

Public Document Pack

Licensing Act 2003 Sub-Committee

Tuesday, 17th May, 2022

6.00 pm

Meeting Room A

AGENDA

1. Welcome and Apologies

To welcome those present to the meeting and to receive any apologies for absence.

2. Declarations of Interest

To receive any declarations of interest from members of the sub committee.

DECLARATIONS OF INTEREST FORM

2

3. Part Two- The press and public may be excluded from the meeting during consideration of the following items by virtue of paragraph 3 of part 1 contained in schedule 12a of the Local Government Act 1972

4. Review of Premises Licence LP19227

Review of Premises Licence LP19227

3 - 28

Appendix 1

Appendix 2

Appendix 3

Appendix 4

Appendix 5

Appendix 6

Appendix 7

Date Published: 9th May 2022.
Denise Park, Chief Executive

DECLARATIONS OF INTEREST IN ITEMS ON THIS AGENDA

Members attending a Council, Committee, Board or other meeting with a personal interest in a matter on the Agenda must disclose the existence and nature of the interest and, if it is a Disclosable Pecuniary Interest or an Other Interest under paragraph 16.1 of the Code of Conduct, should leave the meeting during discussion and voting on the item.

Members declaring an interest(s) should complete this form and hand it to the Democratic Services Officer at the commencement of the meeting and declare such an interest at the appropriate point on the agenda.

MEETING:

DATE:

AGENDA ITEM NO.:

DESCRIPTION (BRIEF):

NATURE OF INTEREST:

DISCLOSABLE PECUNIARY/OTHER (delete as appropriate)

SIGNED :

PRINT NAME:

(Paragraphs 8 to 17 of the Code of Conduct for Members of the Council refer)

DEPARTMENT OF ENVIRONMENT AND LEISURE

ORIGINATING SECTION: PUBLIC PROTECTION SERVICE

REPORT TO: LICENSING ACT SUB-COMMITTEE Date: 17 / 5 / 2022

TITLE : APPLICATION FOR A REVIEW OF PREMISES LICENCE LP19227 in respect of Smak Polski, 48-56 Bank Top, Blackburn, BB2 1TB

1 PURPOSE OF REPORT

- 1.1 For members to consider an application to review premises licence LP19277 issued to Mr Alan Ahmad in respect of Smak Polski, 48-56 Bank Top, Blackburn, BB2 1TB.

2 BACKGROUND

- 2.1 The Licensing Act 2003 provides that the functions of the licensing authority (including its determinations) are to be taken or carried out by the Licensing Committee. The Licensing Committee may delegate these functions to sub-committees. The Council's constitution has been amended to incorporate this.
- 2.2 The Statement of Licensing Policy indicates how the licensing authority approaches its various functions.
- 2.3 Under the provisions of the 2003 Act, where there are no relevant representations on an application for the grant of a premises licence or club premises certificate, or police objection to an application for a personal licence, or to an activity taking place under the authority of a temporary event notice, these matters are dealt with by officers.
- 2.4 The Licensing Committee will receive regular reports on decisions made by officers so that they maintain an overview of the general situation.
- 2.5 Each application that comes before this committee will be treated on its own merits, and this licensing authority will take its decision based upon:
- The merits of the application
 - The promotion of the four licensing objectives
 - The Council's statement of Licensing Policy
 - The Statutory Guidance issued by the Secretary of State in April 2018, under section 182 of the Licensing act 2003

