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Doncaster Council

# Agenda

To all Members of the

# LICENSING SUB-COMMITTEE

Notice is given that a Meeting of the above Committee is to be held as follows:

Venue: Council Chamber - Civic Office

Date: Friday, 16th March, 2018

Time: 9.30 am

## Items for Discussion:

#### ltem

1. Apologies for Absence

- 2. To consider the extent , if any, to which the public and press are to be excluded from the meeting.
- 3. Declarations of interest, if any.
- 4. Minutes of the meetings held on 12th and 14th February, 2018. 1 8
- A. Reports where the Public and Press may not be excluded.

#### Jo Miller Chief Executive

Issued on: Thursday 8th March, 2018

Governance Services Officer for this meeting

Sarah Maxfield (01302) 736723

Doncaster Metropolitan Borough Council www.doncaster.gov.uk

PageNo.

5. Application to review an existing premises licence for Windhill Convenience Store, 119 Hirst Gate, Mexborough, Doncaster, S64 0DY.

(This agenda contains a pack of exempt appendices which are NOT FOR PUBLICATION under Paragraph 7 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended) (information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime).

#### Members of the Licensing Sub-Committee

Chair – Councillor Linda Curran

Councillors Iris Beech, Martin Greenhalgh and John Gilliver.

# Agenda Item 4

### DONCASTER METROPOLITAN BOROUGH COUNCIL

## LICENSING SUB-COMMITTEE

### MONDAY, 12TH FEBRUARY, 2018

A MEETING of the LICENSING SUB-COMMITTEE was held in the COUNCIL CHAMBER, CIVIC OFFICE on MONDAY, 12TH FEBRUARY, 2018, at 9.30 am.

#### PRESENT:

Chair - Councillor Ken Keegan

Councillors Steve Cox, Mark Houlbrook and Ian Pearson.

1 <u>Declarations of interest, if any</u>

No declarations of interest were reported at the meeting.

2 Application for a Review of an Existing Premises Licence - Baltyk Mini Market, 134 Beckett Road, Wheatley, Doncaster, DN2 4AZ

The Sub-Committee considered an application for a review of an existing premises licence in respect of Baltyk Mini Market, 134 Beckett Road, Wheatley, Doncaster, DN2 4AZ.

The review was brought before the Sub-Committee on the grounds of the Prevention of Crime and Disorder licensing objective. A summary of the application was attached at Appendix B to the report.

Representations in support of the review had been received from South Yorkshire Police, a copy of which was attached at Appendix E of the report.

It was indicated that a copy of the application for the review had been given to the Premises Licence Holder and Responsible Authorities.

The Sub-Committee Members, the Premises Licence Holder and Responsible Authorities, had all received the agenda prior to the meeting.

At the commencement of the hearing, the Chair made introductions and outlined the procedure to be followed.

The Chair and Members noted that there were no Members of the Public or Press present at the meeting and therefore:-

It was RESOLVED that as there was exempt information defined under Paragraph 7 (information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime) of Part of Schedule 12A of the Local Government Act 1972, (as amended) the meeting be held in private session.

Greg Bristol and Karen O'Rourke, Tobacco and Alcohol Control Officers and Stuart Jones, Senior Trading Standards Officer on behalf of Trading Standards, addressed the Sub-Committee, answered questions and made representations. With the agreement of all parties, video evidence relating to a witness statement from a test purchase operative, who worked on behalf of Trading Standards, was shown to all present at the meeting. In addition and with the agreement of all parties, further documentation relating test purchases were presented at the meeting.

The Premises Licence Holder and a representative acting on behalf of the Premises Licence Holder, were in attendance at the meeting, made representations and answered questions.

All parties were then asked to leave the room whilst the Sub-Committee deliberated on the Application and reached a decision.

The Sub-Committee considered the application for a Review of the Premises Licence for Baltyk Mini Market, 134 Beckett Road, Wheatley, Doncaster, and had taken into account the written representations made and the evidence presented today, the steps that were appropriate to promote the Licensing Objectives, the Home Office Guidance and the Council's Statement of Licensing Policy and had decided to suspend the licence for a period of 8 weeks and to modify the conditions of the licence as follows:-

The Condition to install and operate a CCTV system which meets the South Yorkshire Police standards and that the recordings to be kept for 28 days and produced to the Police/Council on request, be replaced with:-

A CCTV system be installed, operated and maintained to the standard as directed by the Home Office. Such system shall be installed so as to ensure the whole premises are covered by the CCTV and that there are no blind spots in the retail areas of the premises to include the till area.

All CCTV recordings are to be kept for 31 days and produced to the Police or Council immediately on request.

Before the expiry of the two month suspension, the CCTV system must be checked by a suitably qualified person to ensure the system is operating in accordance with the above conditions.

Maintenance of the CCTV must take place annually and be carried out by a suitably qualified professional.

The Sub-Committee made the decision for the following reasons:-

The period of suspension allows the Sub Committee to be satisfied that the CCTV would be operating in accordance with the modified conditions. The Sub-Committee believed, as had been submitted by Mr Ahmed, that at least one failed test purchase deliberately took place in a CCTV blind spot which would no longer be possible with the CCTV that covered the premises thereby ensuring the Licensing Objectives were being upheld.

The Sub-Committee noted that Mr Ahmed admitted that sales of had happened, but it was submitted and the Sub-Committee agreed that there was nothing to suggest that Mr Ahmed knew himself these sales were taking place.

