

# BIRMINGHAM CITY COUNCIL

## PUBLIC REPORT

<b>Report to:</b>	<b>Licensing Sub Committee</b>
<b>Report of:</b>	<b>Interim Assistant Director of Regulation &amp; Enforcement</b>
<b>Date of Meeting:</b>	<b>Monday 11<sup>th</sup> May 2020</b>
<b>Subject:</b>	<b>Licensing Act 2003 Premises Licence – Review</b>
<b>Premises:</b>	<b>Yardley Cut Price, 83 Broadstone Road, Yardley, Birmingham, B26 2BY</b>
<b>Ward affected:</b>	<b>Yardley East</b>
<b>Contact Officer:</b>	<b>David Kennedy, Principal Licensing Officer, <a href="mailto:licensing@birmingham.gov.uk">licensing@birmingham.gov.uk</a></b>

### **1. Purpose of report:**

To consider an application to review a Premises Licence.

### **2. Recommendation:**

To consider and determine the review application.

### **3. Brief Summary of Report:**

Review application received on 18<sup>th</sup> March 2020 from the Chief Inspector of Weights & Measures in respect of Yardley Cut Price, 83 Broadstone Road, Yardley, Birmingham, B26 2BY.

A representation has been received from West Midlands Police as a responsible authority.

### **4. Compliance Issues:**

#### **4.1 Consistency with relevant Council Policies, Plans or Strategies:**

The report complies with the City Council's Statement of Licensing Policy and the Council's Corporate Plan to improve the standard of all licensed persons, premises and vehicles in the City.

## **5. Relevant background/chronology of key events:**

The Chief Inspector of Weights & Measures applied on 18<sup>th</sup> March 2020 for a review of the Premises Licence under Section 51 of the Licensing Act 2003 for Yardley Cut Price, 83 Broadstone Road, Yardley, Birmingham, B26 2BY.

A representation has been received from West Midlands Police, as a responsible authority, which is attached at Appendix 1.

Review application is attached. See Appendix 2.

The Premises Licence is attached at Appendix 3.

Site location plans are attached at Appendix 4.

When carrying out its licensing functions, a licensing authority must have regard to Birmingham City Council's Statement of Licensing Policy and the Guidance issued by the Secretary of State under s182 of the Licensing Act 2003.

The Licensing Authority is also required to take such steps as it considers appropriate for the promotion of the licensing objectives, which are: -

- a. The prevention of crime and disorder;
- b. Public safety;
- c. The prevention of public nuisance; and
- d. The protection of children from harm.

## **6. List of background documents:**

Copy of the representation as detailed in Appendix 1.

Review Application Form, Appendix 2.

Copy of Premises Licence, Appendix 3.

Site location plans, Appendix 4.

## **7. Options available**

Modify the conditions of Licence

Exclude a Licensable activity from the scope of the Licence

Remove the Designated Premises Supervisor

Suspend the Licence for a period not exceeding 3 months

Revoke the Licence

No Action

Where the authority takes a step to modify conditions or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

**From:** Abdool Rohomon  
**Sent:** 30 March 2020 10:32  
**To:** Licensing  
**Cc:** Martin Williams  
**Subject:** Yardley cut price/Broad news - Review

Dear Licensing

West Midlands Police have received and looked at the review application submitted in relation to Yardley Cut Price/Broad News – 83 Broadstone road, Yardley.

West Midlands Police wish to join in with this review application. Having read the reasons for the review application West Midlands Police are seriously concerned that the premises is taking a blasé attitude to the licensing objectives.

The complaint that has been noted in the application made by a local resident after they found alcohol and cigarettes in a bedroom has been recorded as an incident on the Police systems. There are in total 5 crimes recorded for that incident, including an allegation of an assault on a 1 yr old child by staff, and then counter allegations by staff and members of the family.

All of these crimes have had to be filed as there is no chance of independent corroboration, it is noted that on the investigation log one of the reasons for this was the fact the CCTV was not working.