3 **DETAIL**

- 3.1 An application has been submitted under section 51 of the Licensing Act 2003, by Blackburn with Darwen Trading Standards, for a review of the premises licence for Smak Polski, 48-56 Bank Top, Blackburn, BB2 1TB (**Appendix 1**).
- 3.2 The premises has benefitted from a licence to sell alcohol for consumption off the premises since September 2009.
- 3.3 The current Premises Licence Holder successfully applied to transfer the licence to himself and to be the Designated Premises Supervisor and to change the trading name of the store to Smak Polski in July 2016 (**Appendix 2**).
- 3.4 The application from Trading Standards was submitted following the successful prosecution of Mr Alan Ahmad, the premises licence holder, in respect of the possession and supply of a significant amount of illicit tobacco at the licensed premises trading as Smak Polski, along with a conviction for fraud in relation to the supply of illicit tobacco, which seriously undermines prevention of crime and disorder licensing objective.
- 3.5 The investigation also resulted in the seizure of a significant amount of alcohol which was subsequently determined to be non-UK duty paid.
- 3.6 Trading Standards are suggesting that the revocation of the licence is a proportionate response to the seriousness of the offences which the Premises Licence Holder/Designated Premises Supervisor has been convicted for.
- 3.7 Following service of the review application Mr Ahmad contacted the Licensing Department to ask the Council not to take the licence off him and enclosing a copy of a warning issued by his landlord that any further breaches in his lease agreement would result in the lease being terminated (**Appendix 3**).
- 3.8 He was advised that he would have to opportunity to put his case before the Licensing Sub Committee who would consider the matter in due course.
- 3.9 Councillor Jackie Floyd, in her capacity as member for the Billinge and Beardwood ward has submitted a representation supporting the application made by Trading Standards which is reproduced at **Appendix 4**.
- 3.10 The Licensing team have also received 6 emails from other persons voicing support for Mr Ahmad (**Appendix 5**).

4 **CONSULTATION**

- 4.1 All responsible authorities have been consulted and public notices have been displayed in accordance with the Act.
- 4.2 There have been seven electronic representations submitted, one supporting Trading Standards (the applicant) and 6 supporting the Premises Licence Holder.
- 4.3 No representations have been received from any of the other Responsible Authorities.
- 4.4 The representations received are considered relevant in accordance with Section 52(7) Licensing Act 2003.

- 4.5 All relevant parties to this hearing have been given notice under Regulation 6(1) Licensing Act 2003 (Hearings Regulations) 2005.
- 4.6 The Notice of Hearing was compiled in accordance with Regulation 7 Licensing Act 2003 (Hearings Regulations) 2005.

5 POLICY CONSIDERATIONS

- 5.1 The section of the Licensing Authority's current statement of Licensing Policy that deals with reviews has been reproduced at **Appendix 6** to this report.
- 5.2 The relevant section on reviews in the guidance issued by the Secretary of State in April 2018 under section 182 of the Licensing Act 2003 has been reproduced at **Appendix 7** to this report.

6 THE LICENSING ACT 2003

- 6.1 The Licensing Act 2003 requires you to have regard to the application and relevant representations, and take such steps as you consider necessary for the promotion of the licensing objectives.
- 6.2 The steps available to you are to -
- modify the conditions of the premises licence;
 - exclude a licensable activity from the scope of the licence;
 - remove the designated premises supervisor;
 - suspend the licence for a period not exceeding three months;
 - revoke the licence.

The conditions of the licence are modified if any of them are altered or omitted or any new condition is added.

7 LEGAL IMPLICATIONS ARISING FROM THE REPORT

- 7.1 Members are reminded that they must follow the rules of natural justice and they are bound by the code of conduct for elected members in licensing applications.
- 7.2 Members are reminded that they should have read or should hear all the facts prior to making a determination
- 7.3 Members are reminded of the consideration they should give to the Human Rights Act 1998, in particular Article 1 – the right to peaceful enjoyment of possessions, Article 6 – the right to a fair hearing, Article 8 – respect for private and family life and Article 10 – the right to freedom of expression.

8 BACKGROUND PAPERS

- 8.1 Appendices
- 8.2 Statement of Licensing Policy
- 8.3 The guidance issued by the Secretary of State on March 2015 under section 182 of the Licensing act 2003
- 8.4 The Licensing Act 2003.

