

LICENSING SUB-COMMITTEE

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

Date: Monday 9 October 2023

Time: 2.00 p.m.

Meetings of the Licensing Sub-Committee can be viewed by live webcast by following this link:- <https://rotherham.public-i.tv/core/portal/home>

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 respect of John Bull Stores, 44 Highthorn Road, Kilnhurst, Rotherham, S64 5UP (Pages 3 - 37)

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Committee Name and Date of Committee Meeting

Licensing Sub-Committee - 9th October 2023 at 14:00 hours (2:00 pm)

Report Title

Consideration of an application (made in accordance with s.51 of the Licensing Act 2003) for the review of the Premises Licence issued to Mr Vinithan SELVARATNAM in respect of John Bull Stores, 44 Highthorn Road, Kilnhurst, Rotherham S64 5UP.

Report Author

Diane Kraus, Principal Licensing Officer (Policy & Administration) , Community Safety and Street Scene Telephone 01709 289536

Report Summary

On the 18th August 2023 an application was made, by the Council's Trading Standards, for the review of the Premises Licence currently in force in respect of John Bull Stores, 44 Highthorn Road, Kilnhurst, Rotherham S64 5UP.

The application seeks the revocation of the Premises Licence.

Representations in support of the application have been made on behalf the Licensing Authority.

Further details on the application and the representations can be found within the body of this 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 Premises Licence (P0257)
- Appendix 2 Location Plan
- Appendix 3 Application under consideration
- Appendix 4 Representations in support of the Review.
- Appendix 5 Evidence from Trading Standards in support of their application.

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 (August 2023)
(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) for the review of the Premises Licence issued to Mr Vinithan SELVARATNAM in respect of John Bull Stores, 44 Highthorn Road, Kilnhurst, Rotherham S64 5UP.

1. Background

- 1.1 The premises were first licensed by the Council in 2005 when an application made under the transitional provisions of the Licensing Act 2003 was granted. The transitional provisions allowed for the transfer licence issued by the Magistrates Court to be transferred over to the local authority.
- 1.2 The Licence was transferred to the current holder, Mr Vinithan Selvaratnam, on 6th June 2013, who became the “Designated Premises Supervisor” on the same date.
- 1.3 On 10th August 2023 Mr Vinithan Selvaratnam notified the Licensing Team that his home address had changed from 147 Fitzwilliam Street, Rotherham S64 8RN to 44 Highthorn Road, Kilnhurst, Rotherham S64 5UP, the address of John Bull Stores.
- 1.4 A copy of the Premises Licence issued to Mr Vinithan Selvaratnam in respect of John Bull Stores , 44 Highthorn Road, Kilnhurst, Rotherham S64 5UP is attached at Appendix 1.
- 1.5 In summary the Licence authorises the supply of alcohol for consumption off the premises on:
- each of the days Monday to Saturday between 08:00 hours and 23:00 hours; and on
 - Sunday between 10:00 hours and 22:30 hours.
- 1.6 The Licence is subject to the mandatory conditions and one additional condition, which is:
- Alcohol shall not be sold in an open container or be consumed in the licensed premises.

The mandatory conditions are:

- No supply of alcohol may be made under the premises licence:
 - i) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - ii) at a time when the designated premises supervisor does not hold a personal licence, or his personal licence is suspended.
- Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

- The premises licence holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. 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 a holographic mark.

2. Key Issues

Location of the Premises

- 2.1 A location plan of the premises is attached at Appendix 2.

