

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

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

**I** Keeley Ladlow, Principal Licensing Officer, Rotherham MBC

*(Insert name of applicant)*

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

**Part 1 – Premises or club premises details**

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

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> The Olive Lounge Ltd
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<b>Number of premises licence or club premises certificate (if known)</b> PO960
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**Part 2 - Applicant details**

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)

2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates (please complete (A) below)

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

Please tick ✓ yes

Mr

Mrs

Miss

Ms

Other title  
(for example, Rev)

**Surname**

**First names**

**I am 18 years old or over**

Please tick ✓ yes

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

**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address  
(optional)**

**(B) DETAILS OF OTHER APPLICANT**

Name and address

Telephone number (if any)

E-mail address (optional)

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

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

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

- Please tick one or more boxes ✓
- 1) the prevention of crime and disorder
  - 2) public safety
  - 3) the prevention of public nuisance
  - 4) the protection of children from harm

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

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

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

The grounds for the application are as follows:-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Detailed as above.

**Please tick ✓ yes**

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

If yes please state the date of that application

Day    Month    Year

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

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Please tick ✓ yes

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

**IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.**

**Part 3 – Signatures** (please read guidance note 4)

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

Signature   
.....

Date **27<sup>th</sup> April 2021**  
.....

Capacity **Principal Licensing Officer Rotherham MBC**  
.....

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 6)	
<b>Post town</b>	<b>Post Code</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b>	

**Notes for Guidance**

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.