

LICENSING SUB-COMMITTEE

Date and Time:- Thursday 29 August 2024 at 2.00 p.m.

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

Membership:- Councillors Beresford (Chair), Bennett-Sylvester and Stables.

The items which will be discussed are described on the agenda below and there are reports attached which give more details.

Rotherham Council advocates openness and transparency as part of its democratic processes.

Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair or Governance Advisor of their intentions prior to the meeting.

AGENDA

- 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 Chair 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 the premises known as Rotherham's Best situated at 88 Cambridge Street, Clifton, Rotherham, S65 2ST (Pages 3 - 45)**

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Hearing Procedure - Review

1. The Chair of the Licensing Sub Committee will introduce themselves and the other Members.
 2. The Chair of the Licensing Sub Committee will ask the following parties to introduce themselves:
 - i. The Licensing Officer introducing the report;
 - ii. the applicant and any witnesses they wish to call.
 - iii. any person who has made representations and any witnesses they wish to call.
 - iv. 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.*
 5. The Chair of the Licensing Sub Committee will then invite:
 - i. **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 in 4 & 5 above and any person who have given evidence on their behalf as a witness.**
6. **The applicant will then be given the opportunity to sum** up the application.
 7. **The licence holder will then be given the opportunity to sum up**
 8. 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.

9. The decision of the Licensing Committee will be given in accordance with the requirements of the Licensing Act 2003 and regulations made thereunder.

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.

Committee Name and Date of Committee Meeting

Licensing Sub-Committee – 29th August 2024 at 14:00 hours (2.00pm)

Report Title

Consideration of an application (made in accordance with s.51 of the Licensing Act 2003) to review the Premises Licence issued to Mr Ilyas Nishat in respect of the premises known as Rotherham's Best situated at 88 Cambridge Street, Clifton, Rotherham, S65 2ST.

Report Author(s)

Diane Kraus, Principal Licensing Officer, Community Safety and Street Scene
Tel: 01709 289536

Report Summary

On the 20th June 2024, the Chief Constable of South Yorkshire Police (acting in their role as a Responsible Authority under the Licensing Act 2003) made an application for the review of the Premises Licence in place at Rotherham's Best, 88 Cambridge Street, Clifton, Rotherham, S65 2ST.

The premises trades as an off licence/grocery shop and is currently licensed for the sale of alcohol for consumption off the premises only.

The review application is submitted on the grounds that the Premises Licence holder, Mr Ilyas Nishat has failed to promote three of the licensing objectives, namely, the:

- prevention of crime and disorder
- public safety
- protection of children from harm.

The review application seeks the revocation of the Premises Licence.

Representations in support of the review application have been made by the Licensing Authority (in their role as a Responsible Authority under the Licensing Act 2003).

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 location plans
- Appendix 2 Premises Licence
- Appendix 3 Application under consideration
- Appendix 4 Representations received from the Licensing Authority
- Appendix 5 Evidence in support of the 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 (December 2023) available at <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>) (in particular, section 11 of this guidance).

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 issued to Mr Ilyas Nishat in respect of the premises known as Rotherham's Best situated at 88 Cambridge Street, Clifton, Rotherham, S65 2ST.

1. Background

- 1.1 Rotherham's Best is located at 88 Cambridge Street, Clifton, Rotherham S65 2ST and trades as an off licence/grocery shop. Plans showing the location of the premises are attached at Appendix 1.
- 1.2 The shop currently has the benefit of a Premises Licence, issued under the Licensing Act 2003, that permits the sale of alcohol for consumption off the premises on every day of the week between 08:00 hours and 22:00 hours (8am to 10pm). The current holder, Mr Ilyas Nisha, has held the Licence since 1st October 2020 and the DPS, Mr Nishat Burhan, has been nominated as being in day to day charge of the premises since March 2020. A copy of the Premises Licence is attached at Appendix 2.
- 1.3 On 3rd August 2022, the Licensing Authority submitted an application to review the Premises Licence on the grounds that the Licence holder, Mr Ilyas Nisha, had failed to promote the following licensing objectives:
 - prevention of crime and disorder
 - public safety
 - protection of children from harm.
- 1.4 On 14th October 2022 the Council's Licensing Sub Committee met to consider the review and decided to revoke the Premises Licence issued to Mr Ilyas Nisha.
- 1.5 The Licence holder, Mr Ilyas Nisha, appealed the Sub Committee's decision to revoke the licence to Sheffield Magistrates, who, on the 3rd August 2023, allowed the appeal and issued a consent order imposing additional management control conditions on the Licence. These conditions are set out in Annex 4 of the Premises Licence, a copy of which is attached at Appendix 2.

2. Key Issues

Application under consideration

- 2.1 On 20th June 2024 the Chief Constable of South Yorkshire Police (the Police), acting in their role as a Responsible Authority, applied for the review of the Premises Licence issued to Mr Ilyas Nishat (the Licence holder) in respect of the premises known as Rotherham's Best situated at 88 Cambridge Street, Clifton, Rotherham, S65 2ST.
- 2.2 In summary, this application seeks the revocation of the Premises Licence on the grounds that the Licence holder has failed to promote the following licensing objectives:

- prevention of crime and disorder
- public safety
- protection of children from harm.

2.3 Detail of the grounds for the review is provided within the application, a copy of which is attached at Appendix 3.

2.4 A copy of the review application was served on the Licence holder by post and by email on the 20th June 2024. In addition, on the same date, a copy was hand delivered to the premises.

Consultation

2.5 Consultation on the application has been carried out 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.

Representations

2.6 A representation in support of the review application, together with the request that the Licence is revoked, has been received from the Licensing Authority, a copy of which is attached at Appendix 4.

