

LICENSING SUB-COMMITTEE

Venue: Rotherham Town Hall,
Moorgate Street,
Rotherham. S60 2 TH

Date: Monday 5 July 2021

Time: 9.30 a.m.

A G E N D A

1. To determine whether the following items should be considered under the categories suggested in accordance with Part 1 of Schedule 12A (as amended March 2006) of the Local Government Act 1972.
2. To determine any item(s) which the Chairman is of the opinion should be considered later in the agenda as a matter of urgency.
3. Consideration of an application (made in accordance with s.51 of the Licensing Act 2003) to review the Premises Licence in place at The Olive Lounge, 169 Bawtry Road, Wickersley, Rotherham, S66 2BW (Pages 3 - 142)

KEEP SAFE WHILE VISITING RIVERSIDE HOUSE AND THE TOWN HALL



HOUSE KEEPING TIPS

- Meeting rooms and the Council Chamber will be sanitised before and after every meeting.
- Follow the one-way systems in place.
- Only one person (and their carer) should use a lift at a time.
- Get tested regularly, either at home or by booking a test at Riverside Lateral Flow Test Site.
- If you have any symptoms of COVID-19, stay at home and order a test.

Further information about COVID-19 can be found at
www.rotherham.gov.uk/coronavirus

www.rotherham.gov.uk/coronavirus

Hearing Procedure – Review of Premises Licence

- 1 The Chair of the meeting will introduce the Committee and ask officers to introduce themselves.
- 2 The Chair will ask the applicants to formally introduce themselves.
- 3 The Licensing Officer will outline the procedure to be followed at the hearing.
- 4 Hearing Procedure:-
 - i. The Licensing Officer will introduce the report.
 - ii. Questions concerning the report can be asked both by Members and the applicant.
 - iii. The Licensing Officer will introduce the applicant for the review (or the nominated representative) and invite them to detail the application and provide them with the opportunity to develop / clarify any of the matters raised as part of their application.
 - iv. The applicant for the review (or the nominated representative) may then be asked questions by members and, if agreed by the Chair, the licence holder and any other parties present.
 - v. The Licensing Officer will then introduce representatives for any Responsible Authorities that are a party to the hearing along with other Interested Parties in turn and each will be asked to detail their relevant representations. Following each submission, Committee members may ask questions of the Responsible Authority / Interested Party. If it is agreed by the Chair, the licence holder may also ask questions of those parties.
 - vi. The Premises Licence Holder (or their nominated representative) will then have the opportunity to make their submission in response to the matters raised by the other parties to the hearing. The licence holder may seek to provide further information / clarification to the Committee that will provide assurance that the licensing objectives are being adequately promoted, or may propose additional measures that will provide this assurance.
 - vii. Following this submission, Committee members may ask questions of the licence holder. If it is agreed by the Chair, the other parties to the hearing may also ask questions of the licence holder in relation to their submission.
 - viii. The applicant for the review will then be given the opportunity to sum up the application.

- ix. The licence holder will then be given the opportunity to sum up their submission in response to the review application.
 - x. The Licensing Officer will then detail the options.
 - xi. There will then be a private session for members to take legal advice and consider the application.
- 5 The decision of the Licensing Committee will be given in accordance with the requirements of the Licensing Act 2003 and regulations made there under.

Notes:

- At any time in the Licensing Process Members of the Committee may request legal advice from the Solicitor to the Committee. This advice may be given in open session or in private.
- The Committee Hearing will be held in public unless and in accordance with the Regulations the Committee determine that the public should be excluded.

Committee Name and Date of Committee Meeting

Licensing Sub-Committee – 17th June 2021 (9:30 am)

Report Title

Consideration of an application (made in accordance with s.51 of the Licensing Act 2003) to review the Premises Licence in place at The Olive Lounge, 169 Bawtry Road, Wickersley, Rotherham, S66 2BW.

Report Author(s)

Alan Pogorzelec, Licensing Manager, Community Safety and Street Scene
01709 254955

Report Summary

On the 29th April 2021, Rotherham MBC Licensing Service (acting in its role as a Responsible Authority under the Licensing Act 2003) made an application to review of the Premises Licence in place at The Olive Lounge, 169 Bawtry Road, Wickersley, Rotherham. The premises is licensed for the sale of alcohol for consumption on and off the premises, and provides a significant food offer in addition to the provision of regulated entertainment.

The review application was submitted following the issuing of two fixed penalty notices issued in response to a failure of the licence holder to comply with nationally imposed requirements introduced to control the spread of Coronavirus / Covid-19 within the UK.

Following the submission of the review paperwork, three additional responses were received in relation to the review. Further detail on these is provided within the main body of the report.

Recommendations

1. That the Licensing Sub-Committee considers the information contained within this report (and associated appendices) along with any additional information presented at the hearing and subsequently determines the application that has been made.
2. The Licensing Sub-Committee should inform the Licensing Manager of the decision in accordance with the requirements of the Licensing Act 2003 and Regulations made thereunder.

List of Appendices Included

- Appendix 1 Location details
- Appendix 2 Premises Licence P0960
- Appendix 3 Review application form
- Appendix 4 Additional information from Rotherham MBC Licensing Authority (acting in the role of a Responsible Authority under the Licensing Act 2003)
- Appendix 5 Representation from South Yorkshire Police
- Appendix 6 Representation from Rotherham MBC Environmental Health
- Appendix 7 Representation from Wickersley Parish Council (as an interested party)

Background Papers

Rotherham MBC Statement of Licensing Policy 2020 -2025
(available at www.rotherham.gov.uk/licensing)

Revised guidance issued under section 182 of the Licensing Act 2003 (April 2018)
(available at <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>)

Council Approval Required

No

Exempt from the Press and Public

No

Consideration of an application (made in accordance with s.51 of the Licensing Act 2003) to review the Premises Licence in place at The Olive Lounge, 169 Bawtry Road, Wickersley, Rotherham, S66 2BW.

1. Background

- 1.1 The Olive Lounge is located on Bawtry Road in Wickersley, Rotherham and is a public house providing food, drink and regulated entertainment. Further details on the location of the premises can be found at Appendix 1.
- 1.2 The premises currently has the benefit of a Premises Licence issued under the Licensing Act 2003 (licence number P0960). The licence permits the sale of alcohol for consumption on and off the premises, provision of regulated entertainment and the provision of late-night refreshment. A copy of the Premises Licence is attached to this report as Appendix 2.
- 1.3 On 29th April 2021, Rotherham MBC's Licensing Service (acting in its role as a Responsible Authority under the Licensing Act 2003) submitted an application to review the Premises Licence. This application was submitted following the issuing of two fixed penalty notices issued in response to a failure of the licence holder to comply with nationally imposed requirements introduced to control the spread of Coronavirus / Covid-19 within the UK.
- 1.4 A copy of the review application form is attached as Appendix 3, additional information provided by the review applicant is attached as Appendix 4.
- 1.5 There is a prescribed period of 28 days following the submission of a review application during which time interested parties / responsible authorities may submit representations in relation to the application.
- 1.6 At the end of the prescribed period, a total of 3 additional representations / comments had been received. Appropriately redacted copies of the representations / comments can be found at Appendices 5 to 7.

2. Key Issues

The application

- 2.1 The application submitted by Rotherham MBC Licensing Service outlines concerns regarding the following matters:
 - 2.1.1 General concerns regarding the licence holder's failure to adhere to legal requirements introduced to control the spread of Coronavirus within the UK.
 - 2.1.2 The Designated Premises Supervisor displaying behaviour described as obstructive and dismissive.

2.1.3 The issuing of two fixed penalty notices as a result of the failure of the premises licence holder to adhere to legal requirements introduced to control the spread of coronavirus in the UK.

2.2 Full details of the circumstances leading to the submission of the application to review the licence can be found at Appendices 3 and 4. In addition, the applicant will be in attendance at the hearing and will have the opportunity to further develop the above points and clarify any points or issues that may arise.

Representations received

2.3 Eight additional representations / comments were received – full details of these representations can be found at Appendices 5 – 7, but are briefly summarised below:

2.3.1 South Yorkshire Police have made reference to the following:

- A number of reports recorded on Police systems that make reference to the Olive Lounge.
- Interactions between the Designated Premises Supervisor and Police Officers / Police Staff.

Further information is detailed in Appendix 5.

2.3.2 The representation submitted by Rotherham MBC Environmental Health made reference to the following:

- An apparent failure to comply with legislation regarding the service of food and alcoholic / non-alcoholic drinks in hospitality venues.
- Lack of effective controls in place to ensure that customers and staff are adequately protected from Coronavirus / Covid-19.

Further information is detailed in Appendix 6.

2.3.3 Wickersley Parish Council has also submitted a representation in relation to the application, this is detailed in Appendix 7 and summarised below:

- Lack of social distancing and household separation.
- Failure to carry out track and trace.

2.4 All parties that have submitted representations in relation to the application have been invited to attend the hearing today to provide further detail in relation to the above.

- 2.5 Members of the Sub-Committee should give full consideration of the issues raised the Responsible Authorities and Interested Parties when determining the application.
- 2.6 The process to be adopted at the hearing is provided with this report.

3. Options available to the Licensing Sub-Committee

- 3.1 A licensing authority must carry out its functions under the Licensing Act with a view to promoting the licensing objectives:
- the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance
 - the protection of children from harm
- 3.2 In considering this matter, the Committee should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be. In reaching the decision, regard must also be had to relevant provisions of the national guidance and the Council's licensing policy statement.
- 3.3 The Sub-Committee must take steps that it considers appropriate for the promotion of the licensing objectives.
- 3.4 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 3.5 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 3.6 However, where responsible authorities such as the Police or Environmental Health Officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach

and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.

3.7 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 (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption).
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management.
- suspend the licence for a period not exceeding three months.
- revoke the licence.

3.8 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

3.9 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

3.10 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

3.11 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of

the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

3.12 All licensing determinations should be considered on the individual merits of the application. The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve. Findings on any issues of fact should be on the balance of probability.

3.13 It is important that a licensing authority should give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal.

4. Consultation

4.1 The application has been subject to the statutory consultation process involving a newspaper advertisement and display of public notices in the vicinity of the site for 28 days.

4.2 Relevant ward members have been notified of the application and all statutory requirements in relation to notification requirements have been complied with.

5. Timetable and Accountability for Implementing this Decision

5.1 Any decision made by the Licensing Sub-Committee does not have effect until:

- the end of the period given for appealing against the decision; or
- if the decision is appealed, until the appeal is disposed of.

5.2 An appeal may be lodged by either the applicant or a party to the hearing that has made a relevant representation.

- 5.3 Parties to the hearing must be informed of the decision within 5 working days of the hearing (or within 5 working days from the last day of the hearing if it takes place over multiple days).

6. Financial Implications

- 6.1 There are no specific financial implications arising from this application.
- 6.2 However, additional costs may be incurred should the matter go to appeal. In such an eventuality it may not be possible to recover all of the costs incurred. The impact of these additional costs (if any) will therefore need to be met from within existing revenue budgets.

7. Legal Advice and Implications

- 7.1 A Council Solicitor will be in attendance at the hearing to provide appropriate legal advice to the Licensing Sub-Committee in relation to specific aspects of the application / hearing, however the advice below is generally applicable to all applications.
- 7.2 Hearings under the Licensing Act 2003 operate under the Licensing Act 2003 (Hearings) Regulations 2005.
- 7.3 In accordance with Regulation 18 of the Licensing Act 2003 (Hearings) Regulations 2005, the authority may take into account documentary or other information produced by a party in support of their application, representations or notice either before the hearing or, with the consent of all parties, at the hearing.
- 7.4 The Panel may accept hearsay evidence and it will be a matter for the Licensing Sub-Committee to attach what weight to it that they consider appropriate. Hearsay evidence is evidence of something that a witness neither saw nor heard, but has heard or read about.
- 7.5 The Secretary of State's guidance to the Licensing Act 2003 is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.

- 7.6 Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. The guidance is therefore binding on all licensing authorities to that extent. However, the guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this guidance, they may depart from it if they have good reason to do so and can provide full reasons.
- 7.7 Departure from the guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.

8. Risks and Mitigation

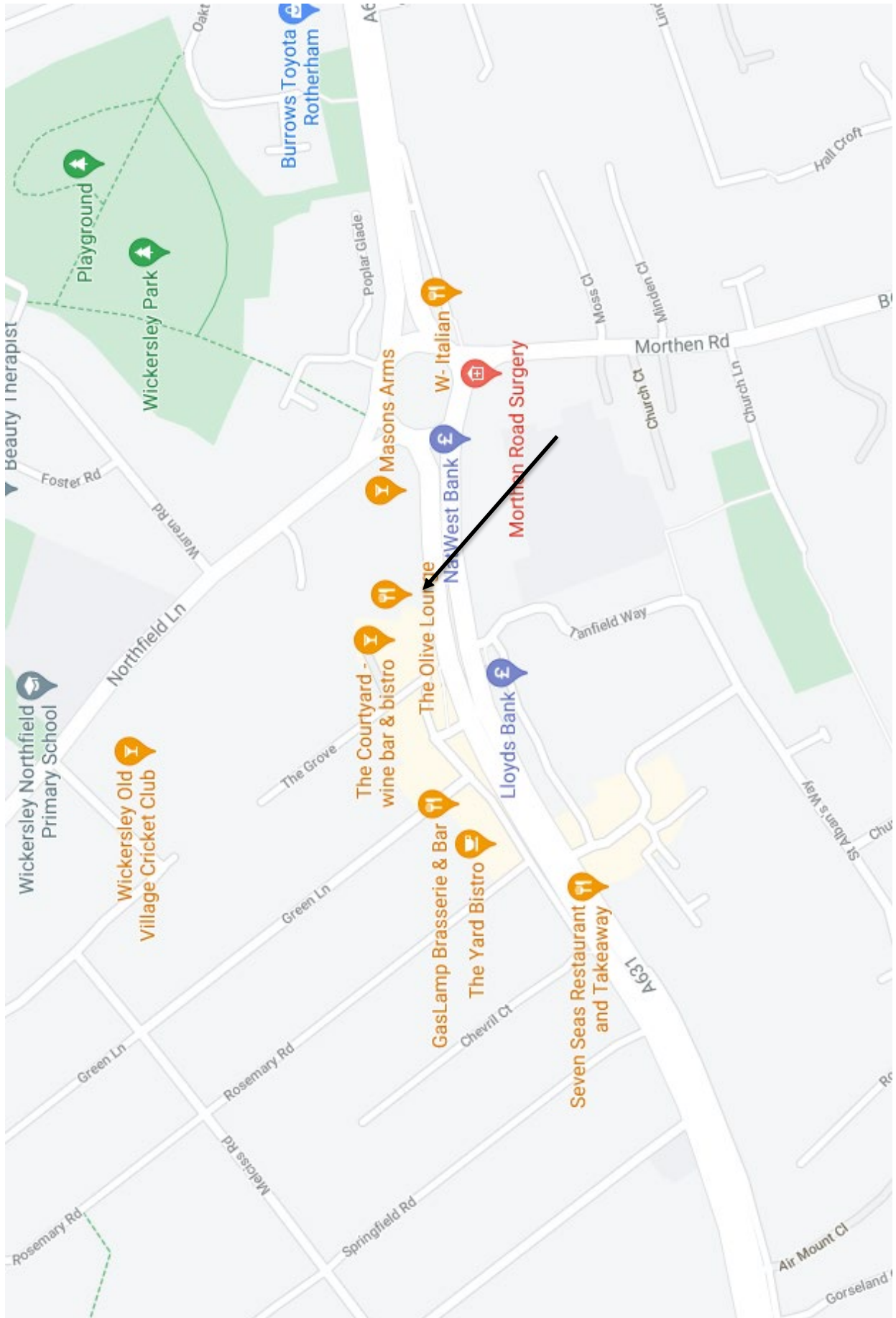
- 8.1 The statutory requirements in relation to the consideration of this application are detailed in this report. It is essential that the Sub-Committee act in accordance with these statutory provisions and take account of statutory guidance.
- 8.2 Failure to do this exposes the Council to significant risk of legal challenge, the consequences of which could result in financial and / or reputational damage to the Council.
- 8.3 Members are therefore urged to fully consider the information in this report when making a decision regarding this application, and to ensure that any decision made is justifiable, proportionate and based on the promotion of one or more of the Licensing Objectives.
- 8.4 Council officers are present at the meeting today and can provide additional advice to members of the Sub-Committee should this be required. In addition, a copy of the statutory guidance is available for members to review should they wish to do so.

9. Accountable Officer(s)

Alan Pogorzelec, Licensing Manager, Community Safety and Street Scene

This report is published on the Council's [website](#).

