL LICENSING ACT 2003 SUB COMMITTEE

BURNLEY TOWN HALL

Wednesday, 20th December, 2017

PRESENT

MEMBERS

Councillors I Carmichael, G Frayling and A Kelly

OFFICERS

Emma Barker	– Principal Legal Officer - Litigation & Regulation
Eric Dickinson	– Democracy Officer
Claudia Wilcock	– Business Administration Apprentice

10 Appointment of Chair

Councillor Anne Kelly was appointed as Chair for this meeting.

11 Exclusion of the Public

That the determination of a review of a Premises Licence at Drinks Express at 260, Colne Road, Burnley, Lancashire under Section 52 of the Licensing Act 2003 be held in public.

12 Determination of a Premises Licence Application-Drinks Express

Representatives from Drinks Express were absent.

An adjournment was considered further to the email from Licensing Matters received yesterday but the committee decided to proceed in the licence holder's absence pursuant to regulation 20 (2) (b) of The Licensing Act 2003 (Hearings) Regulations 2003.

John Yardley reported on a review of a Premises Licence at Drinks Express, 260 Colne Road, Burnley under Section 52 of the Licensing Act 2003 and presented his case on behalf of the Licensing Authority.

Sergeant James Middleton and John Clucas presented their case on behalf of Lancashire Constabulary.

Anthony Rutherford presented his case on behalf of the Home Office.

Rick Wilson, Dawn Robinson, and Lauren Manning presented their case on behalf of Lancashire County Council Trading Standards Service.

Members and the relevant parties set out above asked questions regarding the review.

DECISION AND REASONS FOR DECISION

Decision

That the premises licence numbered PLA0065 granted under the Licensing Act 2003 in respect of “Colne Road Off Licence” 260 Colne Road, Burnley BB10 1DZ be revoked.

Reasons for Decision

- (a) There were 8 separate incidents between 19th July 2010 and 10th July 2017 relating to illicit cigarettes and/or alcohol products, an assault on a Trading Standards Officer and an immigration matter.
- (b) These incidents have resulted in prosecution proceedings relating to the assault on the Trading Standards Officer and possession and supply of tobacco products seized on 20th February 2014 and resulted in a £600 fine and £3300 costs.
- (c) A £20,000 civil penalty was imposed in relation to the Immigration matter, of which £15,000 is outstanding.
- (d) Paragraph 11.27 of the government guidance issued under section 182 of the Licensing Act 2003, which has been considered in accordance with the licensing authority’s duty under section 4(3) of the Act, advises that there are certain criminal activities that may arise in connection with licensed premises which should be treated particularly seriously. These include “the sale or storage of smuggled tobacco and alcohol”. In respect of such offences, the guidance envisages that licensing authorities will use review procedures effectively in order to deter such activities and crime and that revocation, even in the first instance, should be seriously considered;
- (e) The incidents, and resultant convictions, took place and were repeated over a considerable number of years.
- (f) The matters set out in the paragraphs above had and/or have the effect of undermining the licensing objective of the prevention of crime and disorder.
- (g) In those circumstances it is considered that revocation of the licence serves to promote the crime prevention objective; and
- (h) Consideration has been given to all the powers available to the licensing authority under section 52(4) of the Act and concludes that revocation of the licence is both necessary and proportionate in the circumstances.

REPORT TO LICENSING SUB-COMMITTEE



DATE	15th March 2018
PORTFOLIO	Governance, Law & Regulation
REPORT AUTHOR	John Yardley
TEL NO	0114 3999067
EMAIL	jyardley@burnley.gov.uk

Licensing Act 2003 Determination of an application for a review of a premises licence

PURPOSE

1. To advise members of the requirement to determine an application for review under Section 52 of the Licensing Act 2003.
2. The premises are Lifestyle Express (Anglesey Off Licence) 5 Anglesey Avenue, Burnley, BB12 6AY

RECOMMENDATION

3. Members are recommended to make a determination at the conclusion of the hearing as required by Regulation 26(1) of the Licensing Act (Hearings) Regulations 2005.