2.7 A representation received from an "other person", also in support of the review application, has been discounted as it was received after the deadline date.

2.8 There have been no representations received in support of the Licence holder.

2.9 The representation received from the Licence Authority has been served on both the Police and the Licence holder. The Licence holders copy was sent by post and email, together with a copy being hand delivered to the premises.

Additional Evidence provided by the Applicant

2.10 The Police have submitted additional evidence in support of the review application, a copy of which is attached at Appendix 5.

Evidence provided by the Licence holder

2.11 At the time of writing the Licence holder has not submitted any evidence in response to either the review application or the Licensing Authority's representations to it.

The Hearing

- 2.12 The Police asked for an extension of the 20 working days in which regulations state that the Sub Committee has to consider their application due to the lead Officer's pre-arranged holiday commitments. It was deemed to be in the public interest to grant his request.
- 2.13 The applicant, Licence holder and representatives of the Licensing Authority have been invited to the hearing today. All parties attending, will be given the opportunity to address the Sub-Committee in relation to the matters raised in the application and the representations to it.
- 2.14 The invite to today's hearing was sent to the Licence holder by post and by email on the 26th July 2024. In addition, on the same date, a copy was hand delivered to the premises.
- 2.15 The Licence holder been informed that if he fails to attend the hearing, unless there is good reason not to, the Sub-Committee, may decide to consider the application in his absence.
- 2.16 The Licence holder has been made aware that a possible outcome of the review is the revocation of the Licence and advised to seek independent legal advice and support.
- 2.17 Members of the Sub-Committee should give full consideration of the issues raised in the application and the representations, the Licence holders response to the application and representations, together any supporting evidence provided by any party prior to the date of the hearing. Documentary evidence provided on the day of the hearing should only be considered with the consent of all parties.

3. Options available to the Licensing Sub-Committee

- 3.1 A Licensing Authority must carry out its functions under the Licensing Act 2003 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 Sub 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. 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 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 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, the Sub Committee is 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.
- 7.5 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.
- 7.6 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.
- 7.7 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.

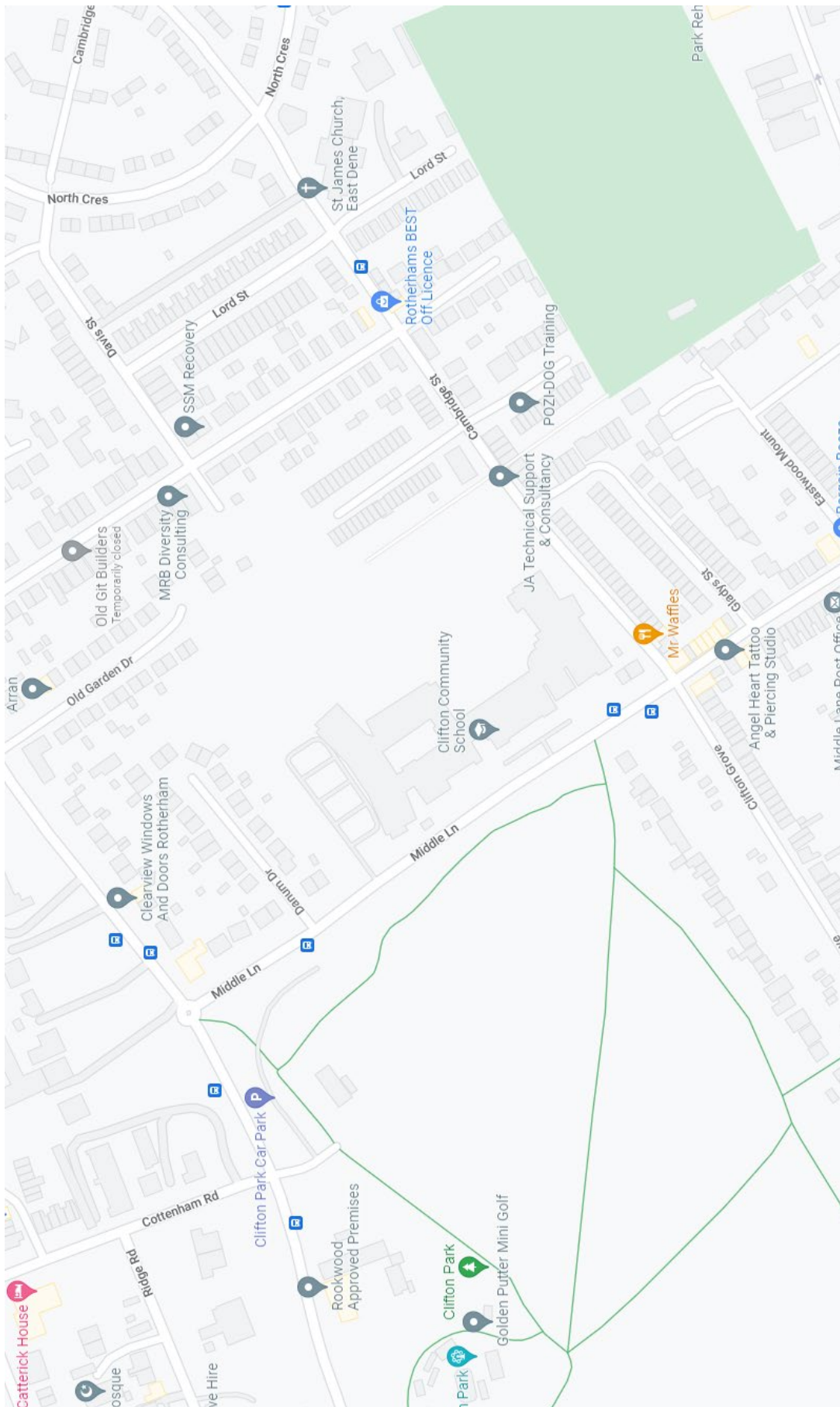
- 7.8 Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. The guidance is therefore binding on all licensing authorities to that extent. However, the guidance cannot anticipate 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.
- 7.9 Member's attention is specifically drawn to Section 11 of the guidance which covers Premises Licence reviews.
- 7.10 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. 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