APPENDIX 1



APPENDIX 1



APPENDIX 1



APPENDIX 2
Licensing Act 2003
Premises Licence
P0960

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION**The Olive Lounge**

169 Bawtry Road, Wickersley, Rotherham, South Yorkshire, S66 2BW.

Telephone 01709 533220

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- a performance of live music
- any playing of recorded music
- provision of late night refreshment
- the sale by retail of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
Performance of live music (Indoors & Outdoors)	Monday to Sunday Indoor live music to cease at 02.00 Outdoor live music to cease at 21.00	11:00am	2:00am
Playing of recorded music (Indoors & Outdoors)	Monday to Sunday Indoor music to cease at 02.00 Outdoor music to cease at 21.00	11:00am	2:00am
Late night refreshment (Indoors & Outdoors)	Monday to Sunday Outdoor bar to cease at 00.00	11:00pm	2:00am
The sale by retail of alcohol for consumption ON and OFF the premises	Monday to Sunday Outdoor bar to cease at 00.00	11:00am	2:00am

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	9:00am	2:00am

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- The sale by retail of alcohol for consumption ON and OFF the premises

Part 2



APPENDIX 2
Licensing Act 2003
Premises Licence
P0960**NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE**

Olive Lounge Limited

169 Bawtry Road, Wickersley, Rotherham, South Yorkshire, S66 2BW.

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)**NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL**

Jonathon Paul CLOUGH

PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL

Licence No. RM2584

Issued by Rotherham



APPENDIX 2
Licensing Act 2003
Premises Licence
P0960**ANNEXES****Mandatory Conditions****All Premises Licence authorising supply of alcohol**

The licence is granted subject to the Mandatory conditions for sale of alcohol as set out in the Licensing Act 2003 as amended by the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 and Order 2014.

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.
3. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises.
 - a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable



APPENDIX 2
Licensing Act 2003
Premises Licence
P0960**ANNEXES continued ...**

manner.

e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

- (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 licences 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.

6. The responsible person shall ensure that -

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Minimum Drinks Pricing

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the



APPENDIX 2
Licensing Act 2003
Premises Licence
P0960**ANNEXES continued ...**

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

(b) “permitted price” is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

(i) P is the permitted price

(ii) D is the amount 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.

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



APPENDIX 2
Licensing Act 2003
Premises Licence
P0960**ANNEXES continued ...**

alcohol which take place before the expiry of the period of 14 days beginning on the second day.

If the Premises Licence has conditions in respect of Door Supervision
[except theatres, cinemas, bingo halls and casinos]

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must:
 - (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
 - (b) be entitled to carry out that activity by virtue of section 4 of the Act.
2. But nothing in subsection (1) requires such a condition to be imposed:
 - (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c12) (premises with premises licences authorising plays or films); or
 - (b) in respect of premises in relation to:
 - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
 - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
3. For the purposes of this section:
 - (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and, which is licensable conduct for the purposes of that Act, (see Section 3(2) of that Act) and
 - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

Annex 2 **Conditions consistent with operating schedule**
Prevention of Crime and Disorder

- 1 The licence holder shall ensure that the premise has a CCTV camera system installed and maintained in a good working order. The CCTV system will be registered in accordance with the Data Protection Act.
- 2 The licence holder shall ensure that the premises are a member of a "Pub Watch" scheme.



APPENDIX 2
Licensing Act 2003
Premises Licence
P0960**ANNEXES continued ...**

- 3** The licence holder shall ensure that staff training records are maintained and available for inspection by an authorised officer or officer of the Police.

Public Safety

- 4.** The licence holder shall ensure that a First Aider is always on site.

Prevention of Public Nuisance

- 5.** The licence holder shall ensure the premises display notices in the foyer asking customers leave the premise quietly and in an orderly manner.

Protection of Children from Harm

- 6.** The licence holder shall operate the 'Challenge 25' or similar proof of age scheme.
- 7.** The licence holder shall ensure all spirits are located at the back of the bar and out of the customers reach.
- 8.** The licence holder shall ensure that children are only allowed in the restaurant until 21.00 with access and egress through the downstairs bar to the restaurant upstairs.
- 9.** The licence holder shall ensure that a refusals register is kept and maintained at the premises.

Annex 3 Conditions attached after a Hearing of Licensing Authority

None.

Annex 4 Plans

See attached.



APPENDIX 2

Licensing Act 2003

Premises Licence Summary P0960

Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

The Olive Lounge

169 Bawtry Road, Wickersley, Rotherham, South Yorkshire, S66 2BW.

Telephone 01709 533220

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

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Late night refreshment (Indoors & Outdoors)	Monday to Sunday Outdoor bar to cease at 00.00	11:00pm	2:00am
The sale by retail of alcohol for consumption ON and OFF the premises	Monday to Sunday Outdoor bar to cease at 00.00	11:00am	2:00am

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	9:00am	2:00am

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- The sale by retail of alcohol for consumption ON and OFF the premises

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Olive Lounge Limited

169 Bawtry Road, Wickersley, Rotherham, South Yorkshire, S66 2BW.



APPENDIX 2**Licensing Act 2003**
Premises Licence Summary P0960

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Jonathon Paul CLOUGH

STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

None



Rotherham 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 Keeley Ladlow, Principal Licensing Officer, Rotherham MBC

(Insert name of applicant)

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description The Olive Lounge 169 Bawtry Road Wickersley	
Post town Rotherham	Post code (if known) S66 2BW

Name of premises licence holder or club holding club premises certificate (if known) The Olive Lounge Ltd

Number of premises licence or club premises certificate (if known) PO960
--

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)

☒

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 ☐ Ms ☐ Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes
☐

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

<p>Name and address</p> <p>Keeley Ladlow Principal Licensing Officer Rotherham Metropolitan Borough Council Main Street Rotherham S60 1AE</p>
<p>Telephone number (if any)</p> <p>01709 822346</p>
<p>E-mail address (optional)</p> <p>Keeley.ladlow@rotherham.gov.uk</p>

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

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

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

Application is made under Section 51 of the Licensing Act 2003 for a full review of the premises licence in relation to a premises known as The Olive Lounge, 169 Bawtry Road, Wickersley, Rotherham, S66 2BW.

The application seeks a revocation of the premises licence on the grounds that the premises licence holder is failing to properly promote one of the licensing objectives, namely public safety.

The grounds for the application are as follows:-

The premises are a medium sized premise over two floors, consisting of one main bar area on the ground floor of the premises and a restaurant with a bar on the upper floor. The licence held by The Olive Lounge Ltd has been in place since September 2015 with the sole director being Paul Trevor Clough.

The current Designated Premises Supervisor of the premises is Jonathon Clough – a position that he has held since January 2016.

On Monday 6th July the licensing service were made aware of concerns which had been reported by a Rotherham MBC Environmental Health Officer following out of hours monitoring of The Olive Lounge later on the evening of Saturday 4th July 2020. The Olive Lounge had reopened on 4th July following an easing of the first national lockdown during the coronavirus pandemic. The officer reported a lack of social distancing with large crowds of people and an apparent lack of control with the premises appearing to be seriously over occupied.

As a result of premises reopening on 4th July the Rotherham MBC Community Protection Unit began a spreadsheet to record premises visited and concerns raised. This spreadsheet was shared with the licensing service on a weekly basis following it being updated after weekend or out of hours visits. Council officers submitted an entry to this spreadsheet on 4th July 2020 describing The Olive Lounge as carnage with huge crowds and no control at 22.33hrs on 4th July.

Between 4th July and 21st September 2020, the licensing service were made aware of complaints made to the Council by members of the public relating to a lack of Covid – 19 safety measures at the premises. These complaints were investigated by the Council's Community Protection Unit alongside the Councils Covid response service. In addition to these complaints the licensing service received complaints regarding the premises directly from members of the public.

On 27th July 2020 the Councils Covid-19 Service Manager spoke with Mr Clough regarding a lack of social distancing and track and trace details being taken.

The Principal Environmental Health Officer and Environmental Health Officers spoke at length with Mr Clough regarding concerns which had been raised and Mr Clough accepted that the outside area of the premises was too crowded and needed to be better controlled.

Council officers visited the premises viewing risk assessments and informed Mr Clough what rectification was required to ensure the premises were compliant with regulations in force at the time. Following the visit, on 14th July, Mr Clough was contacted by the Principal Environmental Health Officer who made him aware of control measures documented within the premises risk assessment which appeared to have not been implemented. On 16th July Council officers acknowledged receipt of updated risk assessments advising the outside area would require strict monitoring.

Mr Clough was spoken to further on numerous occasions by Council officers following complaints which had been received and following concerns raised during out of hours monitoring of the premises.

In September 2020 further complaints were made to the Council by members of the public, previously complaints had related to lack of control over the external area of the premises however

complaints being received now related to the inside of the premises.

Until this point complaints and monitoring had concentrated on the external area of the premises, as a result of the inside of the premises becoming an area of concern and the inside not being easily monitored by proactive monitoring a decision was taken for Environmental Health Officers and Licensing Officers to jointly visit the premises to review CCTV footage assessing compliance with both Coronavirus legislation and the Licensing Act 2003.

On 22nd September 2020 Council officers from the licensing service and Environmental Health attended the premises. One member of staff was present at the commencement of the visit and had been setting up ahead of the premises opening to the public. A second staff member arrived a short time later introducing himself as the manager, as Mr Clough was not present officers requested he be contacted and asked to attend.

Officers were invited to wait inside the premises for Mr Clough – as officers walked across the external area it was noted that tape which had been put onto the floor to mark 2 metre distancing between customers and an outside bar area had been removed or worn away, adhesive marks were visible but not the tape itself.

Inside the premises tables and chairs were located closely together and should customers be sitting at all tables they would not have been 2 metres apart.

Upon Mr Clough arriving at the premises he immediately stated he wanted to know why officers were there and it was explained that complaints had been made to the Council relating to a lack of measures for controlling the spread of coronavirus at the premises. Mr Clough appeared dismissive shaking his head at this, and officers further explained that access was required to the CCTV system so footage could be reviewed for the previous two weekends.

Mr Clough immediately became obstructive refusing this and demanding to know under what authority officers were requesting to view the footage. Officers attempted to provide Mr Clough with an answer to his question however he became more agitated stating that he had a solicitor and there was no way anyone was viewing the footage without his solicitor stating that he had to allow access and in any event it would not be that same day.

Mr Clough was subsequently informed that the footage was required the same day and if he refused to allow officers to view the footage the Police would be contacted to assist.

Mr Clough asked again why officers were requesting to view the premises CCTV and it was explained to him that a number of complaints had been made and viewing the footage would assist in determining whether the complaints were substantiated or not. Throughout this conversation Mr Clough was obstructive and dismissive of the concerns being raised by officers.

Mr Clough then stated “LOOK I’LL BE HONEST, IF I LET YOU WATCH THE FOOTAGE YOU WON’T LIKE WHAT YOU SEE AND I’LL BE CLOSED DOWN. IT’S EASIER TO MANAGE OUTSIDE, WHEN PEOPLE COME INSIDE, THEY DO WHAT THEY WANT.”

Officers advised Mr Clough that it was important the footage was viewed to ascertain exactly what had taken place inside the premises and requested a copy of the footage be burned onto disc.

Mr Clough stated he had no facility to burn footage onto disc or download footage onto a portable storage device, he did however agree to the footage being viewed by officers.

Mr Clough walked to the upstairs of the premises where the CCTV hard drive is located within a cupboard at a high level on the wall. Officers stood behind Mr Clough with sight of the cupboard and hard drive unit but at a safe social distance.

Mr Clough removed a mobile phone from his pocket and stated he always views footage on his

mobile phone and was attempting to bring up the relevant footage for officers to view as the hard drive did not have a monitor connected to it.

A short time later Mr Clough stated he was having difficulties retrieving the footage and there appeared to be a fault on the CCTV system.

Mr Clough stood on a chair and began to pull at the wires at the back of the unit, before climbing off the chair and stating the footage could not be retrieved.

Officers requested Mr Clough make enquiries with the installer of the CCTV as the premises licence has an annex 2 condition for CCTV to be working.

Mr Clough then held the mobile phone up to his ear and had a short conversation relating to the CCTV system, he lowered the phone a short time later and stated he had been on the phone to the camera installers who had advised him the footage may not be recoverable adding that officers should leave and return to the premises another day.

Mr Clough then proceeded to press the screen of his phone whilst on the CCTV system screen, at this point officers were concerned that Mr Clough may be making attempts to delete footage from the system as he had previously stated he can access, view and delete footage using his phone. As a result of this officers requested further assistance.

South Yorkshire Police Officers arrived at the premises speaking with Council officers before requesting Mr Clough show the hard drive to them. Mr Clough was initially reluctant for this to happen however agreed to allow Police Officers access to the hard drive.

The hard drive was volunteered by Mr Clough upon Police Officers requesting it and it was placed into an evidence bag at the premises.

Mr Clough was asked whether there was a password to access the footage on the hard drive and he stated "I DON'T THINK SO."

As officers were exiting the premises Mr Clough stated that if Council officers had asked for the hard drive, he would have provided it. However, Mr Clough had been asked to show officers the footage on the hard drive or provide officers with the hard drive itself on several occasions and he had said no ahead of then stating there was a fault on the system making the footage irretrievable.

Following the visit Council officers made attempts to view the footage on the hard drive however officers identified the hard drive required a passcode or pattern to view the footage which had not been provided by Mr Clough. As a result of this the password was formally requested by officers under the Health and Safety at Work Act.

Despite repeated requests made to Mr Clough he failed to provide officers with the passcode.

An anonymous caller provided the passcode to officers in October 2020 providing officers with the opportunity to be able to view the footage.

Officers from the Council's Environmental Health and Coronavirus departments viewed CCTV footage for 19th and 20th September 2020. The footage for the inside of the premises showed no social distancing between staff or customers, customers were standing and walking around the inside of the premises with full service at the bar for all customers.

Customers from different groups were permitted to mix against the principal regulations and the premises failed to ensure an appropriate distance was maintained between tables occupied by different groups.

Footage viewed for 20th September shows Mr Clough standing behind the bar with other staff members at 00.01hrs, at no point is Mr Clough seen to address the lack of control measures or attempt to enforce social distancing between staff members or customers.

The footage evidenced a significant lack of control measures inside the premises to assist in

preventing the spread of Coronavirus and staff members are not seen on any occasion to challenge customers.

The lack of safe measures at the premises directly risks the safety of the public and undermines the public safety licensing objective.

On 26th November 2020 Rotherham MBC served two Fixed Penalty Notices on The Olive Lounge Ltd for breaches of Regulation 2 (1) (c) and (d) and Regulation 3 (1) of the Health Protection (Coronavirus, Restrictions) (Obligations of Hospitality Undertakings) (England) Regulations 2020.

The first Fixed Penalty Notice relates to 19th September 2020 with the second relating to 20th September 2020, specifically failing on both dates to take all reasonable measures to ensure that no persons in one qualifying group mingles with any person in another qualifying group where this is not permitted under the Principal Regulations and failing to take all reasonable measures to ensure that an appropriate distance is maintained between tables occupied by different qualifying groups.

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

Detailed as above.

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
<input type="text"/>	<input type="text"/>	<input type="text"/>

If you have made representations before relating to the premises please state what they were and when you made them

Please tick ✓ yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

IT IS AN OFFENCE, 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.

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature 

.....

Date **27th April 2021**

.....

Capacity **Principal Licensing Officer Rotherham MBC**

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

Post town

Post Code

Telephone number (if any)

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

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.

Witness Statement

(Criminal Procedure Rules, r27.2;
Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980, s.5B)

APPENDIX 4

STATEMENT OF: ...Keeley Louise Ladlow.....

Age if under 18: Over 18 Occupation.....Senior Licensing Enforcement Officer....

This statement, consisting of.....5..... Page(s) signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.



Date the...24th..... day of.....November.....2020

I am the above named person and currently employed as Senior Licensing Enforcement Officer operating from Riverside House the offices of Rotherham Metropolitan Borough Council. I have been employed as an Enforcement Officer since 2015 and was previously a Police Community Support Officer, my duties include liaising with Hackney Carriage and Private Hire Drivers, investigating matters concerning Private Hire and Hackney Carriage Drivers and vehicles and Private Hire Operators.

On Saturday 4th July 2020 I worked during the afternoon with Alan Pogorzelec, Licensing Manager visiting licensed premises across the Borough which were reopening following an easing of the first national lockdown. One of the premises visited was The Olive Lounge, 169 Bawtry Road, Wickersley, Rotherham. During this visit we met with Jonathon Clough, the Designated Premises Supervisor, Mr Clough stated he had a robust risk assessment in place and was fully aware of the requirement for both staff and customers to socially distance and for him to control his customers effectively.

The premises licence for The Olive Lounge is held by The Olive Lounge Ltd, the director of this Ltd company is Paul Trevor Clough.

On Monday 6th July I was made aware of concerns which had been reported by Adrian Williams, Environmental Health Officer following out of hours monitoring of The Olive Lounge later in the evening on Saturday 4th July 2020. Adrian had reported a lack of social distancing with large crowds of people and an apparent lack of control with the premises appearing to be seriously over occupied.

The premises were discussed between me and Community Protection Officers working within the Councils Community Protection Unit.

