

NORTH LINCOLNSHIRE COUNCIL

LICENSING (ACTIVITIES) SUB-COMMITTEE

**LICENSING ACT 2003
APPLICATION FOR REVIEW OF A PREMISES LICENCE
ASHBY MINI MARKET, 258 ASHBY HIGH STREET, ASHBY**

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To request that the Sub-Committee determines the application to review the premises licence for Ashby Mini Market. A copy of the application is attached as Appendix A to this report.
- 1.2 The application to review the Licence has been submitted by North Lincolnshire Council Trading Standards. There have been no representations received.

2. BACKGROUND INFORMATION

- 2.1 In accordance with the provisions of the Licensing Act 2003 and the council's scheme of delegation, all applications for the review of a licence need to be determined by this Sub-Committee.
- 2.2 When determining the application the Sub-Committee should only consider issues which relate to the four licensing objectives. The licensing objectives are:
- The prevention of Crime and Disorder
 - Public Safety
 - The prevention of a Public Nuisance
 - The protection of Children from Harm
- 2.3 Members of the Sub-Committee must have regard to the statutory guidance issued under section 182 of the Licensing Act 2003, our Statement of Licensing Policy and our Cumulative Impact Policy if appropriate. Members of the Sub-Committee may deviate from the statutory guidance and licensing policies only if they deem that there is good reason to do so. Where Members do deviate from the statutory guidance or policies then full reasons must be provided.

- 2.4 Members of the Sub-Committee should not allow themselves to pre-determine the application or to be prejudiced in favour or opposed to the licence and shall only determine the application having had an opportunity to consider all relevant facts. Members of the Sub-Committee should not hear or decide on any applications for premises licences in their own ward.
- 2.5 Members of the Sub-Committee shall remember that they are acting in a quasi-judicial role in determining the application and shall remain in the room so that they hear all the evidence before determining the application. The determination shall be based on the evidence provided, which is relevant to the licensing objectives.
- 2.6 The options available to the Licensing (Activities) Sub-Committee having considered all the relevant information are as follows:
- To modify the conditions of the licence
 - To exclude a licensable activity from the scope of the licence
 - To remove the designated premises supervisor
 - To suspend the licence for a period not exceeding three months
- 2.7 Members of the Sub-Committee should be advised that the applicant for the review, the holder of the premises licence or any other person who made relevant representations in relation to the application may appeal to the Magistrates Court within 21 days of the date on which they were notified of the decision.

3. ISSUES FOR CONSIDERATION

- 3.1 The application for review of a premises licence for Ashby Mini Market was received on 29 July 2015. A copy of the application is attached to the report at Appendix A.
- 3.2 A copy of the application and accompanying documents has been given to the holder of the premises licence and to each responsible authority, by the applicant on the same day as the day on which the application for review was given to the licensing authority.
- 3.3 A notice under Regulation 38(a) of the Licensing Act 2003 (Advertisement of review by licensing authority) Regulations 2005, was prominently displayed for 28 consecutive days dated 29 July 2015. This notice is attached to this report as Appendix B.
- 3.4 A notice under Regulation 38(b) of the Licensing Act 2003 (Advertisement of review by licensing authority) was published on the North Lincolnshire Council Website for 28 consecutive days starting on the day after the day on which the application was given to the licensing division.
- 3.5 No further representation has been made following the application.

4. **OUTCOMES OF CONSULTATION**

4.1 An applicant wishing to review a Premises Licence has to serve a copy of the application form and accompanying documents on the premises licence holder and statutory consultees the same day as the Licensing Authority receives its copy.

4.2 The table below provides details of any comments received:

Responsible Authority	Comment
Humberside Police	No Comments Received
Humberside Fire & Rescue Service	No Comments Received
Environmental Health Commercial	No Comments Received
Health & Safety	No Comments Received
Health and Safety Executive (if applicable)	Not applicable.
Trading Standards	Applied for review, see Appendix A for details.
Child Protection	No Comments Received
Public Health	No Adverse Comments
Licensing Authority	No Comments Received
Planning	No Comments Received
Interested Parties	No Comments Received
Premises Licence Holder	No Comments Received

4.3 Ward councillors have been made aware of the application.

5. **OUTCOMES OF MEDIATION**

5.1 In accordance with paragraph 22(3) of our Licensing Policy, no mediation is carried out on an application for a review.