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Licensing Act 2003 Premises Licence

P0858

Part 1 - Premises Details

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

Rotherham's Best

88 Cambridge Street, Clifton, Rotherham, South Yorkshire, S65 2ST.

Telephone

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

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 Sunday	8:00am	10:00pm

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	7:00am	10:00pm

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

Part 2

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

Ilyas Nishat

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

Nishat BURHAN

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. RM3379

Issued by Rotherham



**Licensing Act 2003
Premises Licence****P0858****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



Licensing Act 2003 Premises Licence

P0858

ANNEXES continued ...

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 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.
5.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises 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



Licensing Act 2003 Premises Licence

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ANNEXES continued ...

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1 -
 - (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
 - (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.



**Licensing Act 2003
Premises Licence****P0858**

ANNEXES continued ...

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

**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.



**Licensing Act 2003
Premises Licence**

P0858

ANNEXES continued ...

Annex 2 Conditions consistent with operating schedule

Prevention of Crime and Disorder

1. The licence holder shall ensure that all staff are trained in the requirements of the Licensing Act 2003.
2. The licence holder shall ensure that all fire safety risk assessments are carried out and kept up to date.
3. The licence holder shall ensure that fire alarms/emergency lighting are installed at the premises and maintained and in working order.

Public Safety

4. The licence holder shall ensure that the outside area of the premises is kept clean and tidy.

Protection of Children from Harm

Prevention of Public Nuisance

Protection of Children from Harm

Annex 3 Conditions attached after a Hearing at Sheffield Magistrates Court via a consent order on 03rd August 2023

1. The age verification policy operated at the premises shall be "Challenge 25". This means that whilst alcohol may be sold to persons aged 18 years or over, any person who appears under 25 years of age shall be required to provide proof of age using an acceptable form of ID. The only forms of ID that may be accepted shall be:
 - a) a proof of age card bearing the PASS hologram logo;
 - b) a passport;
 - c) a UK photo driving licence; or
 - d) a military ID card.
2. Notices advertising that the premises operate a "Challenge 25" scheme shall be displayed in a clear and prominent position at the retail premises entrance and at the till area.
3. All staff who are to be involved in the sale of alcohol shall be trained in the prevention of sales to underaged persons, and the challenge 25 scheme in operation at the premises.
4. A record of such training shall be kept / be accessible at the premises at all times and be made immediately available for inspection at the premises to council or police officers on request. The training record shall include the trainee's name, the trainer's name, the signature of the trainee,



Licensing Act 2003

Premises Licence

P0858
ANNEXES continued ...

- the signature of the trainer, the date(s) of training and a declaration that the training has been received.
5. An alcohol authorisation form shall be kept at the premises, this form will detail any member of staff that is authorised to sell alcohol on behalf of the designated premises supervisor. This form needs to have the names of the persons authorised along with the signature of the designated premises supervisor and the date of which it was signed. This form shall be refreshed annually and made available for inspection upon demand by any police officer or any authorised local authority officers.
 6. A refusals log shall be kept that will record any refusals of sale for alcohol or other age restricted products at the premises. This should detail the time and date and a brief description of the refusal. This book will always be kept on the premises and be made available for inspection immediately upon the demand of the police or authorised local authority officers. The records in this book must be held for a period of no less than 12 months. The Designated Premises Supervisor shall check the refusals book monthly to ensure all staff are using it and shall sign and date it immediately after the latest entry.
 7. An incident book shall be kept that will record the date, time and circumstances of any disorder, ejection or other relevant incident that occurs on the premises. This book will always be kept on the premises and be made available for inspection immediately upon the demand of the police or authorised local authority officers. The Designated Premises Supervisor shall check the incident book monthly to ensure all staff are using it and shall sign and date it immediately after the latest entry.
 8. The premises shall install a CCTV system at the premises which has 30-day recording and retrieval and be capable of downloading onto a portable storage device such as DVD or memory stick. The CCTV cameras shall cover the entirety of the premises, including the till area where payment is made for alcohol.
 9. The location of the monitor to allow playback and retrieval of data shall be located in an area which is easily and safely accessible to Police Officers and Local Authority Officers. At least one current staff member shall be trained in the use of the system to ensure rapid data retrieval and download is retrieved should it be required by a Police Officer or Council Officer.
 10. The Police and authorised Local Authority officers will be given unhindered access to the CCTV system as soon as is reasonably practicable for them to take copies of the images in connection with the prevention and detection of crime and disorder.

Annex 4 Plans

See attached.