The premise licence does have a CCTV condition on it, although it merely states that the premises will have CCTV. It does not say it must be recording, however under Data Protection laws if a premises has CCTV it must display the reason as to why it has it and also be fit for the purpose it was installed. The fact it was not recording or working had negated its reason for it being installed and so not fit for purpose, and also prevented the crimes from being cleared.

West Midlands Police are seriously concerned that the premises had been given advice following the complaint from the family, both in terms of a visit from trading standards officers and also written advice. This has clearly been ignored as no more than a couple of months later, the same member of staff that was given the advice then sold to an underage person in a test purchase operation.

The sale of alcohol to underage is a very serious offence under the licensing act 2003, however taking this aside the impact of alcohol and cigarette sales to persons under the age over 18 is considerable. Many studies have shown the detrimental effects it has on the health (mental and physical) of the person under 18 and how this can lead to other serious consequences of being involved in crime, being a victim of crime.

Having checked the Police recording systems for the premise. In January 2020 there is another crime reported for the premises, it is the circumstances of the crime that are significant more than the crime itself. It has been recorded as an assault, with the circumstances being – “the offender entered the shop and ask for some alcohol on his tab, but the IP refused anymore beer until his tab had been paid up”

The premises appears to be supplying alcohol to people that cannot afford it and giving them credit (reference to the tab), the premise should not be giving credit as they would not be authorised as a broker to do so, but it also shows that the premise is not being socially responsible, if a person cannot afford the alcohol they should not be given it.

West Midlands Police wish to join in the review, the supporting documents to the above will be submitted prior to the hearing.

regards

**Abs Rohomon. BEM**

**PC 4075 Rohomon. BEM**  
**BW Licensing**  
**Police headquarters**  
**Lloyd House**  
**Colmore Circus**  
**Birmingham**

**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.

**1 Martin Williams (on behalf of Donna Bensley Chief Inspector of Weights & Measures)**

Apply for the review of a premises licence under section 51 of The Licensing Act 2003 for the premises described in part 1 below.

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

<b>Postal address of premises or, if none, ordnance survey map reference or description</b>	
YARDLEY CUT PRICE/ (BROAD NEWS) 83 Broadstone Road Yardley	
<b>Post town</b> BIRMINGHAM	<b>Post code (if known)</b> B26 2BY
<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Mr Abdullah KHAN	
<b>Number of premises licence or club premises certificate (if known)</b> 3271	

**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)

YES

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

☐

Premises licence review Yardley Cut Price/Broad News 9622760

Page 1

**(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;  Martin Williams Birmingham Trading Standards Manor House 40 Moat Lane Birmingham B5 5BD  Our Ref: 9622760
Telephone number (if any)
E-mail address (optional)

**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 ✓

**Yes**

**Yes**

☐

**Yes**



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

On 14 November 2019 Trading Standards received the following information from the local police team covering the Garretts Green area of Birmingham in relation to an incident at Yardley Cut Price/Broad News of 83 Broadstone Road B26 2BY Birmingham.

The complaint came from a concerned mother who had found some cans of beer in her 15-year-old sons' room and questioned where he had bought them from. He told her Broadstone News and that the shopkeeper has sold underage kids' cigarettes and alcohol. The complainant said that she would go and show the manager photos of her son and his mates so that he would know that they are underage and not to serve them.

There have been other previous complaints alleging the selling cigarettes to children and selling them as singles and selling alcohol to children.

The same concerned mother complained directly to the Trading Standards Service on 14 November 2019 and gave similar information and said that she had gone into the shop afterwards to complain and it had become very heated.

Consequently, on 26 November 2019 Trading Standards Enforcement Officer Paul ELLSON went to the shop at 83 Broadstone Road. It trades as Yardley Cut Price although it has been known in the area as Broad News for many years. The sign above the shop says; "Broad News"

Officer ELLSON reported back that the shop was in a state of chaos, there was female behind the counter who said that she didn't actually work there; she gave her name as Ms Ishrat HABIB, the cigarette gantry was open for over 25 minutes and they were not using a refusals book register.

