

BARNSELY METROPOLITAN BOROUGH COUNCIL

**Report of the Assistant
Director of Regulatory Services
to the meeting of the Statutory
Licensing Regulatory Board
Sub Committee to be held on
the 25th June 2008.**

LICENSING ACT 2003

**APPLICATION FOR A REVIEW OF A PREMISES LICENCE
Waddies Off Licence, 192 Green Road, Penistone, Barnsley, S36 6BG.**

1. Background

- 1.1 In May 2008 an application was received from Police Sergeant Derek Barker, as a Responsible Authority under the provisions of the Licensing Act 2003, for a review of a premises licence for Waddies Off License, 192 Green Road, Penistone, Barnsley.
- 1.2 Members are requested to determine the application for the review of the Premises Licence.
- 1.3 Waddies is a small convenience store with the provisions for the sale of alcohol which is situated close to a main arterial route through Penistone. See Appendix 1

2 Premises Licence

- 2.1 The Premises Licence for Waddies Off Licence has been held by Mr Ian Middleton who is a Personal Licence holder, since the 14th August 2007.

a) Supply of Alcohol

The premises concerned in this review application hold a premises licence authorised for the sale of alcohol by retail for consumption off the premises only. The times authorised to undertake the licensable activity are from;

07:30 to 13:00 and 15:00 to 21:30 on Monday, Tuesday, Thursday and Friday,
07:30 to 09:30 and 15:00 to 21:30 on Wednesdays,

07:30 to 12:00 and 16:00 to 20:00 on Saturdays

07:30 to 09:30 and 17:00 to 21:30 on Sundays

In addition, the premises licence includes seasonal variations for the sale by retail of alcohol;

17:00 to 21:30 Easter Monday, May Day, Spring Bank/Whitsun and August Bank Holidays and Boxing Day,

and 07:30 to 13:00 and 15:00 to 20:00 on New Year's Eve.

b) Hours Premises are open to the public

The premises licence allows the premises to open;

07:30 to 13:00 and 15:00 to 21:30 on Monday, Tuesday, Thursday and Friday,
07:30 to 09:30 and 15:00 to 21:30 on Wednesdays,

07:30 to 12:00 and 16:00 to 20:00 on Saturdays

07:30 to 09:30 and 17:00 to 21:30 on Sundays

In addition, the premises licence includes seasonal opening times

17:00 to 21:30 Easter Monday, May Day, Spring Bank/Whitsun and August Bank Holidays and Boxing Day,

and 07:30 to 13:00 and 15:00 to 20:00 on New Year's Eve.

4 The Application for a Review of the Premises Licence

4.1 On the 12th May 2008 an application was made by the Licensing Sergeant of South Yorkshire Police, as a Responsible Authority, to Review the Premises Licence for Waddies, 192 Green Road, Penistone, Barnsley. The application for review relates to the following licensing objectives:-

1) The Prevention of Crime and Disorder

2) The Prevention of Public Nuisance

3) The Protection of Children from Harm

5 Grounds for Review

- 5.1 During the last seven months Sergeant Derek Barker has received five items of intelligence which have been recorded by South Yorkshire Police and one recorded by Trading Standards, all of which relate to sales of alcohol from Waddies to persons under the age of 18. These are attached as Appendix 2.
- 5.2 Anecdotal information of a similar nature to the recorded intelligence has also been received, although this cannot be substantiated.
- 5.3 PC Andrew Thompson of the Safer Neighbourhood Team has visited Waddies Off Licence on seven separate occasions since August 2007 in relation to the underage sales of alcohol, nuisance youths and damage within close proximity to the shop. Both the DPS/premises licence holder and other members of staff were warned about under age sales. PC Thompson's Witness Statement is attached as Appendix 3.
- 5.4 PC Mark David Silcock was on duty with PC Thompson on the occasions when he had cause to visit Waddies Off Licence. His witness statement is attached as appendix 4.
- 5.5 As a result of the above intelligence, PS Derek Barker and PC Ady Waites attended Waddies Off licence during the early evening of Friday 14th March 2008. There were a number of youths congregated outside the shop who had apparently obtained alcohol from Waddies store. One young male was seen openly drinking Fosters lager as he left the premises. This male (Mr. Mahon) had apparently been given lager as payment for "doing a favour" for Mr. Middleton, although a statement obtained from this youth contradicts Mr. Middleton's account, this statement is attached as Appendix 5.
- 5.6 Mr. Middleton was interviewed at Barnsley Police Station on 19th March 2008 by PS Derek Barker and PC Adrian Waites. During the interview Mr. Middleton states that the alcohol sold on the 14th March must have come from his shop as no