Having considered all relevant facts, the Committee is empowered to take any of the following steps which are necessary to promote the licensing objectives:

- a. to modify the conditions of the licence;
- b. to exclude a licensable activity from the scope of the licence;
- c. to remove the designated premises supervisor;
- d. to suspend the licence for a period not exceeding three months; or
- e. to revoke the licence.

REASONS FOR RECOMMENDATION

4. Members of the Licensing Committee are responsible for determining such applications.

SUMMARY OF KEY POINTS

5. The Licensing Objectives are:
- Prevention of Crime and Disorder
 - Public Safety
 - Prevention of Public Nuisance
 - Protection of Children from Harm

The premises currently hold a licence which authorises the supply of alcohol for consumption OFF the premises Monday to Sunday from 8.00am to 11.00pm.

The holder of the premises licence and Designated Premises Supervisor is Humera Zafar.

Conditions attached to the licence:

ANNEX 1 – Mandatory conditions

The licence is granted subject to the Mandatory conditions for sale of alcohol as set out in the Licensing Act 2003 as amended by the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 and Order 2014.

ANNEX 2 - Conditions consistent with the Operating Schedule

CCTV will be installed and maintained at the premises in accordance with the minimum requirements of Lancashire Constabulary, namely:

The licensed area of the premises shall be equipped with a Closed Circuit Television system (CCTV), which should comply with the following criteria:

1. It will record to a Digital Video Recorder (DVR), with an evidential burn to Cassette Disc (CD) with software facility.
2. The system will be maintained in proper working order. Any faults will be rectified Without delay.
3. It will be a colour system and will display on any recording the time and date of the recording.
4. The system will be operated during all permitted hours.
5. Recordings will be held for 28 days; thereafter the DVR can be allowed to overwrite if desired.
6. The 28 day recorded data to be made available to police or local authority licensing officers for inspection and retention on request.
7. Camera's shall be sufficient in number to view point of sale, stock, staff, customers, street exit/entry and shall cover the rear door and yard.
8. CCTV cameras will be robust and conspicuous in presence.
9. Clear signage deployed to indicate CCTV use both prior to entry and whilst

A Refusals register will be maintained at the premises and completed on each occasion a refusal of alcohol is made. The Register will be checked and signed by the DPS or Premises Licence Holder on a monthly basis and will be made available to the Authorities on request.

All staff will be trained before making sales of alcohol, within their responsibilities under the LA2003.

All training will be documented, refreshed every quarter and will be made available to the Police & Authorised Officers of the Council upon request.

Any person who looks or appears to be under the age of 21 shall be asked to provide suitable identification that they are over the age of 18.

Signage will be displayed at the premises informing customers that a "Challenge 21" scheme is in operation.

The full existing premises licence is appended at Appendix 'A'.

- 6 On the 18th January 2018, the Licensing Authority received an application from Lancashire County Council Trading Standards Service to review the Premises Licence of Lifestyle Express, 5 Anglesey Avenue, Burnley. The grounds for the application being that the licensing objectives relating to the prevention of crime and disorder and the protection of children from harm are not being observed at the premises.

Trading Standards say that a lengthy history of illegal activity at the premises represents a flagrant and systematic disregard for the relevant licensing objectives.

The trade in illicit tobacco products has been discovered on more than one occasion. A recent history of underage sales of both alcohol and tobacco have been recorded whilst the sale of alcohol to a 14 year old child ended in near fatal circumstances.

Therefore, the Licensing Committee is encouraged to consider revocation of the relevant premises licence for Lifestyle Express (Anglesey Off Licence).

The review application submitted by Trading Standards is appended at Appendix 'B'.