Mr Ahmed admitted he was aware of the letter handed to him in July, 2017. On receipt, Mr Ahmed said he checked the CCTV, but could not find anything suspicious. He said he reminded staff about the rules. Mr Ahmed said clearly a system was in place in that the customer was placed in a CCTV blind spot and concealed even from Mr Ahmed. The money for the sale goes in the employee's pocket and Mr Ahmed said this was a side line for his now former employee.

The Sub-Committee noted the action Mr Ahmed had taken upon being notified of the failed test purchases. Mr Ahmed had dismissed the employee shown on the DVD, as evidenced by the P45, which said the leaving date was 22nd January, 2018 and he had booked himself and his other employee, onto a training course in February, 2018.

The Sub-Committee was concerned that Mr Ahmed did not know all 4 Licensing Objectives, but noted that he was attending further training.

Selling smuggled tobacco was putting legitimate businesses at risk of lost customers and trade and, given the contents of smuggled tobacco generally, did not conform to the appropriate regulations which put the purchasers at risk.

The Sub-Committee believed that the modified conditions and the period of suspension were proportional to the issues and ensured the Licensing Objectives were upheld.

3 <u>Application for a Review of an Existing Premises Licence - Intake Mini Market, 71</u> <u>Sandringham Road, Intake, Doncaster, DN2 5HY</u>

As the Licence Holder's Legal representative who was acting on behalf of the License Holder, was not in attendance at the meeting, the Sub-Committee took advice on the procedure to be followed. Subsequently, it was considered that as it was considered to be a matter of public interest, the meeting be adjourned until 10.00 a.m. on Wednesday 14th February, 2018, to allow the Licence Holder the opportunity to prepare for the hearing and obtain legal representation.

<u>RESOLVED</u> that the meeting stand adjourned until 10.00 a.m. on Wednesday, 14th February, 2018.

CHAIR:

DATE:\_\_\_\_\_

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#### DONCASTER METROPOLITAN BOROUGH COUNCIL

#### LICENSING SUB-COMMITTEE

#### WEDNESDAY, 14TH FEBRUARY, 2018

A MEETING of the LICENSING SUB-COMMITTEE was held at the ROOM 409 IN THE CIVIC OFFICE on WEDNESDAY, 14TH FEBRUARY, 2018, at 10.00 am.

#### PRESENT:

Chair - Councillor Ken Keegan

Councillors Steve Cox and Ian Pearson.

#### APOLOGIES:

An apology for absence was received from Councillor Mark Houlbrook.

1 <u>Declarations of interest, if any.</u>

No declarations of interest were reported at the meeting.

2 <u>Application for a Review of an Existing Premises Licence - Intake Mini Market, 71</u> <u>Sandringham Road, Intake, Doncaster, DN2 5HY</u>

The Sub-Committee considered an application for a review of an existing premises licence in respect of Intake Mini Market, 71 Sandringham Road, Intake, Doncaster, DN2 5HY.

The review was brought before the Sub-Committee on the grounds of the Prevention of Crime and Disorder licensing objective. A summary of the application was attached at Appendix B to the report.

Representations in support of the review had been received from South Yorkshire Police, a copy of which was attached at Appendix E of the report.

It was indicated that a copy of the application for the review had been given to the Premises Licence Holder and Responsible Authorities.

The Sub-Committee Members, the Premises Licence Holder and Responsible Authorities, had all received the agenda prior to the meeting.

Prior to consideration of the application, the Premises Licence Holder confirmed that even though he had been unable to obtain a Legal representative to act on his behalf, he wished the review of the existing premises licence to proceed.

At the commencement of the hearing, the Chair made introductions and outlined the procedure to be followed.

The Chair and Members noted that there were no Members of the Public or Press present at the meeting and therefore:-

It was <u>RESOLVED</u> that as there was exempt information defined under Paragraph 7 (information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime) of Part of Schedule 12A of the Local Government Act 1972, (as amended) the meeting be held in private session.

Greg Bristol and Karen O'Rourke, Tobacco and Alcohol Control Officers, on behalf of Trading Standards, addressed the Sub-Committee, answered questions and made representations.

With the agreement of all parties, video evidence relating to a witness statement from a test purchase operative, who worked on behalf of Trading Standards, was shown to all present at the meeting.

The Premises Licence Holder was in attendance at the meeting, made representations and answered questions.

All parties were then asked to leave the room whilst the Sub-Committee deliberated on the Application and reached a decision.

The Sub-Committee considered the application for a Review of the Premises Licence for Intake Mini Market, 71 Sandringham Road, Wheatley, Doncaster, and had taken into account the written representations made and the evidence presented today, the steps that were appropriate to promote the Licensing Objectives, the Home Office Guidance and the Council's Statement of Licensing Policy and had decided to revoke the licence:

The Sub-Committee had made the decision for the following reasons.

The Sub-Committee was satisfied that following complaints received, the premises were added to a test purchase operation in the area and Mr Sofi sold a packet of cigarettes that were illicit. This was followed by an inspection where 78 packets of illicit tobacco were found on the premises.

The Sub-Committee had noted that Trading Standards had previously brought a review of the premises on the selling illicit tobacco. A notice was outside the premises and Mr Sofi himself contacted the Licensing Department to say this had happened before he owned the shop. Trading Standards said that this was clear evidence Mr Sofi was aware of the implications of selling such items. Trading standards did not purse this review.

