

BARNSLEY METROPOLITAN BOROUGH COUNCIL

**Report of the Principal Officer
(Licensing) to the meeting of
the Statutory Licensing
Regulatory Board Sub
Committee to be held on the
30th March 2010**

LICENSING ACT 2003**APPLICATION TO REVIEW A PREMISES LICENCE
Bar Mix, Eldon Street, Barnsley****1. Background**

- 1.1 On the 10th February 2010, Sergeant Derek Barker, on behalf of the Chief Constable of South Yorkshire Police, made an application as a Responsible Authority under the provisions of the Licensing Act 2003 for a review of the premises licence for Bar Mix, Eldon Street, Barnsley (formally known as The Room). A copy of this application is attached as Appendix 1.
- 1.2 Members are requested to determine the application to review the premises licence.
- 1.3 Bar Mix is a medium sized public house located on Eldon Street in a central location of Barnsley Town Centre.

2 Existing Licence

- 2.1 The existing premises licence became effective, following a transitional variation application, on the 24th November 2005. A copy of the licence is attached as Appendix 2.

The premises licence is held by Admiral Taverns (780) Ltd of 150 Aldersgate Street, London EC1A 4EJ and Mr Mark Simmons is specified as the Designated Premises Supervisor (DPS) for the premises. Please note that at the time the review application was submitted, Mr Michael Sargent was the specified DPS.

The licence includes the following licensable activities and opening times:

a) Films, Indoor sporting events, live music, recorded music, activities like music or dance and facilities for making music

Every day from 10.00 until 02.00 the following morning.

b) Sale by retail of Alcohol

Every day from 10.00 until 02.00 the following morning.

The premises are licensed for consumption of alcohol on the premises only.

c) Opening times

Every day from 10.00 until 02.30 the following morning.

3.2 The current licence also contains the following embedded restrictions:

The maximum permitted number for this premise is: 220

The conditions from the previous Public Entertainment Licence remain in force as embedded restrictions and a copy of Barnsley Metropolitan Borough Council Standard Conditions are attached. In addition the following non standard conditions remain in force as embedded conditions:

'All doors and windows must be kept closed whilst entertainment is taking place except for access and egress;

The hours during which the premises may be used for entertainment may be reviewed on the advice of the Assistant Director (Regulatory Services) this is necessary to prevent unreasonable disturbance by noise to persons in the neighbourhood'

3.3 The licence also contains the following conditions within the operating schedule:

a) Function Bookings to be limited to a maximum of 100 persons

b) Live Music will be staged only in the lounge bar

4 The Application for a review of the Premises Licence

4.1 On the 10th February 2010, Sergeant Derek Barker, on behalf of the Chief Constable of South Yorkshire Police, made an application as a Responsible Authority under the provisions of the Licensing Act 2003 for a review of the premises licence. The application is made on the following grounds:

- The prevention of crime and disorder
- The protection of children from harm

The full details and evidence relating to this review application are contained with the application at Appendix 1.

5 Responsible Authorities

5.1 A representation has been received from the Trading Standards Section of Regulatory Services, fully supporting the application for review based upon the evidence presented by the Police and in the interest of protecting children from harm. See Appendix 2.

5.2 No other representations have been received from Responsible Authorities.

6 Interested Parties

6.1 No representations have been received.

7 Options available to Members

7.1 In determining this application for a review of the premises licence Section 52 of the Licensing Act 2003 provides that the authority must, having regard to the application and any relevant representations, take such 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;

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 determine to refuse the application, it is necessary for the reasons to be clearly stated.

9 Financial Implications

N/A.