Licensing Act 2003

Premises Licence Summary P0858

Premises Details

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

Rotherham's Best
88 Cambridge Street, Clifton, Rotherham, South Yorkshire, S65 2ST. Telephone

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

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 Sunday	8:00am	10:00pm

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	7:00am	10:00pm

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

Ilyas Nishat

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

Nishat BURHAN

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

None



APPENDIX 3*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 Jo Belton, Rotherham Police Licensing Officer, on behalf of the Chief Constable of South Yorkshire Police*(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 88 Cambridge Street, Clifton,	
Post town Rotherham	Post code (if known) S65 2ST
Name of premises licence holder or club holding club premises certificate (if known) Mr Ilyas Nishat	
Number of premises licence or club premises certificate (if known) PO858	

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)

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

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

APPENDIX 3

Name and address

**Chief Constable of South Yorkshire Police
c/o Jo Belton
Rotherham Police Licensing Officer
Riverside House,
Main Street,
Rotherham,
S60 1AE**

Telephone number (if any)

01709 832154

E-mail address (optional)

Jo.Belton@southyorkshire.police.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 | <input checked="" type="checkbox"/> ✓ |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> ✓ |

APPENDIX 3

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

This application, made under Section 51 of the Licensing Act 2003, seeks to review the Premises Licence issued to Mr Ilyas NISHAT in respect of the premises known as Rotherham's Best situated at 88 Cambridge Street, Clifton, Rotherham, S65 2ST.

Mr Nishat has held the Premises Licence since 1st October 2020, and the current Designated Premises Supervisor (DPS) is Mr Nishat Burhan, a position he has held since March 2020.

The Premises Licence authorises the sale of alcohol, for consumption off the premises, on every day of the week between 10:00 hours and 22:00 hours.

The application is made on the grounds that, Mr Nishat, the Premises Licence holder has failed to promote three of the licensing objectives, namely, the:

- prevention of crime and disorder
- public safety
- protection of children from harm.

Police Officers have evidenced breaches of the Premises Licence conditions on three recent occasions and on 4th May 2024 alcohol was sold to a 17 year old test purchaser.

The Licence holder, Mr Nishat, has a history of non-compliance with the conditions of the Premises Licence, all of which are necessary to promote the licensing objectives.

Police and Council Licensing Officers have previously made every effort to work with Mr Nishat to achieve compliance. Lengthy and repeated visits have been undertaken alongside written warnings and notices to improve. When this failed to bring about compliance the Licensing Authority sought a review of the Licence, which resulted in the Licence being revoked.

Mr Nishat succeed in retaining the Premises Licence on appeal to the Magistrates Court. However, the Magistrates recognised the need for management control conditions, imposing 10 conditions on the Premises Licence via a consent order on 3rd August 2023.

Recent evidence support the fact that Mr Nishat is unwilling, or unable, to manage the shop in a manner that promotes the licensing objectives, continues to operate in breach of the Premises Licence conditions, and is failing to promote the licensing objective of preventing crime & disorder and protecting children from harm.

All steps to assist Mr Nishat to achieve compliance have been exhausted. Given this it is **the recommendation of the Chief Constable of South Yorkshire Police is that the Premises Licence is revoked.**

APPENDIX 3

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

On 15th May 2024 Police Officers visited the shop with the objective of reviewing recordings from the CCTV system installed at the premises. Officer found that the CCTV system was not working, and no recordings were available to view. This demonstrates a failure to promote the licensing objective of preventing crime & disorder and noncompliance with the following condition of Annex 3 to the Licence, all of which were imposed by the Magistrates:

Condition 8.

The premises shall install a CCTV system at the premises which has 30-day recording and retrieval and be capable of downloading onto a portable storage device such as DVD or memory stick. The CCTV cameras shall cover the entirety of the premises, including the till area where payment is made for alcohol.

Condition 9.

The location of the monitor to allow playback and retrieval of data shall be located in an area which is easily and safely accessible to Police Officers and Local Authority Officers. At least one current staff member shall be trained in the use of the system to ensure rapid data retrieval and download is retrieved should it be required by a Police Officer or Council Officer.

Condition 10.

The Police and authorised Local Authority officers will be given unhindered access to the CCTV system as soon as is reasonably practicable for them to take copies of the images in connection with the prevention and detection of crime and disorder.

On the 30th May 2024 the Police Licensing Officer attended the shop and conducted a licensing compliance inspection, during which it was noted that the premises were operating in noncompliance conditions 8, 9 and 10 (as detailed above), together with the following conditions of Annex 3:

Condition 2

Notices advertising that the premises operate a "Challenge 25" scheme shall be displayed in a clear and prominent position at the retail premises entrance and at the till area.

Condition 3.

All staff who are to be involved in the sale of alcohol shall be trained in the prevention of sales to underaged persons, and the challenge 25 scheme in operation at the premises.

Condition 4.

A record of such training shall be kept / be accessible at the premises at all times and be made immediately available for inspection at the premises to council or police officers on request. The training record shall include the trainee's name, the trainer's name, the signature of the trainee, the signature of the trainer, the date(s) of training and a declaration that the training has been received.

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Condition 5.

An alcohol authorisation form shall be kept at the premises, this form will detail any member of staff that is authorised to sell alcohol on behalf of the designated premises supervisor. This form needs to have the names of the persons authorised along with the signature of the designated premises supervisor and the date of which it was signed. This form shall be refreshed annually and made available for inspection upon demand by any police officer or any authorised local authority officers.

Condition 6. A refusals log shall be kept that will record any refusals of sale for alcohol or other age restricted products at the premises. This should detail the time and date and a brief description of the refusal. This book will always be kept on the premises and be made available for inspection immediately upon the demand of the police or authorised local authority officers. The records in this book must be held for a period of no less than 12 months. The Designated Premises Supervisor shall check the refusals book monthly to ensure all staff are using it and shall sign and date it immediately after the latest entry.

Condition 7.

An incident book shall be kept that will record the date, time and circumstances of any disorder, ejection or other relevant incident that occurs on the premises. This book will always be kept on the premises and be made available for inspection immediately upon the demand of the police or authorised local authority officers. The Designated Premises Supervisor shall check the incident book monthly to ensure all staff are using it and shall sign and date it immediately after the latest entry.

