

Committee Name and Date of Committee Meeting

Licensing Sub-Committee – 30th March 2021 (2pm)

Report Title

Consideration of an application (made in accordance with s.17 of the Licensing Act 2003) for the Grant of a Premises Licence for Ave Ferham Supermarket, 192 Ferham Road, Rotherham, S61 1DZ.

Report Author(s)

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01709 822346

Report Summary

On the 9th February 2021, an application was made for a premises licence in relation to Ave Ferham Supermarket, 192 Ferham Road, Rotherham, S61 1DZ. The premises are currently operating as a general grocer.

The applicant is seeking a licence to permit the retail sale of alcohol for consumption off the premises only.

Following the submission of the application paperwork, representations were received from the Council's Licensing service. The receipt of this representation means that the application must be considered by the Licensing Sub-Committee. Further detail on these matters is provided within the main body of the report.

Recommendations

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

List of Appendices Included

- Appendix 1 Location details
- Appendix 2 Application form received on 9th February 2021
- Appendix 3 Representation received from Rotherham MBC Licensing Service
- Appendix 4 Additional information received from Rotherham MBC Licensing Service.

Background Papers

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

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

Council Approval Required

No

Exempt from the Press and Public

No

Consideration of an application (made in accordance with s.17 of the Licensing Act 2003) for the Grant of a Premises Licence for the premises described as Ave Ferham Supermarket, 192 Ferham Road, Rotherham, S61 1DZ.

1. Background

- 1.1 The application has been made on behalf of Ave Ferham Supermarket Ltd for a Premises Licence at Ferham Supermarket, 192 Ferham Road, Rotherham, S61 1DZ. The applicant is seeking a licence to permit the retail sale of alcohol for consumption off the premises only. The location of the premises is shown at Appendix 1. A copy of application can be found at Appendix 2.
- 1.2 The premises does not currently have the benefit of a Premises Licence and is currently operating as a general grocer. A Premises Licence has previously been in effect at the premises; however this was revoked by the Council's Licensing Sub-Committee on the 8th July 2019. The licence was revoked following review of the licence by the Council's Licensing Service following the discovery of a significant quantity of illicit tobacco at the premises.
- 1.3 There is a prescribed period of 28 days following the submission of an application during which time interested parties / responsible authorities may submit representations in relation to the application.
- 1.4 During this period concerns were raised by representatives of Responsible Authorities in relation to the proposed hours for the sale of alcohol from the premises. The applicant agreed to reduce the proposed sale of alcohol hours from midnight to 23.00hrs.
- 1.5 At the end of the prescribed period, one representation had been received – this was from the Council's Licensing Service.

2. Key Issues

The application

- 2.1 The applicant is seeking authority for the following licensable activities to take place at the premises:
 - Retail sale of alcohol (for consumption off the premises only) between the hours of 0800hrs and 2300hrs Monday to Sunday
- 2.2 The applicant has stated that the opening times of the premises are 0800hrs to 00.00hrs Monday to Sunday

Representations received

2.3 One representation has been received, this is from the Council's Licensing Service. The representation cites the following concerns:

- The unauthorised sale of alcohol from the premises.
- The sale of alcohol to children.
- The sale of illicit cigarettes and tobacco from the premises.
- The dishonesty of Mr Jawad and lack of confidence in his ability to uphold the licensing objectives.

2.4 Full details of this representation can be found in Appendix 3, additional information presented by the Licensing Service following receipt of this representation is attached as Appendix 4.

2.5 Those that have made representations 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 of concern.

2.6 Members of the Sub-Committee should give full consideration of the issues raised by interested party when determining the application.

3. Options available to the Licensing Sub-Committee

3.1 A licensing authority must carry out its functions under the Licensing Act with a view to promoting the licensing objectives:

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

3.2 In considering this matter, the Committee should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be. In reaching the decision, regard must also be had to relevant provisions of the national guidance and the Council's licensing policy statement. In relation to this application, the options available to the Committee are:

- To grant the licence subject to the conditions consistent with the operating schedule accompanying the application, which the Panel may modify to such extent as they consider appropriate; or

- To reject the whole or part of the application (which may include the omission of certain licensable activities from the licence and / or the refusal to specify a particular individual as the Designated Premises Supervisor).
- 3.3 The statutory guidance makes it clear that Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.
- 3.4 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 3.5 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. The licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business (if appropriate).
- 3.6 The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination. Conditions may be placed on the licence (if granted) – further information in relation to conditions is provided later in this report.
- 3.7 All licensing determinations should be considered on the individual merits of the application. The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve. Findings on any issues of fact should be on the balance of probability.

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

Conditions

- 3.9 Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. Failure to comply with any condition attached to a licence or certificate is a criminal offence, which on conviction is punishable by an unlimited fine or up to six months' imprisonment. The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided.
- 3.10 There are three types of condition that may be attached to a licence or certificate: proposed, imposed and mandatory. Each of these categories is described in more detail below.

Proposed conditions

- 3.11 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.
- 3.12 It is not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention.