As a result of premises reopening on 4th July the Community Protection unit began a spreadsheet of premises visited and concerns raised. This spreadsheet was shared with me on a weekly basis following it being updated after weekend or out of hours visits. From this spreadsheet I have produced a screen print of 4th July 2020 updated by Adrian Williams after he observed the premises. The premises are described by Adrian Williams as carnage with huge crowds and no control at 22.33hrs on 4th July. I have exhibited the screen print as KLL/2.



SIGNED..... WITNESSED.....

Witness Statement

(Criminal Procedure Rules, r27.2;

Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980, s.5B)

APPENDIX 4

Continuation of Statement of.....KEELEY LOUISE LADLOW.....

Between 4th July and 21st September 2020, I was made aware of complaints made to the Council by members of the public relating to a lack of Covid – 19 safety measures at the premises. These complaints were being investigated by the Council's Community Protection Unit alongside Denise Fedyszyn, Covid Service Manager, and were discussed at a weekly meeting which I attended.

Complaints were also submitted to the licensing service from members of the public using the Councils web form system, upon receipt of these complaints I notified Denise Fedyszyn and the Community Protection Unit. Emails received by the licensing service are exhibited as KLL/1.

In addition to this during a weekly meeting I had with Helen Cooper, South Yorkshire Police Licensing Officer, she made me aware of concerns reported by Police Officers who had been working late into the evening and had reported a lack of social distancing outside of The Olive Lounge.

I am aware that Denise Fedyszyn spoke with Mr Clough week commencing 27th July 2020 regarding a lack of social distancing and track and trace details being taken. Denise confirmed this in an email sent to Alan and I on July 29th 2020, this email is contained within KLL1.

Further complaints were made to the Council by members of the public at the beginning of September relating to the inside of the premises, previously complaints had related to lack of control over the external area of the premises. These complaints were received by the Community Protection Unit and discussed in my presence at the weekly licensed premises meeting.

Until this point complaints and monitoring had concentrated on the external area of the premises, as a result of the inside of the premises becoming an area of concern an approach was discussed at the weekly licensed premises meeting on 21st September 2020. I was in attendance alongside officers from Community Protection, Adrian Monkhouse, Helen Cooper and Lewis Coates, Enforcement and Regulatory Services Manager.

Due to continuing concerns being raised regarding The Olive Lounge and the inside not being easily monitored by proactive monitoring a decision was taken for Environmental Health Officers and Licensing Officers to jointly visit the premises to review CCTV footage assessing compliance with both Coronavirus legislation and the Licensing Act 2003.

On 22nd September 2020 at approximately 15.25hrs I attended The Olive Lounge where I met with Adrian Williams, Environmental Health Officer and Helen Eastwood, Environmental Health Officer. I knocked on the front door of the premises and was greeted by an employee who had been inside setting up ahead of opening, he introduced us to a male purporting to be the manager of the premises. It was stated that Mr Clough was not present, I asked if he could be contacted to attend, we were then invited to wait inside the premises.

As we walked inside, I noticed tape that had been put onto the floor to mark 2 metre distancing between customers and an outside bar area had been removed or worn away, adhesive marks were present but not the tape itself. I photographed this and exhibit the two images as KLL/7.

Inside the premises tables and chairs were located closely together and should customers be sitting at all tables they would not have been 2 metres apart.

Upon Mr Clough arriving he immediately stated he wanted to know why we were there and I explained to him that complaints had been made to the Council relating to a lack of measures for controlling the spread of coronavirus at



SIGNED..... WITNESSED.....

Witness Statement

(Criminal Procedure Rules, r27.2;

Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980, s.5B)

APPENDIX 4

Continuation of Statement of.....KEELEY LOUISE LADLOW.....

the premises. Mr Clough shook his head at this, and I further explained that I required him to allow us access to the CCTV system so footage could be reviewed for the previous two weekends.

Mr Clough immediately refused this demanding to know under what authority I was requested to view the footage. I attempted to provide Mr Clough with an answer to his question however he became more agitated stating that he had a solicitor and there was no way anyone was viewing the footage without his solicitor stating that he had to allow access. I informed Mr Clough that we needed to view the footage the same day and if he refused to allow officers to view the footage the Police would be contacted to assist us.

Mr Clough asked again why we were requesting the view the premises CCTV and it was explained to him that a number of complaints had been made and viewing the footage would assist in determining whether the complaints were substantiated or not.

Mr Clough then said "LOOK KEELEY I'LL BE HONEST, IF I LET YOU WATCH THE FOOTAGE YOU WON'T LIKE WHAT YOU SEE AND I'LL BE CLOSED DOWN. IT'S EASIER TO MANAGE OUTSIDE, WHEN PEOPLE COME INSIDE, THEY DO WHAT THEY WANT."

I then said to Mr Clough that as he had said this it was important we viewed the footage to ascertain exactly what the inside of the premises had been like, I further stated that I would require a copy of the footage on disc. Mr Clough stated he had no facility to burn footage onto disc or download footage onto a portable storage device, he did however agree to the footage being viewed at this point.

Mr Clough began to walk to the upstairs of the premises where the CCTV hard drive is located within a cupboard at a high level on the wall. I stood with Adrian Williams and Helen Eastwood behind Mr Clough with sight of the cupboard and hard drive unit but at a safe social distance.

Mr Clough took his mobile phone out of his pocket and stated he views footage on his mobile phone and was attempting to bring up the relevant footage for us to view, I could not see the screen of his phone as I was too far away.

A short time later Mr Clough stated he was having difficulties retrieving the footage and there appeared to be a fault on the CCTV system. Mr Clough stood on a chair and began to pull at the wires at the back of the unit, before climbing off the chair and stating the footage could not be retrieved. I requested Mr Clough make enquiries with the installer of the CCTV as the premises licence has a condition for CCTV to be working.

Mr Clough then held his mobile phone up to his ear and had a short phone call relating to the CCTV system, he put the phone back down a short time later and said he had been on the phone to the camera installers who had stated the footage may not be recoverable adding that we should come back another day. Mr Clough then began to press the screen of his phone whilst on the CCTV system screen, I was concerned at this point that Mr Clough may be making attempts to delete footage from the system so I contacted Lewis Coates by phone.

Lewis advised me that Police Officers had been asked to assist and were on the way to us. At approximately 16.45hrs PC Matt Smith and PC Steve Robson arrived at the premises, I met with them downstairs and explained the situation. Mr Clough returned downstairs to where we were standing and was met by PC Robson who asked to see the CCTV hard drive. Mr Clough was initially reluctant for this to happen but agreed for PC Robson to go with him to the hard drive.



SIGNED..... WITNESSED.....

Witness Statement

(Criminal Procedure Rules, r27.2;

Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980, s.5B)

APPENDIX 4

Continuation of Statement of.....KEELEY LOUISE LADLOW.....

PC Robson requested we wait downstairs with PC Smith and approximately 15 minutes later he returned carrying a Hikvision CCTV hard drive which was placed into evidence bag R01437524 and signed by PC Robson.

Mr Clough was asked whether there was a password to access the footage on the hard drive and he stated "I DON'T THINK SO."

I then took possession of the hard drive off PC Robson as I was transporting it back to Riverside House, I signed the evidence bag accordingly.

Before leaving the premises, I informed Mr Clough that the premises licence conditions required a CCTV system to be installed and working. Mr Clough stated he had an old system that he could install, he then made a phone call and said someone would be arriving in 20 minutes to fit it for him.

As we were exiting the premises Mr Clough stated that if we had asked for the hard drive, he would have provided us with it. I do not believe this to be true as I had asked Mr Clough to show the footage on the unit to us on several occasions and he had said no ahead of him then stating there was a fault on the system making the footage irretrievable.

I returned the hard drive to Riverside House where it was taken by Denise Fedyszyn and secured in a locked area.

A licensed premises meeting was held on 5th October 2020 during which Adrian Monkhouse explained he had attempted to view the footage on the hard drive however a passcode or pattern was required and this had not been provided by Mr Clough. Adrian explained he would be requesting Helen Eastwood formally request the password to the unit under the Health and Safety at Work Act.

Following this I was made aware by Helen Eastwood that an anonymous caller had provided the correct password for the unit and she had been able to access it and view the CCTV footage on 29th October 2020. Helen stated she had provided a chronology of this to Denise Fedyszyn and the footage showed no social distancing or control measures inside the premises to assist in preventing the spread of coronavirus.

On 26th November 2020 I received an email from Jeremy Squires, Community Protection Officer, Jeremy made me aware that two Fixed Penalty Notices had been served on The Olive Lounge Ltd for breaches of Regulation 2 (1) (c) and (d) and Regulation 3 (1) of the Health Protection (Coronavirus, Restrictions) (Obligations of Hospitality Undertakings) (England) Regulations 2020.

A copy of the Fixed Penalty Notices was attached exhibited as JS/1; the first Fixed Penalty Notice was for a sum of £1000 with the second being for a sum of £2000.

On 1st December 2020 I attended Riverside House and downloaded CCTV footage from the hard drive for The Olive Lounge for the dates 19th September 2020 and 20th September 2020. I exhibit the footage as KLL/3.

I viewed footage relating to 19th September 2020 and from this produced several still images which I exhibit as KLL/4.

I further viewed footage relating to 20th September 2020 producing several still images exhibited as KLL/5.



SIGNED..... WITNESSED.....

Witness Statement


(Criminal Procedure Rules, r27.2;

Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980, s.5B)

APPENDIX 4

Continuation of Statement of.....KEELEY LOUISE LADLOW.....

I would describe the footage I saw as being akin to activity at licensed premises prior to the Coronavirus pandemic with full service at the bar taking place and a clear lack of social distancing, I could see no evidence on the footage of staff members or Mr Clough attempting to comply with regulations that were in force at the time.


KLL/6 is a still image produced from the CCTV system relating to 20th September 2020, I know the male wearing a black coloured coat with grey colour to be Jonathon Clough who is standing behind the bar with staff members whilst service at the bar was taking place. 

SIGNED.......... WITNESSED.....

Witness Statement

(Criminal Procedure Rules, r27.2;
Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980, s.5B)

APPENDIX 4

SIGNED.......... WITNESSED.....

From:
To: [Alan Pogorzelec](#); [Keeley Ladlow](#)
Subject: FW: South Yorkshire Police Incident 138 20/7/2020 - THE OLIVE LOUNGE, 169 Bawtry Road, Wickersley, Rotherham, S66 2BW
Date: 20 July 2020 10:36:54

Hi Alan/Keeley,

Please see message received re The Olive Lounge.

Thanks

██████

Sent: 20 July 2020 09:50
To: Licensing <Licensing@rotherham.gov.uk>
Subject: South Yorkshire Police Incident █████ 20/7/2020 - THE OLIVE LOUNGE, 169 Bawtry Road, Wickersley, Rotherham, S66 2BW

Good Morning,

South Yorkshire Police Incident █████ 20/7/2020 - THE OLIVE LOUNGE, 169 Bawtry Road, Wickersley, Rotherham, S66 2BW

Could I please make you aware of a report made by a member of the public to South Yorkshire Police today 20/7/2020 at 04:27am.

I passed (The Olive Lounge) by in the car around 17:30 and again around 19:00 (19/7/2020). The outside area was full with some people standing on the pavement at the entrance to the patio area at the front of the premises. No social distancing or mitigation measures were evident.

I have a photograph of the venue from around 19:00 - as the weather was cloudy at this time the photo shows the venue as less busy than I saw it at around 17:30.

I am concerned mostly for the welfare of the staff as a former pub employee and also for the local residents.

APPENDIX 4

I have no idea if this venue is operating a booking system or any data collection but I don't have any confidence in it having witnessed today's operations'.

For any further information/contact please use the following email address -

Regards,

[REDACTED]

[REDACTED]

South Yorkshire Police

Atlas Court

Please be aware this email account is not monitored 24hrs - please direct your queries to www.southyorkshire.police.uk

APPENDIX 4

From: [Denise Fedyszyn](#)
To: [Keeley Ladlow](#)
Subject: RE: 2204133 ASK ABOUT LICENSING, ENQUIRE ABOUT A LICENCE OR RAISE A CONCERN - Report a concern
Date: 06 July 2020 14:55:02

I will sort it

Denise Fedyszyn

Principal Environmental Health Officer

Community Safety and Street Scene

Food, Health & Safety

Riverside House

Main Street, Rotherham, S60 1AE

Tel: (01709) 255054 Fax: (01709) 371149

Email: denise.fedyszyn@rotherham.gov.uk

Visit our website: <http://www.rotherham.gov.uk>

Before printing, think about the environment

From: Keeley Ladlow <Keeley.Ladlow@rotherham.gov.uk>
Sent: 06 July 2020 14:21
To: Denise Fedyszyn <Denise.Fedyszyn@rotherham.gov.uk>
Subject: FW: 2204133 ASK ABOUT LICENSING, ENQUIRE ABOUT A LICENCE OR RAISE A CONCERN - Report a concern

Denise – this complaint we discussed this morning, are you wanting to pick this one up or shall I email to the F H&S inbox?

Thanks

Keeley

Senior Licensing Enforcement Officer

Community Safety and Street Scene

Regeneration and Environment Services

Riverside House Wing A, Floor 3, Near Pod A33

Rotherham Metropolitan Borough Council , Riverside House, Main Street, Rotherham, S60 1AE

Tel: 01709 822346

Email: keeley.ladlow@rotherham.gov.uk

Visit our website: <http://www.rotherham.gov.uk>

Before printing, think about the environment



APPENDIX 4

To: Keeley Ladlow <Keeley.Ladlow@rotherham.gov.uk>

Subject: FW: 2204133 ASK ABOUT LICENSING, ENQUIRE ABOUT A LICENCE OR RAISE A CONCERN
- Report a concern

From: no-reply@rotherhamgov.uk <no-reply@rotherhamgov.uk>

Sent: 05 July 2020 20:07

To: Licensing <Licensing@rotherham.gov.uk>

Subject: Ref: 2204133 ASK ABOUT LICENSING, ENQUIRE ABOUT A LICENCE OR RAISE A CONCERN
- Report a concern

Page: About you

- Title:
- First name:
- Surname:
- Address:
- Email address:s

Page: About your enquiry

- What is your enquiry about? Report a concern
- Please give us more details about your enquiry: Olive lounge at wickersley opened there doors on Saturday 4th July, I walked past at 6pm and there was no social distancing and it was packed solid!

APPENDIX 4

From: [Denise Fedyszyn](#)
To: [Alan Pogorzelec](#); [Lewis Coates](#); [Adrian Monkhouse](#)
Cc: [Keeley Ladlow](#)
Subject: RE: Coronavirus concern
Date: 29 July 2020 12:09:25

Think that's sensible - I have spoken to them this week - with regard to social distancing and contact tracing.

Denise Fedyszyn
Principal Environmental Health Officer
Community Safety and Street Scene
Food, Health & Safety
Riverside House
Main Street, Rotherham, S60 1AE
Tel: (01709) 255054 Fax: (01709) 371149

Email: denise.fedyszyn@rotherham.gov.uk
Visit our website: <http://www.rotherham.gov.uk>
Before printing, think about the environment

-----Original Message-----

From: Alan Pogorzelec <Alan.Pogorzelec@rotherham.gov.uk>
Sent: 28 July 2020 14:37
To: Lewis Coates <Lewis.Coates@rotherham.gov.uk>; Adrian Monkhouse <Adrian.Monkhouse@rotherham.gov.uk>; Denise Fedyszyn <Denise.Fedyszyn@rotherham.gov.uk>
Cc: Keeley Ladlow <Keeley.Ladlow@rotherham.gov.uk>
Subject: RE: Coronavirus concern

Hi all - we seem to be receiving regular reports regarding the Olive Lounge - is there any value in getting our heads together to decide whether any action needs to be taken in relation to the licence?

Thanks

Alan
Alan Pogorzelec Licensing Manager Community Safety and Street Scene Regeneration and Environment
Services Riverside House Wing A, Floor 3, Near Pod A33 Rotherham Metropolitan Borough Council ,
Riverside House, Main Street, Rotherham, S60 1AE

Tel: 01709 254955
Mob: 07919 304174
Internal: 54955
Email: alan.pogorzelec@rotherham.gov.uk Visit our website: <http://www.rotherham.gov.uk>

Before printing, think about the environment

-----Original Message-----

From: Keeley Ladlow <Keeley.Ladlow@rotherham.gov.uk>
Sent: 28 July 2020 14:05
To: Lewis Coates <Lewis.Coates@rotherham.gov.uk>; Adrian Monkhouse <Adrian.Monkhouse@rotherham.gov.uk>
Cc: Alan Pogorzelec <Alan.Pogorzelec@rotherham.gov.uk>
Subject: FW: Coronavirus concern

Hi Lewis/Adrian - we have received the below email from [REDACTED] regarding the Olive Lounge in Wickersley - she has been contacted by a member of the public citing social distancing concerns.