6. **LICENSING OBJECTIVES & STATUTORY PROVISIONS**

6.1 Prevention of Crime & Disorder

6.1.1 Further information regarding this objective can be found in the Licensing Policy, pages 28-31.

6.1.2 The review has raised concerns with regard to this objective.

6.2 Public Safety

6.2.1 Further information regarding this objective can be found in the Licensing Policy, pages 32-34.

6.1.3 The review has raised concerns with regard to this objective.

6.3 Prevention of Public Nuisance

6.3.1 Further information regarding this objective can be found in the Licensing Policy, pages 35-37.

6.3.2 The review has not raised concerns with regard to this objective.

6.4 Protection of Children from Harm

6.4.1 Further information regarding this objective can be found in the Licensing Policy, pages 38-41.

6.3.3 The review has not raised concerns with regard to this objective.

7. FURTHER INFORMATION & CLARIFICATION

7.1 A copy of the current Premises Licence is attached at Appendix C and a location plan is attached as Appendix D to this report.

8. RECOMMENDATIONS

8.1 That the Sub-Committee determines the application for review in accordance the Statutory Guidance issued under s183 of the Licensing Act 2003, our Statement of Licensing Policy, the information contained within this report and having had due regard to the applicant, the premises licence holder and the parties/authorised bodies making relevant representations.

8.2 That the Sub-Committee determines the application for review in accordance with the options in paragraph 2.6.

8.3 That the Sub-Committee provides the reasons for its decision.

DIRECTOR OF PLACES

Civic Centre
Ashby Road
Scunthorpe
North Lincolnshire

Author: Nicola Ellis
Date: 28 August 2015

Background Papers used in the preparation of this report Nil

**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 Andrew WOAD

(Insert name of applicant)

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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Ashby Mini Market 258 Ashby High Street	
Post town Scunthorpe	Post code (if known) DN16 2SE

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

Number of premises licence or club premises certificate (if known) PRM23056

Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
- a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises
 - d) a body representing persons involved in business in the vicinity of the premises
- 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

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 Andrew WOAD North Lincolnshire Council Trading Standards Church Square House Scunthorpe DN15 6NL
Telephone number (if any) 01724 297654
E-mail address (optional) andy.woad@northlincs.gov.uk

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

Please tick one or more boxes

- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input checked="" type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 1)

On 23 July 2015 Ashby Mini Market was searched by North Lincolnshire Council Trading Standards using a tobacco sniffer dog as part of a operation to clamp down on the sale of illicit tobacco. The raid was planned and based on intelligence recieved from the public.

At the premises was Elizabeth READ and Tracey READ. Mr RASHID (the Premises Licence holder and DPS). Elizabeth READ contacted Mr RASHID on the phone and he arrived at the premises a few minutes later.

The search discovered quantities of illicit tobacco in the rear of the shop.

Tobacco seized included a combination of non-duty, counterfeit and illicit whites.

Intelligence indicates that sales of illicit tobacco have been made from these premises for a number of months and 2 purchases made by customers in March and April 2015 have been confirmed as being counterfeit.

As well as the criminal offences for possessing counterfeit and non-duty tobacco, there are serious safety risks associated with illicit tobacco as the manufacture of the products is uncontrolled.

Please provide as much information as possible to support the application
(please read guidance note 2)

See attached statement and documents

Please tick yes

Have you made an application for review relating to this 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 this premises please state what they were and when you made them

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, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant’s solicitor or other duly authorised agent
(See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

A yellow rectangular box redacting the signature, with blue ink scribbles above and below it.

Date 25 July 2015

Capacity Applicant

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)
As above

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. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

ASHBY MINI MARKET

Premises Licence Review

Trading Standards (TS) are a 'Responsible Authority'

TS have duty to enforce provisions of Trade Marks Act (for counterfeit products), Consumer Protection Act (Tobacco Health Warnings) and assist HMRC (power to seize non-duty paid items)

Background

This review follows a recent operation, following intelligence received, where a quantity of illicit tobacco (**Appendix 1**) was recovered from within the premises of Ashby Mini Market. Mr Saman Saleh RASHID is the owner of the premises. Trading Standards criminal investigation is currently ongoing.

Premises History

2 complaints of purchases from the shop in March and April 2015 – both confirmed as being counterfeit

Licence Review

TS submission is that the regular supply of illicit tobacco from the premises undermines the following Licensing Objective(s):

Prevention of Crime and Disorder

It is a criminal offence to possess/supply counterfeit products and non-duty tobacco. The offence carries a maximum sentence of 10 years imprisonment and unlimited fine. In addition the offences are Schedule 1 lifestyle offences under Proceeds of Crime Act.

(**Appendix 2**) Mr RASHID claims that he has been trading for 10 months and it is alleged that he has been selling illicit tobacco from the premises since it opened.

The raid on 23 July 2015 uncovered illicit tobacco hidden in a jacket, waste bin, kitchen cupboards and the boot of Mr RASHID's car parked at the rear of the premises. Also in the boot of the car were counterfeit trainers and T Shirts (which Mr Rashid admitted he had bought to sell on) together with empty outer wrappers from further illicit tobacco.

