Bolton Council

Report to:	Licensing Act 2003 Committee		
Date:	29th July 2021		
Report of:	Director of Place	**Report No:**	LSC/17/2021
Contact Officer:	Senior Licensing Officer	**Tele No:**	01204 336584
Report Title:	**Review of a Premises Licence**		

Non-Confidential

This report does **not** contain information which warrants its consideration in the absence of the press or members of the public.

Purpose:

To invite the Committee to consider an application to review a premises licence received under the provisions of section 51 of the Licensing Act 2003

Recommendations:

No recommendations

Background Doc(s):

Bolton MBC Statement of Licensing Policy
Licensing Act 2003 and Section 182 Guidance

Appendix 1 - copy of application and supporting documentation
Appendix 2 - copy of premises licence

Summary:

No summary

Licensing Act 2003 - Hearing of an Application to Review a Premises Licence

1. Background

1. The Licensing Act 2003, which consolidated six licensing regimes in a single statute, and which replaced the previous controls on the sale of alcohol under the provisions of the Licensing Act 1964, introduced the concept of the 'premises licence'.

2. A premises licence is required for any venue where any 'licensable activity' is carried on. Such activities include the sale or supply of alcohol, the provision of regulated entertainment and the provision of late-night refreshment etc.

3. All pubs, nightclubs, private members clubs, off licences, cinemas, theatres and late-night takeaways etc require a licence.

4. The government included a very clear presumption in favour of businesses in the Licensing Act 2003 since the Act requires that any application should be granted on the terms on which it is applied for unless any valid representation is made.

5. Where representations are made, the Act suggests that the Licensing Authority can apply 'light touch' regulation.

6. This approach is 'balanced' in the Act by provisions which permit a premises licence to be 'reviewed' by the Licensing Authority, upon receipt of a valid application for review from an interested party, responsible authority or any other person.

7. An application for the review of a premises licence must be circulated to the 'responsible authorities' to give them the opportunity to make representations. (Police, Fire Service, Environmental Health – Pollution Control & Health & Safety, Trading Standards, Social Services Child Protection Unit, Planning Department, Public Health and the Home Office - Immigration).

8. Where an application for a review has been accepted by the Licensing Authority the Act requires that a notice is displayed on the premises, in a position where it can be seen from the outside of the premises, stating that an application to review the premises licence has been made. A notice is also displayed at the Licensing Unit offices.

9. Members of the public or businesses in the area where the premises to which the review application relates is situated, or their representatives, can also make representations, which can be considered as part of the review.

10. Representations are only valid where they relate to one of the four licensing objectives, namely:
    a) the prevention of public nuisance
    b) the prevention of crime and disorder
    c) ensuring public safety
    d) protection of children from harm

    The review application must be considered in the light of the four licensing objectives (above) and the Bolton MBC Statement of Licensing Policy.

2. Application for review of the Premises Licence

1. The licensing team is in receipt of an application to review a premises licence. The applicant is the Licensing Authority (Enforcement Team).

2. The Licensing Authority (Enforcement Team) are a Responsible Authority under the provisions of the Licensing Act 2003.

3. The application is to review the licence held by New River Trustee 7 Ltd & New River Trustee 8 Ltd for the premises that trade as the Waggon and Horses, 170 Chorley Road, Westhoughton in Bolton.

4. Mr Steven Wilkinson is the designated premises supervisor (DPS), and he holds a personal licence granted by Bolton Council.

5. The application relates to the 'prevention of crime and disorder' and 'public safety' which are two of the four licensing objectives.