Consistency with steps described in operating schedule

- 3.13 The 2003 Act provides that where an operating schedule or club operating schedule has been submitted with an application and there have been no relevant representations made by responsible authorities or any other person, the licence or certificate must be granted subject only to such conditions as are

consistent with the schedule accompanying the application and any mandatory conditions required under the 2003 Act.

- 3.14 Consistency means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule. If conditions are broken, this may lead to a criminal prosecution or an application for a review and it is extremely important therefore that they should be expressed on the licence or certificate in unequivocal and unambiguous terms. The duty imposed by conditions on the licence holder or club must be clear to the licence holder, club, enforcement officers and the courts.

Imposed conditions

- 3.15 The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises.
- 3.16 It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives.

Conditions relating specifically to live and recorded music

- 3.17 Any existing licence conditions (or conditions added on a determination of an application for a premises licence) which relate to live music or recorded music remain in place, but are **suspended** between the hours of 08.00 and 23.00 on the same day where the following conditions are met:
- at the time of the music entertainment, the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;
 - if the music is amplified, it takes place before an audience of no more than 500 people; and
 - the music takes place between 08.00 and 23.00 on the same day.
- 3.18 Whether a licence condition relates to live or recorded music will be a matter of fact in each case. In some instances, it will be obvious that a condition relates to music and will be suspended, for example “during performances of live music all doors and windows must remain closed”. In other instances, it might not be so obvious: for example, a condition stating “during performances of

regulated entertainment all doors and windows must remain closed” would be suspended insofar as it relates to music between 08.00 and 23.00 on the same day to an audience of up to 500, but the condition would continue to apply if there was regulated entertainment after 23.00.

- 3.19 More general licence conditions (e.g. those relating to overall management of potential noise nuisance) that are not specifically related to the provision of entertainment (e.g. signage asking patrons to leave quietly) will continue to have effect.
- 3.20 Licence conditions imposed for live or recorded music activities will only apply if the activity meets the criteria of having more than 500 people present, and / or the activities are taking place between 23.00 and 08.00.
- 3.21 These conditions will, in effect, be suspended between 08.00 and 23.00 if a performance of live music or the playing of recorded music takes place before an audience of 500 people or fewer, but will remain on the face of the licence for when these activities may take place under other circumstances.
- 3.22 Where a performance of live music or the playing of recorded music on relevant licensed premises is not licensable, it remains possible for anyone to apply for a review of a licence or certificate, if there are appropriate grounds to do so.

Proportionality

- 3.23 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

4. Consultation

- 4.1 The application has been subject to the statutory consultation process involving a newspaper advertisement and display of public notices in the vicinity of the site for 28 days.
- 4.2 The public consultation period ran until 9th March 2021, all representations received by this date have been included in this report.
- 4.3 All Responsible Authorities, relevant ward members, and the Town / Parish Council have been notified of the application and all statutory requirements in relation to notification requirements have been complied with.

5. Timetable and Accountability for Implementing this Decision

- 5.1 Any decision made by the Licensing Sub-Committee does not have effect until:
 - the end of the period given for appealing against the decision; or
 - if the decision is appealed, until the appeal is disposed of.
- 5.2 An appeal may be lodged by either the applicant or a party to the hearing that has made a relevant representation.
- 5.3 Parties to the hearing must be informed of the decision within 5 working days of the hearing (or within 5 working days from the last day of the hearing if it takes place over multiple days).

6. Financial Implications

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

7. Legal Advice and Implications

- 7.1 A Council Solicitor will be in attendance at the hearing to provide appropriate legal advice to the Licensing Sub-Committee in relation to specific aspects of the application / hearing, however the advice below is generally applicable to all applications.

- 7.2 Hearings under the Licensing Act 2003 operate under the Licensing Act 2003 (Hearings) Regulations 2005.
- 7.3 In accordance with Regulation 18 of the Licensing Act 2003 (Hearings) Regulations 2005, the authority may take into account documentary or other information produced by a party in support of their application, representations or notice either before the hearing or, with the consent of all parties, at the hearing.
- 7.4 The Panel may accept hearsay evidence and it will be a matter for the Licensing Sub-Committee to attach what weight to it that they consider appropriate. Hearsay evidence is evidence of something that a witness neither saw nor heard but has heard or read about.
- 7.5 The Secretary of State's guidance to the Licensing Act 2003 is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.
- 7.6 Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. The guidance is therefore binding on all licensing authorities to that extent. However, the guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this guidance, they may depart from it if they have good reason to do so and can provide full reasons.
- 7.7 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).
- 7.8 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.

8. Risks and Mitigation

- 8.1 The statutory requirements in relation to the consideration of this application are detailed in this report. It is essential that the Sub-Committee act in

accordance with these statutory provisions and take account of statutory guidance.

