

LICENSING ACT 2003 SUB COMMITTEE

Wednesday, 6th June, 2018
10.00 am





LICENSING ACT 2003 SUB COMMITTEE

Wednesday, 6th June, 2018 at 10.00 am

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) *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

4) *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.

5) *Exclusion of the Public*

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

6) *Determination of a Premises Licence Application-Review of M&M Food Store, Athol Street South, Burnley,*

3 - 24

To determine a Premises Licence Review under the Licensing Act 2003 relating to M&M Food Store, 67-69 Athol Street South, Burnley, BB11 4PA.

MEMBERSHIP OF COMMITTEE

- **3 Members +1 as Reserve**

Councillor Bill Brindle
Councillor Ida Carmichael

Councillor Anne Kelly
Councillor Ann Royle

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REPORT TO LICENSING SUB-COMMITTEE



DATE	6th June 2018
PORTFOLIO	Governance, Law & Regulation
REPORT AUTHOR	John Yardley
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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 M&M Food Store, 67-69 Athol Street South, Burnley, BB11 4PA

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 Saturday from 8.00am to 11.00pm and Sunday 10am till 10.30pm.

The holder of the premises licence and Designated Premises Supervisor is Arshad Mahmood.

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

Alcohol shall not be sold or supplied except during permitted hours.

In this condition, permitted hours means:

- a. On weekdays, other than Christmas Day, 8 a.m. to 11 p.m.
- b. On Sundays, other than Christmas Day, 10 a.m. to 10.30 p.m.
- c. On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.
- d. On Good Friday, 8 a.m. to 10.30 p.m.

The above restrictions do not prohibit:

- (a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;
- (b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (c) the sale of alcohol to a trader or club for the purposes of the trade or club;
- (d) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;

Alcohol shall not be sold in an open container or be consumed in the licensed premises

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

- 6 On the 17th April 2018, the Licensing Authority received an application from Lancashire County Council Trading Standards Service to review the Premises Licence of M&M Food Store, 67-69 Athol Street South, Burnley. The grounds for the application being that the licensing objectives relating to the Prevention of Crime and Disorder are not being observed at the premises.

Trading Standards will say that Illicit tobacco products have been purchased, or seized, by Trading Standards officers on 12 separate occasions since September 2008. Trading Standards say that a decade of prolific illegal activity at the premises, despite repeated enforcement action, represents a flagrant and systematic disregard for the relevant licensing objectives.

Therefore, the Licensing Committee is encouraged to consider revocation of the relevant premises licence for M & M Food Store.

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

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

1.10 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.

3.7 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.

Home Office Guidance issued under Section 182 of the Licensing Act 2003

FURTHER INFORMATION

PLEASE CONTACT:

John Yardley ext 249067

ALSO:

Peter Henderson ext 249061



Licensing Unit
Parker Lane
Burnley
Lancashire
BB11 2DT

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

Licensing Act 2003
Premises Licence **PLA0015**

Part 1 - Premises Details

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

M & M Off Licence
67 / 69 Athol Street South, Burnley, Lancashire, BB11 4PA. Telephone 01282 416183

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 Saturday	8:00am	11:00pm
	Sunday	10:00am	10:30pm

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Not relevant to licences granted on conversion		

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

Arshad Mahmood 528 Colne Rd, Burnley, Lancashire, BB10 2LD.

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

Arshad MAHMOOD 528 Colne Rd, Burnley, Lancashire, BB10 2LD.



Licensing Act 2003

Premises Licence

PLA0015

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. PA0241

Issued by Burnley

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

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

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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

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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

PLA0015

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 consistent with the Operating Schedule

Alcohol shall not be sold or supplied except during permitted hours.

In this condition, permitted hours means:

- a. On weekdays, other than Christmas Day, 8 a.m. to 11 p.m.
- b. On Sundays, other than Christmas Day, 10 a.m. to 10.30 p.m.
- c. On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.
- d. On Good Friday, 8 a.m. to 10.30 p.m.