9 RECOMMENDATION

9.1 That members consider the application for the review of the Premises Licence.

10 WARDS AFFECTED

10.1 The premises are situated in the Blackburn Central Ward.

11 CONTACT OFFICER

11.1 Niky Barrett, Principal Officer - Licensing

12 DATE PREPARED

12.1 29 April 2022

[Insert name and address of relevant licensing authority and its reference number (optional)]

**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 Julie Lloyd-Mullen (on behalf of the Trading Standards Department)

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 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	
Smak Polski 48-56 Bank Top	
Post town Blackburn	Post code (if known) BB2 1TB

Name of premises licence holder or club holding club premises certificate (if known)
Alan Ahmad, 28 Watson Street Blackburn BB2 2RH

Number of premises licence or club premises certificate (if known)
LP19227

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

Julie Lloyd-Mullen (Senior Trading Standards Officer)
Consumer Protection Team
Public Protection and Environmental Health
Blackburn with Darwen Borough Council
Davyfield Depot
Roman Road Industrial Estate
Blackburn
BB1 2LX

Telephone number (if any)

01254 585585

E-mail address (optional)

julie.lloyd-mullen@blackburn.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 ✓

☒☐☐☐

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

The application for review is submitted by the local Trading Standards Department (a distinct element of Blackburn with Darwen Borough Council's Public Protection & Environmental Health Service) on the grounds that the following licensing objective is not being promoted by Smak Polski, 48-56 Bank Top, Blackburn BB2 1TB:

The prevention of crime and disorder objective – it is the view of the Trading Standards Department that the conviction of Alan Ahmad, the licence holder, for supply and possession for supply of a significant amount of illicit tobacco found at Smak Polski, and his conviction for fraud in relation to the supply of illicit tobacco, seriously undermines the licensing objective 'prevention of crime and disorder'.

It is further the view of the Trading Standards Department that the discovery of a significant amount of non-duty paid alcohol on the premises of Smak Polski, also undermines the licensing objective 'prevention of crime and disorder'.

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

In March 2018 Blackburn with Darwen Borough Council trading standards officers carried out a routine visit to a storage facility in Blackburn, accompanied by a tobacco sniffer dog. They searched a suspect storage unit and found 8178 packs of counterfeit cigarettes which were non-compliant with tobacco packaging regs (retail value of £81,500). The cigarettes were seized and enquiries continued.

In November 2018 trading standards officers and the police carried out a raid at Smak Polski, 48-56 Bank Top, Blackburn, again accompanied by a tobacco sniffer dog and supported by the police.

As officers entered the premises they identified that a sale of what was suspected to be (and subsequently confirmed to be) illicit tobacco had just been made. A search of the premises with the sniffer dog indicated that further tobacco was likely to be behind a locked door.

Review of the premises CCTV system showed that Alan AHMAD and another man (who turned out to be the co-accused in the prosecution) had exited through the locked door as officers approached the premises. None of the staff present would assist officers in unlocking the door, so trading standards powers of entry were used to gain entry through this door (with the help of a locksmith). Several further doors were breached this way, and a hidden exit onto the street was located, through which AHMAD and his co-accused had presumably escaped unseen.

Also located was 79,000 cigarettes and 700g of hand rolling tobacco which was subsequently confirmed to be illicit, and 400 bottles of alcohol which was subsequently determined to be non-UK duty paid.

The person who rented the unit raided in March 18 was linked to the supplies taking place in Smak Polski so the two investigations were merged. A decision was subsequently taken to prosecute both that person, and Alan AHMAD, licence holder of Smak Polski.

Proceedings were delayed during covid, but both individuals eventually pleaded guilty and sentencing finally took place at Preston Crown Court on 4th Feb 22.

The co-accused (the person who was renting the storage unit raided in March 18) pleaded guilty to one count of possession for supply of counterfeit cigarettes; he was sentenced to 12 weeks imprisonment suspended for a period of 12 months. In addition, he must undertake 80 hours unpaid work and 15 activity days under a rehabilitation order. He was ordered to pay a contribution towards costs of £750.

Alan AHMAD, the owner of Smak Polski, pleaded guilty to nine offences relating to the supply of illicit tobacco, including fraudulent trading. He was sentenced to 12 months imprisonment on each of 7 counts, to run concurrently.

He was sentenced to 4 months imprisonment for two other related offences, again to run concurrently.