10 List of Appendices

Appendix 1 - Copy of the review application

Appendix 2 - Representation from Trading Standards

Officer Contact: Kate Liddall

Tel: 01226 774258

Date: 12th March 2010

APPENDIX 1

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 Police Sergeant Derek Barker

(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 Bar Mix Eldon Street Barnsley	
Post town Barnsley	Post code (if known) S70 2JJ

Name of premises licence holder or club holding club premises certificate (if known) Admiral Taverns Limited Suite H3 Steam Mill Business Centre Steam Mill Street Chester CH3 5AN

Number of premises licence or club premises certificate (if known) 005778

Part 2 - Applicant details

I am

Please tick yes

1) an interested party (please complete (A) or (B) below)

- a) a person living in the vicinity of the premises
- b) a body representing persons living in the vicinity of the premises
- c) a person involved in business in the vicinity of the premises
- d) a body representing persons involved in business in the vicinity of the premises

- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address PS 1327 Derek Barker South Yorkshire Police Barnsley Police Station Churchfields Barnsley S70 2DL
Telephone number (if any) 01226 736154
E-mail address (optional) derek.barker@southyorks.pnn.police.uk

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

Please tick one or more boxes

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

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

Prevention of Crime and Disorder
Prevention of Harm to Children

Evidence to support intelligence that this premises is particularly problematic whereby underage sales of alcohol are taking place on a regular basis.

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

Bar Mix Recent Intelligence

Feb 2010

PC 1805 Gulzar

A group 6-8 hangers on from the THS (Tyke Hit Squad) were seen drinking inside the Bar Mix, they all had pints of alcoholic drink in front of them, they are all under 18 and were moved on. The licensee was advised. name/dobs as follows:

Christopher XXXXX	(Born) XX/XX/1992	17yrs
Joel XXXX	(Born) XX/XX/1993	16yrs
Darren XXXXX	(Born) XX/XX/1995	14yrs
Connor XXXXX	(Born) XX/XX/1992	17yrs
Jack XXXXX	(Born) XX/XX/1994	15yrs
Chris XXXXX	(Born) XX/XX/1994	15yrs

.....
Jan 2010

PC 1608 Myers

Whilst working the Barnsley V Leicester fixture at Barnsley on 26.01.10 as a spotter I observed the following:

Seen in Bar Mix were (This group often seen with Tyke Hit Squad)

JORDAN XXXXX	(Born) XX.XX.93	17yrs
LAURIE XXXXX	(Born) XX.XX.93	16yrs
CHRIS XXXXX	(Born) XX.XX.93	16yrs
JOEL XXXXX	(Born) XX.XX.93	16yrs
DARREN XXXXX	(Born) XX.XX.95	14yrs
CONNOR XXXXX	(Born) XX.XX.92	17yrs

All of the above sat with a pint on the table, left on Police arrival.

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Additional to the above:

Police Officers Sgt Barker, PC 2458 Cliffe, PC 2106 Stratford & PC 1151 Wndor had cause to visit the Bar Mix at around 22:40 Friday 29th January 2010 to find the venue very busy with youngsters celebrating a 16yr-old birthday party. The vast majority of patrons were seen to be drinking alcoholic drinks, many of which were bottles lagers/ciders and alcopops. When challenged, these youngsters admitted to being 15 and 16 yrs of age. Although approximately 10 to 15 youngsters were challenged regarding their age, all admitted to being 15 - 16 years, none were found to be or claimed to be over 18 years. A small number of were spoken outside where personal details were collected.

Upon arrival of the Designated Premises Supervisor Mr Sergeant, my concerns and findings were pointed out. He, in company with the manager Mark Simmonds closed the premises there and then.

Please find attached, statements from the mother of the 16 year old girl who organised the 16th birthday party on the 29th Jan 2010. Statements from attending youths and from the year head of Penistone Grammar school. These documents are suitably edited to preserve the confidentiality of the children. The Police will retain the original copies.

Video evidence is available of these proceedings. However, due to the age of those appearing on the video, it will not be shown in open session.

Please tick yes

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

If yes please state the date of that application

Day Month Year

1	3	0	6	2	0	0	9
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If you have made representations before relating to this premises please state what they were and when you made them
See copy of attached application to review.

This application to review was withdrawn on 30th March 2090 following dialogue and an acceptable agreement with Admiral Taverns to:

Remove the current DPS
Close the premises for a 4 week period
Transfer the Premises Licence to Admiral Taverns
Terminate the lease to the premises from the current holder.