Thanks

APPENDIX 4

Keeley

Senior Licensing Enforcement Officer
Community Safety and Street Scene
Regeneration and Environment Services
Riverside House Wing A, Floor 3, Near Pod A33 Rotherham Metropolitan Borough Council , Riverside House,
Main Street, Rotherham, S60 1AE

Tel: 01709 822346

Email: keeley.ladlow@rotherham.gov.uk

Visit our website: <http://www.rotherham.gov.uk>

Before printing, think about the environment

-----Original Message-----

From: Carol White <Carol.White@rotherham.gov.uk>

Sent: 28 July 2020 12:29

To: Keeley Ladlow <Keeley.Ladlow@rotherham.gov.uk>; Alan Pogorzelec
<Alan.Pogorzelec@rotherham.gov.uk>

Subject: FW: Coronavirus concern

For your info

-----Original Message-----

From: [REDACTED]

Sent: 27 July 2020 10:59

To: Licensing <Licensing@rotherham.gov.uk>; [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Subject: FW: Coronavirus concern

Dear All

Please Action

Just want to make you aware olive lounge at Wickersley are not conducting track and trace. They are allowing any amount of numbers on Friday's and Saturday evenings.

I know someone who has now tested positive from visiting Olive Lounge but as they are not conducting the correct procedures no one will know of this

[REDACTED]
[REDACTED]

Community Safety Unit

Regeneration & Environment Services.

RMBC, Currently working from home

Email [REDACTED]

Visit the Safer Rotherham Partnership Website: www.rotherham.gov.uk/srp

-----Original Message-----

From:

Sent: 24 July 2020 19:59

To: Community.Safety <Community.Safety@rotherham.gov.uk>

Subject: Coronavirus concern

Hi

Just want to make you aware olive lounge at wickersley are not conducting track and trace. They are allowing any amount of numbers on Friday's and Saturday evenings.

I know someone who has now tested positive from visiting Olive Lounge but as they are not conducting the correct procedures no one will know of this.

APPENDIX 4

AutoSave (Off) Evening 040720 AW & SO - Licensed Premises Visits 4 5 July 2020 Visit Log.xlsx Keeley Ladlow KL

File Home Insert Page Layout Formulas Data Review View Help ACROBAT

Clipboard Paste Font Calibri 11 Bold Italic Underline Color Fill Border Alignment Number General Percent Decrease Increase Conditional Formatting Table Styles Cell Styles Insert Delete Format Sensitivity Ideas

Comments Share

D57

Open - carnage! Huge crowds, no control whatsoever. Seriously over-occupied, need speaking to

	A	B	C	D	E
45		21:44		Open - very quiet	None
46		21:51		Open - appears to be almost empty	None
47		22:05		Open - empty	None
48		22:14		Closed	None
49		22:15		Open - hardly anybody there	None
50		22:16		Open - empty, not a single person in sight	None
51		22:17		Open - appears to be very quiet	None
52		22:20		Closed	None
53		22:25		Closed	None
54		22:28		Open - plenty in but appears to be organised, security staff at the door	None
55		22:28		Open - not busy at all	None
56		22:30		Open - very quiet	None
57		22:33	The Olive Lounge - 169 Bawtry Road, Wickersley	Open - carnage! Huge crowds, no control whatsoever. Seriously over-occupied, need speaking to	Forwarded to Denise to call
58		22:37		Closed	None
59		22:38		Open - very quiet	None
60		22:38		Open - very quiet	None
61		22:53		Closed	None
62		23:03		Closed	None
63		23:07		Open - looks quiet and orderly	None
64		23:11		Open - quite a few in but very large premises and looks well managed	None
65		23:12		Closed	None
66		23:14		Closed	None
67		23:18		Closed	None
68		23:31		Open - quiet	None
69		23:32		Open - can't see inside but not much happening outside	None
70		23:33		Open - customers seem to be leaving	None
71		23:46		THIRD VISIT - lights are off, stragglers are leaving	None
72		23:49		Closed	None
73					
74					
75					

Average: 0.939583333 Count: 4 Sum: 0.939583333

Sheet1

Type here to search

15:44 20/01/2021 ENG

APPENDIX 4

KLL/4



Normal/Smart

09-19-2020 Sat 00:01:36

Page 51

APPENDIX 4

Camera 01

Pause

Normal Smart

1-09-2020 14:07:34 - 22-09-2020 15:38:25

00:01:37

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Normal/Smart

09-19-2020 Sat 00:02:06

Camera 01

09-19-2020 14:07:24 - 20-09-2020 16:30:28

Normal Smart Pause

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APPENDIX 4

Normal/Smart

09-19-2020 Sat 00:02:46

Camera 01

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1-09-2020 14:07:34 -- 22-09-2020 15:38:25

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APPENDIX 4

Camera 01

01-09-2020 14:07:34 - 22-09-2020 16:38:34

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APPENDIX

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Normal Event Smart
30mins 1h 2h 24h

APPENDIX 4



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APPENDIX 4



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APPENDIX 4

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APPENDIX 4

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01-09-2020 14:07:34 - 22-09-2020 16:36:35

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Normal/Smart

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Camera 01

09-20-2020 14:07:34 - 22-09-2020 15:38:25

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Normal Smart Pause



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☒ Night vision

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APPENDIX 4



Smart Event Smart

1h 2h 24h

APPENDIX 4



APPENDIX 4



APPENDIX 4

Camera 01

09:19:20 Sat 09:08:21

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APPENDIX 4



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09-09-2020 Sat 00:00:49



Camera 01

01-09-2020 14:07:34 - 23-09-2020 15:38:25

Normal Smart



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APPENDIX 4



APPENDIX 4

Normal/Smart

09-19-2020 Sat 00:11:13

Camera 01

01-09-2020 14:07:34 -- 22-09-2020 15:38:25

Normal Smart Pause

00:11:15

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ThinkVision

Normal/Smart

09-19-2020 Sat 00:13:08



Camera 01

01-09-2020 14:07:34 -- 12-09-2020 15:36:25

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Page 74

APPENDIX 4

Normal 1h 6h

Normal/Smart

09-19-2020 Sat 00:13:11



Camera 01

01-09-2020 14:07:34 ~ 22-09-2020 15:38:25

Normal Smart

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Pause

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2020

Normal Event

30mins 1h 6h 2d

Page 75

APPENDIX 4

09-19-2020 Sat 00:13:13



Camera 01

01-09-2020 14:07:34 ~ 22-09-2020 15:38:25

Normal Smart

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01-09-2020 14:07:34 ~ 22-09-2020 15:38:25

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Normal Event

30mins 1h 2h

APPENDIX 4

APPENDIX 4



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APPENDIX 4



APPENDIX 4

Camera 01

09-19-2020 Sat 00:17:15

09-19-2020 14:07:34 -- 22-09-2020 15:38:25

Normal

Smart

Pause

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APPENDIX 4

Camera 01

09-19-2020 Sat 00:17:15

09-19-2020 14:07:34 -- 22-09-2020 15:38:25

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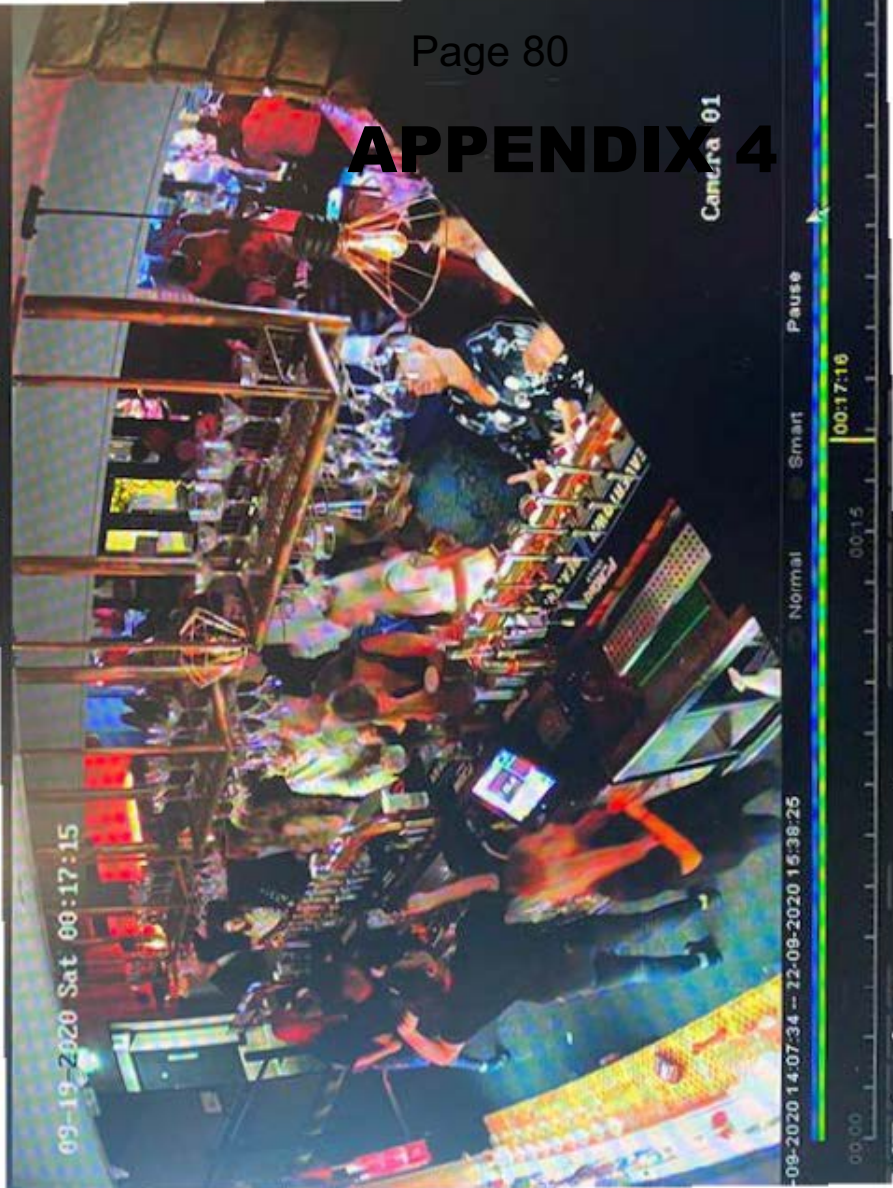
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09-19-2020 Sat 00:00:18

Page 81
APPENDIX 4

Camera 01

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09-19-2020 Sat 00:00:36



01-09-2020 14:07:34 - 22-09-2020 15:38:25

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Pause

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Page 82

APPENDIX 4

Normal

30mins

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Normal/Smart

09-19-2020 Sat 00:07:13



01-09-2020 14:07:34 - 22-09-2020 16:28:25

Normal Smart

Timeline and playback controls. Includes a progress bar with a playhead at 00:07:15. Below the bar are various icons for zooming, panning, and other playback functions.

Max. Ca... Min. Ca...

- ☒ Camera 01
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Close vision

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Playback controls. Includes a play button, a stop button, and a volume slider. The volume is currently set to 100%.

APPENDIX 4

APPENDIX 4



APPENDIX 4

Normal/Smart

09-19-2020 Sat 00:13:18

Camera 01

01-09-2020 14:07:34 -- 12-09-2020 15:38:25

Normal Smart

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APPENDIX 4

Normal/Smart

09-19-2020 Sat 00:25:28

Camera 01

01-09-2020 14:07:34 -- 22-09-2020 15:39:26

Normal Smart

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09-20-2020 Sun 00:00:39

KLL/5

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APPENDIX 4

Camera 01

	Normal	Smart	Pause
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01-09-2020 14:07:34 - 22-09-2020 15:38:25

ThinkVision

09-20-2020 Sun 00:00:53



01-09-2020 14:07:34 - 22-09-2020 15:38:25

00:01:02

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Navigation icons: Home, Back, Forward, Search, etc.

⌂ X

Max. Ca... Min. Ca...

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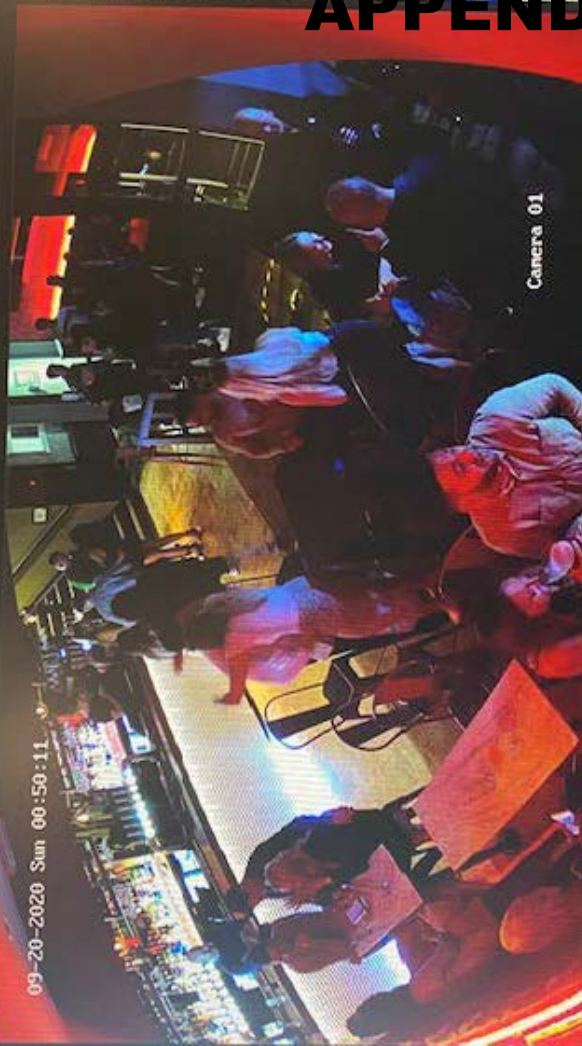
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APPENDIX 4