The above restrictions do not prohibit:

- (a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;
- (b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (c) the sale of alcohol to a trader or club for the purposes of the trade or club;
- (d) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;

Alcohol shall not be sold in an open container or be consumed in the licensed premises

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 Act 2003

Premises Licence Summary

PLA0015

Premises Details

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

M & M Off Licence

67 / 69 Athol Street South, Burnley, Lancashire, BB11 4PA.

Telephone 01282 416183

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 Saturday	8:00am	11:00pm
	Sunday	10:00am	10:30pm

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Not relevant to licences granted on conversion		

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

Arshad Mahmood

528 Colne Rd, Burnley, Lancashire, BB10 2LD.

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

Arshad MAHMOOD

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

None

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**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 M & M Food Store 67-69 Athol Street South	
Post town Burnley	Post code (if known) BB11 4PA

Name of premises licence holder or club holding club premises certificate (if known) Mr Arshad Mahmood
--

Number of premises licence or club premises certificate (if known) PLA0015
--

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
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

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

The application for review is submitted by Lancashire County Council Trading Standards Service on the grounds that the licensing objective relating to the prevention of crime and disorder is not being observed at M & M Food Store, 67-69 Athol Street South, Burnley BB11 4PA.

Illicit tobacco products have been purchased, or seized, by Trading Standards officers on 12 separate occasions since September 2008. Trading Standards say that a decade of prolific illegal activity at the premises, despite repeated enforcement action, represents a flagrant and systematic disregard for the relevant licensing objectives.

Therefore, the Licensing Committee is encouraged to consider revocation of the relevant premises licence for M & M Food Store.

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

PREVENTION OF CRIME AND DISORDER

- 26/09/08 – 5 packs of non-duty paid Golden Virginia tobacco were seized by HMRC during a joint inspection with Trading Standards.
- 13/06/11 – 1 pack of Golden Virginia hand rolling tobacco was test purchased from M & M Food Store, 67-69 Athol Street South, Burnley. The tobacco did not contain correct health warnings and was non-duty paid.

An inspection was carried out shortly after the test purchase. During the course of this inspection 7 packets of Jin Ling cigarettes and 7 packs of Cutters Choice hand rolling tobacco were seized, which did not contain correct health warnings and were non-duty paid.

Mr Mehran Arshad (the son of the owner and premises licence holder) accepted a simple caution in August 2011, admitting that he had possessed the illicit tobacco for supply on the 13th June 2011.

- 13/03/14 – Trading Standards received intelligence from Crimestoppers which stated that the male owner of M & M Food Store was selling illicit tobacco from the premises.
- 01/04/14 – Trading Standards received intelligence from Crimestoppers which stated that non-duty paid cigarettes were being sold from the premises for £3.50 per pack.
- 24/04/14 – Trading Standards received intelligence from Crimestoppers which stated that the owner of M & M Food Store and a van driver were seen loading 30 boxes of illicit cigarettes and tobacco into a white van on 07/04/14 and 24/02/14.
- 19/05/14 – 1 sleeve of Mayfair cigarettes was test purchased from the premises. These cigarettes were confirmed to be counterfeit by the manufacturer.
- 17/07/14 – An inspection of the premises was carried out. 17 packs of Golden Virginia hand rolling tobacco and 7 packets of President cigarettes were seized. All bore incorrect health warnings and were non-duty paid. Mr Arshad Mahmood was interviewed in relation to this matter on 13th August 2014, where he admitted to selling a small quantity of the cigarettes and tobacco but denied selling to the volunteer test purchaser on the 19th May 2014.
- 27/08/14 – Trading Standards received a complaint from a member of the public who claimed that counterfeit cigarettes were being sold from the shop.
- 15/01/15 – Arshad Mahmood and High Gaze Limited were convicted of offences contrary to the Consumer Protection Act 1987, for supplying and possessing cigarettes which did not contain correct health warnings on 19th May 2014 and 17th July 2014. The specific offences were:

1) On 19th May 2014, at M & M Off Licence, 67 Athol Street South, Burnley, in the county of Lancashire, High Gaze Limited did supply by way of sale tobacco products, namely 10 packs of MAYFAIR cigarettes, the packaging of each of which did not comply with the warnings requirements imposed by regulation 7(1) and the Schedule to the Tobacco Products (Manufacture, Presentation and Sale)

(Safety) Regulations 2002, as amended by the Tobacco Products (Manufacture, Presentation and Sale) (Safety) (Amendment) Regulations 2007, contrary to regulation 14(1) of the 2002 Regulations and section 12(1) of the Consumer Protection Act 1987.