The application

- 2.2 On 18th August 2023 an application was made on behalf of the Council's Trading Standards Service, for the review of the Premises Licence issued to Mr Vinithan Selvaratnam in respect of John Bull Stores, 44 Highthorn Road, Kilnhurst, Rotherham S64 5UP, a copy of which is attached at Appendix 3.
- 2.3 The application seeks the revocation of the Premises Licence on the grounds that the Licence holder, Mr Vinithan Selvaratnam, is failing to promote three of the licensing objectives, namely the:
- prevention of crime and disorder;
 - public safety; and
 - protection of children from harm

Consultation

- 2.4 Consultation on the application has been carried out on the application in accordance with all statutory requirements and the Council's procedure. There is a prescribed period of 28 days following the submission of an application during which time representations in relation to the application may be submitted.
- 2.5 At the end of the prescribed period, representations in support of the review application was lodged on behalf of the Licensing Authority.
- 2.6 The applicant, Licence holder and Licensing Authority have been invited to the hearing today and, if attending, will be given the opportunity to address the Sub-Committee in relation to the matters raised in their representations.
- 2.7 Members of the Sub-Committee should give full consideration of the issues raised in the application, the representations and any supporting evidence when determining the application.

Representation in Support of Applicant

- 2.8 Representations in support of the review application have been submitted on behalf of the Licensing Authority, a copy of which is attached at Appendix 4.

Evidence provided in support of the Applicant (by the Trading Standards Service)

- 2.9 The Council's Trading Standards Service has submitted additional evidence in support of their application to review the Licence, a copy of which is attached at Appendix 5.

Evidence provided by Licence Holder

- 2.10 At the time of writing the Licence holder, Mr Vinithan Selvaratnam, has not provided any documentation in response to the review application or the supporting representations.

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 Sub Committee should take into account any representations or objections that have been received from responsible authorities or other persons, together with any representations made by the Licence holder. 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 In relation to this application, the options available to the Committee are to:

- modify the conditions of the premises licence (which includes adding
- new conditions or any alteration or omission of an existing condition);
- exclude a licensable activity from the scope of the licence;
- remove the designated premises supervisor;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

- 3.4 The Sub Committee 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 the Sub Committee from issuing an informal warning to the Licence holder and/or to recommend improvement within a particular period of time. Such informal warnings are regarded as an important mechanism for ensuring that the licensing objectives are effectively promoted, and any such warnings should be issued in writing to the Licence holder.

- 3.5 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, the Sub Committee should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, Sub Committee may take into account any civil

immigration penalties which a licence holder has been required to pay for employing an illegal worker.

- 3.6 In deciding which of these powers to invoke, it is expected that Sub Committee 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.
- 3.7 For example, the Sub Committee 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.
- 3.8 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.
- 3.9 The Sub Committee should also note that modifications of conditions and exclusions of authorised 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 have a financial impact 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 the Sub Committees decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working. 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 certificate.
- 3.10 All licensing determinations should be considered on the individual merits of the application. The Sub Committees 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.
- 3.11 It is important that the Sub Committee 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. Timetable and Accountability for Implementing this Decision

- 4.1 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.

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

4.3 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).

5. Financial Implications

5.1 There are no specific financial implications arising from this application.

5.2 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.

6. Legal Advice and Implications

6.1 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.

6.2 Hearings under the Licensing Act 2003 operate under the Licensing Act 2003 (Hearings) Regulations 2005 (as amended).

6.3 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.

6.4 The Sub Committee 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.

6.5 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.

- 6.6 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.
- 6.7 In addition to the above, members are reminded that all decisions must be taken in accordance with the Council's Statement of Licensing Policy (adopted 3rd June 2020).
- 6.8 Departure from the guidance and / or Statement of Licensing Policy 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.

7. Risks and Mitigation

- 7.1 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.
- 7.2 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.
- 7.3 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.
- 7.4 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 and Statement of Licensing Policy is available for members to review should they wish to do so.

8. Accountable Officer(s)

Diane Kraus, Principal Licensing Officer (Policy & Administration), Community Safety and Street Scene

This report is published on the Council's website.

