

Blackpool Council

APPLICATION FOR THE REVIEW OF A PREMISES LICENCE OR CLUB PREMISES CERTIFICATE

LICENSING ACT 2003

***Review
requested by:***

Mark Marshall



Licensing Service
Blackpool Council
Municipal Buildings, PO Box 4
Blackpool, FY1 1NA

Contact

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www.blackpool.gov.uk

LS/F/009/14/3

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. You may wish to keep a copy of the completed form for your records.

I	Mark Marshall, Licensing and Health and Safety Manager
[insert name of person requesting review]	

apply for the review of a premises licence under section 51 or 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.

Part 1 – Premises Details

Postal address of premises or club premises if any, or if none the ordinance survey map reference or description.									
Premises Name and Address	Bucharest								
	47-49 Talbot Road								
	Blackpool	Post Code	F	Y	1		1	L	L
State the Name of the premises licence holder or the name of the club holding the club premises certificate (if known)									
Claudia Niculina Badea									
Premises Licence or Club Premises Certificate Reference Number (if known)								PL2090	

Part 2 – Applicant details

I am:

1) an individual, body or business which is not a responsible authority	Please tick
2) a responsible authority (please also complete 2C below)	X
3) a member of a club to which this application relates (also complete section 2A below)	

(2A) Individual Applicants (fill in as applicable)

Title:	Mr	Mrs	Miss	Ms	Other	I am 18 years old or over	Please tick				
							Yes	No			
Forenames						Surname					
Home address											
						Post Code					
Telephone Number						Mobile Number					
E-Mail Address											

(2B) Other Applicant or Representing Body

Name												
Address												
					Post Code							
Telephone No.												
Email Address												

(2C) Responsible Authority applicant

Name	Mark Marshall											
Address	Health and Safety											
	Bickerstaffe House, 1 Bickerstaffe Square											
					Post Code	F	Y	1		3	A	H
Telephone Number	01253-478493											
Email Address	Mark.marshall@blackpool.gov.uk											

Part 3 – Reason for Review

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

Please tick	
1) the prevention of crime and disorder	X
2) public safety	x
3) the prevention of public nuisance	
4) the protection of children from harm	

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

Introduction

The licence was granted for this premises in August 2016 and within a matter of weeks of opening I received complaints about the shop selling alcohol irresponsibly to street drinkers who went on to cause problems in the town centre.

The details of the concerns were communicated in writing, set out below;

Ms Claudia Badea
11-12 Station Terrance
Blackpool
FY4 1HT

Our Ref: MM
Direct Line: (01253) 478493
Email: mark.marshall@blackpool.gov.uk

Re Premises Licence 2090

Dear Madam,

Further to my visit of the 29th September 2016 I write to confirm our discussion.
Firstly I attended after concerns had been raised by local businesses and the town centre BID wardens (Business Improvement District) who had observed people described as street drinkers purchasing high strength single cans of beer from your premises.

The brief chronology was;

Tuesday 27th September 2016 - Street drinkers accessing the product were observed by

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businesses in the area.

Wednesday 28th September 2016 - BID warden spoke with the complainant and whilst at his premises observed street drinkers purchasing high strength single cans of beer.

Thursday 28th September 2016 - BID wardens observed street drinkers in St Johns Square behaving in an anti-social manner shouting, swearing and staggering around causing alarm to the public whilst drinking a distinctive black colored can of European beer or larger.

Whilst at your premises on the 29th September I noticed this distinctive Black can which from the information you provided had an ABV of 9%, the item was being sold from behind the counter which is in compliance with the terms of your licence.