The Judge stated that AHMAD clearly took the lead role in respect of the fraudulent trading, but he recognised that the co-accused was a trusted Lieutenant in respect of the items discovered in storage unit. In considering whether AHMAD's sentence should be suspended, he took into account the two year delay due to covid, and that there was a realistic prospect of rehabilitation. The impact on AHMAD's employees was also considered if he were to receive a custodial sentence. Therefore the sentence was suspended for a period of 18 months.

AHMAD was also required to undertake 150 hours Unpaid Work and Rehabilitation Activity.

A Proceeds of Crime application was made and confiscation proceedings will take place on 24th June 22; costs for AHMAD will be decided at this point too.

A forfeiture and destruction order for the seized alcohol will be applied for at this hearing.

In the opinion of the Trading Standards Department the fraudulent nature of the offending and the quantities of illicit product found fundamentally call into question AHMAD's commitment to upholding the licensing objective 'prevention of crime and disorder'.

The following options are available to the Committee:

1. Do nothing. It is however submitted that the severity of the offending, and its association with fraud, would cause grave concern if no action were taken.
2. Modify the conditions of the licence: the Trading Standards Department submits that no modification of the licence conditions would fit the need to deal with these matters, as they already amount to clear breaches of legislation.
3. Remove the Designated Premises Supervisor. The Trading Standards Department notes that AHMAD is both DPS and Licence holder, so this action would not address his status of licence holder.
4. Suspend the licence for a period not exceeding 3 months.
5. Revoke the premises licence so that no alcohol can be sold at all.

The Trading Standards Department respectfully suggests that fraudulent trading associated with the possession for supply of illicit tobacco throws real doubt on AHMAD's commitment to uphold the licensing objective 'prevention of crime and disorder' in relation to the licence, and respectfully requests the Committee to consider whether revocation of the licence is proportionate to the convictions handed down AHMAD.

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

Please tick ✓ yes

☐

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

Please tick ✓

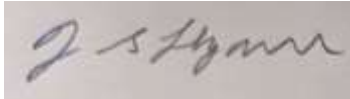
yes

- 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 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 **18/3/22**

.....

Capacity **Senior Trading Standards 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) julie.loyd-mullen@blackburn.gov.uk

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.

Part A

**Premises Licence
Blackburn with Darwen Borough Council**

Premises licence number

LP19227

Part 1 - Premises details**Postal address of premises, or if none, ordnance survey map reference or description**

Smak Polski 48-56 Bank Top

Post town Blackburn**Post code** BB2 1TB**Telephone number** 07780205544**Where the licence is time limited the dates**

Start Date:

End Date:

Licensable activities authorised by the licence

Sale by retail of alcohol

The times the licence authorises the carrying out of licensable activities**Licensing Activity Times**

Sale by retail of alcohol

Monday.....09:00 to 22:00

Tuesday.....09:00 to 22:00

Wednesday.....09:00 to 22:00

Thursday.....09:00 to 22:00

Friday.....09:00 to 22:00

Saturday.....09:00 to 22:00

Sunday.....09:00 to 22:00

*Conditions Imposed After
Arbitration**All CCTV conditions will be in operation within
5 weeks of licence
being granted.**Seasonal Variation Times****Non-Standard Activity Times****The opening hours of the premises****Hours Open to Public**

Monday

Opening hours 09:00 to 22:00

Tuesday

Opening hours 09:00 to 22:00

Wednesday

Opening hours 09:00 to 22:00

Thursday

Opening hours 09:00 to 22:00

Seasonal Variation Hours Open to Public

Friday

Opening hours 09:00 to 22:00

Saturday

Opening hours 09:00 to 22:00

Sunday

Opening hours 09:00 to 22:00

Non-Standard Times**Where the licence authorises supplies of alcohol whether these are on and/ or off supplies** Off the premises

Part 2

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

Mr Alan Ahmad,
28 Watson Street,
Blackburn,
Lancashire,
BB2 2RH

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

7316967

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

Mr Alan Ahmad , 28 Watson Street, Blackburn, Lancashire, BB2 2RH

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 No: ERYC / 215307 Issuing Authority: East Riding and Yorkshire

Annex 1 - Mandatory conditions

Mandatory Conditions

Authorising Supply of Alcohol

Mandatory conditions where licence authorises supply of alcohol

(1) Where a premises licence authorises the supply of alcohol, the licence must include the following conditions.