At the time of this visit the shop was in the sole charge of an unknown male, neither the Licence holder nor DPS were in attendance at the shop

On 4th June 2024 alcohol was sold to a 17 year old test purchaser. This demonstrates a failure to promote the licensing objective of protecting children from harm and noncompliance with the following condition of Annex 3:

Condition 1. The age verification policy operated at the premises shall be "Challenge 25". This means that whilst alcohol may be sold to persons aged 18 years or over, any person who appears under 25 years of age shall be required to provide proof of age using an acceptable form of ID. The only forms of ID that may be accepted shall be:

- a) a proof of age card bearing the PASS hologram logo;
- b) a passport;
- c) a UK photo driving licence; or
- d) a military ID card.

The sale of alcohol was made by Mr Saied Nishat and neither the Licence holder nor DPS were in attendance at the shop at the time of the sale.

On 5th June 2024 the Police Licensing Officer attended the shop to attend a pre-arranged meeting with Mr Nishat, the Licence holder. Upon arrival the shop was in sole charge of Saied Hishat, with Mr Nishat arriving shortly after. The DP was not present. During this meeting Mr Nishat produced a refusal log, which was empty. It was also noted that a "Challenge 25" was on display.

APPENDIX 3

The premises CCTV system was working and recording, but as it had only been repaired on 25th May 2024 it was not possible to verify that recording would be retained for the 30 requisite day period.

The failed test purchase was discussed. The person who made the sale, Mr Saied Nishat, stated that he thought the child was 19 years of age. This statement demonstrated that Challenge 25 was not being operated at the time of the sale.

Premise History

An application to review this premise was undertaken on the 3rd August 2022 by the principle licencing officer Keeley Ladlow from Rotherham Borough Council.

This action was taken after it was first brought to their attention by SYP for potentially selling to underage children.

From December 2021 and August 2022 many visits were carried out by the council and many breaches of the licence were reported (Review attached) The licencing authority had no confidence in Mr Ilyas Nishat ability to comply with the conditions on the licence or uphold the licencing objectives. Lengthy and repeated visits were undertaken at the premise along side written warnings and notices to improve.

- 14th October 2022 Council Licencing Committee revoke licence.
- Rotherhams Best Appeal
- 3rd August 2023 Conditions attached after a hearing at Sheffield Magistrates court via a consent order.

South Yorkshire police in line with the Licencing Act 2003 feel it is our duty to take steps with a view to promote 2 of the licencing objectives. There is a clear breach of the Conditions. To that end SYP seek a revocation of the Premise License.

The grounds for this review are based on the following aspects of the 2003 licencing Act objectives.

- The Prevention of Crime and Disorder
- The Protection of Children

APPENDIX 3

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

Please tick ✓ yes

No

If yes please state the date of that application

Day Month Year

--	--	--	--	--	--	--	--

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

N/A

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 Jo Belton

Date 20th June 2024

Capacity **on behalf of the Chief Constable of South Yorkshire Police**

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

**Jo Belton
Rotherham Police Licensing Officer
Riverside House, Main Street**

Post town
Rotherham

Post Code
S60 1AE

Telephone number (if any) **01709 832154**

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) Jo.Belton@southyorkshire.police.uk

APPENDIX 4

**Community Safety and Street Scene
Licensing Service**

Riverside House, Main Street, Rotherham, S60
1AE Direct Line: (01709)
Email: licensing@rotherham.gov.uk



My Reference: LA2003/Hearing.
Please ask for: Alan Pogorzelec

Your Reference:
Date: 18th July 2024

Mrs Diane Kraus
Principal Licensing Officer (Policy & Administration)
Riverside House
Main Street
Rotherham S60 1AE

Dear Mrs Kraus

**RE: LICENSING ACT 2003 – REVIEW OF PREMISES LICENCE
ROTHERHAM'S BEST, 88 CAMBRIDGE STREET, ROTHERHAM S65 2ST**

I write on behalf of Rotherham Council's Licensing Authority in its role as a designated Responsible Authority under the Licensing Act 2003.

The Licensing Authority supports the application, made by South Yorkshire Police, to review the Premises Licence issued to Mr Ilyas Nishat in respect of the Rotherham's Best, 88 Cambridge Street, Clifton, Rotherham S65 2ST, together with their recommendation that the Licence is revoked.

Mr Ilyas Nishat has been the premises licence holder since 1st October 2020. The current Designated Premises Supervisor (DPS) is Mr Nishat Burhan, a position he has held since March 2020.

Every effort has been made to work with Mr Ilyas Nishat to allow him to operate the shop in compliance with the licensing objectives, but despite this evidence supports that he is unable, or unwilling, to operate in compliance with the terms, conditions, and restrictions on the Licence. Mr Nishat Burhan remains on the Licence as the DPS, despite not being in charge of the day-to-day management of the premises.

The grounds for the Licensing Authority's recommendation that the Licence is revoked are that Mr Ilyas Nishat has repeatedly demonstrated a failure to promote the following Licensing Objectives:

- prevention of crime and disorder;
- public safety; and
- protection of children from harm.