Public Safety

The counterfeit or illicit white cigarettes are not controlled in their manufacture and as a result they do not meet safety standards. The standard requires that all cigarettes are self extinguishing when not being smoked.

Similarly counterfeit tobacco is uncontrolled and its composition is unknown and previous testing has revealed the presence of unwanted and dangerous additives such cyanide, flies and rat droppings.

Definitions

Illegal tobacco can take many different forms and there can be regional variations in the names that it is given. These are the definitions that are generally understood by health and enforcement partners:

Cigarettes

'Illicit white' cigarettes have no legal market in the UK. UK duty has not been paid and the appropriate health warnings and images may not be present.

Counterfeit cigarettes are illegally manufactured and sold by a party other than the original trademark or copyright holder. This can also include the counterfeiting of illicit whites.

Non-Duty are genuine cigarettes produced legitimately for a local market. This includes UK and non-UK brands. They have the correct health warnings and images for the intended market (rarely in English) and are intended for legal open sale. This may include cigarettes intended for sale in another country that have been smuggled into the UK or duty free cigarettes being illegally sold, rather than kept for personal use.

Hand-rolling tobacco

Non-UK hand-rolling tobacco brands are not intended for sale in the UK.

Counterfeit hand-rolling tobacco is, like cigarettes, illegally manufactured and sold by a party other than the original trademark or copyright owner. It can also include the counterfeiting of non-UK products.

Genuine or UK hand-rolling tobacco brands include products intended for both the UK and non-UK markets.

Details of illicit tobacco seized on 23 July 2015

Item	Quantity
Illicit Cigarettes	Approx 5000 of cigarettes
Illicit tobacco	Approx 6kg of hand rolling tobacco
Empty cigarettes wrappers suggest	Approx 4600 cigarettes
Empty tobacco cartons suggest	Approx 13kg of hand rolling tobacco
Counterfeit trainers	19 pairs
Counterfeit T Shirts	23

Summary of interview under caution with Saman Saleh RASHID on 23 July 2015

Mr RASHID claimed that the tobacco was for personal use; his customers bring it back from holiday and he buys it. His staff (2 staff) then put it in the bin and the staff pays for it.

When asked about the evidence of 2 purchases from him, he claimed he had only been selling it for a couple of weeks and that only to family.

He claimed that people did ask for it in the shop but he wouldn't sell it to them.

LICENSING ACT 2003
APPLICATION FOR THE REVIEW OF A PREMISES LICENCE
PRESCRIBED FORM OF NOTICE

Take notice that an application has been made to North Lincolnshire Council on **29 July 2015** for a review of a premises licence in respect of the premises known as:

(Name of Premises) **Ashby Mini Market**

Situated at (address) **258 Ashby High Street, Scunthorpe,
DN16 2SE**

on the grounds of: On 23 July 2015 Ashby Mini Market was searched by North Lincolnshire Council Trading Standards. Discovered were quantities of illicit tobacco, which included a combination of non-duty, counterfeit and illicit whites. Intelligence indicates that sales of illicit tobacco have been made from these premises for a number of months and 2 purchases made by customers in March and April 2015 have been confirmed as counterfeit.

Interested parties can make representations in writing to:

Technical and Environment Services, Licensing Division, P O Box 42, Church Square House, Scunthorpe, North Lincolnshire DN15 6XQ, no more than 28 days starting on the day AFTER the application was given to North Lincolnshire Council's Licensing Division ** stating the grounds for review. For guidance the Licensing Policy can be found on the North Lincolnshire website www.northlincs.gov.uk

(The review application can be viewed at Church Square House 9.30 am to 4.30 pm Monday to Friday), or can be viewed on the councils website at www.northlincs.gov.uk/licence/reviews.....

Signed

It is an offence, knowingly or recklessly, to make a false statement in connection with an application and the maximum fine for which a person is liable on summary conviction for the offence is £5000.

*NB ** when the application was made to North Lincolnshire Council*

NORTH LINCOLNSHIRE COUNCIL

Schedule 12

PREMISES LICENCE

Premises licence number

PRM23056

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description

Ashby Mini Market
258 Ashby High Street
Scunthorpe
North Lincolnshire

Post Town: North Lincolnshire**Post Code:** DN16 2SE**Telephone Number:** N/A**Where the licence is time limited the dates**

N/A

Licensable activities authorised by the licence

Sale of Alcohol for Consumption off the Premises

The times the licence authorises the carrying out of licensable activities

Sale of Alcohol for Consumption Off the Premises - Authorised Hours

Monday 07:00 hrs to 23:00 hrs
Tuesday 07:00 hrs to 23:00 hrs
Wednesday 07:00 hrs to 23:00 hrs
Thursday 07:00 hrs to 23:00 hrs
Friday 07:00 hrs to 23:00 hrs
Saturday 07:00 hrs to 23:00 hrs
Sunday 07:00 hrs to 23:00 hrs