Mr Sofi did not dispute the facts and confirmed he was aware of the previous trade. Mr Sofi said he sells to a couple of his regular customers only, as they kept asking him to and he wanted to keep their trade. Mr Sofi said he confused the test purchaser for one of these customers and he never sold to anyone else other than these customers, but Mr Sofi stated he only sold cigarettes to 7 customers in total. Mr Sofi said he only bought the illicit cigarettes a few days before the seizure in December. Mr Sofi confirmed he bought in sleeves of 10 packets and therefore, in a few days, he had sold approximately 42 packets of illicit tobacco. Mr Sofi, who was the Premises License Holder and Designated Premises Supervisor, did know the Licensing Objectives. He said he sold to customers because they were asking for the illicit tobacco and he did it to encourage them to buy other items. Mr Sofi did know that he should not be selling the illicit cigarettes, but given the number sold and the fact he knew of the consequences, the Sub-Committee believed that he was aware that these actions would be undermining the Licensing Objectives.

Mr Sofi said he bought the shop from a friend and had only owned it 6 months, but was aware of the hidden compartment in the shop where the cigarettes were found and of the previous issues raised by Trading Standards when he bought the shop. The Sub-Committee had noted Mr Sofi did not make any efforts to remove the hidden compartment. Mr Sofi admitted he had worked in other shops in the Borough prior to him owning the shop.

The Sub-Committee believed that Mr Sofi had failed to take this matter seriously which had meant the premises had been operating irresponsibly therefore, undermining the Licensing Objectives.

Mr Sofie said he was wrong and made a big mistake and, said he would not do it again and if he lost the licence, then he had to close the shop and whilst the Sub-Committee were mindful of the financial issues, it felt that the action it had taken was appropriate and proportionate.

CHAIR:\_\_\_\_\_

DATE:\_\_\_\_\_

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# Agenda Item 5





# Report

To the Chair and Members of the

# LICENSING SUB-COMMITTEE

Licensing Act 2003 – Application for a Review of an Existing Premises Licence.

Windhill Convenience Store, 119 Hirst Gate, Mexborough, Doncaster, S64 0DY

#### EXECUTIVE SUMMARY

1. To request that members of the Sub-Committee determine the application for a review of an existing premises licence in respect of Windhill Convenience Store, 119 Hirst Gate, Mexborough, Doncaster, S64 0DY. The procedure for considering the application is set out at Appendix A.

#### RECOMMENDATIONS

2. It is recommended that the Sub-Committee determine this application having regard to the representations made and the evidence before it.

#### WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER

3. The Licensing Act 2003 requires the Licensing Authority to exercise its obligations on applications for a review of a premises licence.

#### BACKGROUND

- 4. The premises concerned are currently a convenience store licensed to sell alcohol for consumption off the premises.
- 5. The application for a review of the premises licence has been brought by Doncaster Trading Standards who are a Responsible Authority under the Licensing Act 2003.
- 6. The application to review relates to 'the prevention of crime and disorder' and 'public safety' licensing objectives. The grounds include that illicit tobacco has been sold from these premises during a test purchase operation carried out by Trading Standards. A search of the premises carried out by Trading Standards and South Yorkshire Police resulted in the seizure of a quantity of

illicit cigarettes and hand rolling tobacco.

- 7. A summary of the application is attached as Appendix B to this report.
- 8. Mr Glynn Stead & Mr Morteza Sharemi have jointly held the premises licence since it was granted in April 2015. Mr Glynn Stead has also been the Designated Premises Supervisor (DPS) since the licence was granted.
- 9. A location plan of the premises is attached at Appendix C.
- 10. A copy of the application is attached at Appendix D.
- 11. Under the Licensing Act 2003, statutory guidance issued under section 182 of the Act and the Licensing Authority's statement of Licensing Policy, any licensing application under the Act, for a review of a premises licence must be determined by the Licensing Sub-Committee having regard to the evidence before it.
- 12. A representation in support of the review has been received from South Yorkshire Police. A copy of the representation is attached at Appendix E.
- 13. The premises licence, which shows the permitted licensable activities and conditions, is reproduced at Appendix F.
- 14. The applicant has indicated that a copy of the application for review was sent to the Premises Licence Holder and Responsible Authorities.

#### **OPTIONS CONSIDERED**

- 15. The Licensing Act 2003 requires the Licensing Authority to exercise its obligations on applications for a review of a premises licence and therefore no option, other than to hold a hearing, can be considered.
- 16. Where the Licensing Authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
  - Modify the conditions of the premises licence
  - Exclude a licensable activity from the scope of the licence
  - Remove the designated premises supervisor
  - Suspend the licence for a period not exceeding three months
  - Revoke the licence

#### IMPACT ON THE COUNCIL'S KEY OUTCOMES

17.

Outcomes	Implications
Doncaster Working: Our vision	It is recognised that licensed
is for more people to be able to	premises are, quite often,
pursue their ambitions through	businesses and places of
work that gives them and	employment.