And ARSHAD MAHMOOD being a Director of High Gaze Limited and the offence being committed with his consent or connivance, Arshad Mahmood is liable for this offence by virtue of section 40(2) of the Consumer Protection Act 1987.

2) On 17th July 2014, at M & M Off Licence, 67 Athol Street South, Burnley, in the county of Lancashire, High Gaze Limited did possess for supply tobacco products, namely 17 packs of GOLDEN VIRGINIA tobacco and 7 packs of PRESIDENT cigarettes, the packaging of each of which did not comply with the warnings requirements imposed by regulation 7(1) and the Schedule to the Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002, as amended by the Tobacco Products (Manufacture, Presentation and Sale) (Safety) (Amendment) Regulations 2007, contrary to regulation 14(1) of the 2002 Regulations and section 12(1) of the Consumer Protection Act 1987.

And ARSHAD MAHMOOD being a Director of High Gaze Limited and the offence being committed with his consent or connivance, Arshad Mahmood is liable for this offence by virtue of section 40(2) of the Consumer Protection Act 1987.

- 12/02/15 – Trading Standards carried out an inspection of the premises and 1 pack of counterfeit Cutters Choice tobacco bearing incorrect health warnings, and empty illicit tobacco packaging, were seized from the rear storeroom. Arshad Mahmood signed the tobacco over to Trading Standards for destruction.
- 28/05/15 – Trading Standards received an anonymous complaint that counterfeit tobacco and cigarettes were being sold from the premises. The complainant stated that they receive a delivery every Sunday evening.
- 29/03/16 – Trading Standards received a complaint that the shop was selling counterfeit cigarettes.
- 29/03/17 – Test purchase made of one pack of Amber Leaf hand rolling tobacco with incorrect health warnings for £13 from the shop.
- 11/05/17 – Test purchase made of 1 pack of Amber Leaf tobacco bearing incorrect health warnings.

An inspection of the premises was carried out later that evening and 4 packets of counterfeit cigarettes and 5 packs of hand rolling tobacco bearing incorrect health warnings were seized.

- 30/06/17 – Trading Standards received intelligence from HMRC stating that counterfeit cigarettes were being sold from the premises.
- 31/07/17 – Trading Standards received anonymous information alleging that Arshad Mahmood and his family are involved in the supply of illicit tobacco.
- 03/08/17 – Test purchase of 1 pack of Gold Leaf hand rolling tobacco bearing incorrect health warnings.
- 11/08/17 – Entry warrants were executed simultaneously at M & M Food Store and the home address of Mr Arshad Mahmood, 528 Colne Road, Burnley. In total officers seized 1374 packs of tobacco and cigarettes from the shop, which were a mixture of non-duty paid, incorrect health warnings, and counterfeit, and 820 packs of counterfeit cigarettes from 528 Colne Road.

The tobacco seized from M & M Food Store was found behind the counter and hidden under the floorboards in the living room of the residential side of the property, which was only accessible through a trap door. The hiding place was concealed by a rug pulled over the top of the trap door, and a table which rested on top of the rug.

The cigarettes recovered from 528 Colne Road, Burnley were hidden underneath the floorboards. The space where the cigarettes were hidden was accessible through a hatch located in a cupboard under the stairs. £34,705 in cash was also seized from 528 Colne Road.

- 03/10/17 – Test purchase of 1 pack of Gold Leaf hand rolling tobacco, bearing incorrect health warnings.
- Investigations are ongoing in relation to the test purchases and seizures made between 29th March 2017 and 3rd October 2017.

RELEVANT INFORMATION – PREVENTION 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 (non-duty paid) 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 Licensing Objective has been flagrantly and systematically disregarded for almost a decade.

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 April 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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