6. All applications for the review of a premises licence require the applicant to state the 'grounds for the review'. The Licensing Authority (Enforcement Team). have provided the following information:

> *I am a Licensing Enforcement Officer employed by Bolton Council. The Licensing Authority is a responsible authority under the Licensing Act 2003. I wish to apply for a review of the premises licence granted for premises at Waggon & Horses 170 Chorley Road, Westhoughton, Bolton BL5 3PW*
>
> *The operation of this premises has seriously undermined two of the four licensing objectives, namely;*
>
> - *Public safety.*
> - *Prevention of crime and disorder*
>
> *Due to the high levels of Coronavirus evident across the UK, On 5th November 2020, the Government ordered that certain businesses and venues must close or restrict how they provide goods and services. This included:*
>
> *Hospitality venues such as cafes, restaurants, pubs, bars, and social clubs; with the exception of providing food and drink for takeaway (before 10pm; and not including alcohol), click-and-collect, drive-through or delivery.*
>
> *On the 20th November 2020 Licensing Enforcement Officers from Bolton Council visited the premises in response to complaints that had been received into the Council from concerned members of the public. The complaints were that people were being permitted to drink in the premises in breach of the Government 'Stay at home' restrictions. Officers spoke to the person managing the premises on that day, a Mr Michael McNamara and advised of the restrictions that had been imposed.*
>
> *On Monday 23rd November 2020 officers from Greater Manchester Police attended at the premises in response of reports to them that people were inside drinking. On their arrival officers initially looked through the windows of the premises and observed 3 males inside. The front entrance to the premises was locked. One of the males was later confirmed as being Mr Michael McNamara. The other two males were seen to be seated at a table with alcoholic drinks in front of them. The officers observed one of the males sneaking off towards the rear of the premises. The officers gained entry to the premises where they were greeted by Mr McNamara. He claimed that there had only been one other person in the premises and that he had left. It was claimed by Mr McNamara that this male had been pointing for him. The officers searched the premises and found one*

of the males hiding in a toilet. When questioned by the officers Mr McNamara admitted serving the two males' alcohol that was consumed on the premises but had not charged them for the drinks. The officers were wearing body worn cctv at the time and captured the incident. This will be produced as exhibit ref SDM1. Three photographs of the footage have been extracted from the footage and are produced as Exhibit ref SDM2

On the 25th November 2020 a fixed penalty notice was issued Mr Michael McNamara at Waggon & Horses, 170 Chorley Road, Westhoughton, Bolton BL5 3PW. This is produced as Exhibit ref SDM3

The grounds for imposing the penalty were under as follows:

The Health Protection (Coronavirus, Restrictions) (England) (No4) Regulations 2020.

In relation to a breach of Regulation 15(1) (Business or service listed in Part 1 of the Schedule, or is carried on from, or provided at, premises of a kind specified in Part 1 of the Schedule):
Failed, without reasonable excuse, to close the premises, or part(s) of the premises, in which food or drink are provided for consumption on the premises; and/ or
Failed, without reasonable excuse, to cease providing food or drink for consumption on the premises.

Particulars of the offence outlined in the penalty were as follow:
Following a visit by Greater Manchester Police wearing body worn camera to Waggon and Horses, 170 Chorley Road, Westhoughton, Bolton, BL5 3PN on 23rd November 2020 at around 17:05 Elizabeth Pritchard, Authorised Officer, witnessed that the premises were open and carrying on the business of a public house by providing drink for consumption on the premises.

Records show that Mr McNamara appealed the penalty, but the appeal was dismissed. The penalty notice remains unpaid and is now subject of judicial proceedings at a date yet to be confirmed. A copy of the appeal letter is produced as Exhibit ref SDM4, and the dismissal letter as Exhibit ref SDM5

I submit that the manner in which the premises have been managed, allowing people to drink on the premises in breach of the Government restrictions falls short of what is expected from a licensee in promoting the licensing objectives.

These actions put the welfare of staff, customers, attending Police, Council Officers, and the wider members of the public in danger of contracting a potentially fatal illness. I consider the behaviour and actions of the management at Waggon & Horses, 170 Chorley Road, Westhoughton, Bolton BL5 3PW to have been totally irresponsible especially during the period of 'Stay at Home' restrictions that the UK had been placed under.

The instructions and regulations given to Licenced Premises are clear and should be understood by everybody. There is a clear risk to Public Health during a global pandemic.

The reasons for this review are:

On 23rd November 2020, these premises showed a blatant disregard for the legislation and global pandemic at a time when the UK had been placed into 'Stay at Home' restrictions.