After a while a Mr Mir KHAN came who said he was the manager so Officer ELLSON wrote out a traders notice No. 13567/8 giving notice under The Licensing Act 2003 that an allegation had been made that alcohol was being sold to persons under the age of 18 and that this was an offence. He also gave notice that a test purchase operation of alcohol and/or tobacco may be undertaken as a follow up to check the shops compliance with its legal responsibilities.

He also advised about tobacco legislation including The Tobacco and Related Products Regulations 2016 and that the cigarette display gantry must not be left open displaying the tobacco products for sale.

On Thursday 20 February 2020 Trading Standards conducted an underage test purchase exercise with two female volunteers who were 14 and 15 years old.

The volunteers went into Yardley Cut Price/Broad News at approximately 11.25am and the 15 year old girl was sold a four pack of 4.0% alcohol WKD alcopop drink for £4.99. The sale was observed by Trading Standards Enforcement Officer Naseem SHAMAS.

The young volunteers were not asked their age or for any identification at all during the sale process.

After the sale was made and the young persons had left the premises Officer SHAMAS and Enforcement Officer Geary WARMINGTON went back into the shop. Officer SHAMAS identified the seller who gave her name as by Ms Ishrat HABIB (the same person present behind the counter when Officer ELLSON conducted his earlier visit and had said she didn't work there). The officers told Ms HABIB that she had just sold alcohol to a person under the age of 18 and that it was an offence under The Licensing Act 2003 and that the facts would be reported.

This was confirmed in written form in a traders notice No. 12285 which Ms HABIB signed and was given a copy to hand to the premises licence holder of the shop.

Just before the officers left a man came in who said he was the person who Ms HABIB was covering for that day but said he was only an employee and had no responsibility for the business.

Neither the Premises Licence Holder nor the Designated Premises Supervisor were present at all during this visit to the shop.



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

The sale of alcohol to persons under the age of 18 is a serious offence under The Licensing Act 2003.

It also has serious consequences when it gets into the hands of young people as illustrated in the circumstances leading up to the test purchase operation. Not the least it can make them vulnerable and likely to all kinds of unwanted actions and influences.

The shop has had fair warning not to sell alcohol. Clearly the complaints made are justified.

This shop had been warned by the parent of the first child who alleged that he had bought alcohol from them.

Advice and a warning was later given by Officer ELLSON not to sell alcohol to underage people.

There is no excuse at all for making the sale to the volunteer; it appears to be a badly run premises with no control by the premises licence holder, (PLH) or designated premises supervisor, (DPS). The employees also appear to take no responsibility and are evasive at the very least. None appear to take legal or moral responsibility for any of their actions.

The original incident should have been a sufficient deterrent. Particularly as the incident ended in a heated dispute.

It also appears that there have been allegations that the shop is selling illicit tobacco products and cigarettes to underage people as well;

#### **Previous history of this shop.**

The current licence for this premises was granted on 7 August 2009.

On 16 September 2016 Trading Standards received a complaint from a member of the public that the shop was selling counterfeit or illicit cigarettes. This was given reference 8408480.

Following this information an officer from Trading Standards went to Yardley Cut Price/Broad News on 26 September 2016 and gave advice about illicit cigarettes.

A trader's notice number 10041 was issued on this occasion to warn the owners of the shop and to confirm the advice given.

#### **Recommendations.**

Given the history and number of times this shop has been warned about underage sales and how to comply with Trading Standards and Licensing laws I do not think under the current management things will change for the better.

The incident with the 15year old boy and his parent which started this action off is a

direct consequence of the shops refusal to act responsibly and comply with the law.

They have breached three of the licensing objectives and have little regard for the law.

I would ask that the Committee consider all outcomes at their disposal but due to the seriousness of the matters would recommend that the best course of action is for the licence to be revoked to prevent further harm to the neighbourhood which they are supposed to serve.