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

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

Part 3 – Signatures (please read guidance note 3)

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

Signature *R. S. Barker*

Date 2nd MARCH 2010

Capacity R. S. Barker

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)	
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) <input type="checkbox"/>	

Notes for Guidance

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

RESTRICTED (when complete)

WITNESS STATEMENT

(CJ Act 1967, s.9 MC Act 1980, ss.5A(3) (a) and 5B; MC Rules 1981, r.70)

URN

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Statement of 16 year old male

Age if under 18 16yrs..... (If over 18 insert "over 18")

Occupation: School Child

This statement (consisting of 2..... page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything which I know to be false or do not believe to be true.

Signature Date:

Tick if witness evidence is visually recorded (supply witness details on rear)

I am the above named person and I reside at the address overleaf.

I am currently in year 11 at Penistone Grammar School studying for my GCSE exams; I have been there 2 years.

The other kids in my year are either all 15 years or 16 years old .One particular girl called (name) was having a 16th Birthday party on Friday 29th January 2010 . I think she had published this on her face book page. However (Name) had spoken to me herself about a week before her party and told me I was invited .She told me her party was at a club called Bar Mix in Barnsley town centre, However I've not been to this place before so I didn't know exactly where the club was. However, everyone in my year knew about the party and all of them seem to be going.

On the Friday of the party people were talking about the party and were wondering, how many were going to be served. The general concession was that nobody would have any problems being served that evening.

I have travelled into Barnsley town centre on 19.45 hours train from Penistone; there was a group of about 15 others with me.

Signature: Signature Witnessed by:

RESTRICTED (when complete)

Continuation of Statement of: 16 yr old male.....

Page 2

After coming out of Bamsley Interchange we crossed a small street went around the corner and about 50 yards on the left there was Bar Mix.

I was about fourth in the queue of my group to go into the club I held my hand up and a big built chap on the door dressed in black put a stamp on my hand, which said Bar Mix.

The chap on the door didn't ask me for my ID and I walked straight into the club. I didn't hear the chap ask any of my friends who were stood in front of me either.

When I got in I recognised a few people from school but it did not really start getting busy with other kids from school until about 20.30 hours.

There are over 200 people in my year at school and I would say a good percentage of the year were at the party, plus people she knew from Leeds and in her dance class.

At first, I stood around with my friends because we wasn't sure if we would get served. However, I saw a few people I knew getting served so I went up. There were two males behind the bar one taller than the other and the taller barman served me first and I bought a pint of Carling, which I think, cost me £2.50, but I remember going up again and the price seemed to have risen to £3.00.

In all I went to the bar four times and bought a pint of carling on each occasion I was served by both male bar persons at different times and on all those occasions neither challenged me for any ID and I got served with no problems .

I believe this was the same for all my other friends because they were all drinking as well.

I did have another drink whilst I was in the club, but a girl gave me this it was a bottle of K2 she said she had got 2 drinks for the price of one ,that's why she gave me it.

I then remember been approached by a male who showed me his Police Badge and they spoke to me outside and then shortly after this everyone came out of the club which would have been about 22.45 hours that night .

Signature:Signature Witnessed by:

RESTRICTED (when complete)

WITNESS STATEMENT

(CJ Act 1967, s.9 MC Act 1980, ss.5A(3) (a) and 5B; MC Rules 1981, r.70)

URN

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Statement of Mother of party holder

Age if under 18 Over 18..... (If over 18 insert "over 18") Occupation: School Teacher

This statement (consisting of 2..... page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything which I know to be false or do not believe to be true.

Signature Date:

Tick if witness evidence is visually recorded (supply witness details on rear)

I am a schoolteacher and I reside at the address shown overleaf, with my family.

My daughter (name) was 16 years of age on the (Date) January 2010. She had expressed a wish to have a party to celebrate at home, Because of the numbers attending and the fact we did not want anything in the house damaging I decided to see if there was an alternative venue in Barnsley.