(2) The first condition is that no supply of alcohol may be made under the premises licence- (a) at a time when there is no designated premises supervisor in respect of the premises licence, or (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

(3) The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

New Mandatory Licensing Conditions come into force 6th April 2010.

The conditions state:

1. No irresponsible promotions
2. No alcohol dispensed directly into the mouth
3. Free tap water for customers

Further conditions will come into force 1st October 2010:

4. Use an age verification policy
5. Give customers the choice of small measures

All the conditions apply to "On Licence Premises" whilst condition 4 is the only condition that applies to "Off Licence Premises"

PEL Conditions

Embedded Restrictions

Annex 2 - Conditions consistent with the operating Schedule

Prevention of Crime & Disorder
Public Safety
Prevention of Public Nuisance
Protection of Children

General - All 4 Licence cond.

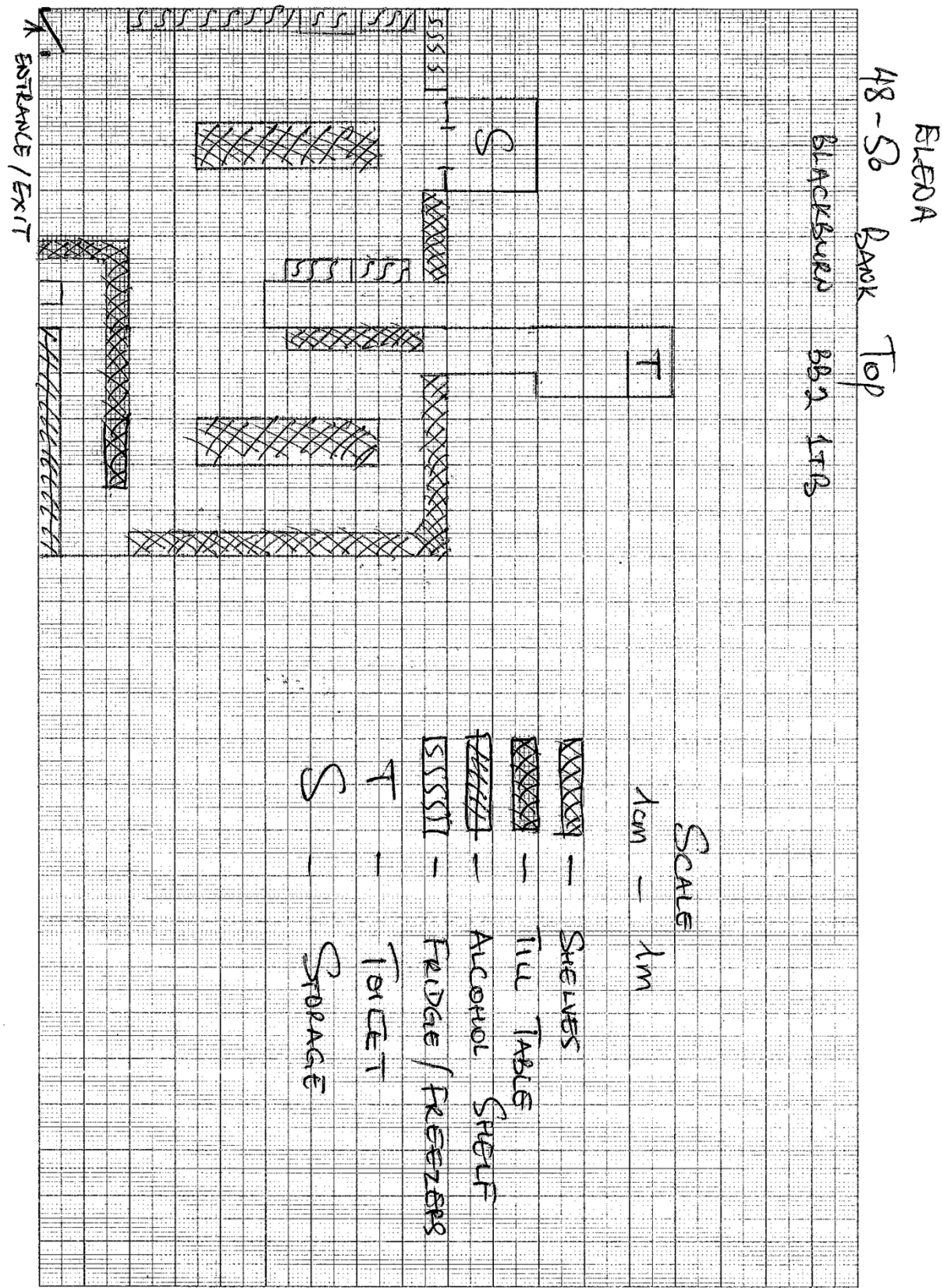
Membership & attendance of meetings of a Crime Reduction Group.
CCTV cameras will be placed both internally and externally.
No alcohol would be sold to any public who seems to be drunk.
No alcohol shall be sold without provision of an ID for anyone who looks underage.