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09-20-2020 Sun 16:58:03

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APPENDIX 4

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APPENDIX 4

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APPENDIX 4

News & Opinion

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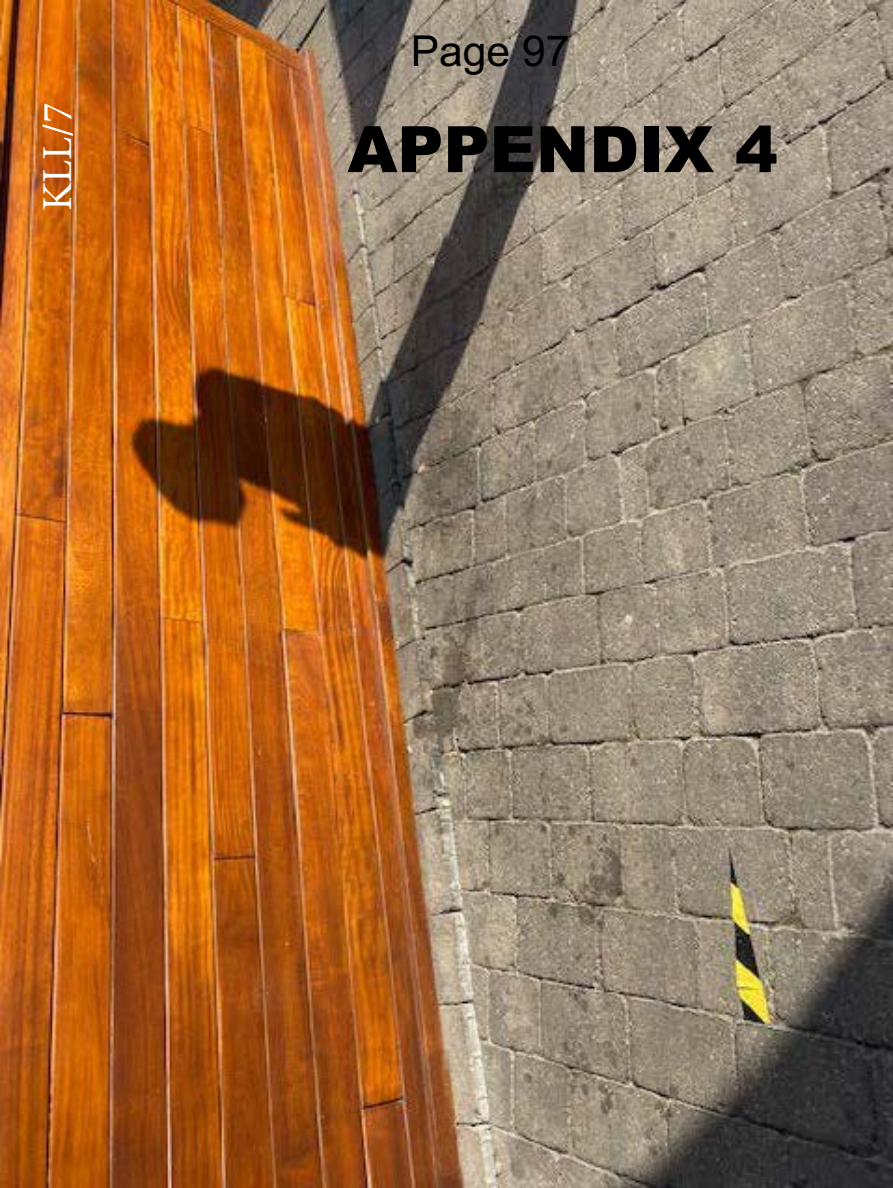
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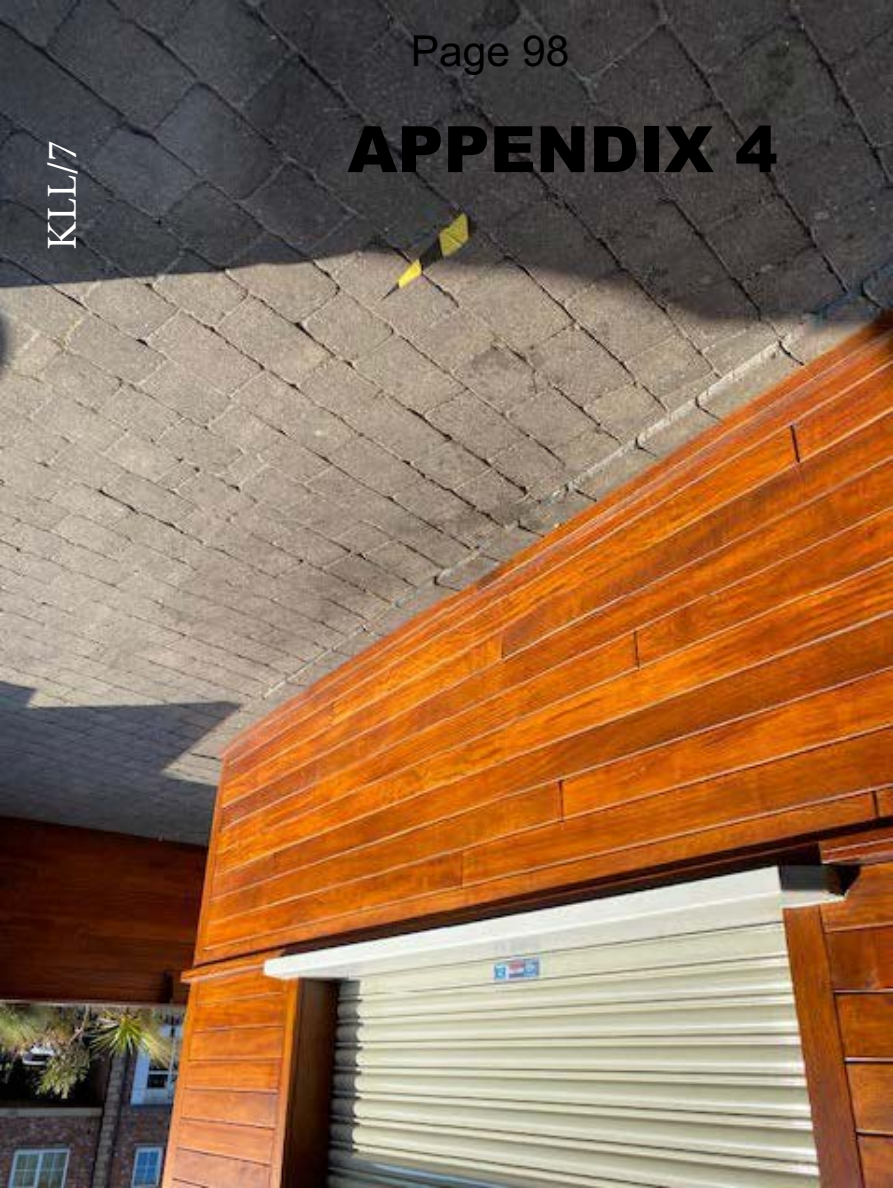
APPENDIX 4

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APPENDIX 4

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APPENDIX 5

WITNESS STATEMENT OF
HELEN COOPER
1ST STATEMENT
ON BEHALF OF THE APPLICANT

BEFORE THE LICENSING COMMITTEE
OF ROTHERHAM METROPOLITAN BOROUGH COUNCIL

IN THE MATTER OF A REVIEW OF
PREMISES LICENCE UNDER
SECTION 51 OF THE LICENSING
ACT 2003

CHIEF CONSTABLE OF SOUTH YORKSHIRE POLICE

Applicant

AND

OLIVE LOUNGE LTD

Premises Licence Holder

WITNESS STATEMENT OF HELEN COOPER

1. I am Helen Cooper, I am employed by South Yorkshire Police as a Licensing Enforcement Officer .
2. I make this statement in support of an Application for Review of Premises Licence relating to the above premises.
3. **Licensing Enforcement Officer Engagement / SYP Incidents :**
 - a. **LEO Engagement - 3rd July 2020**

Below are my notes taken from Inn Keeper (Inn Keeper is the system used by SYP's Licensing Team) relating to the above:

On 3rd July I visited the premise and met with Johnathan to discuss with him the covid measures that he had in place at Olive Lounge.

The previous day local PCSO's had visited to check the restrictions he had put in place and complete a Covid check list . Johnathan made their visit difficult by as they described not being very amenable with information they were requesting and the PCSO 's had called me with concern of how they had been spoken to rudely by Johnathan and the lack of measures they felt had been put in place.

I initially raised with Johnathan that I was disappointed with the manner in which he dealt with the PCSO's that visited on my behalf. I explained that due to the reopen and the

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increased work load , local PCSO's were tasks to visit license premises. I told him he should show more respect with speaking to members of the police force. He tried to tell me that they were sharp with him and I reminded him that no other local premises had raised any concern about their manner.

I asked Johnathan to talk me through his Covid risk assessment. He told me that they had had a professional company carry out a risk assessment on the premise so they know what they need to put in place.

Johnathan told me that they had the following Covid restrictions in place:

A one way system in place with tape on the floor and the stairs. Walky talkies for staff to improve the communication, Hand sanitisers in place.

I asked him if they were doing full table service and he told me no customers will be seated and one member will be allowed to go to the bar. I asked if they are having screens up at the bar and he told me no. I asked if staff will be wearing masks and he told me no. I asked him wear his mitigation is to reduce the risk of further spread of Covid. Johnathan just reverted me back to the risk assessment and told me they are doing just enough . I pointed out that I feel he could put more in place to remain Covid secure.

I asked him of the plans for the outside and he told me that he would seat up to 6 on the outside tables and allow customers to stand at the barrels. I highlighted to him that allowing them to stand could be further risk as they are not so big and customers could end up shoulder to shoulder. I pointed out to him he is the only premise I have visited that is going to allow vertical drinking. I raised that the risk of people stepping to other barrels could mix bubbles. He was adamant he was going to allow customers to stand.

Johnathan remained challenging throughout our meeting and I highlighted to him that I had a job to do. I raised that the impact is unknown and given that The Masons is not reopening just now could impact on his business so I encouraged him to run it robustly. I told me he had a business to run and costs to meet. I told him I could not consider business I need to consider customer safety.

I made it clear to him that I felt he could put more measures in place ie screens at the bar or staff to wear masks or visors.

Report to Police – 4th July 2020 @ 18:26

Below are incident details taken from Inn Keeper (Inn Keeper is the system used by SYP's Licensing Team) relating to the incidents detailed below:

Inc Number - 20200704-0822 – Possible Covid Breach

Caller states there are too many people in the beer garden area of the premise and that they are stood shoulder to shoulder. Caller also states there are persons drinking at the bar. Officers attended and spoke with the landlord. No issues reported and no further Police action.

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Report to Police – 19th July 2020 @ 23:33

Below are incident details taken from Inn Keeper (Inn Keeper is the system used by SYP's Licensing Team) relating to the incidents detailed below:

Inc Number - 20200719-1050 – Disturbance / Fighting

Caller state she is sat outside the premise and there are X2 persons fighting. She states the door staff do not appear to be doing anything and seem pre-occupied. Officers attended and persons were waiting outside for taxis, whilst a male had been ejected from the venue. They located X1 male who states he had been assaulted by door staff but they had no injuries consistent with this. CCTV viewed but does not show the male being restrained. Investigation for assault submitted. Crime ref:14/108099/20.

Report to Police – 20th July 2020 @ 04:27

Below are incident details taken from Inn Keeper (Inn Keeper is the system used by SYP's Licensing Team) relating to the incidents detailed below:

Inc Number - 20200720-0138 – Concern, Covid

Caller drove by the premise at around 17:00hrs and 19:00hrs and states that the area outside was full with some people standing on the pavement at the entrance to the patio area on the front of the venue. There is no social distancing and caller has taken photographs of this. The caller is concerned for the wellbeing of staff and nearby residents. She is unsure if they are operating a booking system or utilising a track/trace system. Officers had already visited and spoke to the landlord who had permission for persons to be stood outside

LEO Engagement – 20th July 2020 @ 10:35

Below are my notes taken from Inn Keeper (Inn Keeper is the system used by SYP's Licensing Team) relating to the above:

On 20th July 2020 I called the DPS Jonathan Clough to discuss incident 1050 19/07/20. Which was a report of fighting.

I called Jonathan on his mobile. He told me that he was aware of the incident and it was a male who was getting handsy. He told me that he had been in from 5pm and he was having problems with his girlfriend and he told me that the CCTV showed he was getting aggressive with the door staff and took a swipe at them. Jonathan told me that he was there and there were no real problem and the male was retrained until he calmed down.

I asked him how things were going and advised him that SYP have received a call in the early hours to say that the premise this evening was really overcrowded and they were concern that this was a Covid breach. He told me that they have had Environmental Health this weekend. He told me that all were good and EHO were pleased with the

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premise. He told me the EHO looked at his risk assessment again.

We discussed the re-opening of The Masons on 27th July and Jonathan expressed the impact this would have on the Olive Lounge. Jonathan told me that he is introducing a last entry time of 21:30 to accommodate The Masons closing at 10pm as he feels that he will get a backlash of customers leaving there. I told him that this was a responsible solution.

Report to Police – 25th July 2020 @ 04:04

Below are incident details taken from Inn Keeper (Inn Keeper is the system used by SYP's Licensing Team) relating to the incidents detailed below:

Inc Number - 20200725-0197 – Covid Concerns

Caller states the venue have not been doing track and trace. She is aware of someone who has tested positive after visiting the premise.

Report to Police – 26th July 2020 @ 01:03

Below are incident details taken from Inn Keeper (Inn Keeper is the system used by SYP's Licensing Team) relating to the incidents detailed below:

Inc Number - 20200726-0065 & 0064 – Disturbance / Fighting

Officers have come across a large fight outside the venue upon persons leaving the bar. This involved around X15-20 persons, many of whom dispersed when Officers alighted their vehicle. Gas was used to alleviate the masses and X2 were rolling around on the floor still embroiled in a fight, throwing punches at one another. The X2 males were detained for affray. Crime ref:14/111206/20.

Report to Police – 27th July 2020 @ 07:43

Below are incident details taken from Inn Keeper (Inn Keeper is the system used by SYP's Licensing Team) relating to the incidents detailed below:

Inc Number - 20200727-0167 - Assault

Male states he was arrested for affray on the 26th (previous incident) and was drunk at the time. He was advised to take a caution after he was viewed on CCTV being involved in the melee. He has since spoken to a friend who states it was not him involved but another male. Male was later spoken to and confirmed by Officers witness statements and CCTV he was involved in the fighting. He then proceeded to make a complaint of assault and he wished to rescind the caution. Male advised to seek legal advice before doing so as he could be prosecuted if the matter was taken to court.

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LEO Engagement – 27th July 2020 @ 14:26

Below are my notes taken from Inn Keeper (Inn Keeper is the system used by SYP's Licensing Team) relating to the above:

On 27th July I checked my incidents on smart contact and called Johnathan to discuss with him 2 x incidents which have been reported over the weekend.

I spoke with him about Inc 0197 25/7/20 which was reported as concern around lack of Covid restrictions.

Johnathan told me that he was there both Friday and Saturday evenings. I advised him in the incident it detailed that there had been a positive case of Covid from a customer that had been in the premise that you had been made aware and that you have not taken any action. I explained to him that the incident also explained that there is not track and trace policy in the premise.

Johnathan told me that they have not had any Covid test results reported to him. He went on to say that they have been doing the track and trace since day one. Customers are encouraged to leave their name and number with door staff at the weekends and in the week they are asked at the bar. He told me that it is rare anyone refusing. He told me that he has not seen the social media post and it has been reported to environmental health. He told me that inside they are social distancing everyone. He spoke about the premise reaching capacity quickly and customers queuing I asked him to advised staff not to encourage a queue. Jonathan told me that he has been having in the Masons crowd which has been challenging. He told me that business is picking up and they will start to open Wednesdays. He said that trade is generally good.

I then asked him to talk me through the fight that occurred on the road outside - Inc 0065 26/07/20. Johnathan said that this fighting was reported as Olive Lounge but it was the Courtyard's customers that were involved. He told me that the Courtyard closed moved all their customers onto the street and locked the gates. He went on that there was a group of customers and then a fight broke out. I confirmed to Johnathan that yes the incident had been called in and it registered as the Olive Lounge.

I told him that a severe incident happened and it was clear no one was going to take any responsibility for this. I advised him I would get the version from the Courtyard.

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Report to Police – 1st August 2020 @ 01:30

Below are incident details taken from Inn Keeper (Inn Keeper is the system used by SYP's Licensing Team) relating to the incidents detailed below:

Inc Number - 20200801-0117

Caller was premise stated they have security on the premise and there are around X20 persons fighting. States whilst on the call, the males were walking away and X2 Police cars had shown up.

Report to Police – 1st August 2020 @ 02:20

Below are incident details taken from Inn Keeper (Inn Keeper is the system used by SYP's Licensing Team) relating to the incidents detailed below:

Inc Number - 20200801-0166 – Assaulted

Caller states her son was assaulted outside of the premise by X13 young teenagers and was very distressed. He did not know any of the youths involved and it is believed he possibly has a dislocated shoulder. Victims brother spoken to who states they were inside the venue when a group of males came shouting at another group who were inside the premise. States he got in the middle of the situation not knowing anyone involved and was assaulted. States a Police officer told him to stop getting in his face, he gave up on the situation and went home in a taxi.

Report to Police – 1st August 2020 @ 09:03

Below are incident details taken from Inn Keeper (Inn Keeper is the system used by SYP's Licensing Team) relating to the incidents detailed below:

Inc Number - 20200801-0341 – Reported Spiking Incident

Female was taken to A&E the previous evening by Officers. She has discharged herself before having any bloods taken but is concerned she was spiked as she does not remember anything. Female recalls drinking X2 bottles of wine and a bottle of prosecco between her and a friend. She has drunk more than that before and never had the kind of reaction she did the previous evening to the point she had no money. Premise have been made aware in hopes to stop any further incidents if this is what has happened. Crime ref:14/115022/20.

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Report to Police – 1st August 2020 @ 11:26

Below are incident details taken from Inn Keeper (Inn Keeper is the system used by SYP's Licensing Team) relating to the incidents detailed below:

Inc Number - 20200801-0440

Caller lives quite close to this premise and other venues and is concerned about the level of disturbance in the early hours with Police attendance. She understands there will be noise living nearby to a licensed venue but recently this has become excessive. States that there is no social distancing in place and that people are spilling out on to the streets.

Report to Police – 2nd August 2020 @ 13:20

Below are incident details taken from Inn Keeper (Inn Keeper is the system used by SYP's Licensing Team) relating to the incidents detailed below:

Inc Number - 20200802-0485 - Assault

Male was involved in some sort of disturbance outside the premise on the Saturday morning to which Police attended. He was assaulted by a named male and has suffered a broken nose, his eye was completely closed and his cheek is swollen but unsure if this is fractured at this stage. He is going for a further x-ray the following day to making the call. Crime ref: 14/115587/20.

LEO Engagement – 7th August 2020 @ 12:00

Below are my notes taken from Inn Keeper (Inn Keeper is the system used by SYP's Licensing Team) relating to the above:

On 7th August 2020 I called Jonathan to discuss with him the above incident. No answer left a message for him to call me back.

LEO Engagement – 7th August 2020 – Email Sent

Below are my notes taken from Inn Keeper (Inn Keeper is the system used by SYP's Licensing Team) relating to the above:

Following a full review of incidents since lockdown I have raised with Inspector Simmcock I felt we needed to pull a meeting together to discuss with each 4 premises the impact the incidents are having on the local residents .

I sent the email out to Olive Lounge, Three Horse Shoes, Courtyard and Masons.

Afternoon all

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Following a review of the incidents in Wickersley since lockdown was lifted it has become a concern for South Yorkshire Police.

To discuss our concerns further please can you be available on Monday 10th August at 10:30am at Masons . I expect each premise to be represented. Can you please confirm how many will be attending as soon as you can.