The instructions and guidance given to licensed premises were clear –

Hospitality venues such as cafes, restaurants, pubs, bars, and social clubs; with the exception of providing food and drink for takeaway (before 10pm; and not including alcohol), click-and-collect, drive-through or delivery.

These actions put the welfare of staff, customers, attending Police, Council Officers, and the wider members of the public in danger of contracting a potentially fatal illness.

The Government has published a four-step roadmap to ease restrictions across England which outline different measures that hospitality venues will have to adhere to at each step. Given the premises ignored the legislation previously I question whether they will follow the new requirements even with clear instructions and guidance provided, therefore potentially putting recovery at risk.

7. A copy of the application form and supporting documentation are attached to the report at **Appendix 1.**

8. The licensing team has accepted the application for the review of the premises licence as valid.

9. On the 18th May 2021, the licensing team shared the application with the Responsible Authorities. No further comments have been received.

10. Following acceptance of the application, copies of the application and supporting documentation were hand delivered to the Waggon and Horses.

11. The notices required under the legislation were displayed at the Waggon and Horses and at the offices of the Licensing Authority.

12. The notices were correctly displayed on the premises when checked by an officer from the licensing team on the 18th and 26th May and 2nd June 2021.

3. Current permissions

1. The premises licence currently in force at the premises authorises the following activities:

Exhibition of Film	
Monday – Thursday	10:00-00:00
Friday – Saturday	10:00-01:00
Sunday	11:00-00:00
Indoor Sporting Event	
Monday – Thursday	10:00-00:00
Friday – Saturday	10:00-01:00
Sunday	11:00-00:00
Performance of Live Music	
Monday – Thursday	10:00-00:00
Friday – Saturday	10:00-01:00
Sunday	11:00-00:00
Playing of recorded music (indoors)	
Monday – Thursday	10:00-00:00
Friday – Saturday	10:00-01:00
Sunday	11:00-00:00
Performance of Dance	
Monday – Thursday	10:00-00:00

Friday – Saturday	10:00-01:00
Sunday	11:00-00:00

Late Night Refreshment (indoors and outdoors)

Monday – Thursday	23:00-00:00
Friday – Saturday	23:00-01:00
Sunday	23:00-00:00

Sale by retail of alcohol for consumption ON and OFF the premises

Monday – Thursday	10:00-00:00
Friday – Saturday	10:00-01:00
Sunday	11:00-00:00

2. A copy of the current premises licence, which details the timings and conditions consistent with the operating schedule, is attached to the report at **Appendix 2**.

4. Premises – Description & History

1. The premises are situated on Chorley Road in Westhoughton, Bolton. Chorley Road is also known as the A6 and is an arterial route between Horwich and Westhoughton.