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

9. Accountable Officer(s)

Alan Pogorzelec, Licensing Manager, Community Safety and Street Scene

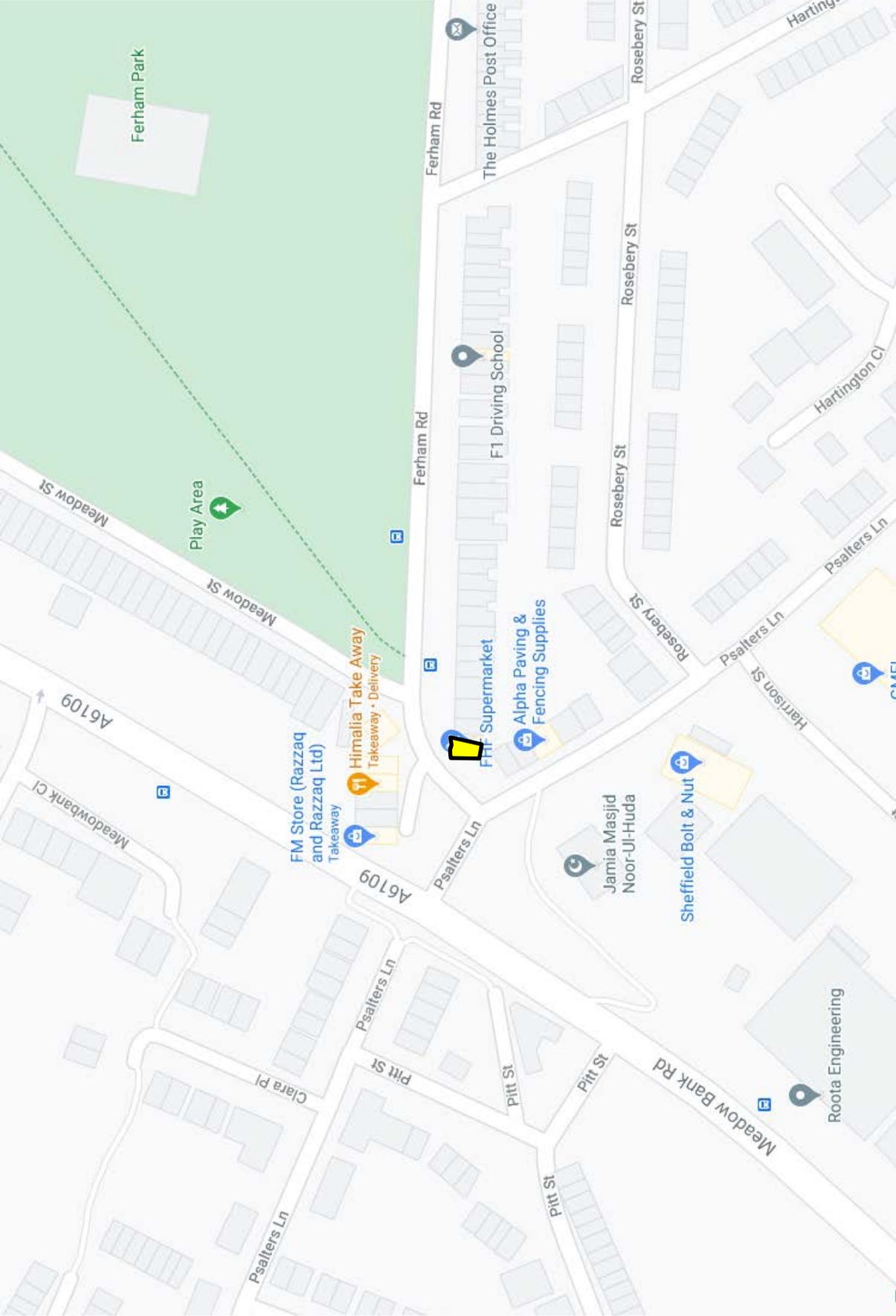
Hearing Procedure

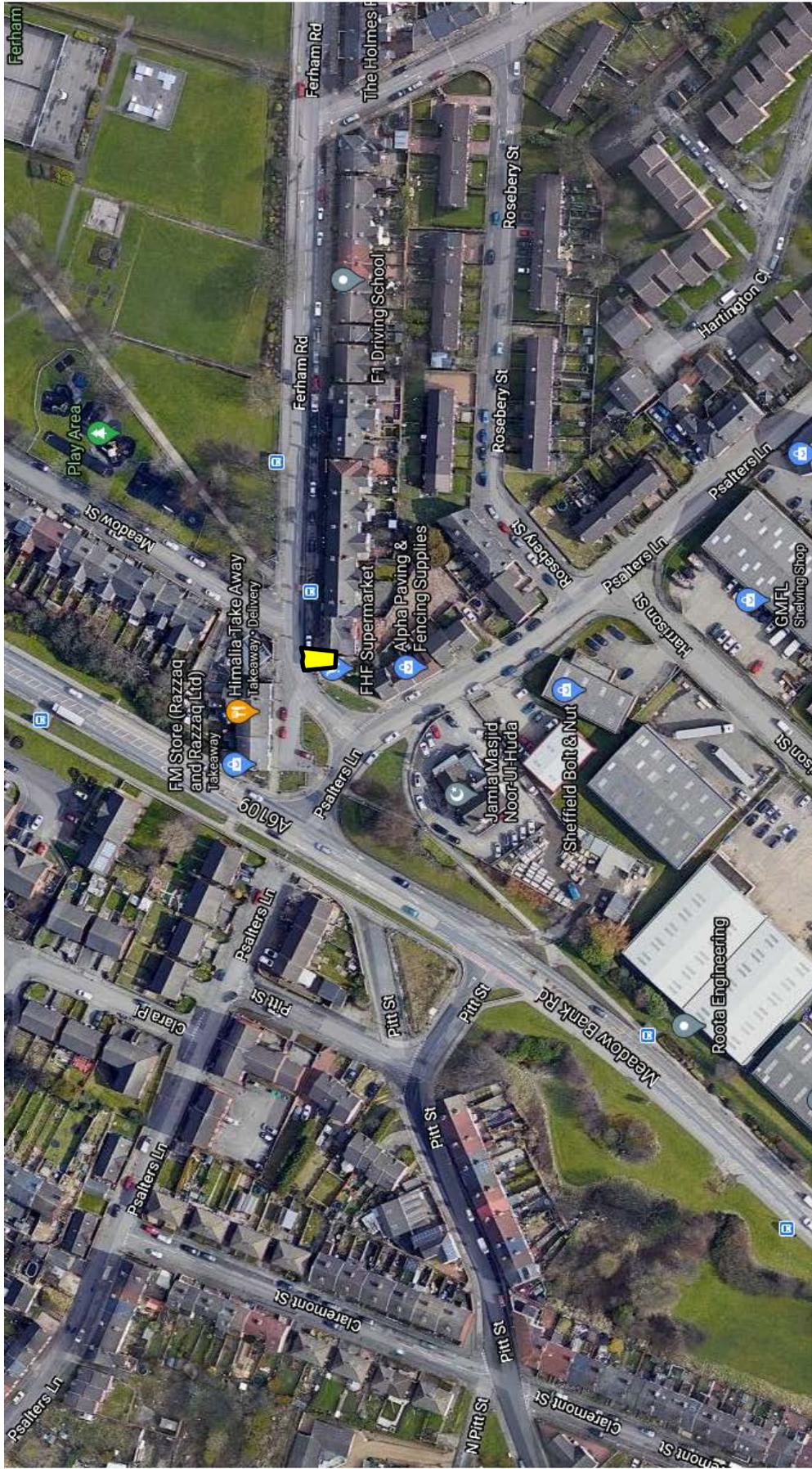
- 1 The Chair of the Licensing Committee will introduce the Committee and ask officers to introduce themselves.
- 2 The Chair will ask the applicants to formally introduce themselves.
- 3 The Licensing Officer will outline the procedure to be followed at the hearing.
- 4 Hearing Procedure:-
 - i. The Licensing Officer will introduce the report.
 - ii. Questions concerning the report can be asked both by Members and the applicant.
 - iii. The Licensing Officer will introduce the applicant / licensee (or his/her nominated representative) who will then be asked to detail the application.
 - iv. The Licensing Officer will introduce in turn representatives for the Responsible Authority and Interested Parties who will be asked to detail their relevant representations.
 - v. Members may ask questions of those parties
 - vi. With the leave of the Chair the applicant or his representative may ask questions of the representatives of the Responsible Authorities and Interested Parties.
 - vii. The applicant / licensee (or his/her nominated representative) may then be asked questions by members and with the leave of the Chair from the other parties present.
 - viii. The applicant / licensee (or his/her nominated representative) will then be given the opportunity to sum up the application and provide any clarification. The Licensing Officer will then detail the options.
 - ix. There will then be a private session for members to take legal advice and consider the application.
