



Doncaster Council

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

	<p>Doncaster a brighter and prosperous future;</p> <ul style="list-style-type: none"> • Better access to good fulfilling work • Doncaster businesses are supported to flourish • Inward Investment 	<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 outcome 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>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;</p> <ul style="list-style-type: none"> • The town centres are the beating heart of Doncaster • More people can live in a good quality, affordable home • Healthy and Vibrant Communities through Physical Activity and Sport • Everyone takes responsibility for keeping Doncaster Clean • Building on our cultural, artistic and sporting heritage 	<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 outcome when making licensing decisions.</p>
	<p>Doncaster Learning: Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> • Every child has life-changing learning experiences within and beyond school • Many more great teachers work in Doncaster Schools that are good or better <p>Learning in Doncaster prepares young people for the world of work</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 (see above), will have regard to this outcome when making licensing decisions.</p>
	<p>Doncaster Caring: Our vision is for a borough that cares together</p>	<p>The Licensing Committee/Sub-Committee, subject to the general</p>

	for its most vulnerable residents; <ul style="list-style-type: none"> • Children have the best start in life • Vulnerable families and individuals have support from someone they trust • Older people can live well and independently in their own homes 	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.
	Connected Council: <ul style="list-style-type: none"> • A modern, efficient and flexible workforce • Modern, accessible customer interactions • Operating within our resources and delivering value for money • A co-ordinated, whole person, whole life focus on the needs and aspirations of residents • Building community resilience and self-reliance by connecting community assets and strengths • Working with our partners and residents to provide effective leadership and governance 	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.

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 about 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 section 182 of the Licensing Act

REPORT AUTHOR & CONTRIBUTORS

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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).

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.

Location Plan



Key :  premises location

Notes :
 119 Hirst Gate
 Mexborough
 Doncaster
 S64 0DY

Title :
 Windhill
 Convenience Store

Completed By :
 DSmith

Reference :
 WK/217023596

Date :
 28/02/2018

Scale :
 1:781



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