<ul> <li>Doncaster a brighter and prosperous future;</li> <li>Better access to good fulfilling work</li> <li>Doncaster businesses are supported to flourish</li> <li>Inward Investment</li> </ul>	The Licensing Committee/Sub- Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives, will have regard to this outcome when making licensing decisions. The licensing objectives are: 1. Prevent crime and disorder 2. Prevent public nuisance 3. Public safety 4. Protection of children from harm
<ul> <li>Doncaster Living: Our vision is for Doncaster's people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time;</li> <li>The town centres are the beating heart of Doncaster</li> <li>More people can live in a good quality, affordable home</li> <li>Healthy and Vibrant Communities through Physical Activity and Sport</li> <li>Everyone takes responsibility for keeping Doncaster Clean</li> <li>Building on our cultural, artistic and sporting heritage</li> </ul>	The Licensing Committee/Sub- Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives (see above), will have regard to this outcome when making licensing decisions.
<ul> <li>Doncaster Learning: Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</li> <li>Every child has life-changing learning experiences within and beyond school</li> <li>Many more great teachers work in Doncaster Schools that are good or better Learning in Doncaster prepares young people for the world of work</li> <li>Doncaster Caring: Our vision is</li> </ul>	The Licensing Committee/Sub- Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives (see above), will have regard to this outcome when making licensing decisions.
for a borough that cares together	Committee, subject to the general

<ul> <li>for its most vulnerable reside</li> <li>Children have the best stallife</li> <li>Vulnerable families and individuals have support from someone they trust</li> <li>Older people can live well independently in their own homes</li> </ul>	rt in Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives (see above), will have regard to this outcome when making licensing decisions. and
<ul> <li>Connected Council:</li> <li>A modern, efficient and fleworkforce</li> <li>Modern, accessible custor interactions</li> <li>Operating within our resourant delivering value for mean delivering value for mean delivering value for mean delivering of resident</li> <li>A co-ordinated, whole person whole life focus on the neer and aspirations of resident</li> <li>Building community resilie and self-reliance by connect community assets and strengths</li> <li>Working with our partners residents to provide effect leadership and governance</li> </ul>	and and tive and tive times ti

#### **RISKS AND ASSUMPTIONS**

18. There are no risks or assumptions other than those referred to in the Legal Implications below.

### LEGAL IMPLICATIONS [Officer Initials HW Date 2/3/18]

19. The Licensing Authority must ensure it complies with its obligations under the Licensing Act 2003 and associated Regulations which includes, but is not limited to the following:-

In considering an application, the committee must have regard to the 4 licensing objectives as referred to above and take into account of the statutory guidance issued by the Home Office and the Council's statement of licensing policy. The committee shall consider the application in accordance with both the Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations 2005, and amending secondary legislation. The committee must make its decision based on evidence submitted in accordance with the legislation and give reasons for reaching its decision.

An appeal against the decision of the licensing authority may be made to the Magistrates' Court.

Legal advisors shall be present at the hearing to give specific legal advice.

#### FINANCIAL IMPLICATIONS [RT 28/02/18]

20. The costs associated with the application and their determinations are met from fees paid to the Council by applicants for Premises Licences under the Licensing Act 2003 and there are no further financial considerations.

# HUMAN RESOURCES IMPLICATIONS [Officer D Knapp Standard Implications Agreed 14/2/2018]

21. There are no human resource implications to this report.

# **TECHNOLOGY IMPLICATIONS [Officer P Ward – Standard Implications Agreed** 19/2/18]

22. There are no specific technology implications. The Northgate M3 system is used to process the application and record the outcome of the decision.

# HEALTH IMPLICATIONS [Officer R Suckling – Standard Implications Agreed 12/2/2018]

- 23. The Director of Public Health must be fully notified of applications and is entitled to make representations to the licensing authority in relation to the application for to the grant, variation or review of a premises licence. These representation must still be considered 'relevant' and relate to one or more of the licensing objectives.
- 24. Such representations can potentially be made on the grounds of all four licensing objectives. Perhaps the most obvious example is where drunkenness leads to accidents and injuries from violence, resulting in attendances at emergency departments and the use of ambulance services. Some of these incidents will be reported to the police, but many will not. Such information will often be relevant to the public safety and crime and disorder objectives.
- 25. There is also potential for health bodies to participate in the licensing process in relation to the protection of children from harm. This objective not only concerns the physical safety of children, but also their moral and psychological wellbeing. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform representations abut child protection matters. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol- related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented

on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.

#### EQUALITY IMPLICATIONS [Officer D Smith 28/02/2018]

26. Decision makers must consider the Council's duties under the Public Sector Equality Duty at s149 of the Equality Act 2010. The duty requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic. There are no specific equality implications arising from this report. However, any activities arising from this report will need to be the subject of separate 'due regard' assessments.

#### CONSULTATION

27. Copies of the application form have been sent to all relevant Responsible Authorities referred to in Section 13 of the Licensing Act 2003. These are:

South Yorkshire Police

South Yorkshire Fire and Rescue Authority

Doncaster Council – Licensing Authority

**Doncaster Council - Planning Services** 

Doncaster Council - Health & Safety Enforcement

Doncaster Council - Environmental Protection - Enforcement

**Doncaster Council - Trading Standards** 

Doncaster Safeguarding Children Board

Doncaster Council - Public Health

Home Office - Immigration Enforcement

#### **BACKGROUND PAPERS**

- 28. Doncaster Council's Statement of Licensing Policy 2016
- 29. Home Office Guidance issued under section182 of the Licensing Act

#### **REPORT AUTHOR & CONTRIBUTORS**

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Richard Taylor, Finance Manager Telephone: 01302 737984 Email: <u>richard.taylor@doncaster.gov.uk</u>