APPENDIX 4

Evidence to support the Licensing Authority's recommendation to revoke the Licence

1. Summary of the evidence - Licence Review brought by the Licensing Authority - determined by the Council's Licensing Sub Committee on 14th October 2022

This application sought the revocation of the premises licence on the grounds that the premises licence holder was failing to promote the licensing objectives of the prevention of crime and disorder, public safety, and the protection of children from harm. The following evidence was presented to the Sub Committee in support of the application:

- i. On 15th December 2021 the Council's Licensing Service was informed by South Yorkshire Police that a student from a local comprehensive school had purchased vodka from the shop. The information stated that when a male behind the counter asked the student if they were 18, they allowed the sale despite being told by the student that they were only 16. The vodka was then consumed by the student and a 12 year old.
- ii. On February 9th, 2022, Licensing Officers visited the premises to undertake a compliance visit. During the visit officers spoke with Mr Ilyas Nishat, no other members of staff were present. During the visit the following matters were identified as non-compliant:
 - No staff training records were available;
 - No premises licence summary was on display; and
 - The DPS named on the Licence, Mr Burhan Nishat, had no involvement in the day-to-day management of the premises.
- iii. Immediately following this visit an email was sent to Mr Nishat providing him with the application form to vary the DPS. The following day, 10th February 2022, a further email was sent to Mr Nishat, detailing what he needed to put in place in order to comply with the conditions of licence, together with best practice guidance.
- iv. On 16th February 2022 Licensing Officers carried out a pre- arranged visit to the premises to assess whether the required actions had been implemented. It was noted that none of the Annex 2 licence conditions were being complied with and no progress had made regarding changing the DPS.
- v. On 2nd March Licensing Officers visited the premises to check compliance. Mr Nishat was not present, however a male who identified himself as Mr Nishat's father was working alongside another employee, Mr Saied Nishat. When questioned about training, Mr Saied Nishat could not recall any training provided and was not familiar with the Challenge 25 scheme. It was noted that there were no incident records, staff training records, DPS authorisation to sell alcohol, Challenge 25 Policy and Posters and no licence summary on display.
- vi. On 15th March 2022, officers met with Mr Ilyas Nishat and Mr Burhan Nishat (the DPS). The process relating to changing the DPS was explained. Both stated they understood the process and that the DPS would be changed.

APPENDIX 4

- vii. On 24th March 2022 Officers visited the premises. Mr Ilyas Nishat was present, and the premises licence and Challenge 25 posters were on display. However, training records, refusal records, incident records, and DPS authorisation to sell alcohol, were still not in place. During this visit Mr Nishat stated that he had not completed the DPS transfer documentation. Whilst in attendance at the shop Officers witnessed Mr Ilyas Nishat serving two customers a single cigarette for 50p each.
- viii. On the 31st of March 2022 a warning letter was sent to Mr Ilyas Nishat, together with further information regarding best practice, such as record books and incident logs.
- ix. On the 6th of April 2022 Licensing Officers spoke with Mr Ilyas Nishat by telephone who told them no progress had been made.
- x. A visit to the premises on 18th May 2022 established that Mr Ilyas Nishat still had not completed the transfer of DPS documentation. When questioned about training records Mr Ilyas Nishat stated that they were not on the premises, but he would send them by email to Officers. The documents were never received. Mr Nishat did present some poor-quality refusal records in the form of sticky notes.
- xi. On 25th May 2022 a further warning letter was sent to Mr Ilyas Nishat.
- xii. On 10th June 2022 Licensing Officers visited the premises. Mr Saied Nishat was present, and Officers found no training records or any other records at the premises. Mr Ilyas Nishat was in Manchester at the time of this visit but told a Licensing Officer in a phone call that the records were on the premises. However, Mr Saied Nishat was unable to locate these records.
- xiii. On 16th June 2022 Officers made enquiries with South Yorkshire Police, who lead on the licence watch scheme. The Police confirmed that no application to join the scheme had been made by the premises.

2. Decision of the Council's Licensing Sub Committee of 14th October 2022

The decision of the sub-committee was to revoke the premises licence held by Mr. Ilyas Nishat in respect of the premises described as Rotherham's Best, 88 Cambridge Street, Clifton, Rotherham, South Yorkshire, S65 2ST.

The sub-committee decided that continuing to permit the sale of alcohol for consumption off the premises would be contrary to the promotion of the licensing objectives, namely the prevention of crime and disorder, public safety and the protection of children from harm.

The reasons for the decision of the Sub-Committee are as follows:-

- i. The sub-committee considered that condition 2 of the licence had been breached. The sub-committee found there was no supporting evidence, other than the account given in the hearing, that staff had been trained. The sub-committee were not satisfied that Mr. Ilyas Nishat had demonstrated what training would look like and were not satisfied that any training had been undertaken.

APPENDIX 4

- ii. The sub-committee found that condition 3 of the licence had been breached, there was no evidence Mr. Ilyas Nishat had applied to become a member of Rotherham Licence Watch and the sub-committee were not satisfied by his assurances during the hearing that he would join.
- iii. The sub-committee considered the issue of compliance with condition 7 of the licence requiring the operation of a proof of age scheme is in operation. The sub-committee were satisfied that Challenge 25 posters were now on display.
- iv. The sub-committee were concerned that there was no written evidence of any log of refusals and nor was this issue referred to by the licence holder when he discussed the training he provided.
- v. The sub-committee were concerned that the current DPS is not involved in the day to day running or the management of the premises. The sub-committee noted that this is not a breach of a licence condition but were concerned that the licence holder had not followed advice about changing the DPS and had repeatedly indicated that he did not think it was important.
- vi. The sub-committee had general concerns regarding the licence holder including the allegations of the sale of single cigarettes, underage sales, a previous lack of premises licence on display, and a failure to demonstrate an acceptance of the responsibilities and duties he has as the personal licence holder, including his repeated statements that he did not receive any help. The sub-committee were of the view that the licence holder demonstrates a lack of understanding of the licensing requirements and a lack of appreciation of the need to comply with licence conditions which the sub-committee characterised as a cavalier attitude to licensing regulation.