Hearing Procedure - Review

1. The Chair of the Licensing Sub Committee will introduce the Committee and ask officers to introduce themselves.
2. The Chair of the Licensing Sub Committee will ask the following parties to introduce themselves:
 - i. the applicant and any witnesses they wish to call.
 - ii. any person who has made representations on and any witnesses they wish to call.
 - iii. the licence holder, together with any person representing them and any witnesses they wish to call.
3. The Licensing Officer will introduce the report and provide any updates.
 - i. Questions solely concerning the report can be asked by Members, the applicant, persons making representations and the licence holder.
4. The Chair of the Licensing Sub Committee will then invite:
 - i. the applicant to present their application and call any witnesses.
 - ii. any person who has made representations to present their representations and call any witnesses.
 - iii. the licence holder to respond to the application, and representations, and call any witness.

Members of the Sub Committee, followed by the applicant, any person who has made representations and the licence holder may ask questions of all person's listed above and any person who have given evidence on their behalf as a witness.

5. The applicant will then be given the opportunity to sum up the application.
6. The licence holder will then be given the opportunity to sum up
7. The public hearing will then be concluded, and the Sub Committee will go into closed session, together with the Councils Solicitor and the Clerk to the meeting.
8. The decision of the Licensing Committee will be given in accordance with the requirements of the Licensing Act 2003 and regulations made there under.

Note:

- At any time throughout the hearing Members of the Licensing Sub Committee may request legal advice from the Council's Solicitor. Any advice sought during closed session will be included in the notice setting out the decision.
- The Committee Hearing will be held in public unless and in accordance with relevant Regulations the Licensing Sub Committee determine that the public should be excluded.

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Licensing Act 2003 Premises Licence

P0257

Part 1 - Premises Details

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

John Bull Stores Limited

44 Highthorn Road, Kilnhurst, Rotherham, South Yorkshire, S64 5UP.

Telephone 01709 590216

WHERE THE LICENCE IS TIME LIMITED THE DATES

Commences **20/06/13**expires **20/09/23**

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- the sale by retail of alcohol

THE TIMES THE LICENCE AUTHORIZES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
The sale by retail of alcohol for consumption OFF the premises only	Monday to Saturday	8:00am	11:00pm
	Sunday	10:00am	10:30pm
	Christmas Day	Noon	3:00pm
	Christmas Day	7:00pm	10:30pm
	Good Friday	8:00am	10:30pm

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
No restrictions applicable		

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

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

Part 2

NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

Vinithan Selvaratnam

44 Highthorn Road, Kilnhurst, Rotherham, South Yorkshire, S64 5UT.
Telephone 01709 590216

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 AUTHORIZES THE SUPPLY OF ALCOHOL

Vinithan SELVARATNAM

44 Highthorn Road, Kilnhurst, Rotherham, South Yorkshire, S64 5UT.
Telephone 01709 590216

Licensing Act 2003
Premises Licence

P0257

**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. RM2035

Issued by Rotherham



Licensing Act 2003 Premises Licence

P0257

ANNEXES

Annex 1 Mandatory Conditions

Mandatory conditions where licence authorises supply of alcohol

The applicable mandatory conditions are:

- No supply of alcohol may be made under the premises licence:
 - o i) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - o ii) at a time when the designated premises supervisor does not hold a personal licence, or his personal licence is suspended.
- Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- The premises licence holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. 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 a holographic mark.

Annex 2 Conditions consistent with operating schedule

SALES

Alcohol shall not be sold in an open container or be consumed in the licensed premises.

Prevention of Crime and Disorder

None.

Public Safety

None.

Prevention of Public Nuisance

None.

Protection of Children from Harm

**Licensing Act 2003
Premises Licence**

P0257

ANNEXES continued ...

None.

Annex 3 **Conditions attached after a Hearing of Licensing Authority**

None.

Annex 4 **Plans**

See attached.