I made some enquires with other parents and a few telephone calls to bars in Barnsley. As it was a Friday night, most places were booked with other events.

The only available was Bar Mix; Eldon Street Barnsley .I spoke to a male on the telephone and explained I wished to hold a 16th Birthday party.

He agreed this would be possible and identification would be checked to prevent any person under 18 being served with alcohol.

A few days prior to the 29th January the male from Bar Mix called me to confirm it was a 16th Birthday party and made arrangements for me to go and decorate the room prior to the party.

I explained there would be around 200 people attending all between 16 -20 years of age. He said it was no problem and door staff would be provided to assist with any identity/age issues.

Signature: Signature Witnessed by:

RESTRICTED (when complete)

Continuation of Statement of: Mother Party Holder

Page 2

On 5pm Friday 29th January 2010, my husband Steve and myself attended Bar Mix to put up banners and balloons .We met the male whose name I can't recall but can describe as a white male 5ft 5" tall small build with a baldhead.

The issue of it being a 16th Birthday party was again discussed. He said all people under 16 would have their hands stamped and introduced us to the door staff who were going to enforce the policy. We put up the banners and balloons with happy 16th Birthday written on them and left.

I dropped my daughter off at Bar Mix with some friends at 8 pm and went inside. I stayed about one and a half hours, went, and sat in the car outside, as the music was too loud.

At this time, the bar was full with people attending the party. I left at about 10.30 pm to pick up my 18-year-old son who was going to supervise the party until the end. When I returned, there were people all over the street and I was informed the police had attended and stopped the party.

I wish to make it clear the party was clearly booked as a 16th Birthday with staff who were happy with this. I was happy from the assurances I was given that everyone attending was in a safe environment and no person under the age of 18 would be served with alcoholic drinks.

My daughter (Name) had nothing at all to do with booking the event although most people were invited via face book website.

Whilst I was at the party, I personally did not see anything unto wards taking place or people under age being served with alcohol.

Signature:Signature Witnessed by:

RESTRICTED (when complete)

WITNESS STATEMENT

(CJ Act 1967, s.9 MC Act 1980, ss.5A(3) (a) and 5B; MC Rules 1981, r.70)

URN

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Statement of 16 year old female.....

Age if under 18 16 year old (if over 18 insert "over 18")

Occupation: School Child

This statement (consisting of 1..... page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything which I know to be false or do not believe to be true.

Signature Date:

Tick if witness evidence is visually recorded (supply witness details on rear)

I am the above named person and I reside at the address given to the police.

On Friday 29th January 2010, I attended a 16th Birthday party at the Bar Mix public house on Eldon Street Barnsley

The party was for a girl called XXXXXX XXXXXXXX. Upon being invited to the party, I did imagine that alcohol maybe served, But I wasn't sure.

I attended the party at about 2045 hours, with two other friends, upon entering the pub I went to the bar and ordered a bottle of "WKD "type alcopop.

I was served by a male bar tender who was tall with dark hair in his early 20,s, medium build with quite chubby cheeks.

The Bar tender did not ask me for any ID, he then gave me the alcopop and I then paid him accordingly.

I did then go to the bar a second time and was served by a short bald male, who again did not ask me for any ID and then gave me the drink and I then paid him.

I can state that at no point through me being in Bar Mix did anybody ask me for any ID, This includes the doorman and bar staff.

Signature: Signature Witnessed by:

APPENDIX 2

From: Brookes , Gill

Sent: 17 February 2010 16:46

To: Liddall , Kate

Subject: licence applications

Trading Standards have no objection to the licence applications received from Escapade, Wellington Street, Barnsley
Mr Asgari, 1 High Street, Dodworth

Regarding the application for premise licence review for Bar Mix, 25 Eldon Street, Barnsley. Trading Standards fully support the application for a review based on the evidence submitted by the Police and in the interests of protecting children from harm.

Regards
Gill

Gill Brookes
Field Officer - Trading Standards
Regulatory Services
PO Box 602
Barnsley
S70 9FB
Tel 01226 772472
Days of work: Tues, Weds and Thursday morning