Regards

Helen E Cooper
Rotherham Licensing Enforcement Officer

After sending the email I immediately called each premise to advise them of the meeting apologising for the short notice but highlighting that I was fitting in with the local Inspector and my diary.

When I called Jonathan he made the comment ' it is short notice' I reiterated to him that I had apologised at the start of the telephone conversation and explained clearly the reasons why the meeting will be Monday 10th August which is short notice.

Meeting – 10th August 2020

Below are my notes taken from Inn Keeper (Inn Keeper is the system used by SYP's Licensing Team) relating to the meeting :

Called a meeting to discuss with the 4 x main operators on the Wickersley strip the increased incidents related to the licensed premises. The location for the meeting was masons arms.

Present at the meeting :-

SYP
Inspector - Martin Simcock
Sgt - Rachael Berry
Helen Cooper - Licesning Enforcement Officer

The Masons - Jamie Hawksworth
Olive Lounge - Jonathan Cough
Courtyard - Nick Simpson-Lyon
Horse Shoes - John Slide

We started the meeting by doing introductions . Inspector Simcock advised them all the need for the meeting and focus that was required from the premises to drive down any further incidents of disorder.

I raised that the meeting came about from a number of incidents within a short period of time and an recent incident on the strip where no premise was accepting ownership of it. I pointed out to them all that this cannot happen if there customers play a part in disorder

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they need to accept this and put in robust measures to ensure there is not a repeat of this.

The general consensus was that the area has always attracted a younger customer of which they previously frequented The Mason. Jamie told the meeting they have done a full review of their operations and they now are very strict and want to change the concept of the pub to attract an older customer.

Jonathan said he has been getting the younger end. He told us that he has introduced a dress code , no football shirts.

John slide told the meeting that a problem which could be causing noise is a newly formed white taxi queue which now forms directly outside the horse shoes - he asked why is this and who has authorised it. Inspector Simcock told them that he would take this back to RMBC and check.

Nick from Courtyard said they were also getting the younger end after lockdown and before The Masons was re-opened so now they have introduced a strict rule of Friday and Saturday from 7pm no under 21's are allowed and id is checked strictly. He told us that they have put on an extra door staff member and the first weekend they turned away approx. 30 customers.

Jonathan agreed that his customer base has now changed.

Jamie said that The Masons will continue with being selective who is let in as they have changed the profile of customer they want.

A number of the licensees raised they miss a police presence in the area and also they have no conclusive radio link . I advised them all that Rotherham council are launching a new radio system and its in the early stages. I agreed to link in with the organizes to try and include Wickersley in this if possible.

Inspector Simcock closed the meeting agreeing to take back what has been raised. He asked for the commitment from all present to do all they can to reduce any further disorder.

LEO Engagement – 19th August 2020 @ 16:02

Below are my notes taken from Inn Keeper (Inn Keeper is the system used by SYP's Licensing Team) relating to the above:

On 19th August 2020 Jonathan called me

He asked me if SYP had received an incident on 15th August of spiking as he has had an enquiry. I confirmed with john this was what I called you about on 7th August – Inc 0341 01/08/2020. He told me he had been away.

I advised him to check the CCTV and complete a timeline of the female, time she came in

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what intoxicated level she was and her activity of sales and manner while she was in to understand if there is any truth / risk in the report. Jonathan agreed to check.

Report to Police – 30th August 2020 @ 20:49

Below are incident details taken from Inn Keeper (Inn Keeper is the system used by SYP's Licensing Team) relating to the incidents detailed below:

Inc Number - 20200830-0922 – Covid Concern

Caller states patrons are spilling out on to the pavement and there is no social distancing. She is also concerned about vehicles clipping people possibly. Officers drove past and everything was in order.

Report to Police – 5th September 2020 @ 23:46

Below are incident details taken from Inn Keeper (Inn Keeper is the system used by SYP's Licensing Team) relating to the incidents detailed below:

Inc Number - 20200905-1121 – Covid Concern

Caller states there is complete lack of social distancing with people dancing close to one another and the venue are letting too many people inside.

Report to Police – 13th September 2020 @ 10:31

Below are incident details taken from Inn Keeper (Inn Keeper is the system used by SYP's Licensing Team) relating to the incidents detailed below:

Inc Number - 20200913-0347 – Covid Concern

Caller is concerned the premise is breaching Covid regulations and that people are spilling out on to the pavement. The venue has been previously reported to authorities

LEO Engagement – 17th September 2020 @ 14:35

Below are my notes taken from Inn Keeper (Inn Keeper is the system used by SYP's Licensing Team) relating to the above:

On 17th September 2020 I called Jonathan at the Olive Lounge.

I advised him that the rule 6 is a strict rule now. He told me all going well he told me it had been relaxed over the last couple of weeks to be honest. He told me that the outside capacity would be up to 55 following his updated risk assessment. Jonathan said that he has to look at it from all sides and admitted he would do the minimum he has to, to the

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guidance as he has a business to run.

He told me honestly that he has been doing the bare minimum he had to . He told me he was staying within the law bending some things sometimes as he has 20 + people employed .

He told me that he is working closely with Environmental Health and speaks to them about twice per week. He assured me that he is working within the realms of risk assessment which has been signed off by Environmental Health.

He told me that he is not looking forward to this weekend and hopes the public do gooders stay home . Jonathan told me that he did push the boundaries last week however it will be zero tolerance this weekend. He told me he knows that Environmental Health film him most weekends. He expressed that he hopes other venues are checked and treated the same way as he has been.

Streetsafe Update – 19th September 2020

Below are notes taken from Inn Keeper from Streetsafe Document (Inn Keeper is the system used by SYP's Licensing Team) relating to the above:

See streetsafe update below from PC [REDACTED] for visit Saturday 19th September @ 23:00

Olive Lounge

Checked the Olive Lounge. No social distancing observed outside. At closing time, groups congregated outside the olive lounge waiting to get a taxi home.

LEO Engagement – 5th October 2020 @ 13:38

Below are my notes taken from Inn Keeper (Inn Keeper is the system used by SYP's Licensing Team) relating to the above:

P/Call to DPS - Brunch

On 5th October 2020 I was informed that the premise has a post on Facebook I and is advertising a bottomless brunch on Saturdays during October 13:00 - 15:00.

I called Johnathan and spoke through the offer with him . I started by asking him how the weekend had been and he told me good they are now used to the table service and this has reduced the capacities by half. He told me there is no standing and customers are all wearing masks.

I asked him how the 'Bottomless Brunch' went and he told me really good. He told me that the alcohol drinks on offer are Prosecco Beer and Wine with 20 tapas dishes for each person which is £30 each.

I advised him that I needed to check through the offer to ensure that it is being run responsibly and does not breach any mandatory licensing conditions.

APPENDIX 5

Johnathan told me it is very much food led, and he only used 23 bottles of prosecco for Saturdays Brunch and he expected to use more. I asked him to ensure all are also eating the food and not just drinking the alcohol. He told me that everyone was fine who attended and nobody was drunk. He told me that it was mainly females who attended the promotion. He told me that it went really well and they are nearly fully booked for this weekend.

LEO Engagement – 13th September 2020 @ 19:09

Below are my notes taken from Inn Keeper (Inn Keeper is the system used by SYP's Licensing Team) relating to the above:

On 13th September 2020 Jonathan called me and asked me a question re his plans to run the premise under the Tier 2 (Covid).

He told me they are putting together a disclaimer for customers to sign to say they are living in the same household when sitting inside the premise and he said it would then take the own-ness off them and show they are doing all they can to meet the new restrictions. He said to me that he feels like EHO department are targeting the premise. Jonathan told me that he has reduced his opening times to:-

Tues & Wed 4pm - 10pm

Fri, Sat and Sun - 2pm - 10pm

Jonathan told me that the door lads are now working for him and not M & D Security.

LEO Engagement – 15th October 2020 @ 13:40

Below are my notes taken from Inn Keeper (Inn Keeper is the system used by SYP's Licensing Team) relating to the above:

On 15th October 2020 I called Jonathan after attending the Wickersley Pub Watch meeting and Jonathan did not attend .

I asked Jonathan why he was not at the Pub Watch at such a crucial time with Covid restrictions. He told me that he has too many meetings planned in with staff as he currently having to lay some off with the trade being severely affected with Covid 19.

I advised him that it was raised to me at the meeting that a male who is on Pub Watch Rogues Gallery has been seen drinking and being served in the Olive Lounge. Jonathan told me he was not aware of this and agreed to speak to all his staff.

I explained that the Pub Watch will only be effective if the Licence Watch Ban List is adhered to and from memory it was the Olive Lounge who nominated the said male .

APPENDIX 5

Statement of Truth

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed: *Helen Cooper*

Name: Helen Cooper

Date: 05/05/2021

APPENDIX 6

ROTHERHAM METROPOLITAN BOROUGH COUNCIL

WITNESS STATEMENT

(Criminal Justice Act 1967 Section 9, Magistrates Court Act 1980, Section 5B
and Criminal Procedure Rules, Rule 27.2)

Statement of: Adrian Robert Monkhouse

Age (if under 18): Over 18

Occupation: Principal Environmental Health Officer

This statement (consisting of 7 pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 28th January 2021

Signature A. Monkhouse

I am Adrian Robert Monkhouse and I am employed by Rotherham Metropolitan Borough Council as a Principal Environmental Health Officer. I have been qualified as an Environmental Health Officer since October 1999 and I have worked within the Food and Health and Safety Team at Rotherham Metropolitan Borough Council since this time specialising in the enforcement of health and safety legislation.

The Olive Lounge, 169 Bawtry Road, Wickersley, Rotherham, S66 2BW first came to this Authority's attention on Saturday 4th July 2020 when Pubs were permitted to re-open as the first national lockdown was eased. Officers were undertaking Out of Hours Patrols of the district and it was noted by Adrian Williams, Environmental Health Officer at approximately 22:30 on 4th July 2020 that in and around the front forecourt of the Olive Lounge there were large crowds of people, no apparent controls whatsoever and the premises appeared to be seriously over-occupied. Mr Williams reported this issue back to the Manager on Duty of the Out of Hours Shift, Denise Fedyszyn, and Ms

SIGNATURE: A. Monkhouse

DATE: 28/01/21

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Fedyszyn contacted the premises and spoke with Jonathan Clough, the Designated Premises Supervisor, about the situation. Mr Clough agreed that the premises was too busy outside and committed to speak to customers outside and advised that no one else was going to be allowed to enter the premises. Ms Fedyszyn requested that Mr Clough provide the Authority with the premises COVID Risk Assessment and this was subsequently provided via email on 7th July 2020.

In addition to the proactive monitoring undertaken by the Council, complaints were received by members of the public and concerns raised by the Police regarding several premises that had appeared not to comply with social distancing requirements over the weekend of 4th and 5th July 2020. The Olive Lounge was one of these premises. All businesses that had been identified as not complying with social distancing requirements over this weekend were allocated to an Environmental Health Officer to contact and speak to about how to prevent a reoccurrence. The Olive Lounge was passed to Helen Eastwood, Environmental Health Officer on 7th July 2020.

Mrs Eastwood made a telephone call to Mr Clough on 7th July 2020 to talk through the controls that they had in place and the issues that had occurred on Saturday evening. Mr Clough advised that the seated areas had generally been ok and it was the outdoor standing area that was the main problem. Advice was given regarding considering seating/table service for the outdoor area. Mr Clough said that the problems over the weekend were made worse as the surrounding pubs hadn't opened and there is normally a steady flow of people who come and go but as they had nowhere else to go customers stayed at his premises. Mr Clough advised that on Saturday 4th July he had already identified that things were getting out of control and therefore at around 10:30pm they started to turn the lights off to get people to leave and closed the

SIGNATURE: *A. Monkhouse*

DATE: *28/01/21*

premises early. Mr Clough said that they allowed a third of the customers into the premises that they usually do but were intending to reduce it even further for the forthcoming weekend, possibly by another 25% and that this would be monitored throughout the night. Mrs Eastwood advised that the Council would be monitoring the situation.

Proactive monitoring on Friday 10th July 2020 by Jeremy Squires, Community Protection Officer again identified social distancing concerns at the Olive Lounge and following the weekend, concerns/complaints were also received by the Council about the premises.

I contacted Mr Clough on the morning of 14th July 2020 and advised him of the concerns being raised by members of the public and also Council Officers and the Police undertaking monitoring visits regarding a lack of social distancing at his premises. I arranged to meet Mr Clough at the premises at 14:00 that afternoon to discuss COVID 19 controls and the concerns being raised.

At the time of the visit it was confirmed that the Company had employed Health and Safety Consultants (HSHE Health and Safety Solutions Limited) to carry out a risk assessment, devise COVID policies and train staff and there was signage, marked one-way systems and hand sanitiser stations installed throughout the premises. Mr Clough advised that inside the premises it was easier to control customers as no one was allowed to stand inside the premises unless they were in a socially distanced queue for the bar or using the toilets. Therefore, unless customers were sat in a designated area/seat on the ground floor of the premises they couldn't stay and would have to leave. On the first floor of the premises is a restaurant and again this didn't appear to be a problem as it is a more controlled environment with all customers seated at tables.

SIGNATURE: *A. Monkhouse*

DATE: *28/6/21*

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The focus therefore was on the external drinking area at the front of the premises and it is this area which the complaints focused on and which the proactive monitoring had identified as a problem.

I explained to Mr Clough that he needed to ensure that the problems of the last two weekends were not repeated and a Prohibition Notice could potentially be served to close the venue if there was a repeat. Mr Clough committed to reducing the capacity of the external area to alleviate problems. I advised that I would consider what we had discussed and what I had seen throughout the premises in conjunction with looking through the premises COVID 19 risk assessment which Mr Clough emailed to me at the time of my visit and then revert back to Mr Clough regarding issues requiring attention.

After considering the risk assessment I emailed Mr Clough on the evening of 14th July 2020 highlighting controls identified by the risk assessment that did not appear to have yet been implemented at the premises. The main issue with the risk assessment was that it appeared to have neglected the outside area, which was the area of most concern with regards to social distancing – the Tab RA14 to the risk assessment entitled 'external area' actually referred to the kitchen. Mr Clough was requested to contact his Health and Safety Consultants to obtain the risk assessment for the outside area and implement the control measures that were required. At the time of my visit Mr Clough had already committed to reducing the capacity of the external area further and he was advised that the risk assessment for this area of his premises should inform this process. I requested that the risk assessment for the external area of his premises was forwarded to me when available.

SIGNATURE: *A. Monkhouse*DATE: *28/01/21*

On 15th July 2020 I received an email from Mark Harris, Councilor and Health and Safety Officer. The risk assessment for the external area of the premises was attached to the email and I was advised that this had already been undertaken but had been incorrectly labelled. Mr Harris also advised that he had spoken with Mr Clough to ensure that the controls identified in the risk assessment had been implemented.

On 16th July 2020 I spoke with Mr Harris about the risk assessment for the external area of the premises and then I followed this up with an email. I advised Mr Harris that the external area risk assessment needed to be more explicit in terms of the maximum capacity for seating and for standing in this area so that Mr Clough and his door staff were aware of the numbers that they were working towards. Mr Harris responded by stating that he agreed and that he had already started producing a document with pictures of the external area and how this needs to be managed. Once completed Mr Harris said that he would send this document to me. Later on 16th July 2020 Mr Harris emailed me a copy of the Olive Lounge social distancing plan and risk assessment for the external area at the front of the premises. I acknowledged receipt and advised that the external area would need to be strictly monitored to ensure compliance.

Monitoring showed there to be an initial apparent improvement in social distancing and controls to the external drinking area in front of the Olive Lounge but then complaints did start to come back into the Authority regarding the number of customers outside of the premises and a lack of social distancing. Proactive monitoring highlighted issues on Saturday 1st August 2020 and following the weekend complaints/concerns were also raised with the Council regarding a lack of social distancing outside the premises.

SIGNATURE: *A. Monkhouse*

DATE: 28/01/21

On 4th August 2020 I made a telephone call to Mr Clough and discussed the concerns at length. I agreed to email Mr Clough photographs taken by the monitoring Officers from Saturday evening and then reconvene the following day when he'd had chance to speak to his Health and Safety Advisors.

In response to this, I was contacted by Mark Harris, Health and Safety Consultant and spoke with him on the evening of 5th August 2020 regarding the issues and the need for a resolution. This conversation and the actions agreed was confirmed in an email sent to Mr Harris on 6th August 2020. The principal actions agreed were to re-assess the external area to ensure that adequate social distancing could be achieved with the current occupancy numbers set and for Mr Harris to undertake his own audit of the premises for the forthcoming weekend to ensure that the required controls were being implemented.

It was stressed in my email that to negate the need for any further enforcement action it was essential that once the external social distancing plan and occupancy figures had been re-assessed that the required control measures were strictly adhered to. I also advised that if the external area was proving problematic to manage then they may need to consider other options such as ticketing, seating only, table service etc.

Again, after this intervention with the Olive Lounge the situation appeared to improve and proactive monitoring on Saturday 8th August 2020 showed general compliance.