Licensing Act 2003 Premises Licence Summary P0257

Premises Details

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

John Bull Stores Limited

44 Highthorn Road, Kilnhurst, Rotherham, South Yorkshire, S64 5UP.

Telephone 01709 590216

WHERE THE LICENCE IS TIME LIMITED THE DATES

Commences **20/06/13**

expires **20/09/23**

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- 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
The sale by retail of alcohol for consumption OFF the premises only	Monday to Saturday	8:00am	11:00pm
	Sunday	10:00am	10:30pm
	Christmas Day	Noon	3:00pm
	Christmas Day	7:00pm	10:30pm
	Good Friday	8:00am	10:30pm

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
No restrictions applicable		

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

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

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Vinithan Selvaratnam

44 Highthorn Road, Kilnhurst, Rotherham, South Yorkshire, S64 5UT.

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

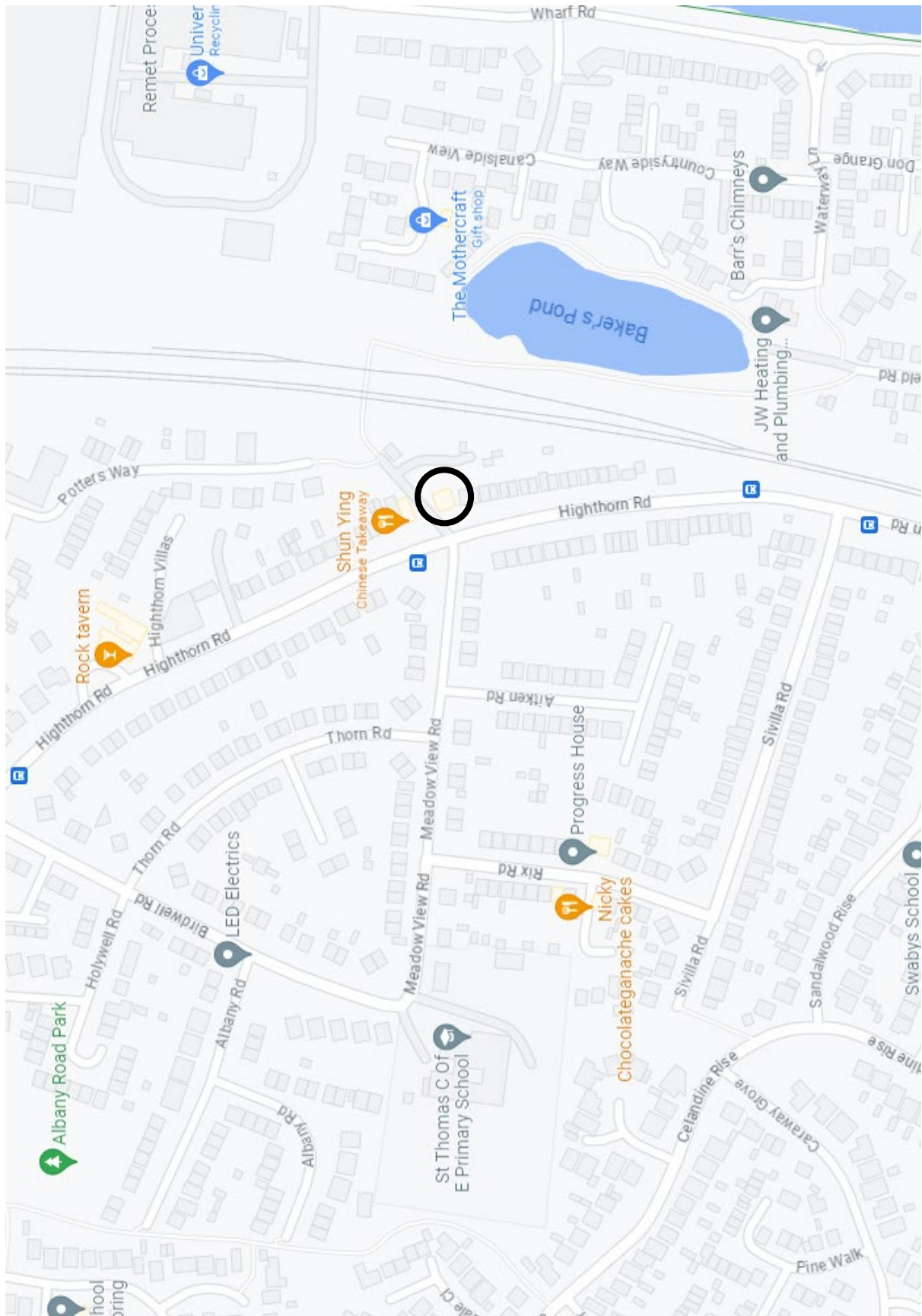
Vinithan SELVARATNAM

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

None

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Appendix 2



Appendix 2



Appendix 2



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Appendix 3

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 **Dave Lodge, Principal Trading Standards Officer**

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 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

**John Bull Stores
44 Highthorn Road
Kilnhurst**

**Post town
Rotherham**

**Post code (if known)
S64 5UP**

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

Mr Vinithan SELVARATNAM

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

Premises Licence No: P0257

Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not 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)

Appendix 3

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

First names

Please tick ✓ yes

I am 18 years old or over.

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)

Appendix 3

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Trading Standards Service Rotherham Metropolitan Borough Council Riverside House Main Street, Rotherham S60 1AE
Telephone number 01709 823118
E-mail address (optional) Trading.Standards@rotherham.gov.uk

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

Please tick one or more boxes ✓

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

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

This review is brought on due to the failure of the licence holder, Mr Vinithan SELVARATNAM, to promote the following licensing objectives:

- **The prevention of crime and disorder;**
- **Public safety; and**
- **The protection of children from harm**

On 7th July 2023 Trading Standards Officers found a significant supply of illegal vape products at the premises.