However when I raised the issue of single can sales you accepted that this had occurred which is a straight forward contravention of your licence conditions and as such would be an offence under section 136 of the Licensing Act 2003. Your conditions are shown below;

1 *The Licence holder is to support and rigorously enforce a Challenge 25 proof of age policy.*

Any person who looks or appears to be under the age of 25 shall be asked to provide identification that they are over the age of 18. The following are the only forms of identification acceptable:

i. UK photo driving licence

ii. Passport

iii. Proof of Age Standards Scheme Card

2 *All staff to have received suitable training in relation to the proof of age scheme to be applied upon the premises. Records to evidence this will be made available to an authorised officer upon request. Refresher training shall be conducted every 6 months as a minimum.*

3 *All staff to have received suitable training in relation to not serving to persons suspected of being drunk. Records to evidence this will be made available to an authorised officer upon request. Refresher training shall be conducted every 6 months as a minimum.*

4 *Ordinarily a member of management team will be on the premises at all times the premises are open to the public. In exceptional circumstances where this is not the case another member of staff will be given responsibility of the premises and all staff will have knowledge of who this person in responsibility is.*

5 *The primary purpose of the premises is to operate as a food retailer and the sale of alcohol is ancillary to the retail of food.*

6 *Any alcohol over the ABV of 6% is to be located behind a point of sale area.*

7 *No single cans of lager, cider or bitter to be sold.*

8 *CCTV will be installed internally and externally at the premises and will comply with the following:
The CCTV system shall be installed, maintained and operated to the reasonable satisfaction of Lancashire Constabulary. All public areas of the premises are to be covered by the system. The system will incorporate a camera covering each of the entrance doors and will be capable of providing an image which is regarded as identification standard. The system will display on any recording the correct time and date of the recording. The system will make recordings during all hours the premises are open to the public. VCR tapes or digital recording shall be held for a minimum of 21 days after the recording is*

*made and will be made available to the Police or any authorised persons acting for a Responsible Authority for inspection upon request.
The system will, as a minimum, record images of the head and shoulders of all persons entering the premises.*

- 9 A staff member who is conversant with the operation of the CCTV system will be on the premises at all times the premises are open to the public. This staff member will be able to show recent data or footage with the absolute minimum of delay when requested to a Police Officer or to a Local Authority Enforcement Officer.*
- 10 The Licence Holder or Designated Premises Supervisor shall notify the Police Licensing Unit on any occasion when the CCTV is to be inoperative for a period in excess of one working day and shall provide a certificate from a competent person stating the reason for the system being inoperative and the measures which have been taken to satisfy the licence conditions.*
- 11 Appropriate signage alerting customers to CCTV recording shall be displayed in conspicuous positions on the premises.*
- 12 An authorisation of sales, signed and dated by the DPS, shall be kept at the premises showing all persons authorised by them to make sales of alcohol at the premises.*
- 13 An incident book will be maintained, in which shall be recorded :
(i) All incidents of crime and disorder
(ii) Refused sales to suspected under age/ drunken persons
(iii) A record of any person refused admission or asked to leave the premises
(iv) Details of occasions upon which the Police are called to the premises
(v) The use or discovery of drugs
That book shall be available for inspection by a Police Officer or authorised person .*

After I highlighted the reported problems in the town centre with this high strength product you accepted that you would take the item off sale and only sell lager with a maximum ABV of 7%. This undertaking is not binding but is seen as the most effective way to secure the promotion of the licensing objections in particular;

The Prevention of Crime and Disorder and
The Prevention of Public Nuisance.

The Section 182 Guidance does expect that responsible authorities will put licence holders on early notice of concerns but equally recognises that if concerns are not addressed then a review of the licence may occur where appropriate controls can be imposed. The applicable extract from that guidance is as follows;

11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders 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 co-operation.

Our discussion, this letter and your undertaking not to sell the high strength (9%) black tinned beer will be shared with the Police and BID and should further concerns about irresponsible retailing be disclosed then immediate formal action will be taken.

Yours Faithfully

Mark Marshall,
Licensing and Health and Safety Manager

On the **10th January 2017** I received further complaints from a BID warden regarding information he had received and also witnessed that the shop was selling "under the counter cigarettes".

On the **16th January 2017** at 13.40hrs I visited Bucharest with 2 colleagues from Trading Standards, Myron Moss and Lee Petrak. A quantity of non-duty paid cigarettes was found under the counter and a further amount was found in the store room to the rear.

My own observations at the time of the visits that there was a possible electrical safety issues in that a socket was trailing on the floor and the risk of tripping or ripping the wire from the socket was likely, if the grey twin and earth wire was ripped from the socket this would cause serious injury through electric shock, this item was in the public area in a traffic route we should be free from danger or obstruction.



