

**To the Chair and Members of the
Licensing Sub-Committee**

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

Doncaster Food Centre, 8 Wood Street, Doncaster, DN1 3LH

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 Doncaster Food Centre, 8 Wood Street, Doncaster, DN1 3LH. 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 retail convenience premises, licensed for the sale of alcohol for consumption off the premises (off sales), Monday to Sunday 09.00am - Midnight.
5. An application for a review of the premises licence has been received from the Health & Safety Responsible Authority. The application relates to 'The Prevention of Crime and Disorder' and 'Public Safety' licensing objectives.
6. A summary of the application is attached as Appendix B to this report.
7. A location plan of the premises is attached at Appendix C.
8. A copy of the application is attached at Appendix D.
9. A copy of the premises licence is attached at Appendix E.

10. A representation in support of the Premises Licence Holder is attached at Appendix F.
11. Additional documents provided by the Health & Safety Responsible Authority, in support of their application to Review the Premises Licence are attached at Appendix G.
12. On 15th December 2016, an application to vary the premises licence was received from the premises licence holders, Melih Bozkurt & Baris Aydin, which seeks to remove a condition on the licence, namely '*ensure a personal licence holder will be available on the premises during the times alcohol is being sold*'. - The licensing sub-committee are not being asked to determine this as part of the review hearing, it is being provided in the report as information relating to the premises licence.
13. On 11th January 2017, an application was received to Transfer the Premises Licence, with immediate effect, from Melih Bozkurt & Baris Aydin, to 'MR ABI LIMITED'. - The licensing sub-committee are not being asked to determine this as part of the review hearing, it is being provided in the report as information relating to the premises licence.
14. 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.
15. The applicant has indicated that a copy of the application for review was sent to the Premises Licence Holder and Responsible Authorities.
16. Details of the application have been published on the Council website and displayed on a notice both at the premises and in the Civic Office.

OPTIONS CONSIDERED

17. The Licensing Act 2003 requires the Licensing Authority to exercise its obligations on applications for a review of a premises licence, and therefore no other option, other than to hold a hearing, can be considered.
18. 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

19.

	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Be a strong voice for our veterans</i> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	<p>It is recognised that Licensed premises are, quite often, businesses and places of employment.</p> <p>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 priority when making licensing decisions.</p> <p>The licensing objectives are:</p> <ol style="list-style-type: none"> 1. Prevent crime and disorder 2. Prevent public nuisance 3. Public safety 4. Protection of children from harm
	<p>People live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	<p>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 priority when making licensing decisions.</p>
	<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	<p>It is recognised that Licensed premises are, quite often, businesses, places of employment and potential assets to the community.</p> <p>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 priority when making licensing decisions</p>
	<p>All families thrive.</p>	

	<ul style="list-style-type: none"> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	None
	Council services are modern and value for money.	None
	Working with our partners we will provide strong leadership and governance.	None

RISKS AND ASSUMPTIONS

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

LEGAL IMPLICATIONS

21. Other than to ensure that the Licensing Authority complies with its obligations under the Licensing Act 2003 and associated Regulations there are no further legal implications.

FINANCIAL IMPLICATIONS

22. 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

23. Not applicable

TECHNOLOGY IMPLICATIONS

24. Not applicable

EQUALITY IMPLICATIONS

25. 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

26. Copies of the application form have been sent to all relevant Responsible Authorities referred to in Section 53 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

BACKGROUND PAPERS

27. Doncaster Council's Statement of Licensing Policy 2016
28. Home Office Guidance issued under section 182 of the Licensing Act

REPORT AUTHOR & CONTRIBUTORS

David Smith, Licensing Officer
Telephone: 01302 862546
Email: david.smith@doncaster.gov.uk

Helen Wilson, Senior Legal Officer
Telephone: 01302 734688
Email: helen.wilson@doncaster.gov.uk

Paul Holgate, Principal Finance Officer
Telephone: 01302 737684
Email: paul.holgate@doncaster.gov.uk

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**

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

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).

APPENDIX B

Name of Applicant: Mr Michael Griffiths (acting as Health & Safety Responsible Authority)
Name of Premises: Doncaster Food Centre
Address: 8 Wood Street, Doncaster, DN1 3LH

Despite a previous warning having been given to the licence holder, on the 3rd November 2016 officers from Doncaster Council discovered and seized from these premises:

1. A significant quantity of illicit alcohol (alcohol for which the licence holder could provide no substantiated evidence or explanation as to where it had been purchased); and
2. A significant quantity of incorrectly labelled, i.e. foreign labelled, alcohol.

Further information can be found in the Application for Review at Appendix D.


Ordnance Survey Location Plan



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Doncaster
 Metropolitan Borough Council

Key :
 symbol indicates licensed premises

Notes :
 Doncaster Food Centre
 8 Wood Street
 Doncaster
 DN1 3LH

Title :
 Ref: WK/216022552
 Lic: LN/201500326

Completed By :
 D Smith

Reference :

Date :
 04/01/2017

Scale :
 1:781