The opening hours of the premises

Unrestricted

Where the licence authorises the supplies of alcohol whether these are on and / or off supplies

Consumption Off the Premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Mr Saman Saleh Rashid
55 Dale Street
Scunthorpe
North Lincolnshire
DN15 7LP

Registered number of holder, for example company number, charity number (where applicable)

N/A

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Mr Saman Saleh Rashid
55 Dale Street
Scunthorpe
North Lincolnshire
DN15 7LP

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Personal Licence issued by **North Lincolnshire Council**, Licence Number: **NL22823**

Annex 1 – Mandatory Conditions

Supply of Alcohol

1. No supply of alcohol may be made under this premises licence
 - a) at a time when there is no Designated Premises Supervisor in respect of this licence, or
 - b) at a time when the Designated Premises Supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under this premises licence must be made or authorised by a person who holds a personal licence.
3. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - a) a holographic mark, or
 - b) an ultraviolet feature.

Alcohol Pricing

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

$$P=D+(D \times V)$$

where—

- (i) P is the permitted price,
- (ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) “valued added tax” means value added tax charged in accordance with the Value Added Tax Act 1994(b).
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 – Conditions consistent with the operating Schedule

General Conditions

No Conditions Attached

The Prevention of Crime and Disorder

CCTV

CCTV must be provided in the form of a continuous recording system providing real time pictures of evidential quality in all lighting conditions. Facial recognition must be provided for pictures of access to and egress from the premises.

Cameras must be positioned to view all access to and egress from the premises (including fire exits) and all areas where the sale/supply of alcohol occurs.

Recordings must be correctly time and date marked.

Recordings must be in date order, sequentially and kept for a minimum period of 28 days.

The Premises Licence Holder must ensure an appointed member of staff is capable of downloading CCTV footage in a recordable format at all times the premises are operating.

Recordings must be provided to officers under the direction of the Chief Constable of Humberside Police and employees of the Licensing Authority on request.

The recording equipment and all media used to record data shall be kept in a secure environment under the control of the DPS or other responsible named individual.

A monitor with a minimum 14" screen must be placed in such a position so as to be viewed by staff working in the sales/public area of the premises and by customers.

CCTV warning signs must be displayed in public areas of the premises.

An operational daily log report must be maintained endorsed by signature, indicating the system has been checked by the DPS or other responsible named individual and is compliant, in the event of any failings actions taken must be recorded.

CCTV equipment must be maintained in good working order.

Challenge 25

The premises shall operate a Challenge 25 Policy or similar scheme. Any person who appears to be under the age of 26 shall be asked to produce photographic identification, which shall be either their Passport, Photo Card DVLA Driving Licence or a PASS approved scheme ID card.

A record shall be made of all refusals for service due to lack of identification when challenged. The log shall be available upon request by officers under the discretion and control of the Chief Constable of Humberside Police, an authorised Officer of the Licensing Authority.

Signs shall be displayed stating that the premises operates a Challenge 25 Policy.

Public Safety

No Conditions Attached

The Prevention of Public Nuisance

No Conditions Attached

The Protection of Children from Harm

No conditions attached

Annex 3 – Conditions attached after a hearing by the licensing authority

No Conditions Attached

Annex 4 – Plans

As attached

NORTH LINCOLNSHIRE COUNCIL

Part B

Premises licence summary

Premises licence number

PRM23056

Premises details

Postal address of premises, or if none, ordnance survey map reference or description

Ashby Mini Market
258 Ashby High Street
Scunthorpe
North Lincolnshire

Post Town: North Lincolnshire

Post Code: DN16 2SE

Telephone Number: N/A

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

Sale of Alcohol for Consumption Off the Premises

The times the licence authorises the carrying out of licensable activities

Sale of Alcohol for Consumption Off the Premises - Authorised Hours

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Thursday 07:00 hrs to 23:00 hrs
Friday 07:00 hrs to 23:00 hrs
Saturday 07:00 hrs to 23:00 hrs
Sunday 07:00 hrs to 23:00 hrs

The opening hours of the premises

Unrestricted

Where the licence authorises the supplies of alcohol whether these are on and / or off supplies

Consumption Off the Premises

Name, (registered) address of holder of premises licence

Saman Saleh Rashid

Registered number of holder, for example company number, charity number (where applicable)

N/A

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

Saman Saleh Rashid

State whether access to the premises by children is restricted or prohibited

Unrestricted