In addition, at the time of this visit the shop was being run by a lone male worker, who was an illegal immigrant.

The statutory guidance, issued under sec. 182 of the Licensing Act 2003, to which local authorities must have regard to, lists certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously.

Included in this list is:

- **employing a person who is disqualified from that work by reason of their immigration status in the UK; and**
- **the sale or storage of smuggled tobacco and alcohol**

When a Licence holder knowingly engages in serious criminal activities, which in turn undermines the licensing objectives, the Trading Standards Service considers that no steps that can be taken to address their concerns.

Given the above, the Trading Standards Service is seeking a review of the Premises Licence, with the recommendation that the Premises Licence is revoked.

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

Recently E-cigarettes have risen in popularity and are now the most popular quitting aid used by smokers in England, however, there has also been a significant rise in people using them not as a quitting aid but as an alternative to smoking, including young people who previously haven't smoked.

E-cigarettes are regulated in the UK to make sure that they meet minimum safety standards. However, there are many products on sale illegally which fail to meet those standards – often because they have higher levels and concentrations of nicotine, or they contain too much of the e-liquid. The legal requirement for disposable e-cigarettes is a maximum capacity of 2ml of e-liquid which on average will deliver around 600 puffs or inhalations (i.e., about the same as two packets of cigarettes) Any products claiming to be in excess of this is likely to contain more than 2ml and will therefore be illegal.

Trading Standards and health professionals have serious concerns about the availability of these oversized products and the ease at which they are accessible to consumers, in particular young people. There is growing concern that the availability and appeal of vapes is starting to attract a new wave of users. This is particularly worrying as illegal products provide a much cheaper source to higher levels of nicotine and additionally are unlikely to have gone through the approval processes required for legitimate products.

On the 17th of March 2023 an intelligence report was received from SY Police stating that John BULL Convenience store were selling "ELUX Vapes 3500 puffs" (Illegal e-cigarettes) The report went on to say that the shop had although products were not on open display but there was a catalogue placed in the shop from which customers could pick a flavour, hand a slip to cashier and that products kept in a back storeroom would then be sold "under the counter".

Further intelligence was given by Swinton Academy regarding vapes seized from children which identified John Bull Stores as, one of several shops, selling vapes to children.