Please find e mail from Lee Petrak detailing the quantities and contraventions;

Mark

Proprietor of business address above is Claudia Badea 21.01.1988 11/12 Station Terrace Blackpool FY4 1HT.

Quantity of illicit tobacco seized as follows: -

7 x 50g pouches of Golden Virginia

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50 packs of Minsk Cigarettes
7 Packs of L&M cigarettes
4 Sleeves of Mayfair Cigarettes
3 Sleeves of Royals cigarettes
1 sleeve of L&M cigarettes

All products are incorrectly labelled and are therefore illegal to sell/supply in the UK (The Tobacco and Related Products Regulations 2016). I also have concerns that some of the products may be counterfeit. Where a brand representative can be located, samples will be sent to them for examination. Depending upon the efficiency of the affected brands, in my experience this can take up to 3 months.

Let me know if you need further information.

Mr Lee Petrak
Public Protection Officer
Trading Standards Enforcement

At the time of the visit there were 2 females behind the counter, one being Claudia Badea, the current DPS, when I explained that I would be reviewing the licence she stated she had lost over £40,000 since opening the shop and did it to claw some of her losses back, she later admitted to Lee Petrak that she had been selling the cigarettes for about 6 weeks. Lee also asked if she could supply any receipts for the cigarettes to which she replied she could not.

Section 144 of the Licensing Act 2003 prohibits the keeping of smuggled goods

(1) A person to whom subsection (2) applies commits an offence if he knowingly keeps or allows to be kept, on any relevant premises, any goods which have been imported without payment of duty or which have otherwise been unlawfully imported.

(2) This subsection applies—

(a) to any person who works at the premises in a capacity, whether paid or unpaid, which gives him authority to prevent the keeping of the goods on the premises,

(b) in the case of licensed premises, to—

(i) the holder of a premises licence in respect of the premises, and

(ii) the designated premises supervisor (if any) under such a licence,

(c) in the case of premises in respect of which a club premises certificate has effect, to any member or officer of the club which holds the certificate who is present on the premises at any time when the goods are kept on the premises in a capacity which enables him to prevent them being so kept, and

(d) in the case of premises which may be used for a permitted temporary activity by virtue of Part 5, to the premises user in relation to the temporary event notice in question.

(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the

standard scale.

(4)The court by which a person is convicted of an offence under this section may order the goods in question, and any container for them, to be forfeited and either destroyed or dealt with in such other manner as the court may order.

In addition to the prima facie offences disclosed the Section 182 Guidance also provides a list of conduct that it view as particularly serious and the sale of smuggled goods appears on that list.

Extract from Sect 182 Guidance (March 2015 edition)

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 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 knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;

- for unlawful gambling; and

- for the sale or storage of smuggled tobacco and alcohol.**

In light of the short but problematic trading history and the fact the premises operates in a Cumulative Impact area my suggestions would be that the operator has traded irresponsibly and consideration to revoking the premises licence should be made

Please provide as much information as possible to support the application. Continue on a separate sheet if necessary. (Please read guidance note 3 before completing)

Part 4 – Other relevant information

Have you made an application for review relating to this premises before?	Please tick	
	Yes	No
		X
	Day	Month
If yes please state the date of that application		

If you have made representations before relating to this premises, please state what they were and when you made them.

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.	Yes
	No
	X
I understand that if I do not comply with the above requirements my application will be rejected	Yes
	No
	X

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 5 – 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 the behalf of the applicant please state in what capacity.**

Signed	
Print Name	Mark Marshall
Capacity	Licensing and Health and Safety Manager
Date	16 January 2017

Contact name and address for correspondence associated with this application. (Where not previously given) (See guidance note 6)					
Title:	Mr	Mrs	Miss	Ms	Other
Forenames	Mark			Surname	Marshall

Address for Correspondence associated with this application	PO Box 4									
	Blackpool									
		Post Code	F	Y	1		1	N	A	
Telephone Number	01253 478493		Mobile Number	07796994786						
E-Mail Address	mark.marshall@blackpool.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 that we shall use to correspond with you about this application.