The Licensing Authority has received representations from Lancashire Police with regards to the application submitted by Trading Standards. Details of these representations are contained in the document provided by Police Sergeant Jason Middleton from Lancashire Police which is appended at Appendix 'C'.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

7. None

POLICY IMPLICATIONS

8. The following paragraphs from Burnley Borough Council's Statement of Licensing Policy are relevant to this application:

1.3 We desire to create an environment where local people and visitors to our areas will have better opportunities to enjoy their leisure time in safety without fear of violence, intimidation or disorder whilst on or in the vicinity of licensed premises.

1.10 We will endeavor to carry out our licensing functions in a way that:

- ensures public safety
- supports well managed premises where licence holders seek to actively promote the licensing objectives and display sensitivity to the potential impact of licensable activities on local residents and other businesses
- protects residents' quality of life.

3.28 This Licensing Authority is committed to protecting children from harm and supports the programme of underage test purchases arranged by the Lancashire Trading Standards Service, the Licensing Team and Police. Where underage sales are found, the Licensing Authority supports the appropriate and proportionate use of warnings, responsible retail training, fixed penalty notices, reviews and prosecution as a means of promoting the licensing objectives and enforcing the Licensing Act proportionately.

3.7 Under the Crime and Disorder Act 1998, the authority must exercise its functions, having regard to the likely effect on crime and disorder in its area, and must do all it can to prevent crime and disorder. Where its discretion is engaged, the authority will seek to promote the licensing objective of preventing crime and disorder in a manner which supports the Lancashire County Council Community Safety Action Plan and any local community safety priorities or emerging threats identified Burnley Community Safety Delivery Group (MATAC)

14.1 Where an application for a review of a premises licence is made, we will inform the public of the application for review in accordance with the regulations made under the Act thereby allowing any other responsible authority, authorised person or interested party to also make application at that time.

Members are reminded of the consideration they should give to the Human Rights Act 1998 in particular those rights afforded by Article 6 (right to a fair hearing), Article 1 of the First Protocol (protection of property) and Article 8 (right to respect for private and family life).

DETAILS OF CONSULTATION

9. The statutory consultation has taken place.

BACKGROUND PAPERS

10. Burnley Borough Council Statement of Licensing Policy.
Licensing Act 2003.

FURTHER INFORMATION

PLEASE CONTACT:

John Yardley ext 249067

ALSO:

Peter Henderson ext 249061

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Licensing Unit
Parker Lane
Burnley
Lancashire
BB11 2DT

Tel: 01282 425011
Web: www.burnley.gov.uk

Licensing Act 2003

Premises Licence

PLA0124

Part 1 - Premises Details

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

Lifestyle Express (Anglesey Off Licence)

3 / 5 Anglesey Avenue, Burnley, Lancashire, BB12 6AY.

Telephone 01282 452898

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- the supply of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
J. Supply of alcohol for consumption	OFF the premises only Monday to Sunday	8:00am	11:00pm

THE OPENING HOURS OF THE PREMISES

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

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

- J. Supply of alcohol for consumption OFF the premises only

Part 2

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

Humera Zafar

43 Meadow Close, Burnley, Lancashire, BB10 2QU.

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

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

Humera ZAFAR

43 Meadow Close, Burnley, Lancashire, BB10 2QU.



Licensing Act 2003

Premises Licence

PLA0124

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

Licence No. PENDLE0893

Issued by Pendle

ANNEXES

ANNEX 1 - MANDATORY CONDITIONS

Mandatory Conditions

All Premises Licence authorising supply of alcohol

The licence is granted subject to the Mandatory conditions for sale of alcohol as set out in the Licensing Act 2003 as amended by the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 and Order 2014.

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 responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises.
 - a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a

Licensing Act 2003

Premises Licence

PLA0124

ANNEXES continued ...

significant risk of undermining a licensing objective;

- d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
- e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

- 4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 5.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licences must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:-
 - (a) a holographic mark or
 - (b) an ultraviolet feature.
- 6. The responsible person shall ensure that -
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Licensing Act 2003

Premises Licence

PLA0124

ANNEXES continued ...