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

No

If yes please state the date of that application

Day	Month	Year

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

N/A

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 YES
- I understand that if I do not comply with the above requirements my application will be rejected YES

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

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

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

Signature

(Martin Williams)

Date 18/03/20

Capacity 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)

**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.

**LICENSING ACT 2003****PREMISES LICENCE**

Premises Licence Number:

3271 / 3

**Part 1 - Premises details:**

<b>Postal address of premises, or if none, ordnance survey map reference or description</b> Yardley Cut Price 83 Broadstone Road Yardley	
<b>Post town:</b> Birmingham	<b>Post Code:</b> B25 8NY
<b>Telephone Number:</b>	

<b>Where the licence is time limited the dates</b> N/A
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<b>Licensable activities authorised by the licence</b> M2          Sale of alcohol by retail (off the premises)
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<b>The times the licence authorises the carrying out of licensable activities</b> Monday - Sunday          07:00          -          00:00          All
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<b>The opening hours of the premises</b> Monday - Sunday          07:00          -          00:00
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<b>Where the licence authorises supplies of alcohol whether these are on and/or off supplies</b> Off Supplies
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**Part 2**

<b>Name, (registered) address, telephone number and email (where relevant) of holder of premises licence</b> Mr Abdullah Khan	
<b>Post town:</b>	<b>Post Code:</b>
<b>Telephone Number:</b>	
<b>Email</b> N/A	

<b>Registered number of holder for example company number or charity number (where applicable)</b> N/A
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<b>Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol</b> Mr Sritharan Mailvaganam	
<b>Post town:</b>	<b>Post Code:</b>
<b>Telephone Number:</b> N/A	

<b>Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol</b>	
<b>Licence Number</b> BBC/PERN/310/06	<b>Issuing Authority</b> BEDFORD BOROUGH COUNCIL

Dated 08/01/2018

Bhapinder Nandhra  
Senior Licensing Officer  
For Director of Regulation and Enforcement



## Annex 1 – Mandatory Conditions

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.

Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.

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. 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. 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.

(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) In this condition:— (a) “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 amount 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; (b) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979; (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) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994. (3) Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny. (4) Where the permitted price 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, 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 operating schedule**

### **2a) General conditions consistent with the operating schedule**

The Licence Holder shall ensure that all staff are trained with regard to the Licensing Act 2003 and the service of alcohol. A record shall be kept of all attempted purchases by persons under the age of 18. The Licence Holder shall ensure that there is liaison with the local Police Licensing Officer on a regular basis.

### **2b) Conditions consistent with, and to promote the prevention of crime and disorder**

The Licence Holder shall ensure that prominent signs are displayed with regard to alcohol sales.

The Licence Holder shall ensure that CCTV cameras are installed at the premises.

The Licence Holder shall ensure that a refusal book is kept at the premises.

### **2c) Conditions consistent with, and to promote, public safety**

The Licence Holder shall ensure that all emergency lighting is checked on a weekly basis. Entrances, exits and passageways shall be kept clear.

### **2d) Conditions consistent with, and to promote the prevention of public nuisance**

The Licence Holder shall ensure that prominent signs are displayed requesting customers to have regard for local residents, when leaving the premises.

Adequate bins shall be available for customers to dispose of litter.

### **2e) Conditions consistent with, and to promote the protection of children from harm**

The Licence Holder shall ensure that a Challenge 21 policy is operated on the premises.

### **Annex 3 – Conditions attached after hearing by licensing authority**

#### **3a) General committee conditions**

N/A

#### **3b) Committee conditions to promote the prevention of crime and disorder**

N/A

#### **3c) Committee conditions to promote public safety**

N/A

#### **3d) Committee conditions to promote the prevention of public nuisance**

N/A

#### **3e) Committee conditions to promote the protection of children from harm**

N/A

#### **Annex 4 – Plans**

The plan of the premises with reference number **104897-3271/3** which is retained with the public register kept by Birmingham City Council and available free of charge for inspection by appointment only. Please call the Licensing Section on 0121 303 9896 to book an appointment.