#### Peter Dale Director of Regeneration and Environment

### PROCEDURE FOR CONSIDERING APPLICATIONS

## DONCASTER METROPOLITAN BOROUGH COUNCIL

#### LICENSING ACT 2003 LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005

#### **INFORMATION FOR APPLICANTS AND OTHER PARTIES**

## 1. Meaning of Expressions used in this Document

"the Act"	- Licensing Act 2003
<i>"the Regulations" or any particular reference to a "Regulation"</i>	- The Licensing Act 2003 (Hearings) Regulations 2005
"the Authority"	- Doncaster Metropolitan Borough Council, in its capacity as the relevant licensing authority under the Act, or where the context so admits the Committee
"the Committee"	- the Sub-Committee of the Authority's Licensing Committee constituted under the Act to determine the matter before it
"the Chair"	- the member of the Committee appointed to act as Chairperson of the Committee
"the Applicant"	<ul> <li>the party making the application e.g. the licence/certificate holder or prospective holder, or the party seeking a review</li> </ul>
<i>"interested parties"</i>	<ul> <li>those living or working in the vicinity of the premises and who have made representations, or bodies representing them</li> </ul>
"responsible authorities"	<ul> <li>the public or other bodies described in the Act as "responsible authorities" and who have made representations</li> </ul>

#### 2. Rights of attendance, assistance and representation at hearings

- (a) A party may attend the hearing and may be assisted or represented by any other person. There is no requirement that a party's representative is legally or otherwise professionally qualified.
- (b) The hearing shall take place in public, unless the authority decides to exclude the public from all or part of the hearing because it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing taking place in public. A party and any person assisting or representing a party, may be treated as a member of the public.
- (c) The Authority may exclude from a public hearing any person attending who acts in a disruptive manner, and refuse to re-admit that person, or impose conditions on his/her re-admission. Any such excluded person may, before the end of the hearing, submit to the Authority in writing any such information that he/she would have been entitled to give orally.
- (d) The Authority may dispense with a hearing if all of the persons required by the Act agree that a hearing is unnecessary, have given notice to the Authority that they consider a hearing to be unnecessary, and the Authority have given notice to all parties that the hearing has been dispensed with.

#### 3. Non-attendance of a party at the hearing

- (a) If a party has informed the Authority that he/she does not intend to attend the hearing, or be represented at the hearing, the hearing may proceed in his/her absence.
- (b) If a party who has not so notified the Authority does not attend either in person or by his/her representative, the Authority shall adjourn the hearing to a specified date if it considers it in the public interest to do so, but it shall otherwise proceed with the hearing in that party's absence.
- (c) Where the hearing proceeds in the absence of a party, the Authority shall consider the application, representations or notice made by that party.
- (d) Where the hearing is adjourned, the Authority shall forthwith, notify the parties of the date, time and place to which the hearing has been adjourned.

#### 4. **Procedure at the Hearing**

The hearing shall take the form of a discussion led by the Authority. The following procedure is intended to give form to such a discussion to ensure that all parties are able to put their case. Each party shall have equal maximum time in which to address the Committee. The Committee may take into account documentary or other information provided by a party before the hearing, or with the consent of all other parties at the hearing. The Committee may change the procedure in individual cases, upon the application of a party, or upon its own motion, if it considers it necessary to properly determine the business before it.

- (a) At the commencement of the hearing, the Chair will make introductions and establish that all parties understand the procedure to be followed. The Committee will then receive and determine any application that a party may wish to make to permit another person to appear at the hearing, and any application that any party wishes to make to vary the following order of addresses.
- (b) The Applicant may then address the Committee and provide any further information that the Authority have requested. At the conclusion of the Applicant's address, members of the Committee may ask the Applicant questions. Following questions by Committee members, any other party that wishes to question the Applicant may request permission to do so. If granted, the party or parties receiving permission may question the Applicant.
- (c) Other parties entitled to address the Committee or given permission to do so under paragraph (a) above, may then do so; and also provide to the Committee that the Authority have requested. Following the address, the members of the Committee may question the party addressing the Committee. Following any Committee questions, any other party wishing to question the party that has addressed the Committee may seek the Committee's permission to do so. If granted, the party or parties receiving permission may question the Applicant.

#### Order of Addresses under paragraph (c)

Subject to any direction given by the Committee under paragraph (a) above, the order of addresses by other parties, under paragraph (c) above, shall be:-

- [1] Any representative of a "responsible authority" (as defined in the Act)
- [2] Any other party opposing the Applicant
- [3] Any other party not falling within category [1] or [2] above, or category [4] below
- [4] Any other party supporting the Application

#### Permission to question or cross-examine the Applicant or other party

A party may question any other party appearing if given permission by the Authority.

The Committee will determine any application by a party to question another party on its merits.

Cross examination shall not be permitted unless the Authority considers that cross examination is required for it to consider the representations, application or notice, as the case may require.

The Committee shall determine any application by one party to permit cross examination of another on its merits.

Normally, permission will be given to one party to question or cross-examine another, only where:-

- (i) a material fact put forward by one party is disputed by another party and the dispute can be properly determined, only if cross examination is permitted; or
- (ii) the question that one party wishes to put to the other is non contentious and is for the purpose of clarification only.