- 5 The decision of the Licensing Committee will be given in accordance with the requirements of the Licensing Act 2003 and regulations made there under.

Notes:

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

APPENDIX 1







APPENDIX 2

Rotherham M.B. Council

Application for a premises licence to be granted 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/We Mr Amanj Jawad

(Insert name(s) of applicant)

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description			
Ave Ferham Supermarket 192 Ferham Road			
Post town	Rotherham	Postcode	S61 1DZ
Telephone number at premises (if any)		[REDACTED]	
Non-domestic rateable value of premises		£ 1,600	

Part 2 - Applicant details

Please state whether you are applying for a premises licence as	Please tick as appropriate
a) an individual or individuals *	<input checked="" type="checkbox"/> please complete section (A)
b) a person other than an individual *	
i as a limited company/limited liability partnership	<input type="checkbox"/> please complete section (B)
ii as a partnership (other than limited liability)	<input type="checkbox"/> please complete section (B)
iii as an unincorporated association or	<input type="checkbox"/> please complete section (B)
iv other (for example a statutory corporation)	<input type="checkbox"/> please complete section (B)
c) a recognised club	<input type="checkbox"/> please complete section (B)
d) a charity	<input type="checkbox"/> please complete section (B)
e) the proprietor of an educational establishment	<input type="checkbox"/> please complete section (B)
f) a health service body	<input type="checkbox"/> please complete section (B)

- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England please complete section (B)
- h) the chief officer of police of a police force in England and Wales please complete section (B)

* If you are applying as a person described in (a) or (b) please confirm (by ticking yes to one box below):

I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or

I am making the application pursuant to a statutory function or

a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr <input checked="" type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname Jawad			First names Amanj		
Date of birth: [REDACTED]		I am 18 years old or over <input checked="" type="checkbox"/>		Please tick yes	
Nationality: British					
Current residential address if different from premises address		[REDACTED]			
Post town	[REDACTED]	Postcode	[REDACTED]		
Daytime contact telephone number		[REDACTED]			
E-mail address (optional)		[REDACTED]			

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
Date of birth		I am 18 years old or over <input type="checkbox"/>		Please tick yes	
Nationality					
Current postal address if different from premises address					
Post town		Postcode			
Daytime contact telephone number					

E-mail address (optional)	
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(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name
Address
Registered number (where applicable)
Description of applicant (for example, partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

Part 3 Operating Schedule

When do you want the premises licence to start?

DD	M	YYY
1	0	0
3	2	0
2	1	

If you wish the licence to be valid only for a limited period, when do you want it to end?

DD	M	YYYY

<p>Please give a general description of the premises (please read guidance note 1)</p> <p>A small community based Mini Market and grocery store, with an off licence situated on an arterial road 1. 2 miles East of Rotherham Town centre</p>
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If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

--

What licensable activities do you intend to carry on from the premises?

(please see sections 1 and 14 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment (please read guidance note 2)

Please tick all that apply

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

Provision of late night refreshment (if ticking yes, fill in box I)

Supply of alcohol (if ticking yes, fill in box J) X

In all cases complete boxes K, L and M

A

Plays Standard days and timings (please read guidance note 7)			<u>Will the performance of a play take place indoors or outdoors or both – please tick</u> (please read guidance note 3)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
Day	Start	Finish			Both	<input type="checkbox"/>
Mon			<u>Please give further details here</u> (please read guidance note 4)			
Tue						
Wed			<u>State any seasonal variations for performing plays</u> (please read guidance note 5)			
Thur						
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</u> (please read guidance note 6)			
Sat						
Sun						

B

Films Standard days and timings (please read guidance note 7)			<u>Will the exhibition of films take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 4)		
Mon					
Tue					
Wed			<u>State any seasonal variations for the exhibition of films</u> (please read guidance note 5)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 7)			<u>Please give further details</u> (please read guidance note 4)
Day	Start	Finish	
Mon			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 5)
Tue			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 5)
Wed			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 5)
Thur			<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 6)
Fri			<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 6)
Sat			<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 6)
Sun			<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 6)

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 7)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 3)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 4)			
Mon						
			<u>State any seasonal variations for boxing or wrestling entertainment</u> (please read guidance note 5)			
Tue						
			<u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</u> (please read guidance note 6)			
Wed						
Thur						
Fri						
Sat						
Sun						

E

Live music Standard days and timings (please read guidance note 7)			<u>Will the performance of live music take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 4)		
Mon					
Tue			<u>State any seasonal variations for the performance of live music</u> (please read guidance note 5)		
Wed					
Thur			<u>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Fri					
Sat					
Sun					

F

Recorded music Standard days and timings (please read guidance note 7)			Will the playing of recorded music take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 4)		
Mon					
Tue					
Wed			<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 5)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sat					
Sun					

G

Performances of dance Standard days and timings (please read guidance note 7)			<u>Will the performance of dance take place indoors or outdoors or both – please tick</u> (please read guidance note 3)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 4)			
Mon						
Tue						
			<u>State any seasonal variations for the performance of dance</u> (please read guidance note 5)			
Wed						
Thur						
			<u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u> (please read guidance note 6)			
Fri						
Sat						
Sun						

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 7)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	<u>Will this entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<u>Please give further details here</u> (please read guidance note 4)		
Wed					
Thur					
Fri			<u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u> (please read guidance note 5)		
Sat					
Sun					
			<u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		

I

Late night refreshment Standard days and timings (please read guidance note 7)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 3)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 4)			
Mon						
Tue			<u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 5)			
Wed						
Thur			<u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u> (please read guidance note 6)			
Fri						
Sat						
Sun						

J

Supply of alcohol Standard days and timings (please read guidance note 7)			Will the supply of alcohol be for consumption – please tick (please read guidance note 8)	On the premises	<input type="checkbox"/>
				Off the premises	<input checked="" type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 5)		
Mon	08.00	00.00			
Tue	08.00	00.00			
Wed	08.00	00.00			
Thur	08.00	00.00			
Fri	08.00	00.00			
Sat	08.00	00.00			
Sun	08.00	00.00			
			Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 6)		

