

**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 Sam McConnell,

(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 Premier / Lyndhurst Road Food & Booze 9 Lyndhurst Road, Burnley	
Post town Burnley	Post code (if known) BB10 4ED

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

Number of premises licence or club premises certificate (if known) PLA0224

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)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Sam McConnell Lancashire County Council Trading Standards Service 4 th Floor, Lancashire Point County Hall Pitt Street Preston Lancashire PR1 0LD
Telephone number (if any) 01772
E-mail address (optional)

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 protection of children from harm is not being observed at Premier / Lyndhurst Road Food & Booze 9 Lyndhurst Road, Burnley BB10 4ED.

The Premise Licence Holder (PLH) is Sarah Hussain
The Designated Premise Supervisor (DPS) is Sarah Hussain

The Trading Standards Service believes that Sarah Hussain has been both PLH and DPS at these premises since 5th January 2017.

Since 2013 there has been two test purchase attempts of tobacco, and three test purchase attempts of alcohol, all of which resulted in a refusal to sell. However, most recently a test purchase attempt was made in October 2019 which resulted in the sale of alcohol to a child aged 16 years, a second test purchase operation in November 2019 was conducted and a sale was refused.

The Trading Standards Service has written to the premise on two occasions to provide advice and guidance on age restricted products. In October 2015 a 'Check 25' resource pack was sent to the premise, and in August 2017 a letter was sent directing them to some online material and advice in relation to the same.

It is worth noting that the PLH and DPS, Sarah Hussain, is also the PLH for another premise located in the district of Pendle. That premise also failed a test purchase on the same day as Lyndhurst Road Food & Booze in October 2019. As such, that premise has recently been the subject of a review in the Pendle district, the result of

which was revocation of the license.

The Pendle premise had two complaints alleging under age sales made against them since March 2017. As a result three test purchases were attempted resulting in two sales of alcohol to children. Trading Standards had advised the premise in writing on two occasions, yet the sale of alcohol to children continued.

As previously outlined all test purchases carried out by Trading Standards before 2017 were refused. After Sarah Hussain became the Premises Licence Holder and Designated Premises Supervisor two operations have been conducted one resulting in a sale of alcohol to a person under 18 years of age.

The committee is respectfully requested to consider that the sale of alcohol at this premise, with the subsequent revocation of the license at the Pendle premises be an indication that the current PLH and DPS is ineffective.

Given the information provided we respectfully request that Burnley Licensing Committee considers revocation of the license in this instance in order to maintain consistency and to prevent the continuation of sales to children.

If the committee does not feel a revocation of the current licence is the most appropriate action to take, we would ask that modification of the current licence to deter further sales of alcohol to persons under 18 years of age is an option for the Committee to consider. Modifications for the Committee to consider have been made available prior to this hearing within this document.

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

PROTECTION OF CHILDREN FROM HARM

- 20th July 2013 a test purchase of tobacco products was attempted and refused
- 18th September 2013 a test purchase of alcohol was attempted and refused
- 9th April 2014 a test purchase of alcohol was attempted and refused
- 25th June 2015 a test purchase of alcohol was attempted and refused
- 9th October 2015 'Check 25' resource pack sent in the post
- 29th August 2017 'Check 25' letter sent with links to online advice and guidance material
- 4th October 2019 a test purchase resulted in the sale of alcohol to a 16 year old child
- 30th November 2019 a test purchase of tobacco products was attempted and refused

RELEVANT INFORMATION – PROTECTION OF CHILDREN FROM HARM

- Supplying alcohol to an individual under the age of 18 years is an offence, contrary to Section 146 of the Licensing Act 2003.
- Allowing the sale of alcohol to an individual under the age of 18 years is an offence, contrary to Section 147 of the Licensing Act 2003.

Paragraphs 11.27 & 11.28 of 'The Revised Guidance issued under Section 182 of The Licensing Act 2003' (Home Office April 2018) 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 illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people.

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 seriousness of the offences causes grave concern for no action;
- 2) Modify the conditions of the licence - LCC would ask the committee in the event of deciding revocation is not an appropriate disposal, to consider the modification of conditions which are listed below. This would further promote the licensing objectives of; 1) prevention of crime and disorder, and 2) protecting children from harm and, that would prevent future offences of this nature from occurring. Modified or imposed conditions should not duplicate other statutory requirements or other duties or responsibilities placed on the business by other legislation and the business has already shown a blatant disregard for the law through reoffending;
- 3) Remove the Premise License Holder and the Designated Premises Supervisor, an additional option we would ask the Committee to consider;
- 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. This is a determination that Trading Standards would ask the Committee to consider in their deliberation.

In the opinion of Lancashire County Council Trading Standards Service, the information presented in the application is clear evidence that the Protection of Children from Harm Licensing Objective has been disregarded at these premises.

Lancashire County Council Trading Standards respectfully requests that the committee considers one of two options in this matter. To revoke the licence at 9 Lyndhurst Road, or notwithstanding any other evidence being presented to the Licensing Panel by relevant authorities, Trading Standards would ask that the following modifications to licence be considered as a second option of disposal in this review.

Suggested licence modifications:-

- The removal of the current Premises Licence Holder and designated Premises Supervisor, Sarah Hussein.

The Prevention of Crime and Disorder

- The premises shall install and maintain a comprehensive digital, colour, CCTV system.
- All public areas of the licensed premises, including all public entry and exit points, and the street environment will be covered, enabling facial identification of every person entering in any light condition.
- The CCTV cameras shall continually record while the premises are open to the public and recording shall be kept available and unedited for a minimum of 28 days with the date and time stamping.
- A staff member who is conversant with the operation of the CCTV system shall be present on the premises at all times when they are open to the public and must be able to produce/download/ burn CCTV images upon request by a police officer or an authorised officer of the licensing authority.
- Any footage must be in a format that can be played back on a standard personal computer or standard DVD player.

The Protection of Children from Harm

- The premises shall display prominent signage at any point of sale, at the entrance to the premises and in all areas where alcohol is located indicating that it is an offence to buy, or attempt to buy, alcohol for a person under the age of 18.
- The Challenge 25 scheme must be operated to ensure that any person who appears to be under the age of 25 shall provide documented proof that he/she is over 18 years of age. Proof of age shall only comprise a passport, photo card driving licence, an HM Forces warrant card, or a card bearing the PASS hologram.
- Challenge 25 posters will be displayed at any point of sale, at the entrance to the premises and in all areas where alcohol is located.
- A refusal log shall be kept at the premises to record all refused sales of alcohol for the reasons that the person(s) is/are, or appear(s) to be, under 18 years of age.
- The log shall record the date and time of the refusal and the name of the member of staff who refused the sale.
- The log will be available on request by the police or an authorised officer of Pendle Borough Council.
- The log shall be checked on a regular basis by the Designated Premises Supervisor to ensure that it is being used by staff and each check shall be recorded in the log.
- There shall be a policy for the premises agreed with the Police and Pendle Borough Council, regarding the procedure for the handling of fraudulent identification used to attempt to purchase alcohol.
- In addition to any other training, the premises licence holder shall ensure that all staff are trained to prevent underage sales, are aware of and prevent proxy sales, maintain the refusals log, enter sales correctly on the tills so the prompts show as appropriate, and that they monitor staff to ensure their training is put into practice.
- Documented records of training completed shall be kept for each member of staff. Training shall be regularly refreshed and at no greater than 6 monthly intervals.
- The training records shall be made available for inspection upon request by a police officer or an authorised officer of Pendle Borough Council.
- At all times when children are allowed on the premises, information shall be displayed, at the point of sale, on what to do if there is a cause for concern regarding a child's welfare. This shall include reporting to the Police via 101, the NSPCC on 0808 800 5000 (free 24-hour service) or dialling 999 in the event of an immediate threat.

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:

S. McConnell.....

Date: 18 November 2019

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

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

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.