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

*Conditions Imposed After Arbitration**

All CCTV conditions will be in operation within 5 weeks of licence being granted.

Annex 4 - Plans



From: ALAN AHMAD [REDACTED] >
Sent: 24 March 2022 21:40
To: Licensing Team <LicensingTeam@blackburn.gov.uk>
Subject: Alan Ahmad- review licence LP19227 statement

Good morning,

I'm writing to you regarding application to review promises licence for myself Alan Ahmad in respect of Smak Polski.

I understand all convictions what been proved in Court. I already been punished for all this, as Julie Lloyed listed, unpaid work to do, fine to pay and suspended for 18 months.

This shop Smak Polski and my licence is my daily job, the only I have at this moment to keep my life going. Past few years been very hard for business. I still try to keep going, not only coronavirus bring losses in business but also food sell gone down. My shop is food, drink and meat or sweet only. We do not sell any illigal things, I have learned my lesson. Please come any time to check my shop.

I'm writing to you as I'm asking you to not take the licence from me. Smak polski is my daily job to support my family. This shop is tobacco and cigarettes free, we do not sell any of them.

I took my case in court very serious and I won't risk to loose my shop and my job to support my family.

Also I will attach letter from my landlord regarding this situation.

If you need anything or you have any questions or you want check my shop, welcome any time but please do not take my licence as this is my job, place of my work and few other people, my workers. I have learned my lesson and I will pay for this mistake long time.

Thank you

Regards,

Alan Ahmad Smak Polski

Our Ref: 22.277/RMB/SMC
Your Ref:
Date: 21 March 2022
Email: robin.bower@forbessolicitors.co.uk
Direct Dial: 01254 222356

forbessolicitors.

PO Box 686
BLACKBURN BB2 9QY
tel: 01254 222399
fax: 01254 52347
dx: 17952 Blackburn

CONFIDENTIAL – ADDRESSEE ONLY
Mr A Ahmad
40 Spencer Street
Goole
DN14 6EF

Dear Mr Ahmad

**RE: THE TENANCY OF GROUND FLOOR LOCK UP SHOP,
48 – 56 BANK TOP, BLACKBURN, BB2 1TB**

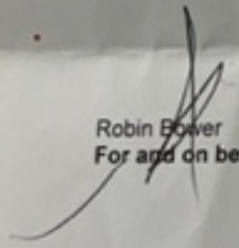
We write to advise that we have been consulted by our client Mr Liaquat Patel who is your landlord.

We understand that it has recently come to Mr Patel's attention that have been the subject of a prosecution in relation to the selling of counterfeit cigarettes at the leased premises.

Our client has asked us to write to you remind that under the Terms of your Tenancy Agreement as set out in Clause 4 in particular 4.5 neither you nor anyone else authorised by you is to use the leased premises or any part of them for any illegal activity.