Unfortunately, in early September 2020 concerns and complaints regarding social distancing at the Olive Lounge started to be received by the Council again and this indicated that there could also now be social distancing issues inside the premises. Up

SIGNATURE: *A. Monkhouse*

DATE: 28/01/21

until this point complaints and monitoring had concentrated on the external area in front of the premises and no proactive monitoring had been undertaken of the inside of the premises.

APPENDIX 6

Due to the continuing concerns being raised regarding the Olive Lounge and the fact that it now appeared that there may be issues inside the premises that could not be witnessed by routine proactive monitoring it was decided that a visit should be made to the premises to view the CCTV footage and assess compliance. This visit was undertaken by Officers from RMBC with support from the Police on 22nd September 2020. A. Monkhouse

SIGNATURE: A. Monkhouse

DATE: 28/01/21

APPENDIX 6

ROTHERHAM METROPOLITAN BOROUGH COUNCIL

WITNESS STATEMENT

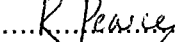
(Criminal Justice Act 1967 Section 9, Magistrates Court Act 1980, Section 5B
and Criminal Procedure Rules, Rule 27.2)

Statement of: ADRIAN WILLIAMS
Age OVER 18
Occupation: Environmental Health Officer

This statement (consisting of 4 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 24th day of November 2020

Signature 

Witness 


-
- 1) My name is Adrian Williams and I am employed as an Environmental Health Officer by Rotherham Metropolitan Borough Council, a role which I have carried out for 25 years.
 - 2) I am registered with the Environmental Health Officers Registration Board and hold a BSc degree in Environmental Health.
 - 3) I am authorised by the Authority to enforce a range of legislation including food safety, health and safety, consumer protection and trading standards related legislation.
 - 4) On the afternoon of 22 September 2020 at around 15:15 I attended The Olive Lounge, a licensed premises located on Bawtry Road at Wickersley in Rotherham. I had been asked to attend the premises to meet with Keeley Ladlow, Senior Licensing Officer and Helen Eastwood, Environmental Health Officer to provide any assistance as may be required in obtaining footage from the premises' CCTV

(In addition to signing the declaration above, the witness must sign the statement at the end of the script on each sheet)

SIGNED



WITNESSED



APPENDIX 6

Statement of: Adrian Williams

Address: Riverside House, Main Street, Rotherham, S60 1AE

Age (if under 18): Over 18

Occupation: Environmental Health Officer

(In addition to signing the declaration above, the witness must sign the statement at the end of the script on each sheet)

SIGNED

WITNESSED

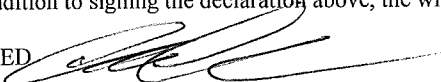
APPENDIX 6

system as part of an investigation to determine whether offences had been committed under Covid 19 related legislation.

- 5) On approaching the premises it was clear that it was closed, although a member of staff was visible, behind the bar, inside. A member of staff came outside and after a brief discussion, agreed to contact Jonathan Clough, the Designated Premises Supervisor. We were invited inside the premises to wait for him to arrive.
- 6) A short time later Mr Clough arrived and Keeley Ladlow explained the purpose of our visit and advised him that we required CCTV footage from his CCTV system, further explaining that this was in connection with the receipt of complaints which alleged that inadequate controls were in place within the premises to comply with Covid 19 requirements specific to the hospitality sector.
- 7) At this point, Mr Clough stated clearly that he was not prepared to allow us to see the CCTV footage explaining that he was not aware of the legal basis on which we could be entitled to it. He then went on to say that he was going to take legal advice before doing anything further.
- 8) Keeley Ladlow then explained that powers were available to allow the CCTV system to be removed but that it would be preferable simply to have access to it, there and then, to facilitate the downloading of data without physically removing the CCTV hard drive from the premises.
- 9) At this point Mr Clough said that he assumed that we only required sight of the CCTV footage covering the external seating area, outside the front of the premises. Keeley Ladlow clarified that access was required to all premises footage.
- 10) At this point Mr Clough stated that if we viewed the internal footage we would not like what we saw. When asked to explain this, he stated that he considered it fairly easy to control customers in the external area but felt that it was much more difficult

(In addition to signing the declaration above, the witness must sign the statement at the end of the script on each sheet)

SIGNED



WITNESSED

R. Pearce

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to control customers inside the premises and we would see from the CCTV footage that control of customers inside the premises was very poor.

- 11) Mr Clough then stated that we were welcome to view the footage and to download it if we had the correct equipment in order to do so. He asked us to follow him up to the first floor dining area where he opened a cupboard where the hard drive was stored.
- 12) There was no display screen and he explained that the system could only be accessed through his mobile phone. He appeared to be attempting to access the system using his mobile phone, but very soon pulled a chair across to the cupboard which he stood on in order to access the CCTV hard drive, which was located in the top of the cupboard. I watched as he appeared to check each and every cable which was plugged into the back of the hard drive before referring again to his phone. He repeated this a number of times and periodically, he would appear to call someone on his phone before stepping into the kitchen area to make the phone call in private. He would then return to the cupboard and continue apparently checking the cables on the hard drive. He stated that there appeared to be a problem and he was having difficulty getting access to the hard drive.
- 13) After a while, he apologised for wasting our time, advised us that there was clearly a problem with the CCTV system and that he was going to call someone out to try and fix it and asked us if we could return at a later time at which point he would ensure that the footage was available.
- 14) Shortly after this point, we were advised that customers had arrived for a dinner booking and we were asked by Mr Clough if we would mind waiting downstairs so that the customers could take their seats in the dining area. We returned back to the ground floor bar area.

(In addition to signing the declaration above, the witness must sign the statement at the end of the script on each sheet)

SIGNED



WITNESSED

R. Pearce

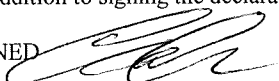
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- 15) I was aware that Keeley Ladlow had been on the phone in an attempt to secure police attendance at the premises to assist us and, at 16:43 police officers Matthew Smith and Steven Robson arrived. Keeley Ladlow explained the situation. PC Steve Robson explained to Mr Clough that powers were available to allow the CCTV hard drive to be removed from the premises but that it would clearly be preferable if the footage could be viewed and downloaded there and then. PC Steve Robson said that he knew quite a bit about CCTV systems and would have a look to see whether he could gain access to it. He accompanied Mr Clough back upstairs and after only a short while returned back to the ground floor carrying the hard drive. Mr Clough, at this point, said that there was no need to have called the police and indicated that if we had asked him for the hard drive, he would have handed it over. Mr Clough was asked whether the hard drive was password protected and he stated that it was not.
- 16) Keeley Ladlow explained to Mr Clough that the terms of his premises licence required a fully functioning and recording CCTV system to be in operation at all trading times and that he was not permitted to trade if the system was not functional. He immediately confirmed that a spare hard drive was available to him and that this would be installed within the hour.
- 17) The hard drive was placed in an evidence bag and taken by Keeley Ladlow.
- 18) I left the premises and continued with other work duties.



(In addition to signing the declaration above, the witness must sign the statement at the end of the script on each sheet)

SIGNED



WITNESSED

R. Pearce

APPENDIX 6

ROTHERHAM METROPOLITAN BOROUGH COUNCIL

WITNESS STATEMENT

(Criminal Justice Act 1967 Section 9, Magistrates Court Act 1980, Section 5B
and Criminal Procedure Rules, Rule 27.2)

Statement of: Helen Ruth Eastwood

Age (if under 18): Over 18

Occupation: Environmental Health Officer

This statement (consisting of 7 pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 23rd February 2021

Signature H.R. Eastwood

1. I am Helen Ruth Eastwood and I am employed by Rotherham Metropolitan Borough Council as an Environmental Health Officer. I am based at Riverside House, Main Street, Rotherham, S60 1AE. I have been qualified as an Environmental Health Officer since July 1997. I have worked within the Food, Health and Safety Team since August 1998. I have been appointed by Rotherham Metropolitan Borough Council under Section 19(1) of the Health and Safety at Work etc. Act 1974 with authority to exercise the powers of an inspector specified in Sections 20, 21, 22 and 25 of the Health and Safety at Work etc. Act 1974.


2. On the 22/09/2020 at approximately 15:30 I arrived at The Olive Lounge, 169 Bawtry Road, Wickersley, Rotherham, S66 2BW where I met Adrian Williams, Environmental Health Officer and Keeley Ladlow, Senior Licensing Enforcement Officer.

SIGNATURE: H.R. Eastwood

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3. We introduced ourselves to an employee and then to the Manager who said that he would contact Jonathan Clough, the Designated Premises Supervisor (DPS).
4. When Mr Clough arrived Keeley Ladlow explained the Local Authority had received complaints relating to the lack of measures in place for controlling the spread Covid-19 and that the purpose of our visit was to attain a copy of the CCTV footage for the previous 2 weekends.
5. Initially Mr Clough said that he wanted to get legal advice before he would let us have the footage. Keeley Ladlow advised him that we wanted it that day and that if he didn't co-operate the Police would be contacted and they would seize it.
6. Mr Clough enquired why we wanted the footage and he was told that there had been numerous complaints and that the footage would assist in determining whether these complaints were justified or not. He said that he didn't want us to see the footage as we wouldn't like what we saw. Mr Clough said that he didn't have the facilities to provide us with a copy of the footage but agreed to show it to us on site.
7. We were then taken upstairs where the CCTV hard drive was located in a high-level cupboard. Mr Clough said that he was attempting to connect the CCTV to his mobile phone so that we could view it, but that it didn't appear to be working. We waited for approximately 20 minutes while Mr Clough claimed to be attempting to get the hard drive to work. Mr Clough did not appear to be making any progress and so Keeley Ladlow contacted the Police to ask for assistance.
8. At approximately 16:45 PC Matt Smith and PC Steve Robson arrived at the premises. PC

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Steve Robson asked to see the hard drive as he said that might be able to get it working.

Mr Clough took him upstairs to where the hard drive was located. After approximately 15 minutes they both came back downstairs. PC Steve Robson was carrying a Hikvision hard drive and lead which was placed in evidence bag R01437524. Mr Clough was asked whether there was a password for the hard drive to which he said that he did not think so.


9. Keeley Ladlow informed Mr Clough that the licence conditions required that CCTV is installed in premises and explained that the premises would have to close if this was not possible. Mr Clough said that they had an old system that could be used. He made a phone call and advised that someone was coming in 10 minutes to install it. Keeley Ladlow advised Mr Clough that she would return the following day to check that this had been done. As we were leaving the premises Jonathan Clough said that if we had asked for the hard drive he would have given it to us.
10. Shortly after leaving The Olive Lounge I spoke to Adrian Monkhouse, Principal Environmental Health Officer. He advised me that a complaint had been received relating to an 'open mic' event that was being advertised on The Olive Lounge's website which was due to take place on the 23/09/2020. Mr Monkhouse asked if I could contact Mr Clough regarding the event.
11. After making some enquiries with our Legal Department I rang Mr Clough on the 23/09/2020. Mr Clough confirmed that the event would not be taking place and the reason why the event was still being advertised was due to the fact that he hadn't had chance to update the website.

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12. During the telephone call Mr Clough queried what was going to happen in respect of the CCTV footage. I advised him that there were various options such as the serving of Fixed Penalty Notices if it was warranted, but that we would have to view the footage before a decision could be made.
13. On the 05/10/2020 I was advised by Adrian Monkhouse that it had not been possible to access the footage on the CCTV hard drive as a passcode/pattern was required.
14. On the 07/10/2020 I sent a letter to The Olive Lounge Wickersley Limited, formally requesting the information required to access the hard drive under Section 20 of the Health and Safety at Work etc. Act 1974. The letter required the information to be provided within 7 days.
15. On the 12/10/2020 I received an email from Jonathan Clough stating that he was returning from Greece and would send a photograph via email of what he believed to be the correct code to access the CCTV system, that night.
16. On the 13/10/20 I received an email from Jonathan Clough with a picture of what he believed the password to be, he commented 'If I'm honest I didn't think there was one on it. The picture I have provided is the normal pattern password I use'.
17. On the 27/10/20, Denise Fedyszyn, Covid-19 Service Manager and I removed the hard drive from evidence bag reference R01437518 and attempted to use the password that Jonathan Clough had provided. We were denied access, receiving a message stating that it was the wrong pattern. The hard drive was then sealed in evidence bag reference R01437525.

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18. I attempted to contact Jonathan Clough by telephone but there was no response, so I sent him another email. I explained that the CCTV system was saying that the password was incorrect. I asked him to contact me as a matter of urgency with the information which I needed to access the CCTV footage and reminded him that failure to provide the requested information could result in legal proceedings for obstruction being taken against him.
19. On the 28/10/2020 an anonymous caller left a message with Louise Ward, Business Support Assistant providing a pattern which they claimed was the password for the CCTV hard drive.
20. As Denise Fedyszyn was based in Riverside House and could access the CCTV hard drive, she tried the password provided and confirmed that it did allow access to be gained to the footage.
21. On the 29/10/2020 I attended Riverside House and removed the hard drive from evidence bag reference R01437526 I viewed the CCTV footage of The Olive Lounge on the 11th September 2020 to 13th September 2020 and 18th September 2020 to 20th September 2020. As the cameras were not labelled and there were no times on the footage (other than what appears to be the length of time the cameras have been recording for) I therefore recorded a summary of what I saw on the footage.
22. On Friday 11th September 2020, the premises were very quiet both inside and outside and no matters of concern were noted.
23. On Saturday 12th September 2020 there were several incidents of people dancing

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indoors and there was a group of 3 people stood at the bar drinking. In general people were allowed to stand around drinking. One customer appeared to be so inebriated that he was falling on the floor and required assistance to leave the premises. There were instances where customers were sat at tables and there did not appear to be much space between different groups. There was also a group of 5 people stood at bar who were dancing around, taking their tops off.

24. Outside was also quite busy, but most of the customers were sat down in distinct groups and staff appeared to be controlling the number of people entering. However 7 people could clearly be seen sat around one table. In addition, one of the groups which were stood around a barrel comprised of more than 6 people, and different people kept leaving and joining the group.
25. On Sunday 13th September 2020 there did not appear to be any social distancing inside the premises. Customers were lined up at the bar, several deep. Outside the footage shows 6 people in a booth with another 6 people stood close by. Other groups could also be seen stood close together and intermingling.
26. On Friday 18th September 2020, a few people can be seen outside, but generally the premises were quiet and no matters of concern were noted.
27. On Saturday 19th September a few people were present outside but the area was generally controlled with staff present at the entrance. Inside the premises, different groups of customers could be seen mixing, dancing at the bar and standing close together. In addition, it appeared that chairs had been moved about and therefore customers were having to squeeze by other customers to gain access to their seats at the

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tables.

28. On Sunday 20th September 2020 staff are present at the entrance to the outside space and they appear to be controlling the number of people entering. The outside of the premises appeared to be well controlled. Inside the premises there are several groups of customers in close proximity, standing at the bar, with no evidence of social distancing. There are instances where customers are dancing at the bar, firstly a lady and then later in the evening a group of men.
29. I advised Denise Fedyszyn that the CCTV showed several matters of concern. She advised me to put my concerns in an email and that she would attain legal advice as to how to proceed.
30. I provided a summary of what I had seen on the footage to Denise Fedyszyn in an email, as she had requested and sealed the hard drive in evidence bag reference R01437527.
31. On the 10/11/20 I received an email from Jonathan Clough in response to my email of the 27/10/2020 which said that he did not know what to suggest in respect to viewing the CCTV footage. He also confirmed that the premises were closed due to the current lockdown.

SIGNATURE: *H. R. Eastwood*

DATE: 23 February 2021

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ROTHERHAM METROPOLITAN BOROUGH COUNCIL

WITNESS STATEMENT

(Criminal Justice Act 1967 Section 9, Magistrates Court Act 1980, Section 5B
and Criminal Procedure Rules, Rule 27.2)

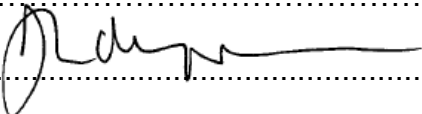
Statement of: Denise Fedyszyn

Age (if under 18): Over 18

Occupation: Environmental Health Officer

This statement (consisting of 2 pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the2nd June 2021.....

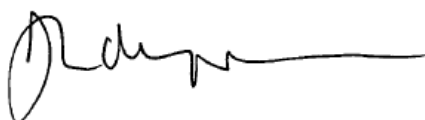
Signature

-
1. I am Denise Helen Fedyszyn and I am employed by Rotherham Metropolitan Borough Council as an Environmental Health Officer. I am based at Riverside House, Main Street, Rotherham, S60 1AE. I have been qualified as an Environmental Health Officer since July 1999. I have worked within the Food, Health and Safety Team since August 2001.

 2. On the 27/10/20, Helen Eastwood, Environmental Health Officer and I removed the hard drive from evidence bag reference R01437518 and attempted to use the password that Jonathan Clough had provided to Helen Eastwood. We were denied access, receiving a message stating that it was the wrong pattern. The hard drive was then sealed in evidence bag reference R01437525.