#### 5. The Committee's Deliberations and Determination

- (a) The Authority considers that normally, it will be in the public interest that the deliberations of the Committee are conducted in private. Deliberations will take place in private unless, an application is made by any party present for these to be conducted in public. If any such application is made, the Committee shall determine such application.
- (b) Subject to paragraph (a) above, the Chair shall formally exclude the public including, the parties and their representatives from the meeting under Regulation 14(2), to enable the Committee to deliberate in private. The Committee shall deliberate only in the company of its legal adviser. The function of the legal adviser shall be to advise the Committee on points of law and procedure only.
- (c) If during its deliberations, the Committee require any further information from any party in order to assist in its deliberations, the Chair shall reconvene the public hearing for the purpose of attempting to secure that further information.
- (d) Following the Committee's deliberations, the public shall be re-admitted to the hearing, whereupon the Chair shall announce the determination of the Authority, where the provisions of the Act or the Regulations require a determination to be made at the conclusion of the hearing, or otherwise where the Committee is unable to announce its determination.

(e) Following the announcement of any determination of the application, representations or notice before the Committee, the hearing shall conclude.

#### 6. Record of proceedings

A record of the hearing will be taken in a permanent and intelligible form. Any such record will be kept for a period of six years from the date that the application or review is finally determined (including, in either case, any appeal or judicial review).

#### Name of Applicant: Doncaster Trading Standards Responsible Authority

#### Name of Premises: Windhill Convenience Store

#### Address: 119 Hirst Gate, Mexborough, Doncaster, S64 0DY

#### **Summary of Application:**

Licensing Objectives to which the review relates: The Prevention of Crime and Disorder Public Safety

The grounds for the review:

Trading Standards carried out a test purchase operation at the premises on 2 September 2017 which resulted in the sale of illicit tobacco products.

A search of the premises on 27 September 2017 by Trading Standards and South Yorkshire Police resulted in the seizure of illicit cigarettes and tobacco.

#### For full details please see copy of application at Appendix D.



**APPENDIX C** 

#### Doncaster Metropolitan Borough Council

#### 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 Diane Terry

(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, ordnanc	e survey map reference or description			
Windhill Convenience Store,				
119 Hirst Gate,				
Mexborough,				
Doncaster				
Post town	Post code (if known)			
Doncaster	S64 0DY			

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

Mr Glynn Stead & Mortaza Sharemi.

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

LN/201400976

#### Part 2 - Applicant details

I am	Please tick ✓ yes
1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)	
2) a responsible authority (please complete (C) below)	$\checkmark$
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 ✓ yes	
Mr Mrs Miss M	S 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

Diane Terry Doncaster MBC Trading Standards Service Civic Office Waterdale Doncaster DN1 3BU

Telephone number (if any) **01302 737533** 

E-mail address (optional) diane.terry@doncaster.gov.uk

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

1) the prevention of crime and disorde	1)	the	preven	tion	of	crime	and	disor	de
--	----	-----	--------	------	----	-------	-----	-------	----

2) public safety

3) the prevention of public nuisance

4) the protection of children from harm

Please tick one or more boxes ✓ ✓

#### **Please state the ground(s) for review** (please read guidance note 2)

Illicit tobacco is being sold from Windhill Convenience Store.

Sale of illicit tobacco is a crime:

There is an issue with the sale of illicit tobacco across the UK and particularly prevalent in Doncaster.

The trade in illicit tobacco can be defined as the production, import, export, possession or sale of tobacco products which do not comply with legal requirements. Three main sources exist :

SMUGGLED TOBACCO – legitimately manufactured products that are diverted through the supply chain in their original country of manufacture and "smuggled" into the UK, often by large organised crime gangs. No tax/duty has been paid on these items.

BOOTLEGGED (Cheap whites) are products that are legitimate within foreign countries with lower taxation levels than the UK (generally Eastern European/Russian countries). These are usually smuggled on small scale by individuals or lower level organised crime gangs. Again – no duty is paid into the UK when "imported" this way.

COUNTERFEIR PRODUCTS. These products are made without the consent of the trade mark owner and manufactured illegally. They are generally made from inferior materials and then packaged to look as close to the originals as possible.

There are a number of serious consequences that stem from illicit tobacco being readily available.

The low cost of these cigarettes makes the smoking habit more affordable and serves as an introductory gateway for those under 18. Those willing to trade in illicit tobacco are more likely to sell to those under 18. It also serves to undermine the work Public Health undertakes to promote the "Stop Smoking" services.

As no tax is paid on these products, central government loses this stream of duty /revenue, placing a further burden on the health service, central and local government.

Illicit trade funds organised crime and has been increasingly linked to modern slavery.

Illicit products can contravene **safety legislation** as the majority of these products do not comply with the "reduced ignition propensity" requirements of the safety standard introduced in the UK in 2010.

In practice this means that an illicit cigarette will continue to burn if left unattended, whereas compliant products will extinguish themselves and therefore pose much less of a fire risk. Smoking causes approximately 3,000 house fires each year, a number of deaths can be linked directly to illicit tobacco causing house fires.

Guidance issued under Section 182 of the Licensing Act 2003 highlights how illegal/smuggled tobacco is viewed by the licensing regime in paragraph 11.27 :-

"There is a certain criminal activity that may arise in connection with licenced premises which should be treated particularly seriously; these are the use of licenced premises ......

for the sale and storage of smuggled tobacco and alcohol"

Paragraph 11.28 gives some direction to the licensing authorities and supports using the review

procedure when such activities are undertaken.