Minimum Drinks Pricing

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1 -
 - (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
 - (b) "permitted price" is the price found by applying the formula -
$$P = D + (D \times V)$$
Where -
 - (i) P is the permitted price
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
 - (i) The holder of the premises licence
 - (ii) The designated premises supervisor (if any) in respect of such a licence, or
 - (iii) The personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from the paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4.
 - (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
 - (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Licensing Act 2003

Premises Licence

PLA0124

ANNEXES continued ...

If the Premises Licence allows Exhibition of Films

1. Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.

2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation by that body.

3. Where

- (a) The film classification body is not specified in the licence, or
- (b) The relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,

admission of children must be restricted in accordance with any recommendation made by that licensing authority.

4. In this section "children" means any person aged under 18; and

"film classification body" means the person or persons designated as the authority under Section 4 of the Video Recordings Act 1984(c39) (authority to determine suitability of video works for classification).

If the Premises Licence has conditions in respect of Door Supervision

except theatres, cinemas, bingo halls and casinos

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must:

- (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
- (b) be entitled to carry out that activity by virtue of section 4 of the Act.

2. But nothing in subsection (1) requires such a condition to be imposed:

(a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c12) (premises with premises licences authorising plays or films); or

(b) in respect of premises in relation to:

(i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or

(ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that

Licensing Act 2003

Premises Licence

PLA0124

ANNEXES continued ...

Act.

3. For the purposes of this section:

- (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and, which is licensable conduct for the purposes of that Act, (see Section 3(2) of that Act) and
- (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

ANNEX 2 - Conditions Imposed in Accordance with the Operating Schedule & Under Paragraph 18(4) & 18(5) Schedule 8 Licensing Act 2003

CCTV will be installed and maintained at the premises in accordance with the minimum requirements of Lancashire Constabulary, namely:

The licensed area of the premises shall be equipped with a Closed Circuit Television system (CCTV), which should comply with the following criteria:

- 1. It will record to a Digital Video Recorder (DVR), with an evidential burn to Cassette Disc (CD) with software facility.**
- 2. The system will be maintained in proper working order. Any faults will be rectified Without delay.**
- 3. It will be a colour system and will display on any recording the time and date of the recording.**
- 4. The system will be operated during all permitted hours.**
- 5. Recordings will be held for 28 days; thereafter the DVR can be allowed to overwrite if desired.**
- 6. The 28 day recorded data to be made available to police or local authority licensing officers for inspection and retention on request.**
- 7. Camera's shall be sufficient in number to view point of sale, stock, staff, customers, street exit/entry and shall cover the rear door and yard.**
- 8. CCTV cameras will be robust and conspicuous in presence.**
- 9. Clear signage deployed to indicate CCTV use both prior to entry and whilst**

A Refusals register will be maintained at the premises and completed on each occasion a refusal of alcohol is made. The Register will be checked and signed by the DPS or Premises Licence Holder on a monthly basis and will be made available to the Authorities on request.

Licensing Act 2003

Premises Licence

PLA0124

ANNEXES continued ...

All staff will be trained before making sales of alcohol, within their responsibilities under the LA2003. All training will be documented, refreshed every quarter and will be made available to the Police & Authorised Officers of the Council upon request.

Any person who looks or appears to be under the age of 21 shall be asked to provide suitable identification that they are over the age of 18.

Signage will be displayed at the premises informing customers that a "Challenge 21" scheme is in operation.

ANNEX 3. Conditions attached after a hearing by the licensing authority

None

ANNEX 4 - Plan of Premises

The official plan of the premises is attached and endorsed

Licensing Unit
Parker Lane
Burnley
Lancashire
BB11 2DT

Tel: 01282 425011
Web: www.burnley.gov.uk

Licensing Act 2003

Premises Licence Summary

PLA0124

Premises Details

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

Lifestyle Express (Anglesey Off Licence)

3 / 5 Anglesey Avenue, Burnley, Lancashire, BB12 6AY.