It is for the reasons set out above that the Sub-Committee were not satisfied that the modification of, or imposition of, further conditions would sufficiently address the concerns raised.

The sub-committee considered poor management of the premises as systemic.

The sub-committee did not consider the suspension of the licence appropriate given the failure to demonstrate an understanding of the licensing regime despite multiple attempts by the licensing team to engage with the licence holder.

3. Appeal to Sheffield Magistrates on 3rd August 2023

Mr Ilyas Nishat appealed the Sub Committee decision to revoke his Premises Licence. On 3rd August 2023 the Magistrates allowed the appeal and issued a consent attaching management control conditions to the Premises Licence. The following conditions were imposed by the Magistrates:

- i. The age verification policy operated at the premises shall be "Challenge 25". This means that whilst alcohol may be sold to persons aged 18 years or over, any person who appears under 25 years of age shall be required to provide proof of age using an acceptable form of ID. The only forms of ID that may be accepted shall be:
 - a. a proof of age card bearing the PASS hologram logo;
 - b. a passport;
 - c. a UK photo driving licence; or
 - d. a military ID card.

APPENDIX 4

- ii. Notices advertising that the premises operate a "Challenge 25" scheme shall be displayed in a clear and prominent position at the retail premises entrance and at the till area.
- iii. All staff who are to be involved in the sale of alcohol shall be trained in the prevention of sales to underaged persons, and the challenge 25 scheme in operation at the premises.
- iv. A record of such training shall be kept / be accessible at the premises at all times and be made immediately available for inspection at the premises to council or police officers on request. The training record shall include the trainee's name, the trainer's name, the signature of the trainee, the signature of the trainer, the date(s) of training and a declaration that the training has been received.
- v. An alcohol authorisation form shall be kept at the premises, this form will detail any member of staff that is authorised to sell alcohol on behalf of the designated premises supervisor. This form needs to have the names of the persons authorised along with the signature of the designated premises supervisor and the date of which it was signed. This form shall be refreshed annually and made available for inspection upon demand by any police officer or any authorised local authority officers.
- vi. A refusals log shall be kept that will record any refusals of sale for alcohol or other age restricted products at the premises. This should detail the time and date and a brief description of the refusal. This book will always be kept on the premises and be made available for inspection immediately upon the demand of the police or authorised local authority officers. The records in this book must be held for a period of no less than 12 months. The Designated Premises Supervisor shall check the refusals book monthly to ensure all staff are using it and shall sign and date it immediately after the latest entry.
- vii. An incident book shall be kept that will record the date, time and circumstances of any disorder, ejection or other relevant incident that occurs on the premises. This book will always be kept on the premises and be made available for inspection immediately upon the demand of the police or authorised local authority officers. The Designated Premises Supervisor shall check the incident book monthly to ensure all staff are using it and shall sign and date it immediately after the latest entry.
- viii. The premises shall install a CCTV system at the premises which has 30-day recording and retrieval and be capable of downloading onto a portable storage device such as DVD or memory stick. The CCTV cameras shall cover the entirety of the premises, including the till area where payment is made for alcohol.
- ix. The location of the monitor to allow playback and retrieval of data shall be located in an area which is easily and safely accessible to Police Officers and Local Authority Officers. At least one current staff member shall be trained in the use of the system to ensure rapid data retrieval and download is retrieved should it be required by a Police Officer or Council Officer.
- x. The Police and authorised Local Authority officers will be given unhindered access to the CCTV system as soon as is reasonably practicable for them to take copies of the images in connection with the prevention and detection of crime and disorder.

4. The Review Application

The application to review the Premises Licence submitted by the Police clearly sets out that on 15th and 30th May 2024 Police visited the premises and found them to be operating

APPENDIX 4

in non-compliance with the condition imposed on the Licence by the Magistrates. In addition on 4th June 2024 alcohol was sold to a 17 year old test purchaser.

5. Licensing Compliance Inspection on 3rd July 2024

On 3rd July 2024 Licensing Officers visited the premises to carry out a compliance inspection. Officers met with Mr Saied Nishat (the Licence holders father), who told them that he worked at the premises every day for over a year.

Officers asked Mr Saied Nishat if he knew who the DPS was (Mr Nishat Burhan), his response was that he thought he was the old owner, he is a cousin and he doesn't actually work there. Mr Saied Nishat told Officers that he made the sale to the underage person.

A Challenge 25 poster was on display at the time of the inspection. Mr Saied Nishat told Officers that he understood it meant asking for ID from anyone who looked between 18 and 25, and that acceptable ID was a passport / driving licence and biometric card. Mr Saied Nishat said he had been given training on age restricted products such as alcohol/lighters/cigarettes and energy drinks but had no other training and had not signed any documentation to evidence his training.

No summary of the Premises Licence was on display at the premises. When asked if a copy of the Licence was kept at the shop Mr Saied Nishat stated he hadn't seen one.

Officer then carried out a full compliance inspection of the Annex 2 Licence conditions (consistent with operating schedule) and the Annex 3 Licence conditions (attached after a Hearing at Sheffield Magistrates Court via a consent order on 3rd August 2023)

The Annex 2 Licence conditions are set out below, with Officer comments in bold below each condition.

Condition 1: The licence holder shall ensure that all staff are trained in the requirements of the Licensing Act 2003.

No training other than Challenge 25, above.

Condition 2: The licence holder shall ensure that all fire safety risk assessments are carried out and kept up to date.