State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor (Please see declaration about the entitlement to work in the checklist at the end of the form):

Name Mr Amanj Jawad	
Date of birth: [REDACTED]	Place of birth: [REDACTED] Nationality: [REDACTED]
Address [REDACTED] [REDACTED]	
Postcode	[REDACTED]
Personal licence number (if known) [REDACTED]	

M Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 10)

1. CCTV

- 1.1 The premises shall install and maintain a digital CCTV system
- 1.2 . The CCTV system shall have sufficient hard drive storage capacity to store a minimum of 31 days.
- 1.3 The CCTV system shall be capable of obtaining clear facial recognition images and a clear head and shoulders image of every person entering or leaving the premises at each exit and entrance point.
- 1.5 A CCTV log will be completed on a weekly basis to record all elements of the CCTV System is maintained in good working order and recordings date and time stamped.
- 1.6 Only nominated staff shall be trained in the operation of the CCTV system to ensure rapid data retrieval & downloads of footage can be provided to the Police & the Local Authority Officer upon reasonable request in accordance with the Data Protection Act.
- 1.7 CCTV shall be continually recording during licensable hours
- 1.8 In the event of a failure of the CCTV system for any reason, a record of the failure will be recorded in the premises log and immediate steps will be made to rectify the problem.

b) The prevention of crime and disorder

2. Incident / Refusals Register

- 2.1 An incident log must be kept at the premises. Log records will be retained for a period of 12 months from the date it occurred. It will be made immediately available on request to an 'authorised person' (as defined by section 13 of the Licensing Act 2003), an authorised trading standards officer or the police, and must record the following;
 - (a) All crimes reported to the premises (where relevant to the licensing objectives)
 - (c) Any incidents of disorder
- 2.2. The Premises licence Holder shall ensure that all staff receive initial, regular and on going training in recognising signs of drunkenness and refusing the sale and complying with licensing conditions.
3. When the designated premises supervisor is not on duty, a contact telephone number will be available at all times.
- 4: All spirits will be stored and sold behind the counter

5: Roller shutters have been installed at the front of the premises

c) Public safety

No risk has been assessed under the Licensing Act 2003

d) The prevention of public nuisance

6. Prominent, clear and legible signage shall be displayed at all exits to the premises requesting the public to respect the needs of local residents and to leave the premises and the area quickly and quietly. (Quiet Notice)

6.1. All employees will be vigilant and monitor the area immediately outside the shop and will use their best endeavours to disperse groups of 3 or more persons that appear to be loitering if they have been customers of the shop. In addition, all staff will report any anti-social behaviour or acts of crime to the police immediately and provide the police with any CCTV footage on request.

6.2. Deliveries to the premises shall be conducted in a manner that will not cause a nuisance to the occupiers of any residential properties surrounding the delivery address and deliveries shall be made at a time that will not lead to any public nuisance.

e) The protection of children from harm

7. A written register of refusals will be kept including a description of the people who have been unable to provide required identification to prove their age. Such records shall be kept for a period of 12 months and will be collected by the designated premises supervisor and produced to the police or an 'authorised person' (as defined by section 13 of the licensing act 2003) or an authorised trading standards officer the local authority/council on demand.

8. All staff engaged in the sale of alcohol to be trained in Challenge 25, are trained to prevent underage sales, are aware of and how to prevent proxy sales. Training records shall be kept on the premises and produced to the police or an 'authorised person' (as defined by section 13 of the licensing act 2003) or an authorised trading standards officer of the local authority/council on demand

9. Proxy signs will be on display warning adults about the law surrounding buying alcohol for children

10. Staff will monitor the outside area to identify any potential proxy purchasing concerns.

11. Challenge 25

11.1 The premises shall operate a Challenge 25 policy. Such policy shall be written down and kept at the premises. The policy shall be produced on demand of the police or an 'authorised person' (as defined by section 13 of the licensing act 2003) or an authorised trading standards officer the local authority/council.

11.2 Prominent, clear and legible Challenge 25 signage shall also be displayed at all entrances to the premises as well as at, at least one location behind any counter advertising the scheme operated.

Checklist:

Please tick to indicate agreement

- I have made or enclosed payment of the fee. (to be paid over the phone) **X**
- I have enclosed the plan of the premises. **X**
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
Electronic application
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable. **X**
- I understand that I must now advertise my application. **X**
- I understand that if I do not comply with the above requirements my application will be rejected. **X**
- **X**
[Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents demonstrating my entitlement to work in the United Kingdom (please read note 15).

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.