 3. On the 28/10/2020 an anonymous caller left a message with Louise Ward, Business Support Assistant providing a pattern which they claimed was the password for the

SIGNATURE:

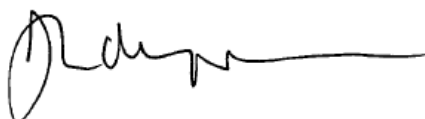


DATE: 2nd June 2021

Continuation of Statement of:
CCTV hard drive.

4. I removed the hard drive from sealed evidence bag reference R01437525 I attempted to access the CCTV hard drive, with new password provided and confirmed that it did allow access to the footage. I did not watch the footage at this time, I switched the CCTV off, and contacted Helen Eastwood to confirm that access was possible. The hard drive was then sealed in evidence bag reference R01437526.
5. On the 29/10/2020 Helen Eastwood attended the office and removed the hard drive from evidence bag reference R01437526. She managed to access the hard drive with the code provided.
6. Helen advised me that the CCTV showed several matters of concern. I advised her to put her concerns in an email and we would attain legal advice as to how to proceed.
7. Helen Eastwood provided an overview in an email and she sealed the hard drive in evidence bag reference R01437527. At this time I passed the evidence and case to Legal services so a decision could be made of future enforcement actions.

SIGNATURE:



DATE: 2nd June 2021

APPENDIX 6

WITNESS STATEMENT

(Criminal Justice Act 1967, s.9; Criminal Procedure Rules, r. 27.2)

STATEMENT OF Craig Cornwall

AGE OF WITNESS Over 18
(if over 18, enter "over 18"):

OCCUPATION OF WITNESS: Community Protection Manager

ADDRESS: Riverside House, Main Street, Rotherham,
S60 1AE

This statement consisting of 1 page(s) signed by me is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have willfully stated in it anything which I know to be false or do not believe to be true.

SIGNED:



DATED: 26th January 2021

1. My name is Craig Cornwall; I am a Community Protection Manager, employed by RMBC. I am duly authorised to make this statement on behalf of the Council.
2. I can confirm that in the case against the Olive Lounge, Bawtry Road I did give authorisation for Jeremy Squires, Community Protection Officer, to issue two fixed penalty notices for The Olive Lounge with regards to breaches of Regulation 2 (1) (c) and (d) and Regulation 3 (1) of the Health Protection (Coronavirus, Restrictions) (Obligations of Hospitality Undertakings) (England) Regulations 2020.
3. This decision was made on review of all case file notes, which included visits and observations by officers of the Council and in addition complaints received by members of the public. Examples of concerns raised by members of the public by telephone and by email are exhibited as attachment CC01.
4. Having full view of the allegations received, the copious visit notes on our database and an overview of the CCTV footage reviewed by Environmental Health Officer Helen Eastwood, I am satisfied that the action to serve Fixed Penalty Notices were reasonable and proportionate.
5. In addition, I can confirm that by 23rd December 2020 both Fixed Penalty Notices had been paid.

WITNESS STATEMENT
(Criminal Justice Act 1967, s.9; Criminal Procedure Rules 19.7)

APPENDIX 6

STATEMENT OF Jeremy Squires

AGE OF WITNESS
(if over 18, enter "over 18"): Over 18

OCCUPATION OF WITNESS: Community Protection Officer

ADDRESS: Riverside House, Main Street, Rotherham, S60 1AE

This statement consisting of 1page(s) signed by me is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have willfully stated in it anything which I know to be false or do not believe to be true.



SIGNED:

DATED: 21st January, 2021

My name is Jeremy Squires; I am a Community Protection Officer, employed by RMBC. I am duly authorised to make this statement on behalf of the Council.

Further to my witness provide on 26th November 2020 with regards to the issuing of two fixed penalty notices for The Olive Lounge, 169 Bawtry Road, Wickersley, Rotherham with regards to breaches of Regulation 2 (1) (c) and (d) and Regulation 3 (1) of the Health Protection (Coronavirus, Restrictions) (Obligations of Hospitality Undertakings) (England) Regulations 2020.

I can confirm that following advice from our legal team and senior management I made the decision to issue the fixed penalty notices which I drafted and then hand delivered to The Olive Lounge Limited, 169 Bawtry Road, Wickersley, Rotherham; the premises licence holder for the above premises.



Signed

Dated 21st January, 2021

WITNESS STATEMENT **APPENDIX 6**

(Criminal Justice Act 1967, s.9; Criminal Procedure Rules, r. 27.2)

STATEMENT OF

Jeremy Squires

AGE OF WITNESS

(if over 18, enter "over 18"):

Over 18

OCCUPATION OF WITNESS:

Community Protection Officer

ADDRESS:

Riverside House, Main Street, Rotherham,
S60 1AE

This statement consisting of one page(s) signed by me is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have willfully stated in it anything which I know to be false or do not believe to be true.



SIGNED:

DATED: 26th November, 2020

My name is Jeremy Squires; I am a Community Protection Officer, employed by RMBC. I am duly authorised to make this statement on behalf of the Council.

On 26th November 2020 following a review of CCTV footage obtained from The Olive Lounge, 169 Bawtry Road, Wickersley, Rotherham it became apparent that the management of the above premises, had committed breaches of Regulation 2 (1) (c) and (d) and Regulation 3 (1) of the Health Protection (Coronavirus, Restrictions) (Obligations of Hospitality Undertakings) (England) Regulations 2020.

Following receipt of the above information I drafted and then hand delivered two fixed penalty notices to The Olive Lounge Limited, 169 Bawtry Road, Wickersley, Rotherham; the premises licence holder for the above premises. (Exhibited in Evidence JS1).



Signed

Dated 26th November, 2020

ROTHERHAM METROPOLITAN BOROUGH COUNCIL

The Health Protection (Coronavirus, Restrictions) (Obligations of Hospitality Undertakings) (England) Regulations 2020 (SI. 2020/1008), as amended

FIXED PENALTY NOTICE

Date: 26th November 2020

Part A

To: Olive Lounge Limited

Of:

169 Bawtry Road, Wickersley, Rotherham. S66 2BW

Trading as: The Olive Lounge

This Fixed Penalty Notice is served under Regulation 4(1) of The Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) Regulations 2020 (the Regulations), as amended.

The Regulations impose certain restrictions to protect against the risks to public health arising from coronavirus. Failure to comply with the requirements of the Regulations, without reasonable excuse, is a criminal offence.

I, Jeremy Squires, designated as an authorised person for the purposes of the Regulations by Rotherham Metropolitan Borough Council, have reasonable grounds for believing that you have committed a criminal offence under the Regulations. I am issuing this Notice to offer the opportunity to discharge liability to conviction for the offence by payment of a fixed penalty.

Rotherham Metropolitan Borough Council may not take criminal proceedings against you in respect of the offence during the period of 28 days following the date of this Notice. Payment of the fixed penalty within that period means that you cannot be convicted in relation to the offence set out in Part C of this Notice.

Part B. Amount of Penalty and Period to Pay

The monetary penalty you must pay is: £1,000

If payment is made within 14 days of the date of this notice, then the monetary value will be £500.

Payment of the fixed penalty must be made within 28 days of the date of this notice.

NOTES on Part B: Amount of Penalty

APPENDIX 6

The penalty must be paid to Rotherham Metropolitan Borough Council:

Riverside House
Main Street
Rotherham
S60 1AE

How to Pay this Fixed Penalty

Credit or Debit Card - by phone or online: Call 0300 456 2723 enter the whole 8 digit reference number on the front of this Notice when prompted; or go to www.rotherham.gov.uk and click on "Make a Payment" then "Online Payments" Select "Env Fixed Penalty" as the fund type and enter the above number in the reference field.

In Person: You can pay at any Rotherham Metropolitan Borough Council payment office.

By Post: Payment can be made to the address on the back of this notice by cheque or postal order payable to RMBC. Do not send cash by post.

By Post

Please complete the following form and post to:

Community Protection Unit
Rotherham Metropolitan Borough Council
Riverside House,
Main Street,
Rotherham S60 1AE

Please make cheques payable to Rotherham Metropolitan Borough Council.

There is no appeal against this fixed penalty notice, as it has been issued because the Council has evidence you have committed an offence and would otherwise prosecute you for that offence. This notice is a way of you discharging your liability for the offence.

Signature.....

Name in Capitals.....

Date.....

Part C. Grounds for Imposing the Penalty**APPENDIX 6****Regulation Contravened:**

On 19th September 2020, the person responsible for the premises was in contravention of Regulation 2 (1) (c) and (d) and Regulation 3 (1) of the Health Protection (Coronavirus, Restrictions) (Obligations of Hospitality Undertakings) (England) Regulations 2020, as amended.

Particulars of the Offence:

On the 19th September 2020, the person responsible for the premises failed to take all reasonable measures to ensure that no persons in one qualifying group mingles with any person in another qualifying group where this is not permitted under the Principal Regulations and failed to take all reasonable measures to ensure that an appropriate distance is maintained between tables occupied by different qualifying groups.

Part D. Challenging this Fixed Penalty Notice

If you consider that the Notice should not have been issued, you can make representations to Rotherham Metropolitan Borough Council in writing outlining your reasons for challenging the Notice, within 14 days of the date on this Notice.

Your challenge will be processed in accordance with Rotherham Metropolitan Borough Council's Complaint Procedure: <https://www.rotherham.gov.uk/council/complain-council-services/2>

Email: complaints@rotherham.gov.uk

Tel: 01709 382121

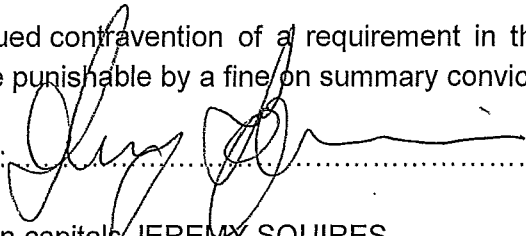
This Notice remains in force even if you have raised a challenge.

Should the Local Authority's review of your challenge determine that the Notice should be revoked, you will be notified in writing that the Notice has been revoked.

Part E. Consequences of non-payment/continued non-compliance

If you fail to pay the fixed penalty within 28 days, you lose the opportunity to discharge liability to conviction, and criminal proceedings may be commenced against you in respect of the offence set out in Part C of this Notice.

Continued contravention of a requirement in the Regulations, without reasonable excuse, is an offence punishable by a fine on summary conviction in a Magistrates Court.

Signed:  Date: 26th November 2020

Name in capitals JEREMY SQUIRES

Telephone (01709) 255037 Email env.health@rotherham.gov.uk

If you are not sure of your rights or the implications of this notice, you may want to seek independent legal advice

Reference Number: 6 9 007720

ROTHERHAM METROPOLITAN BOROUGH COUNCIL

The Health Protection (Coronavirus, Restrictions) (Obligations of Hospitality Undertakings) (England) Regulations 2020 (SI. 2020/1008), amended

FIXED PENALTY NOTICE

Date: 26th November 2020

Part A

To: Olive Lounge Limited

Of:

169 Bawtry Road, Wickersley, Rotherham S66 2BW

Trading as: The Olive Lounge, 169 Bawtry Road, Wickersley, Rotherham

This Fixed Penalty Notice is served under Regulation 4(1) of The Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) Regulations 2020 (the Regulations), as amended.

The Regulations impose certain restrictions to protect against the risks to public health arising from coronavirus. Failure to comply with the requirements of the Regulations, without reasonable excuse, is a criminal offence.

I, Jeremy Squires, designated as an authorised person for the purposes of the Regulations by Rotherham Metropolitan Borough Council, have reasonable grounds for believing that you have committed a criminal offence under the Regulations. I am issuing this Notice to offer the opportunity to discharge liability to conviction for the offence by payment of a fixed penalty.

Rotherham Metropolitan Borough Council may not take criminal proceedings against you in respect of the offence during the period of 28 days following the date of this Notice. Payment of the fixed penalty within that period means that you cannot be convicted in relation to the offence set out in Part C of this Notice.

Part B. Amount of Penalty and period to pay

The monetary penalty you must pay is: £2,000

There is no discount available in relation to the monetary value for early payment of this penalty.

Payment of the fixed penalty must be made within 28 days of the date of this notice.

NOTES on Part B: Amount of Penalty

APPENDIX 6

The penalty must be paid to Rotherham Metropolitan Borough Council:

Riverside House
Main Street
Rotherham
S60 1AE

How to Pay this Fixed Penalty

Credit or Debit Card - by phone or online: Call 0300 456 2723 enter the whole 8 digit reference number on the front of this Notice when prompted; or go to www.rotherham.gov.uk and click on "Make a Payment" then "Online Payments" Select "Env Fixed Penalty" as the fund type and enter the above number in the reference field.

In Person: You can pay at any Rotherham Metropolitan Borough Council payment office.

By Post: Payment can be made to the address on the back of this notice by cheque or postal order payable to RMBC. Do not send cash by post.

By Post

Please complete the following form and post to:

Community Protection Unit
Rotherham Metropolitan Borough Council
Riverside House,
Main Street,
Rotherham S60 1AE

Please make cheques payable to Rotherham Metropolitan Borough Council.

There is no appeal against this fixed penalty notice, as it has been issued because the Council has evidence you have committed an offence and would otherwise prosecute you for that offence. This notice is a way of you discharging your liability for the offence.

Signature.....

Name in Capitals.....

Date.....

Part C. Grounds for Imposing the Penalty**APPENDIX 6****Regulation Contravened:**

On 20th September 2020, the person responsible for the premises was in contravention of Regulation 2 (1) (c) and (d) and Regulation 3 (1) of the Health Protection (Coronavirus, Restrictions) (Obligations of Hospitality Undertakings) (England) Regulations 2020, as amended.

Particulars of the Offence:

On the 20th September 2020, the person responsible for the premises failed to take all reasonable measures to ensure that no persons in one qualifying group mingles with any person in another qualifying group where this is not permitted under the Principal Regulations and failed to take all reasonable measures to ensure that an appropriate distance is maintained between tables occupied by different qualifying groups

Part D. Challenging this Fixed Penalty Notice

If you consider that the Notice should not have been issued, you can make representations to Rotherham Metropolitan Borough Council in writing outlining your reasons for challenging the Notice, within 14 Days of the date on this Notice.

Your challenge will be processed in accordance with Rotherham Metropolitan Borough Council's Complaint Procedure: <https://www.rotherham.gov.uk/council/complain-council-services/2>

Email: complaints@rotherham.gov.uk

Tel: 01709 382121

This Notice remains in force even if you have raised a challenge.

Should the Local Authority's review of your challenge determine that the Notice should be revoked, you will be notified in writing that the Notice has been revoked.

Part E. Consequences of non-payment/continued non-compliance

If you fail to pay the fixed penalty within 28 days, you lose the opportunity to discharge liability to conviction, and criminal proceedings may be commenced against you in respect of the offence set out in Part C of this Notice.

Continued contravention of a requirement in the Regulations, without reasonable excuse, is an offence punishable by a fine on summary conviction in a Magistrates Court.

Signed:  Date: 26th November 2020

Name in capitals JEREMY SQUIRES

Telephone (01709) 255037. Email env.health@rotherham.gov.uk.

If you are not sure of your rights or the implications of this notice, you may want to seek independent legal advice

APPENDIX 7

Good Afternoon

I have been requested to send these comments below in respect of the review of the licence of the above premises. Please acknowledge receipt of these comments.

Kind Regards
Sharon

Review of Licence for The Olive Lounge, Bawtry Road, Wickersley

Wickersley Parish Council is pleased that the licensing authority is seeking a review of the licence for the Olive Lounge on the grounds of public safety as a result of breaches of the covid 19 regulations during the summer period 2020.

The Parish Council received reports from residents and experienced first hand serious breaches including the following:

- *Lack of social distancing or provision for one way pedestrian flow*
- *Not recording customer names and contact details*
- *Customers being asked to share tables with people they did not know*

It is understood two fixed penalty notices were issued which demonstrates the serious nature of the breaches and the disregard that the management had for the safety of both its staff and customers.

In these circumstances, it is considered that the licence should be revoked unless the management can clearly demonstrate the measures they will take to operate their bar and restaurant business in a safe manner that fully complies with the current and any future covid regulations. This is very important for a business such as this which historically has accommodated large numbers of customers at weekends in particular, and into the early hours of the morning with vertical drinking as well as people seated at tables. Many of its customers are young people, many of whom will not yet have been vaccinated. If safety standards are not complied with, then there is a real risk of significant numbers of customers catching and then spreading covid into the wider community.

The Parish Council would like to be informed of when this matter is to be considered by the Licensing sub committee.

Sharon Fletcher
Assistant Clerk
On Behalf of Wickersley Parish Council
Wickersley Community Centre & Library,
286 Bawtry Road,
Wickersley,
Rotherham,
S66 1JJ
Telephone : 01709 703270