Telephone 01282 452898

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- the supply of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
J. Supply of alcohol for consumption	OFF the premises only Monday to Sunday	8:00am	11:00pm

THE OPENING HOURS OF THE PREMISES

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

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

- J. Supply of alcohol for consumption OFF the premises only

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Humera Zafar

43 Meadow Close, Burnley, Lancashire, BB10 2QU.

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

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

Humera ZAFAR

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

None

**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 Rick Wilson,

(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 (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Lifestyle Express (Anglesey Off Licence) 5 Anglesey Avenue	
Post town Burnley	Post code (if known) BB12 6AY

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

Number of premises licence or club premises certificate (if known) 0124

Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below).
- a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises
 - d) a body representing persons involved in business in the vicinity of the premises
- 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

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	
Rick Wilson Lancashire County Council Trading Standards Service 4 th Floor, Lancashire Point County Hall Pitt Street Preston Lancashire PR1 0LD	
Telephone number (if any)	01772 532228
E-mail address (optional)	rick.wilson@lancashire.gov.uk

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

Please tick one or more boxes

- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

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

The application for review is submitted by Lancashire County Council Trading Standards Service on the grounds that the licensing objectives relating to the prevention of crime and disorder and the protection of children from harm is not being observed at Lifestyle Express (Anglesey Off Licence), 5 Anglesey Avenue, Burnley BB12 6AY

Trading Standards say that a lengthy history of illegal activity at the premises represents a flagrant and systematic disregard for the relevant licensing objectives.

The trade in illicit tobacco products has been discovered on more than one occasion. A recent history of underage sales of both alcohol and tobacco have been recorded whilst the sale of alcohol to a 14 year old child ended in near fatal circumstances.

Therefore, the Licensing Committee is encouraged to consider revocation of the relevant premises licence for Lifestyle Express (Anglesey Off Licence).

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

PREVENTION OF CRIME AND DISORDER / PROTECTION OF CHILDREN FROM HARM

- 24/10/16 – A Police Penalty Notice for Disorder was issued to Humera Zafar (date of birth 29/07/1990) for selling alcohol to an individual aged under 18.
 - Humera Zafar is the current premise licence holder and designated premise supervisor at Lifestyle Express (Anglesey Off Licence).
- 02/11/16 – Trading Standards seized 2 x 50g pouches of illicit tobacco from Razaqat Ali at Lifestyle Express (Anglesey Off Licence).
 - Razaqat Ali is the husband of Humera Zafar.
- 04/11/2016 - A warning letter was sent from Trading Standards to Mr Ansar who was the premise licence holder and designated premises supervisor at the time of the seizure. The letter contained a form for the owner of illicit tobacco to sign over the tobacco.
- 22/11/16 - The signing over form was received at Trading Standards. Humera Zafar had signed this form confirming that she was the owner of the illicit tobacco.
- 27/02/17 – Lancashire Trading Standards Service receive intelligence from Police that illicit tobacco was being supplied from the store.
- 29/03/17 – Lancashire Trading Standards Service made a test purchase of illicit tobacco from the store and were supplied with illicit President cigarettes after asking for hand rolling tobacco. The lady who sold the cigarettes told Trading Standards they would have some hand rolling tobacco if we returned that same evening.
- 13/04/17 – Lancashire Trading Standards Service made a seizure of illicit tobacco products from a vehicle parked outside the store. This consisted of 11 pouches of illicit Amber Leaf tobacco and 7 packs of 20 Richmond cigarettes, all of which were counterfeit.
 - The vehicle was a VW Passat which was owned by Razaqat Ali, the husband of Humera Zafar.
- 03/05/17 – Lancashire Trading Standards Service made a visit to assess if the store had systems in place to prevent underage sales of alcohol taking place. Advice was provided as the store had no age verification policy, refusals register, recorded staff training and the till prompt system to advise the seller to check identification was unreliable. The CCTV system could not be operated by the Designated Premises Supervisor, Humera Zafar.
- 19/10/17 – Lancashire Trading Standards Service received a complaint that underage sales of tobacco were taking place from the store from a member of the public.
- 14/11/17 – Lancashire Trading Standards Service conducted a test purchasing operation at the store and an underage sale of 20 Superkings cigarettes was made

to a 15 year old volunteer. The sale was made by Maryam Mursaleen (date of birth 14/06/1988) who was working alone at the store.