Illicit sales provide illegal profit for any shopkeeper. For a person entrusted with a licence, this serves to undermine the public trust placed in that position by the local authority .Licensees deal in illicit tobacco in the full knowledge of its illegality. It not only costs local and central government but also takes away from those local traders in Doncaster running legitimate businesses.

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

The Trading Standards department received information alleging that the business; "Windhill Convenience Store," were supplying illicit tobacco. In order to investigate this allegation, the Local Authority Trading Standards Service employed a test purchaser to attempt to buy illicit cigarettes.

Test purchasing is one of the many methods used by Trading Standards to combat the illicit tobacco trade. An operative acts as a normal customer, visits the shop and asks for some cheap cigarettes.

Test purchase conducted :

#### 2<sup>nd</sup> September 2017.

Trading Standards employed a test purchaser to attempt to purchase illicit tobacco from the premises. A packet of 20 x illicit "Marlboro Gold" were purchased for £3.50. The cheapest legitimate brands currently available in the UK are in excess of £7.65, twice this amount.

#### 27<sup>th</sup> September 2017

A search of the premises by Trading Standards and South Yorkshire Police was undertaken along with the aid of a tobacco detection dog.

Over 3000 illicit cigarettes and 4 kg illicit hand rolling tobacco were seized from the premises.

Please tick ✓ yes

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

If yes please state the	date of that	application
-------------------------	--------------	-------------

Day	Month	Year	

If you have made representations before relating to the premises please state what they were and when you made them  $\rm N/A$ 

	Please tick ✓ yes			
• I have sent copies of this form and enclo and the premises licence holder or club h as appropriate				
• I understand that if I do not comply with application will be rejected	the above requirements my			
IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.				
<b>Part 3 – Signatures</b> (please read guidance note 4)				
<b>Signature of applicant or applicant's solicitor or other duly authorised agent</b> (please read guidance note 5). <b>If signing on behalf of the applicant please state in what capacity.</b>				
Signature				
Date 15 <sup>th</sup> January 2018				
Capacity Senior Trading Standards Officer				
Contact name (where not previously given) an				
associated with this application (please read gu	idance note 6)			
Diane Terry Doncaster Council Trading Standards Service				
Civic Office				
Waterdale				
Post town	Post Code			
Doncaster	DN1 3BU			
Telephone number (if any) 01302 737533				
If you would prefer us to correspond with you (optional) diane.terry@doncaster.gov.uk	using an e-mail address your e-mail address			

#### Notes for Guidance

- 1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
- 2. The ground(s) for review must be based on one of the licensing objectives.
- 3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
- 4. The application form must be signed.
- 5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.

6. This is the address which we shall use to correspond with you about this application.

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South Yorkshire Police Carbrook House Carbrook Hall Road Sheffield S9 2EH

**RE- Sale of Illicit Tobacco** 

Windhill Convenience Store 119 Hirst Gate Mexborough Doncaster S64 0DY

On the 2<sup>nd</sup> September 2017, tobacco was purchased from the premise, the tobacco was in incorrect packaging and did not comply with Reg. 3 of the Standardised Packaging of Tobacco products regulations 2015. Following on from this, the premise was searched on 27<sup>th</sup> September, where 3000 illicit cigarettes and 4kg of tobacco was found within a concealed area of the premise.

South Yorkshire Police support Doncaster Trading Standards review of the premise. The sale of illicit tobacco can be linked to organised crime, and these premises are providing an outlet for such activity to be carried out.

This has the potential to lead to a rise in Crime & Disorder within the Doncaster area.

Yours faithfully,

For and on behalf of

Chief Constable, South Yorkshire Police

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Mr Glynn Stead & Morteza Feuji Sharemi	Contact:	Licensing Office
Windhill Convenience Store	Tel:	(01302) 736671/737583
119 Hirst Gate Mexborough Doncaster S64 0DY	Web:	licensing@doncaster.gov.uk www.doncaster.gov.uk/licensing LN/201500038

Dear Licence holder,

### Premises Licence - LN/201500038 - Licensing Act 2003 Windhill Convenience Store, 119 Hirst Gate, Mexborough, Doncaster, S64 0DY

Please find enclosed the Premises Licence issued in respect of the above premises. Please take time to read the notes below and the licence attached in full.

- 1) The holder of the licence must ensure that the licence or a certified copy along with all the conditions applicable to the licence is kept at the licensed premises. The licence must be in the custody of the licence holder or with a person who works at the premises who has been nominated in writing by the licence holder to have custody of the licence.
- 2) The licence holder must ensure that the summary of the licence or a certified copy of the summary is prominently displayed at the premises.
- 3) Where the licence allows the sale of alcohol, no supply of alcohol may be made under the premises licence at a time when there is no designated premises supervisor in respect of the premises licence, or at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- 4) The licence holder must notify this Authority, as soon as practicable, of any change in their name or address and, unless the designated premises supervisor (DPS) has already done so, the name and address of the DPS.
- 5) If you wish to transfer or vary the licence please contact this Authority or visit our website (details above).

6) The holder of the premises licence is required to pay an annual fee to Doncaster Council. The annual fee is linked to the rateable value of the premises and the current level of fee is available on request by contacting this office. The annual fee becomes due and payable each year on the anniversary of the date of grant of the licence. We will send you an invoice account when the annual fee becomes due. You should note that the licence is liable to suspension if the annual fee is not paid within 21days of the due date.