- other shop sells those items in the area. A transcript of the taped interview is attached as Appendix 6.
- 5.7 The CCTV from Waddies was seized and interrogated. Exhibits DGB 2, 3 and 4 corroborate the Officers thoughts of the activities on the 14th March, and Exhibits DGB 5 to 11 show youths inside the shop purchasing alcohol on Friday 7th March 2008. These exhibits are attached as Appendix 7.
- 5.8 A video is to be shown at the hearing. This highlights the above incidents and also illustrates how youths use the shop as a leisure area as well as showing the frequency of underage sales at the shop. It can be clearly seen from the video evidence that the persons under 18 who purchase alcohol are well versed in how to purchase the products these premises as they will hang around in the shop until any other customers have left and can on occasions be seen checking “if the coast is clear” outside the shop prior to entering and purchasing alcohol.
- 5.9 Sergeant Derek Barker and PC Adrian Waites have also submitted Witness Statements in relation to the events of Friday 14th March 2008 and these are attached as appendix 8.

6 Responsible Authorities/Interested Parties

- 6.1 No representations have been received from any other responsible authorities or interested parties.

7 Health and social disorder implications of alcohol consumption by minors

- 7.1 There is growing evidence that the consumption of alcohol by those under 18 can be of concern especially if the alcohol is consumed in large amounts. At this age children have not fully developed and it is unknown what long term health effects alcohol has on their livers. In addition there are growing concerns nationally in relation to the consumption of alcohol and antisocial behaviour and as such there are clear links between the two.
- 7.2 Guidance recently issued by Department for Culture Media and Sport advocates that a strong line should be taken with any premises that are found to be selling to those under the age of 18 and in particular they advise that where this occurs on

more than two occasions the licence should be reviewed and prosecution also considered.

8 Compatibility with the European Convention on Human Rights

The decision of the Board will amount to a determination of the Council and the rights of the applicant. Therefore, as far as it is possible to do so, the board must comply with the requirements of Article 6 (the right to a fair trial). This means the applicant and should be afforded the right to make oral representations at the meeting.

If Members decide to revoke or amend the licence then the reasons for the decision must be clearly stated.

9 Options available to the Licensing Board

9.1 The Board must, having regard to the application for and any relevant representations, take such of the steps mentioned below as it considers necessary for the promotion of the licensing objectives.

The steps are—

- (a) To modify the conditions of the licence;
- (b) To exclude a licensable activity from the scope of the licence;
- (c) To remove the designated premises supervisor;
- (d) To suspend the licence for a period not exceeding three months;
- (e) To revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

10 Financial implications

N/A.

11 List of appendices

Appendix 1 – Map of Penistone illustrating the location of Waddies Off Licence.

Appendix 2 - Intelligence recorded by South Yorkshire Police.

Appendix 3 – Witness Statement by PC Thompson

Appendix 4 - Witness Statement by PC Silcock

Appendix 5 – Witness Statement by Mr. Mahon

Appendix 6 – Mr. Middleton’s Taped Interview with S.Y.Police

Appendix 7 - Exhibits DGB 2 to 11

Appendix 8 – Witness Statement by PS Barker and PC Waites