

# 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 Keeley Ladlow, Principal Licensing Officer, Rotherham Metropolitan Borough Council.

*(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> 88 Cambridge Street, Clifton, Rotherham, South Yorkshire.	
<b>Post town</b> Rotherham	<b>Post code (if known)</b> S65 2ST

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Mr Ilyas Nishat
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<b>Number of premises licence or club premises certificate (if known)</b> PO858
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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)

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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)

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## (C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address  Keeley Ladlow Principal Licensing Officer, Rotherham Metropolitan Borough Council, Riverside House, Main Street, Rotherham, S60 1AE.
Telephone number (if any) 01709 22346
E-mail address (optional) Keeley.ladlow@rotherham.gov.uk

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

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

Please tick one or more boxes ✓

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

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

This application seeks a revocation of the premises licence on the grounds that the premises licence holder is failing to properly promote three of the licensing objectives, namely, the prevention of crime and disorder, public safety and the protection of children from harm.

The grounds for the application are as follows: -

The premises is a small sized premises consisting of one shop area selling a mixture of store groceries and alcohol. The premises has the permissions of a premises licence for the sale of alcohol for consumption off the premises only Monday-Sunday 07:00-22:00hrs with the licence being in place since 24<sup>th</sup> June 2011.

Mr Nishat has been the premises licence holder since 1<sup>st</sup> October 2020. The current Designated Premises Supervisor is Mr Nishat Burhan, a position he has held since March 2020. Mr Burhan was the premises licence holder between March 2020 and October 2020 before transferring the licence to Ilyas Nishat.

On 15<sup>th</sup> December 2021 the licensing service was contacted by an officer of South Yorkshire Police. PC Teresa Kenny emailed the license service stating that a female student from a local comprehensive school went into a premises believed to be Rotherham's Best and purchased vodka, it was stated a male behind the counter asked if she was 18, and upon the student stating she was 16 and was told by this male that she looked nice, and he served her. The vodka was then consumed by her and a 12year old.

On February 9<sup>th</sup>, 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. When questioned about training records Mr Ilyas Nishat stated that no such records exist, and that staff are not trained to the requirements of the Licensing Act 2003. This contravenes Condition 2 of Annex 2 of the premises licence which states 'The licence holder shall ensure that all staff are trained in the requirements of the Licensing Act 2003'.

Mr Ilyas Nishat stated during this visit that Mr Burhan Nishat had no involvement at the premises any longer and was advised that a change of DPS form would need to be completed as Mr Burhan Nishat had no involvement in the day-to-day running of the premises.

No premises licence summary was on display at the premises which is an offence under Section 57(3) of the Licensing Act 2003, the offence wording is the following: Section 57(3) The holder of the premises license must secure that – (a) the summary of the licence or a certified copy of that summary and any section 172F statement and (b) a notice specifying the position held at the premises by any person nominated for the purposes of the subsection and (2) are prominently displayed at the premises.

An email was sent the same day to Mr Nishat requesting he complete the transfer of DPS documentation from Mr Burhan Nishat to himself or another person holding a personal alcohol licence.

On the 10<sup>th</sup> February 2022, Licensing Officers sent an email to Mr Ilyas Nishat detailing what changes needed to be implemented at Rotherham's Best in order to comply with the conditions set out within Annex 2 of the premises licence alongside best practice guidance, namely; registration to Rotherham Licence Watch, Challenge 25 Policy and Posters, an authorisation list of who is permitted to sell alcohol at the premises on the DPS behalf, an incident record book, refusal record book, and the training of all staff.

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Mr Nishat was advised that officers would visit the premises on 16<sup>th</sup> February 2022 to ascertain if the implementations had been made.

On 16<sup>th</sup> February 2022 Licensing Officers visited the premises to assess whether the required actions had been implemented. Mr Nishat was present at the premises and spoke with officers, during the visit officers identified that there had been no progression and it appeared as though Mr Ilyas Nishat had made no attempt to complete the transfer of DPS documentation. None of the Annex 2 conditions were being complied with and again it appeared as though no effort had been made by Mr Nishat to comply.

Mr Nishat was issued a warning by Licensing Officers; an instruction was given to ensure Annex 2 conditions were being complied with and a further visit was scheduled for the following week. Mr Nishat was sent an email following the visit stating that no progress had been made at the premises and that Mr Ilyas Nishat now risked enforcement action against the premises licence and that improvement was immediately required.

On 28<sup>th</sup> February 2022 Licensing Officers spoke with Mr Nishat and arranged for him to attend the offices of the Council for officers to assist him in transferring over DPS status from Mr Burhan Nishat to Mr Ilyas Nishat. This meeting was arranged for 15<sup>th</sup> March 2022.

On 2<sup>nd</sup> March 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. Saied Nishat stated that he is Mr Ilyas Nishat's only employee and employed on a part-time basis. During this visit Mr Saied Nishat was unable to locate any of the documentation previously requested. There were no incident records, staff training records, DPS authorisation to sell alcohol, Challenge 25 Policy and Posters and no licence summary on display. When questioned about training Mr Saied Nishat could not recall any training provided and was not familiar with the Challenge 25 scheme.