On the 19th of May 2023, during a joint visit, Trading Standards and SY Police a large amount of e-cigarette packaging was observed outside the entrance door i.e. 8000, 3500, 1500 puff empty boxes.

Upon entering the premises officers noted that display cabinets inside the shop, to the left of the entrance, were full of what appeared to be illegal oversized e-cigarettes. (i.e. over 600 puffs)

On this occasion Mr Vanithan SELVARATNAM, the Licence holder and DPS, was not present in the shop. Officers spoke to a man, that they now know to be Mr Yokeswaran MANOKARAN. Mr Mankoran was working unsupervised in the shop.

Mr Mankoran did not have a very good command of English, but the Officers managed to speak with him and advised him about the illegal e-cigarettes. They also left him a Responsible Retailer advice pack which covers restricted underage sales advice and instructed him to give it to the Licence holder and DPS.

On the 11/07/2023 Officers again attended John Bull Stores and undertook an inspection of the premises. During this inspection a quantity of illegal e-cigarettes were discovered. Once again Mr Selvaratnam was not on the premises and the shop had been left under the control of Mr Mankoran. However, having been contacted Mr Selvaratnam subsequently arrived at the premises approximately one hour later.

Appendix 3

Mr Selvaratnam was spoken too by Trading standards officers regarding the oversized vapes, his reply was that he made £5 per vape sale and wouldn't be able to keep the shop open without this income.

As result of this visit 626 illegal e-cigarettes were seized with an approximate retail value of £5008.00 RRP

Checks made on Mr Yokeswaran MANOKARAN revealed that he was an illegal immigrant with no right to work in the UK.

Investigations are ongoing into the sale of the illegal e-cigarettes.

The home address shown on the Premises Licence held by Mr Selvaratnam is 147 Fitzwilliam Street, Swinton, Mexborough, South Yorkshire, S64 8RN. This address relates to a flat which is located above the shop premises known as of Gwynette News Ltd

The person listed on council tax records as being the occupier of Gwynette News (Shop premises) is also listed as the occupier and owner of the flat above, whilst Mr Selvaratnam is not listed at either of those addresses. See details below from Council Tax records.

Appendix 3

Please tick ✓ yes

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

NO

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

N/A

Appendix 3

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 18/08/2023

Capacity **Principal Trading Standards Officer**

.....

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

**Dave Lodge, Principal Trading Standards Officer
Rotherham Metropolitan Borough Council
Riverside House
Main Street**

Post town
Rotherham

Post Code
S60 1AE

Telephone number (if any) **01709 808211**

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) Dave.lodge@rotherham.gov.uk

Appendix 3

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.

Appendix 4

Dear Mrs Kraus

11th September 2023

**RE: Application for the Review of a Premises Licence –
John Bull Stores Limited, 44 Highthorn road, Kilnhurst, Rotherham, S64 5UP**

Licence Details

The above mentioned store has the benefit of a Premises Licence (No.P0297) that authorises the sale of alcohol for consumption off the premises. The Licence is issued to Mr Vanithan Selvaratnam who is also named on the Licence as the designated premises supervisor (DPS).

The Licence is subject to the mandatory conditions and one additional condition, which is:

- Alcohol shall not be sold in an open container or be consumed in the licensed premises.

The applicable mandatory conditions are:

- No supply of alcohol may be made under the premises licence:
 - i) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - ii) at a time when the designated premises supervisor does not hold a personal licence, or his personal licence is suspended.
- Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- The premises licence holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. 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 a holographic mark.

Licensing Compliance Inspection - 2nd August 2023

A licence compliance visit was carried out at the premises on 02/08/2023 at approximately 13:10. The purpose of this visit, which was unannounced, was to ascertain if the premises were operating in compliance with the terms and conditions of the Licence.

The visit was conducted following the seizure of illegal vapes from the premises by the Council's Trading Standards Service.