The rateable value, premises band, date licence first issued, your client number and your contract number are shown below.

Rateable Value (£):A 0- 4300Premises Band:ADate licence First Issued:24th April 2015Client Number:Image: Contract Number:

If you believe any of these details to be incorrect you must contact us without delay.

7) The granting of this licence does not relieve the applicant of the need to ensure that the appropriate planning permission is in place. Furthermore, there are circumstances when, as a condition of planning permission, a terminal hour has been set for the use of the premises for commercial purposes. Where these hours are different to the licensing hours, the licence holder must observe the earlier closing time. Premises that operate in breach of their planning permission are liable to prosecution under planning law.

Please note that the above list is not exhaustive and if you wish to discuss any other matter please do not hesitate to contact us.

Yours Sincerely

Paul Williams Business Safety and Licensing Manager



LICENSING ACT 2003 Section 24

### **Premises Licence**

Doncaster Metropolitan Borough Council Licensing Section Civic Office Waterdale Doncaster DN1 3BU

Premises licence number

LN/201500038

## Part 1 – Premises details

Postal address of premises or, if none Ordnance Survey map reference or description

Windhill Convenience Store 119 Hirst Gate Mexborough Doncaster S64 0DY

Telephone number:

Where the licence is time limited – the dates

Licensable activities authorised by the licence

Sale of Alcohol (Off only) Opening Hours The times the licence authorises the carrying out of licensable activities, their permitted locations and the opening hours of the premises are as follows:

	Sale of Alcohol (Off only).	Opening Hours.
	Licensed Area (See Plans)	Whole of Premises
Mon	08:30 - 23:00	08:00 - 23:00
Tues	08:30 - 23:00	08:00 - 23:00
Wed	08:30 - 23:00	08:00 - 23:00
Thur	08:30 - 23:00	08:00 - 23:00
Fri	08:30 - 23:00	08:00 - 23:00
Sat	08:30 - 23:00	08:00 - 23:00
Sun	10:00 - 22:00	10:00 - 22:00

Non-Standard Timings:

#### None

Where the licence authorises supplies of alcohol whether these are on and/or off supplies:

Sale by retail of alcohol for consumption OFF the premises.

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#### Part 2

Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence:

Mr Glynn Stead & Morteza Feuji Sharemi Windhill Convenience Store 119 Hirst Gate Mexborough Doncaster	Telephone Number: Email:
S64 0DY	

Registered number of holder, for example company number, charity number (where applicable)

#### **Registered Number:**

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol:

Glynn Stead	
	Telephone Number:

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the sale of alcohol:

### Mandatory conditions where licence authorises supply of alcohol

Where a premises licence authorises the supply of alcohol, the licence must include the following conditions.

- 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.
- 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 licence 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.
- 7)
- 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(**a**);

(b) "permitted price" is the price found by applying the formula—

P = D + (DxV)

where—

(i) P is the permitted price,

(ii) D is the rate 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(b).

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this 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.

### Annex 2 – Conditions consistent with your Operating Schedule

The conditions applied with the granting of this licence are as follows:-

Staff will receive training comensurate with their role in relation to the retailing of alcohol.

Training records shall be kept of all staff employed and concerned with the sale and supply of alcohol and open to inspection by authorised officers.

A Challenge 25 scheme will operate at all times when the premises are open, including a refusals log, signage and the maintenance of staff training records. A CCTV system to be installed, maintained and in use at all times whilst the premises are open. The CCTV images will be stored for 28 days. Police and authorised officers of the council will be given access to images for purposes in connection with the prevention and detection of crime and disorder. Members of the management team must be trained in the use of the system.

A refuse bin will be provided by and emptied by the licence holder to mimimise the potential for littering in the vicinity of premises.

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# Annex 3 – Conditions attached after hearing by the Licensing Authority

Annex 4 – Plans

See attached plan



LICENSING ACT 2003 Section 24

# **Premises Licence Summary**

Doncaster Metropolitan Borough Council Licensing Section Civic Office Waterdale Doncaster DN1 3BU

**Premises licence number** 

LN/201500038

## Premises details

Postal address of premises or, if none Ordnance Survey map reference or description:

Windhill Convenience Store 119 Hirst Gate Mexborough Doncaster S64 0DY

Telephone number:

Where the licence is time limited – the dates:

Licensable activities authorised by the licence:

Sale of Alcohol (Off only) Opening Hours The times the licence authorises the carrying out of licensable activities, their permitted locations and the opening hours of the premises are as follows:

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Thur	08:30 - 23:00	08:00 - 23:00
Fri	08:30 - 23:00	08:00 - 23:00
Sat	08:30 - 23:00	08:00 - 23:00
Sun	10:00 - 22:00	10:00 - 22:00

Non-Standard Timings:

#### None

Where the licence authorises supplies of alcohol whether these are on and/or off supplies:

#### Sale by retail of alcohol for consumption OFF the premises.

Name, (registered) address of holder of premises licence:

Mr Glynn Stead & Morteza Feuji Sharemi Windhill Convenience Store 119 Hirst Gate Mexborough Doncaster S64 0DY

Registered number of holder, for example company number, charity number (where applicable)

#### **Registered Number:**

Name of designated premises supervisor where the premises licence authorises the supply of alcohol:

**Glynn Stead** 

State whether access to the premises by children is restricted or prohibited:

