

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