Appendix 4

Upon arrival a single member of staff was on the shop floor of the premises, behind the till. This person identified themselves as Mr Azhegasan.

When asked about the age verification policy in use at the store Mr Azhegasan was unsure. Whilst “ Challenge 25” posters were on display in the shop, when questioned Mr Azhegasan had no idea how “Challenge 25” worked and was unable to answer the questions put to him regarding the need to check id and the types of acceptable id. Mr Azhegasan also didn’t have any knowledge or understanding of proxy sales.

Mr Azhegasan stated he worked part time and had only just started working at the shop. Whilst he said that he had been trained on alcohol sales and the age verification policy in place, he response to the questions asked did not support this.

Whilst not a condition of the Licence it is good practice to maintain a log in which to record any refusals of the sale of alcohol and also a log to record any incidents that may occur.

When asked whether there was a refusals log in place at the premises Mr Azhegasan appeared not to understand, his response was that the till prompts you for id when making sales of alcohol. In response to a question about whether there was an incident log kept at the premises Mr Azhegasan replied that he didn’t know what this was.

At this point Mr Azhegasan stated that the Licence holder and DPS , Mr Selvaratnam, was downstairs doing stock and called him into the shop.

When questioned why an untrained member of staff, with no knowledge of the age verification policy in place, was working unsupervised in the shop Mr Selvaratnam response was that *“he is new and hasn’t trained him yet other than telling him to ask for ID if a customer looks young”*

Mr Selvaratnam was unable to provide any staff training records and confirmed that neither a refusal log nor incident log was kept.

Subsequent to the visit the Licensing Authority has supplied Mr Selvaratnam with samples of refusal and incident logs.

Recommendation

Mr Selvaratnam is required in law to operate an age verification policy at the premises, yet despite being fully aware of this, allowed an untrained member of staff to be left in charge of shop a time when Mr Selvaratnam was fully aware that the shop would be under scrutiny following the seizure of illegal vapes from the premises.

The Licensing Authority is satisfied that the Licence holder, Mr Selvaratnam, is operating the premises in a manner that fails to promotes the licensing objectives of:

- The Prevention of Crime & Disorder
- The Protection of Children from Harm.

Appendix 4

Given this and having regard to the evidence provided by the Trading Standards Service in the review application, the Licensing Authority **supports the recommendation made in the review application that the Licence should be revoked.**

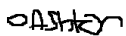
However if the Sub Committee are not minded to revoke the Licence it is recommended that the following additional management controls are imposed upon it.

1. A Challenge 25 Policy shall be in operation. The Policy shall require that any person who appears to be under the age of 25 to provide id prior to being served alcohol. Acceptable forms of ID are:
 - a passport;
 - a UK photo driving licence; or
 - a military ID card.
2. Record all refusals made under the Challenge 25 Policy. Refusals must be logged in a bound book. This log must show:
 - date of refusal made;
 - member of staff who made the refusal; and if refused, whether fake ID was seized.
3. The DPS shall check the Challenge 25 refusal log at least once a week. Each check should be signed and dated.
4. The Challenge 25 log shall be kept on the premises and shall be available for inspection upon request of the Police or an authorised officer of the Licensing Authority.
5. Signs shall be displayed inside the premises that:
 - Advertise that the premises operates “Challenge 25”; and
 - Warn adults that it is an offence to buy alcohol on behalf of anyone under the age of 18 (proxy sales).
6. A bound incident book shall be maintained, in which the following shall be recorded:
 - All incidents of crime and disorder occurring at the premises; and
 - Details of occasions when the police are called to the premises.
7. The incident book shall be kept on the premises and shall be available for inspection upon request of the Police or an authorised officer of the Licensing Authority.
8. The DPS shall check the incident book at least once a week. Each check should be signed and dated.
9. A record of each member of staff who is authorised to sell alcohol shall be kept on the premises. This record shall include the staff members full name, address, and date of birth.