- 01/12/17 – Humera Zafar was fined £250 with a victim surcharge of £30 and costs of £1,085.41 after pleading guilty at Burnley Magistrates Court to supplying tobacco products that do not display compliant health warnings, which is an offence contrary to the Tobacco and Related Products Regulations 2016; and the supply of counterfeit tobacco products which is an offence contrary to the Trade Marks Act 1994.

The specific offences are listed below: -

1. On 13 April 2017 at Sycamore Stores, 5 Anglesey Avenue, Burnley, in the County of Lancashire, you did you did supply by way of possession for sale, tobacco products for smoking, namely eleven packets of AMBER LEAF hand rolling tobacco and seven packets of RICHMOND cigarettes, each of which did not comply with the labelling requirements set out in Part 2 of the Tobacco and Related Products Regulations 2016, contrary to regulation 48(a)(i) of the said Regulations, made under section 2(2) of the European Communities Act 1972.

2. On 13 April 2017 at Sycamore Stores, 5 Anglesey Avenue, Burnley, in the County of Lancashire, with a view to gain for yourself or another, or with intent to cause loss to another, and without the consent of the proprietor, you did have in your possession, custody or control with a view to selling, offering or exposing for sale, or distributing in the course of a business goods, namely eleven packets of hand rolling tobacco, each of which bore a sign identical to, or likely to be mistaken for, the AMBER LEAF registered trade mark, contrary to section 92(1)(c) of the Trade Marks Act 1994.

3. On 13 April 2017 at Sycamore Stores, 5 Anglesey Avenue, Burnley, in the County of Lancashire, with a view to gain for yourself or another, or with intent to cause loss to another, and without the consent of the proprietor, you did have in your possession, custody or control with a view to selling, offering or exposing for sale, or distributing in the course of a business goods, namely seven packets of cigarettes, each of which bore a sign identical to, or likely to be mistaken for, the RICHMOND registered trade mark, contrary to section 92(1)(c) of the Trade Marks Act 1994.

4. On 13 April 2017 at Sycamore Stores, 5 Anglesey Avenue, Burnley, in the county of Lancashire, in the course of a business, you displayed or caused to be displayed, tobacco products in the form of blunts, contrary to section 7A(1) of the Tobacco Advertising and Promotion Act 2002.

- 17/01/2018 – Lancashire Trading Standards Service are currently preparing a prosecution report in respect of the sale of tobacco products to a person under the age of 18 years which took place during the test purchasing operation conducted on 14/11/2017

Relevant Information - Protection of Children from Harm

- Under Section 146 of the Licensing Act 2003 a person commits an offence if he sells alcohol to an individual aged under 18

- Under Section 7 of The Children and Young Persons Act 1933 it is a criminal offence to sell tobacco products to any person under the age of 18 years. The offence can be committed by both the seller (i.e. the shop assistant) and the business owner and can lead to prosecution through the Magistrates Court leading to a fine of up to £2500.

Relevant Information - Protection of Crime and Disorder

- Supplying (including possessing for supply) tobacco products that do not display compliant health warnings is an offence, contrary to the Tobacco and Related Products Regulations 2016;
- Supplying (including possessing for supply) tobacco products bearing trademarks without the consent of the proprietor of the mark is an offence contrary to the Trade Marks Act 1994.
- The sale of smuggled tobacco products is an offence contrary to the Tobacco Products Duty Act 1979.