On 15<sup>th</sup> March 2022, officers met with Mr Ilyas Nishat and Mr Burhan Nishat at the Council offices. The process relating to changing the DPS was explained, and both were guided through the process step by step – both stated they fully understood and the DPS would be changed.

On 24<sup>th</sup> March 2022 Officers visited the premises, on this occasion Mr Ilyas Nishat had the premises licence summary on display in the store available for customers to see alongside Challenge 25 posters. However, training records, refusal records, incident records, and DPS authorisation to sell alcohol, were still not in place at the premises. Mr Nishat also stated that he had not completed the DPS transfer documentation. Mr Nishat was again warned that further action may now follow due to lack of compliance with the premises licence conditions set out in Annex 2.

During this visit Licensing Officers witnessed Mr Ilyas Nishat serving two customers a single cigarette each out of a packet of 19 cigarettes selling them for 50p each.

On the 31<sup>st</sup> of March 2022 a warning letter was sent to Mr Ilyas Nishat stating that he is not compliant with Condition 2 under Annex 2 of the premises licence. This condition states, 'the licence holder shall ensure that all staff are trained in the requirements of the Licensing Act 2003' and Condition 3 'the licence holder shall become a member of Rotherham Licence Watch'. This warning letter also contained information regarding best practice, such as record books and incident logs. The letter stated Mr Ilyas Nishat had two weeks to implement these requirements at the premises

On the 6<sup>th</sup> of April 2022 Licensing Officers spoke with Mr Ilyas Nishat by telephone to confirm if any progress had been made at the premises and it was stated that no progress had been made. Advice was given on this and what changes needed to be implemented which were best practice.

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On 26<sup>th</sup> April 2022 it was discovered by the licensing service that Rotherham's Best had not paid the annual fee for the calendar years of 2020 and 2021. On the 27<sup>th</sup> of April 2022 a suspension letter was sent to Mr Ilyas Nishat requesting that the fees which were due for payment by 22<sup>nd</sup> September 2022 be paid within 5 working days. The letter further stated that should the fee not be paid the suspension would come into effect.

On 6<sup>th</sup> May 2022, Mr Nishat paid the annual fees for calendar years 2020 and 2021 and the suspension did not take effect.

A visit to the premises was undertaken on 18<sup>th</sup> May 2022. It was 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 and that they were with his cousin, but he would send them by email to officers along with proof of the Challenge 25 training and policy. These were never received following the visit.

It was explained to Mr Ilyas Nishat that if he failed to provide officers with the requested documents, he remained in breach of Conditions 2 and 7 of the premises licence. When questioned about Licence Watch Mr Nishat stated that he had applied however could not confirm who he had applied to and could not provide any evidence to support that he was a member of Licence Watch or attending the meetings.

When asked to produce the refusal and incident records Mr Nishat presented some poor-quality records in the form of sticky notes, it was explained to Mr Ilyas Nishat that these records were insufficient and did not comply with the Annex 2 condition.

On 25<sup>th</sup> May 2022 another warning letter was sent to Mr Ilyas Nishat stating that Licensing Officers had visited the premises on several occasions and find the premises to not be adhering to several Annex 2 conditions of the premises licence. Mr Nishat was provided with one final opportunity to become compliant with the conditions of the premises licence and a warning was given that the Licensing Service must now consider reviewing the premises licence.

On 10<sup>th</sup> June 2022 Licensing Officers visited the premises, during this visit Mr Saied Nishat was present and officers found no training records or any other records at the premises. It appeared no attempt had been made to comply with this Annex 2 condition or best practice recommendations. Mr Ilyas Nishat was in Manchester at the time and answered phone calls from officers stating that the records were on the premises, the phone was handed to Mr Saied Nishat, but he could not locate these records. Due to the absence of Mr Ilyas Nishat the inspection was not continued, and no evidence could be located to suggest that Mr Ilyas Nishat had moved forward with compliance of the Annex 2 conditions.

On the 16<sup>th</sup> of 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.

The Licensing Authority have no confidence in Mr Nishat's ability to comply with the conditions as set out in Annex 1 and 2 of the premises licence or uphold the Licensing Objectives. Lengthy and repeated visits have been undertaken at the premises alongside written warnings and notices to improve, these have however not resulted in any improvements being made.

The licensing service were also involved with Rotherham's Best in July 2017, licensing officers visited the premises and found that the premises license was on display, however, no Challenge Policy, refusal records, or training records were found at the premises at that time.

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

As above.

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Please tick ✓ yes

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

If yes please state the date of that application

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

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



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Please tick ✓ yes

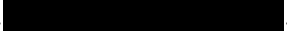
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

**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 3<sup>rd</sup> August 2022

.....

Capacity Principal Licensing Officer

.....

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

**Post town**

**Post Code**

**Telephone number (if any)**

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

## Notes for Guidance

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