You are accordingly being put on notice that should there be any future breach of this particular Clause through any illegal activity of any description undertaken at or within the leased property Mr Patel will deem that as a breach of the Tenancy Agreement which will result in our client invoking the provisions of Clause 14 of the Tenancy Agreement in particular Clause 14(b) and the Tenancy will therefore be brought to an end.

Yours sincerely


Robin Bower
For and on behalf of Forbes Solicitors LLP

Forbes Solicitors is the trading name of Forbes Solicitors LLP, a limited liability partnership registered in England and Wales number OC433300, registered office, Rutherford House, 4 Wellington Street (St Johns), Blackburn, England, BB1 8DD. A list of partners can be found at www.forbessolicitors.co.uk/partners. To find your nearest office www.forbessolicitors.co.uk/offices. Unless otherwise indicated either expressly or by context the word "partner" describes a member of Forbes Solicitors LLP or an employee of Forbes Solicitors LLP in their capacity as partner. Forbes Solicitors LLP is authorised

From: Jackie Floyd <[REDACTED]>
Sent: 21 March 2022 15:58
To: Licensing Team <LicensingTeam@blackburn.gov.uk>
Subject: Smak Polski

I'm quite clear that the licence should be revoked.

This is in an area of town with high crime rates and significant challenges with health & well being linked to the consumption of alcohol and tobacco.

Resources of staff to continually monitor are challenging for both the police and environmental protection trading standards.

Cllr Jackie Floyd
Asst Exec Adult Services & prevention
Chair BwD Food Resilience Alliance

Rep 1

From: Awaz Rasul <[REDACTED]>
Sent: 03 April 2022 13:31
To: Licensing Team <LicensingTeam@blackburn.gov.uk>
Subject:

Hello there,
 My name is Awaz
 I am a worker at Smak Polisz Bb2 1tb I love working there people are great I have no problem being there

Rep 2

From: Ahmad Hussain Ali <[REDACTED]>
Sent: 03 April 2022 10:15
To: Licensing Team <LicensingTeam@blackburn.gov.uk>
Subject:

Please keep licence for mr.ALAN AHMAD
 To Blackburn Cancel, I have read letter on the wall of Smak polski 48-56 bank Top
 Blackburn BB2 1TB The owner of company is Alan Ahmad he's really nice person and many
 Charity helpless I'm working in p&L bargain shop 44 bank top we will be so happy if his
 keeps licence for business we know now his don't do anything wrong. He's don't sales
 tobacco from 2018 Please give him a second chance. To keep his license for shop ...
 Many thanks

Josif Norrie
 Thank you

Rep 3

From: London 1980 <[REDACTED]>
Sent: 02 April 2022 22:44
To: Licensing Team <LicensingTeam@blackburn.gov.uk>
Subject: To whom it may concern, I would like to say that as a neighbour to the owner of Smak
 polski shop, 48-56 bank Top, Blackburn BB2 1TB. I had an absolute good helpful caring neighbour, it's
 been a pleasure to have such a good service and a good quality pr...

Sent from my iPhone To whom it may concern,
 I would like to say that as a neighbour to the owner of Smak polski shop, 48-56 bank
 Top, Blackburn
 BB2 1TB.
 I had an absolute good helpful caring neighbour, it's been a pleasure to have such a good
 service and a good quality products at a good price and a very decent and kind staff.
 Regards
 Owner of Jaffa takeaway
 2 bank top

Rep 4

From: Sarhad Rashid <[REDACTED]>
Sent: 04 April 2022 17:54
To: Licensing Team <LicensingTeam@blackburn.gov.uk>
Subject: Please keep licence for mr.ALAN AHMAD To Blackburn Cancel , I been read letter on the wall of Smak polski 48-56 bank Top Blackburn BB2 1TB The owner of company is Alan Ahmad he's really nice person and many Charity helpless I'm working in smak polski 5...