Appendix 4

10. A CCTV system shall be installed at the premises, which shall:
 - be maintained fully at all times;
 - make and retain clear images; and
 - show an accurate date and time that the images were made.
11. All CCTV images shall be retained for a period of not less than 31 days.
12. CCTV images shall be immediately made available for review upon request of the Police or an authorised officer of the Licensing Authority.
13. A copy of a CCTV image shall be provided within 48 hours upon request of the Police or an authorised officer of the Licensing Authority.
14. All staff shall receive training on induction and year thereafter, on the prevention of the unlawful sales of alcohol, and the likely consequence of making an unlawful sale.
This training must include:
 - operation of 'Challenge 25';
 - types of acceptable ID;
 - method of recording refusals;
 - refusing sales of alcohol to persons who appear to be drunk;
 - preventing proxy sales;
 - incident recording and when to call the Police; and
 - How to reviewing of the CCTV system if requested.
15. Staff training shall be recorded, records shall be kept of the premises and shall, on request, be made available for inspection by the Police or an authorised officer of the Licensing Authority

Yours sincerley



Oliver James Ashton
Licensing Enforcement Officer

ADDITIONAL INFORMATION**Application for the review of a premises licence or club premises certificate under the Licensing Act 2003****Premises or club premises details**

Postal address of premises or, if none, ordnance survey map reference or description	
John Bull Stores 44 Highthorn Road Kilnhurst	
Post town Rotherham	Post code (if known) S64 5UP
Name of premises licence holder or club holding club premises certificate (if known)	
Mr Vinithan <u>SELVARATNAM</u>	
Number of premises licence or club premises certificate (if known)	
Premises Licence No: P0257	

1. Supporting letter from South Yorkshire Police

Jo Belton (South Yorkshire Police Licensing Enforcement Officer for Rotherham) has provided a letter on behalf of the Chief Constable in support of the the review. This letter is attached as Annex A.

2. Further evidence brought by RMBC Trading Standards

Along with PCSO 8203 Entwistle, on the 11th of July 2023 the premises known as John Bull Stores were attended by Enforcement Officers Glyn Watts and Kim Fieldhouse. This visit was part of a planned operation targeting the sale of illegal e-cigarettes or vapes.

During this visit the shop assistant who was on duty was observed serving a customer and in fact was the only member of staff at the premises at this time. The shop assistant was asked for identification and his ID was established as Mr Yokeswaran MANOKARAN

During an inspection of the premises documents belongings to the Mr MANOKARAN were discovered. Upon reading these documents it was noted that Mr MANOKARAN's visa had expired. Because it was suspected that Mr

Appendix 5

MANOKARAN had an expired visa PSCO Entwistle made a phone call to immigration.

Upon speaking to a member of the immigration team, it was confirmed that Mr MANOKARAN's visa had in fact been retracted some months ago due to him not attending any of the college/university course that he had signed up to which enabled him to qualify for a student visa.

Because of this the immigration officer advised that Mr MANOKARAN needed to be arrested. A radio message went out for a Police officer to attend.

PC 2097 BREE responded and requested that PSCO 8203 Entwistle transported MANOKARAN to Rawmarsh Police Station which is a short drive away from the shop premises.

Upon arriving at Rawmarsh Police station PC 2097 BREE took custody of MANOKARAN and placed him under arrest. Mr MANOKARAN was then transported to the custody suite at SHEPCOTE Police Station, where it's understood that he was subsequently met by immigration officers.

Appendix 5

ANNEX A



South Yorkshire Police
Moss Way Police Station
Moss Way
Sheffield
S20 7XX

RE- Sale of illegal Vapes.

John Bull Stores
44 Highthorn Road,
Kilnhurst
Rotherham
S64 5UP

Following on from a visit by Trading Standards to the above premise, where illicit Vapes were discovered, and an illegal immigrant was discovered working at the premise.

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

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

Yours faithfully,

Jo Belton

For and on behalf of

Chief Constable, South Yorkshire Police

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