Paragraphs 11.27 & 11.28 of 'The Revised Guidance issued under Section 182 of The Licensing Act 2003' (Home Office April 2017) states that:

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

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

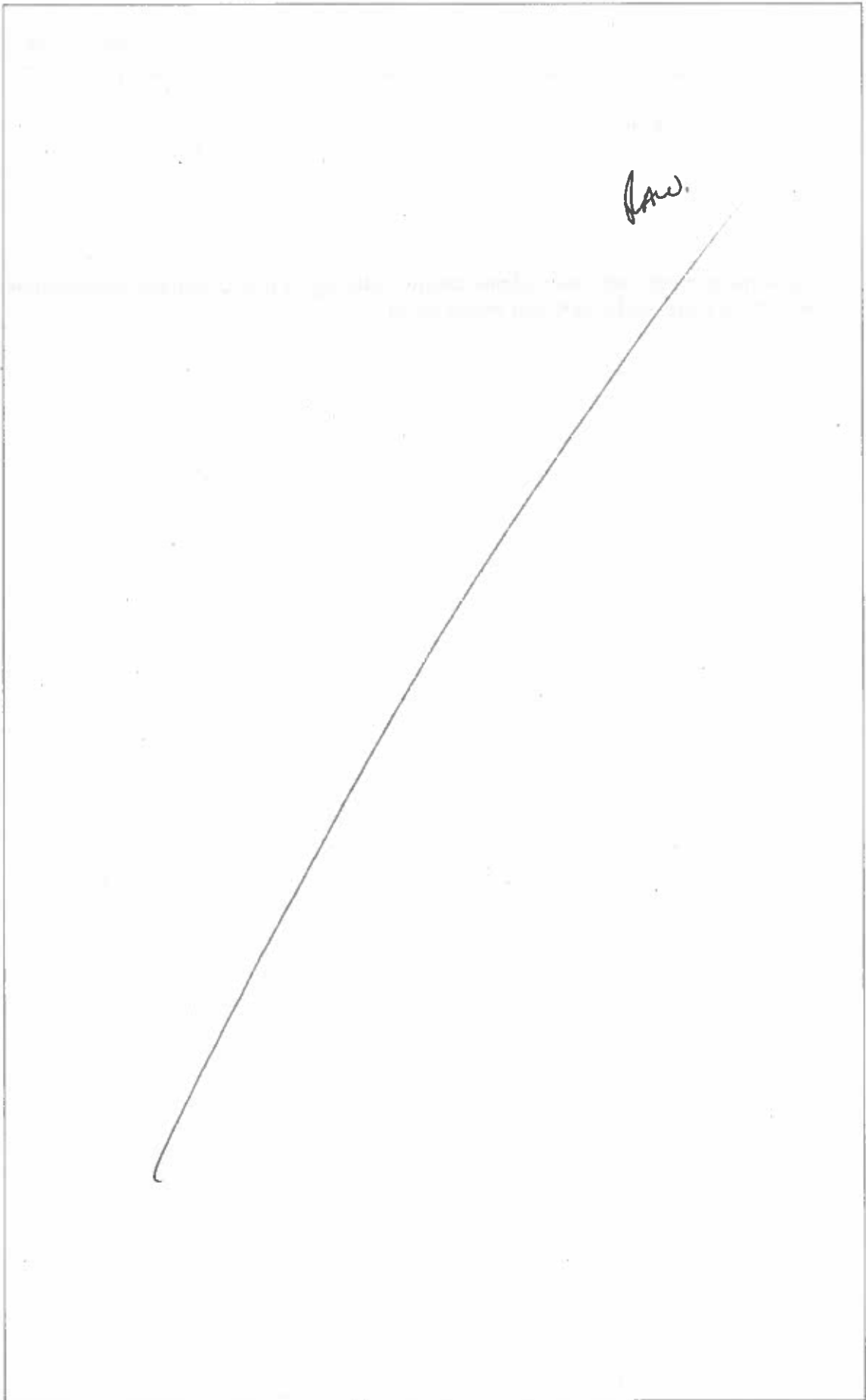
It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines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

The following options are available to the committee:-

- 1) Do nothing – However the number and seriousness of the offences causes grave concern for no action.
- 2) Modify the conditions of the licence
- 3) Remove the Designated Premises Supervisor
- 4) Suspend the licence for a period not exceeding three months
- 5) Revoke the premises licence so that no alcohol can be sold at all.