Officers shown a Fire Extinguisher and a certificate of Fire Safety inspection dated 2020. Mr Saied Nishat stated he "*thought there was a new one somewhere, maybe Ilyas had it*". The Licence holder, Mr Ilyas Nishat, stated in phone during the Inspection that he had an update certificate, which he would sent to the Officers. At the time of writing this has not been received.

Condition 3: The licence holder shall ensure that fire alarms/emergency lighting are installed at the premises and maintained and in working order.

Mr Saied Nishat had no knowledge of any fire alarm system or emergency lighting.

Condition 4: The licence holder shall ensure that the outside area of the premises is kept clean and tidy.

The front of the premises was clear of litter at the time of the inspection.

APPENDIX 4

The Annex 3 Licence conditions are set out in full in part 3 of these representations. Officer feedback on compliance with the Annex 3 conditions is set out in bold below.

No training records available. It was accepted during the visit by Mr Saied Nishat that none had ever been completed. This was confirmed by the Licence holder Mr Ilyas Nishat over the phone during the inspection.

No alcohol authorisation form available, nor any knowledge of any requirement.

A refusals log was available with 3 entries from 10th June 2024 to 27th June 2024. It was accepted this had only been used following the failed Test Purchase.

An incident log was available but was empty and had not been checked/signed by the DPS.

CCTV was available and Mr Saied Nishat was able to demonstrate the use of the system. Mr Saied Nishat stated that the CCTV system recorded for a month, but that the footage today went back to 9th June as the shop had a re-fit and a new system installed from this date.

The Licence holder, Mr Ilyas Nishat was asked in a telephone conversation held at the time of the inspection on the status of the DPS and made aware that his father had told Officers that the DPS, Mr Nishat Burhan, never visited the shop. Mr Ilyas Nishat responded by saying that *“he has applied for a personal licence and needs to speak to licensing about getting some forms to change the DPS into his name”*. **At the time of writing no application to vary the DPs has been received.**

Yours sincerely

**Alan Pogorzelec
Licensing Manager**

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APPENDIX 5

RESTRICTED (when complete)

MG 11

WITNESS STATEMENT

(Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9)

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Statement of Joanne Belton

Age if under 18 Over 18.... (If over 18 insert "over 18") Occupation: Licence Enforcement Officer


This statement (consisting of 2 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.

Signature  (witness) Date: 25th July 2024

Tick if witness evidence is visually recorded (supply witness details on rear)

I am the above named person.

I am employed by South Yorkshire Police in my capacity as the Licensing Enforcement Officer covering the borough of Rotherham.

On the 15th May 2024 I was informed by DC Dave Schofield that he had visited the premise in relation to a  allegation. DC Schofield sent me an email with his concerns and can be referred to as exhibit JB 1. DC Schofield found the shop open and selling alcohol but with no working CCTV. The shop claimed that there had been some electrical work done at the shop about a month ago and nothing had been working since.

On the 30th May I visited the premise as a follow up. I found the CCTV on but because the shop assistant could not work it, I could not be sure it was recording at the time of my visit.

At the time of this visit no conditions were being adhered too. Premise Licence Conditions can be referred to as exhibit JB2.

No DPS available.

The Premise Licence holder Illiyas Nishat eventually turned up and could not provide any paperwork in relation the conditions.

I agreed to return in a week to see all the conditions adhered too.

On the 4th of June 2024 the premise was tested for underage sales as part of a Test Purchase operation.

APPENDIX 5

RESTRICTED (when complete)

MG 11

Continuation of Statement of: Joanne BELTON.....

Page 2

The premise failed. The managers father Saied Nishat sold the alcohol to the underage person.

On the 5th of June 2024 I visited the premise as a follow up to the failed test purchase and the lack of conditions the previous week.

The premise licence holders' father and the person who sold to an underage person was behind the counter.

I asked Mr Saied Nishat if he was aware of the test purchase, he said he was, and it was himself that had made the sale. I asked him about the sale to which he replied the girl looked 19 to which I responded with challenge 25 should be in operation.

Mr Illias Nishat then arrived with two books, one labelled as a refusal book and one with incident records. Both books were brand new with no entries.

A Challenge 25 poster was up on the door and behind the counter.

It was apparent the CCTV system was now recording since it had been mended on the 24th of May 2024. At that time I could not confirm for how long it is recording for.

No staff training records were in place at the time of my inspection.

Staff authorisation forms to sell alcohol were unavailable at the time of my inspection suggesting that the form didn't exist.

On the 26th of June 2024 I visited the premise to serve review papers on the Premise Licence holder. Mr Illias Nishat was not at the premise, so I gave them to his cousin who was also working at the shop.

I called Mr Illias Nishat to confirm he had received the papers he said he would go to the shop to get them.

I have grave concerns in the day to day running of this premise by the current licence holder and have no confidence that Mr Illias Nishat is able to uphold the licensing objectives.

APPENDIX 5

Exhibit JB 1

Sent: Thursday, May 16, 2024 17:00

Subject: Licensing at a corner shop

Good afternoon,

I attended the corner shop on Cambridge Street, Clifton, as part of an enquiry [REDACTED] yesterday. Despite it being open and selling alcohol, they had no working CCTV at all. They claimed that there had been some electrical work done on the shop about a month ago and nothing had worked since.

I do not know if this is in breach of the licensing conditions at the venue, but I thought I would make you aware. The shop is shown on GOOGLE as "THE BEST" corner shop ROTHERHAM. It is on the junction between Cambridge Street and Oxford Street.

Kind regards David

DC David Schofield

Rotherham CID Team 1

South Yorkshire Police Rotherham District
HQ Main Street
Rotherham S60 1QY

Exhibit JB 2 – Copy of the Premises Licence, which is attached at Appendix 2 to the report

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