It is an offence under section 24b of the immigration act 1971 for a person to work when they know, or have reasonable cause to believe, that they are disqualified from doing so by reason of their immigration status. Those who employ an adult without leave or who is subject to conditions as to employment will be liable to a civil penalty under section 15 of the immigration, asylum and nationality act 2006 and pursuant to section 21 of the same act, will be committing an offence where they do so in the knowledge, or with reasonable cause to believe, that the employee is disqualified

Part 4 – Signatures (please read guidance note 11)

Signature of applicant or applicant's solicitor or other duly authorised agent (see guidance note 12). **If signing on behalf of the applicant, please state in what capacity.**

Declaration	<ul style="list-style-type: none">• [Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I
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	<p>cease to be entitled to live and work in the UK (please read guidance note 15).</p> <ul style="list-style-type: none"> The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, if appropriate (please see note 15)
Signature	<i>T. Clarke</i>
Date	08th February 2021
Capacity	Agent on behalf of the applicant

For joint applications, signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent (please read guidance note 13). If signing on behalf of the applicant, please state in what capacity.

Signature	
Date	
Capacity	

<p>Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 14)</p> <p>Tony Clarke JMC Licensing Consultants 540 Antrim Road</p>			
Post town	Belfast	Postcode	BT15 5GJ
Telephone number (if any)	07834 529 712		
<p>If you would prefer us to correspond with you by e-mail, your e-mail address (optional)</p> <p>securelicenses@gmail.com</p>			

Community Safety and Street Scene

Licensing, Riverside House, Main Street, Rotherham, S60 1AE

Direct Line: 01709 254955

Email: licensing@rotherham.gov.uk

Representation in relation to application made under the Licensing Act 2003.
Ave Ferham Supermarket, 192 Ferham Road, Rotherham, S61 1DZ.

I am Alan Pogorzelec, and I am the Licensing Manager employed by Rotherham Metropolitan Borough Council.

On behalf of Rotherham Council, carrying out its role as a Responsible Authority, I wish to make a representation in respect of an application for a grant of a premises licence in relation to Ave Ferham Supermarket, 192 Ferham Road, Rotherham, S61 1DZ.

The grounds of the representation are based on the Prevention of Crime and Disorder, the Protection of Children from Harm and Public Safety Licensing Objectives.

Ave Ferham is currently operating as a local convenience store. It previously held a premises licence for the sale of alcohol for consumption off the premises. That premises licence was held by a Mr Halo Omid and was revoked at a meeting of the Licensing Sub-Committee on the 8th July 2019, the premises licence holder was made aware of the revocation on the 31st July 2019.

The current application for a premises licence has been submitted by a Mr Amanj Jawad – On the 3rd April 2020 Mr Jawad became the sole director of Ave Ferham Supermarket Ltd (according to Companies House records).

The key elements of my representation are as follows:

- During a Licensing Sub-Committee on Monday 21st December 2020, Mr Jawad repeatedly stated that he had not been involved in the running / management of the business until 11th October 2020. However, Council records indicate that an Environmental Health Officer visited the premises on 24th September 2019 and spoke with an individual who stated that his name was Mr Javad Amanji and identified himself as the manager. It is considered very likely that this person was the licence applicant and this supports the experiences of Council officers prior to 11th October 2020 when Mr Jawad identified himself as the manager during site visits (this was denied by Mr Jawad during the Sub-Committee meeting on 24th December 2020).
- On the 17th January 2020 and the 27th August 2020 South Yorkshire Police carried out two test purchases at the premises. The first test purchase involved two children (one aged 15 and the other aged 16). The children entered the premises and were able to purchase a bottle of the alcoholic beverage “WKD Pink” without being challenged by the staff member working in the premises at the time. The second test purchase involved a 17 year old child who entered the shop and purchased a bottle of the alcoholic beverage “Orange VK”. On this occasion the member of staff asked for ID from the child attempting to purchase the alcohol. The child told the staff member that they did not

have any ID, but the shop worker proceeded to sell the alcoholic beverage to them regardless of this. At the time that these sales took place, there was no licence or other authorisation in place permitting the retail sale of alcohol from the premises. This undermines the Protection of Children from Harm, Public Safety and Prevention of Crimes and Disorder Licensing Objectives.

- On the 13th March 2020, Licensing Officers attended 192 Ferham Road as part of a routine enforcement operation with South Yorkshire Police. During this visit, a significant quantity of illicit cigarettes and tobacco were recovered from the premises. The police officer spoke with the shop assistant and asked to speak with the manager of the premises. Following a phone call being made to him by the shop worker, the manager arrived on site within a very short period of time (officers were told that the manager was residing in the flat above the shop). It is now known that the person that identified himself as the manager was Mr Amanj Jawad. Mr Jawad denied all knowledge of the illicit tobacco and cigarettes and stated that the items must have been brought into the shop by a shop worker without Mr Jawad's knowledge. The sale of illicit cigarettes and tobacco undermines the Prevention of Crime and Disorder and Public Safety licensing objectives.
- On the 9th October 2020 licensing officers visited 192 Ferham Road after information was received that the premises may be selling alcohol without a premises licence. Mr Amanj Jawad arrived at the premises after being called by a member of staff and introduced himself as the manager. He stated that he had been the manager at the premises that year. During the visit alcohol could be seen on display and Mr Jawad stated to the officers that alcohol had been sold that day – Mr Jawad stated that he was not aware that the premises licence had been revoked and that there was not a licence in place to authorise the sale of alcohol.
- During a visit to the premises on 24th February 2021, licensing officers were approached by a shop customer who indicated that he wished to purchase illicit cigarettes. The customer did this by showing the officer a packet of cigarettes that appeared to be a brand which is known to be illicit and not lawful for sale in the UK. The customer did not appear to speak or understand English and so officers could not speak with him further. No evidence of illicit tobacco / cigarettes was found during the visit, but licensing officers consider that the actions of the customer indicate that it is very likely that the premises are associated with the sale of illicit tobacco and cigarettes. Mr Jawad was not on site during the inspection, however the shop assistant stated that he had been told to expect a visit from Council officers due to the current licence application and contacted Mr Jawad by phone so that he could speak with the officers.