In the opinion of Lancashire County Council Trading Standards Service, the information presented in the application is clear evidence that the Prevention of Crime and Disorder and Protection of Children from Harm Licensing Objectives have been flagrantly and systematically disregarded.

Lancashire County Council Trading Standards respectfully requests that the committee considers whether revocation of the premises licence would be an appropriate finding in the circumstances.



Please tick yes

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

If yes please state the date of that application

Day Month Year

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

Please tick yes

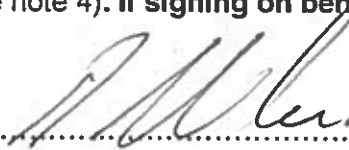
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

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



Date: 17th January 2018

Capacity: Principal Officer, Lancashire Trading Standards Service

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

Lancashire County Council Trading Standards Service
4th Floor, Lancashire Point
County Hall
Pitt Street

Post town

Preston

Postcode

PR1 0LD

Telephone number (if any)

01772 532228

If you would prefer us to correspond with you using an e-mail address, your e-mail address (optional)

rick.wilson@lancashire.gov.uk

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.

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Representation made by a responsible Authority in support of an application for the review of an existing Premises Licence

Responsible Authority making representation

Lancashire Police

PS Jason Middleton

01282 472035

Name of Applicant who requested a review of this licence

Rick Wilson of Lancashire County Council Trading Standards Service

Premises Details

Lifestyle Express (Anglesey Off Licence)

5 Anglesey Avenue

Burnley

BB12 6AY

Details of your representation in support of the review application

This supporting representation is brought on behalf of the Chief Constable of Lancashire Constabulary.

The information provided in the application is agreed by Lancashire Police and we fully support the application and the reasoning for it. We share the concerns regarding the apparent disregard of both the prevention of crime and disorder and the protection of children from harm licensing objectives.

Further information provided by the Police is detailed below.

On the 22nd October 2016 Lancashire Police were informed of a 14 year old girl being admitted into the Royal Blackburn Hospital after consuming a £13 bottle of Vodka (Incident reference LC-20161022-0913 refers). The 14 year had consumed the vodka over a short period of time and as a result had fallen over and banged her head which resulted in a few days in hospital. Police investigation led to establishing the vodka had been purchased by the 14 year old girl from Anglesey Off Licence and the seller was Humera ZAFAR. ZAFAR was issued a Penalty Notice for the offence of

the sale of alcohol to a person under the age of 18. This is a fine of £90 and the matter was not contested by ZAFAR. This incident featured heavily in the local press.

Also on the 22nd October 2016 a member of the community phoned the police and passed the following information regarding Anglesey Off Licence - *'The Shop Keeper is selling beer and cigarettes to kids from all over Burnley. They are coming over for it and they end up kicking the cars and stuff. Informant has seen them walking out of the shop with it. They are around 14-15 years and it happens a lot'*. Incident reference LC-20161022-1193 refers and it's not known if this information is linked to the incident with the 14 year old girl.

Since these incidents the premises have been visited and checked on a number of occasions. These visits consist of compliance checks and the reiteration of the importance of not selling alcohol and cigarettes to under 18's and the consequences of doing so. During these visits concerns regarding inadequate staff training and the CCTV not working as it should have been highlighted. The last such visit was on the 29th November 2017 when the premises appeared to be closed. Local enquiries revealed that apparently Humera ZAFAR hadn't been seen at the shop for a while. This is concerning because she's the designated premises supervisor for the premises and should be responsible for the day to day running of the premises.

Submitted for consideration.

Jason Middleton

Licensing Sergeant

East Division – Lancashire Police