Sent from my iPhone

Rep 5

From: fuad jabar <[REDACTED]>
Sent: 07 April 2022 15:34
To: Licensing Team <LicensingTeam@blackburn.gov.uk>
Subject:

Please keep licence mr.ALAN AHMAD
I been see later on the Smak polski 48-56 bank Top Blackburn BB2 1TB i know Alan Ahmad he's really nice person I'm one off nebulous off street I'm owner in p&L bargains shop 44 bank top please give him chances keep licence for business we know now is don't do anything wrong anymore
thanks
fouad jabbar

Rep 6

From: shak kader <shak82@live.co.uk>
Sent: 13 April 2022 20:47
To: Licensing Team <LicensingTeam@blackburn.gov.uk>
Subject: Hi

Please keep licence for mr.ALAN AHMAD
To Blackburn Cancel , I been read letter on the wall of Smak polski 48-56 bank Top Blackburn BB2 1TB The owner of company is Alan Ahmad thanks

Extract from Blackburn with Darwen Statement of Licensing Policy

Reviews

107. Reviews of Premises Licences and Club Premises Certificates represent a key protection for the community where problems associated with the licensing objectives occur once a licence has been granted. If relevant representations are made about a current licence the Council will hold a hearing to consider them unless the Council, the applicant and everyone who has made representations has agreed that the hearing is not necessary.
108. The Council can only review a licence where the representation provides evidence to show that the licensing objectives are not being met. An application for a licence review is recognition that existing systems may have broken down.
109. The licensing authority may not initiate its own review of a Premises Licence or Club Premises Certificate. The Police, or officers who are specified as responsible authorities under the Act, may however request reviews as can Councillors, and other persons living, or involved in a business, or representative.
110. The licensing authority's role will be to administrate the process and determine the outcome of the hearing, where an evidential basis for the allegations will need to be submitted.
111. Representations made by another department which is a responsible authority will be treated by the licensing authority in precisely the same way that they would treat representations made by any other body or individual. In every case, an evidentiary basis for the allegations made will need to be laid before the licensing authority.
112. It is important to recognise that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, other persons and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between these groups in a way that would undermine the benefits of co-operation. Licence holders will therefore be given early warning of concerns about problems identified at the premises concerned and of the need for improvement. It is expected that a failure to respond to such warnings would lead to a decision to request a review.
113. Where a complaint from a responsible authority also includes an allegation of criminal conduct on the part of the licence holder, (such as allowing premises to be used for the sale of unlawful drugs), the licensing committee would first expect the relevant authority to exhaust the relevant legal powers at their disposal before making an application for review. The licensing committee cannot be expected to assume the role of a criminal court.
114. Where a review follows convictions or the failure of a prosecution in the criminal courts, it is not for the licensing committee to attempt to go behind the findings of the courts, which it will treat as a matter of undisputed evidence before it.
115. It is envisaged that the licensing authority, the police and other agencies who are responsible authorities, will use the review procedures effectively to deter crime and other inappropriate activities. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined because the premises are being used to further criminal activity, revocation of the licence – even in the first instance – is likely.

116. In the absence of any rule to the contrary, the Committee will expect that any party making an application for a licence to be reviewed will prove the facts on which they are relying on to support their allegations, on the balance of probabilities, that is, that it is more likely than not that the circumstances being complained of did actually occur. Because of the potentially serious consequences to a licence holder following a licence review, mere anecdotal or hearsay evidence will not be sufficient.

Extracts from the Statutory Guidance issued under Section 182 of the Licensing Act 2003, which are particularly relevant to the application.

11. Reviews

The review process

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.

- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 14 of this Guidance.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holder's early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this cooperation.

Powers of a licensing authority on the determination of a review

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)¹;
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

Reviews arising in connection with crime

11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing

authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.
- 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
 - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
 - for prostitution or the sale of unlawful pornography;
 - by organised groups of paedophiles to groom children;
 - as the base for the organisation of criminal activity, particularly by gangs;
 - for the organisation of racist activity or the promotion of racist attacks;
 - for employing a person who is disqualified from that work by reason of their immigration status in the UK;
 - for unlawful gambling; and
 - ***for the sale or storage of smuggled tobacco and alcohol.***
- 11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.