Licensing officers remain of the view that Mr Jawad has had a significant amount of involvement with the day to day operation of the premises since at least 24th September 2019. Since this time there have a number of incidents involving the premises that undermine the Licensing Objectives (details above).

In addition, Mr Jawad has continuously attempted to mislead licensing officers in relation to his involvement in the business prior to October 2020 – during a period that alcohol was sold to children, alcohol was sold without a licence and the premises have been associated with the sale of illicit cigarettes and tobacco.

Given the previous history of the premises during a time that I believe he was the shop manager, I do not have confidence in Mr Jawad's ability to manage the premises to a standard that would adequately promote the Licensing Objectives. I would therefore urge the Sub-Committee to refuse the application.

Dated : Monday 8th March 2021.

Signed : 

Alan Pogorzelec (RMBC Licensing Manager)

APPENDIX 4

Statement of Teresa Kenny

On behalf of the claimant

Dated 24th September 2020

IN THE SHEFFIELD COUNTY COURT

Claim No.

Between:

ROTHERHAM BOROUGH COUNCIL

Claimant

And

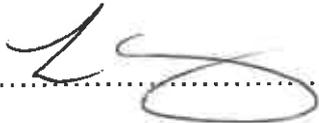
Defendant

AV, 192 Ferham Road

WITNESS STATEMENT OF Teresa Kenny

1. I am a Police Constable serving with South Yorkshire Police, currently Posted in the Anti-Social Behaviour unit with Rotherham Borough Council.
 2. As part of my role I carry out Test Purchasing of off licence premises for sales of alcohol to underage children.
 3. On Friday 17th January 2020 a Test Purchase Operation was carried out using 2 female volunteers as Test Purchasers. I can identify them as HR who is 15 years old and JJ who is 16 years old.
 4. At 17.58pm the same day HR/1 and JJ/1 entered 192 Ferham Road , Rotherham which at the time the signage displayed said was called "FERHAM SUPERMARKET"
 5. JJ purchased a bottle of Pink WKD. She confirmed she had not been asked for any ID or how old she was.
 6. On Thursday 27th August 2020, a further Test Purchase Operation was conducted. This time the volunteers HR/1 who is now aged 16 years and ET/2 who is 17 years old.
 7. At 17.56m the same day HR/1 and ET/2 entered 192 Ferham Road, the signage now displayed the signage AV Ferham .
-

8. ET2 purchased a bottle of Orange VK. She was asked for ID and told the male serving she did not have any. She then completed the sale and left the shop with the purchase.
9. Outside the shop she relayed the circumstances of what had occurred inside the shop and identified the male who had sold her the alcohol to PC Nile and PC Stirling.
10. PC Stirling entered the store and issued Hoi Ibrahim, 1/1/1985, with a fixed Penalty Notice for selling alcohol to an under aged person.
11. I believe the contents of this statement to be true and I understand it may be placed before the court as evidence.

Signed  PC2255 Date 24/9/20

WITNESS STATEMENT

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

URN

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Statement of [REDACTED].....

Age if under 18 ^{ET} ~~Over 18~~ 17 (If over 18 insert "over 18") Occupation: ...School Child.....

This statement (consisting of .1. 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 [REDACTED]..... (witness) Date: 10/9/20.

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

I live at an address known to South Yorkshire Police and I am a Test Purchase Volunteer within the South Yorkshire Police. I am 17 Years of age, born [REDACTED]

have participated in a number Test Purchase Operations over the last two years and the URN ET2 identifies me.

On Thursday 27th August 2020, I attended at Riverside House, Rotherham and was briefed in relation to a planned test purchase operation namely for the purchase of alcohol from off licensed premises. Pc Kenny holds a photographic image taken of my appearance at that time.

At 17.56pm the same day, I entered AVE Ferham , Ferham Road , Rotherham in company with another test purchaser identified by the URN HR1. PC Nile was with us acting as observer.

I purchased a bottle of Orange VK for £2.79. I was asked for identification and I told the male serving me I didn't have any. I left the store with my purchase, which I gave to PC Nile. I then identified the male who had sold me the alcohol to PC Nile and PC Stirling and informed them of what had happened in the premise.

I took no further part in this matter

Signature: [REDACTED]..... Signature Witnessed by: R.R. : 352.....