2. The premise is a two storey brick building. The entrance to the business is accessed from the front.

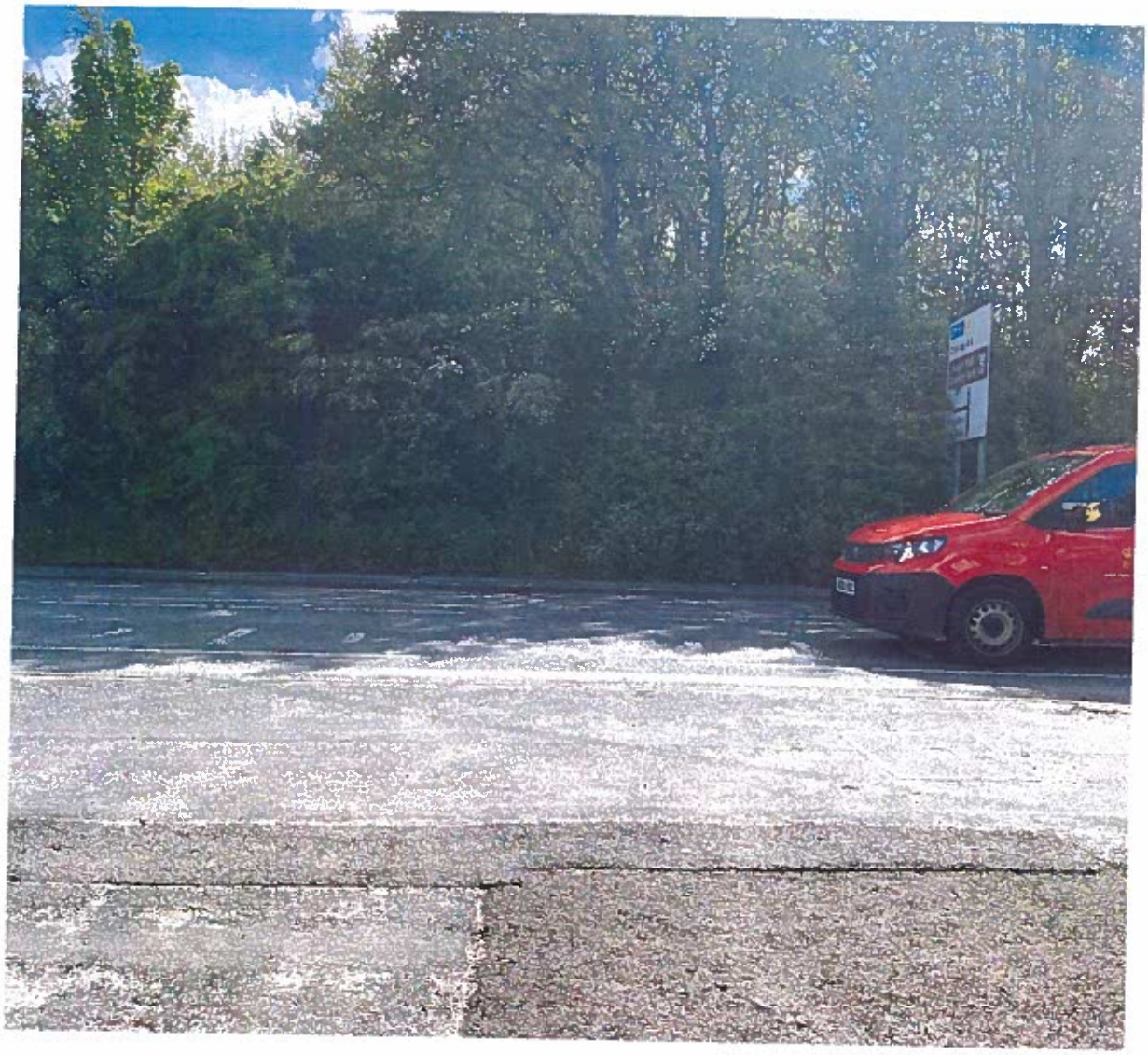
3. The photographs below provide the Committee with an indication of the character of the locality:

View of the premises:

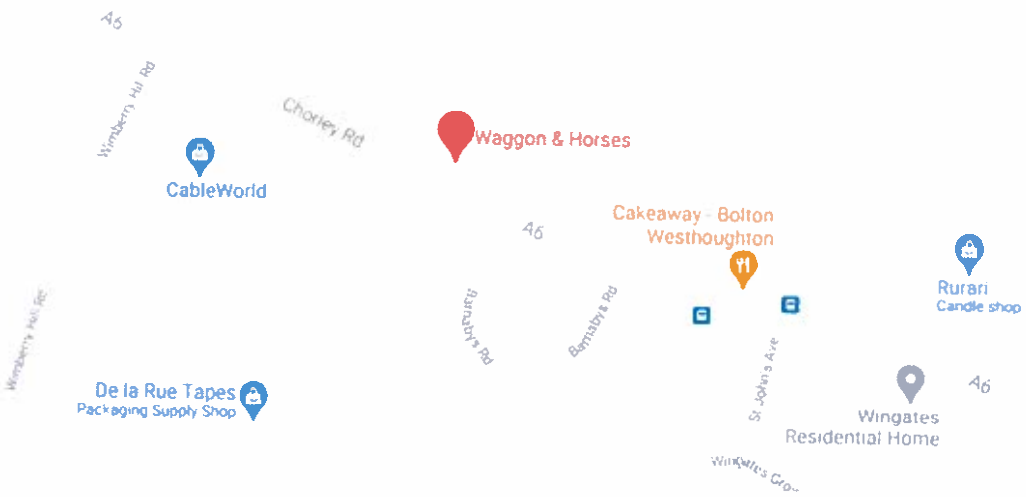
View from the premises looking right:

View from the premises entrance looking left:

View from the premises looking out from the entrance:



A map showing the location of the premises is detailed below:



A satelite image of the location is shown below:

5. Determination of the application for a review

1. Section 52 of the Licensing Act 2003 requires the licensing authority to hold a hearing and to have regard to the Application for Review and any relevant representations and to take such steps, mentioned below, if any, as the authority considers necessary to promote the four licensing objectives, namely:

    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

    Notes: The conditions of the licence are modified if any of them is altered or omitted or any new condition is added. The mandatory conditions cannot be modified

    Where the Sub Committee take the steps mentioned in a) or b) above, it *may* provide that the modification or exclusion is to have effect for only such period as it may specify (up to a maximum of three months).

APPENDIX 1

Licensing Team
Bolton Council
2nd floor, Paderborn House
Bolton
BL1 1QY

Bolton Council

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 **Steven Morris**
(Insert name of applicant)
apply for the review of a premises licence under section 51 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 WAGGON & HORSES 170 Chorley Road Westhoughton	
Post town Bolton	**Post code (if known)** BL5 3PW

Name of premises licence holder or club holding club premises certificate (if known) New River Trustee 7&8 Ltd

Number of premises licence or club premises certificate (if known) PLA0706

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)	X
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 Steven Morris Licensing Enforcement 2nd Floor Paderborn House Bolton BL1 1QY
Telephone number (if any) 01204 336254
E-mail address (optional) Steven.morris@bolton.gov.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	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)

I am a Licensing Enforcement Officer employed by Bolton Council. The Licensing Authority is a responsible authority under the Licensing Act 2003. I wish to apply for a review of the premises licence granted for premises at Waggon & Horses 170 Chorley Road, Westhoughton, Bolton BL5 3PW

The operation of this premises has seriously undermined two of the four licensing objectives, namely;

- Public safety.
- Prevention of crime and disorder

Due to the high levels of Coronavirus evident across the UK, On 5th November 2020, the Government ordered that certain businesses and venues must close or restrict how they provide goods and services. This included:

Hospitality venues such as cafes, restaurants, pubs, bars, and social clubs; with the exception of providing food and drink for takeaway (before 10pm; and not including alcohol), click-and-collect, drive-through or delivery.

On the 20TH November 2020 Licensing Enforcement Officers from Bolton Council visited the premises in response to complaints that had been received into the Council from concerned members of the public. The complaints were that people were being permitted to drink in the premises in breach of the Government 'Stay at

home'restrictions. Officers spoke to the person managing the premises on that day, a Mr Michael McNamara and advised of the restrictions that had been imposed.

On Monday 23rd November 2020 officers from Greater Manchester Police attended at the premises in response of reports to them that people were inside drinking. On their arrival officers initially looked through the windows of the premises and observed 3 males inside. The front entrance to the premises was locked. One of the males was later confirmed as being Mr Michael McNamara. The other two males were seen to be seated at a table with alcoholic drinks in front of them. The officers observed one of the males sneaking off towards the rear of the premises. The officers gained entry to the premises where they were greeted by Mr McNamara. He claimed that there had only been one other person in the premises and that he had left. It was claimed by Mr McNamara that this male had been pointing for him. The officers searched the premises and found one of the males hiding in a toilet. When questioned by the officers Mr McNamara admitted serving the two males' alcohol that was consumed on the premises but had not charged them for the drinks. The officers were wearing body worn cctv at the time and captured the incident. This will be produced as exhibit ref SDM1. Three photographs of the footage have been extracted from the footage and are produced as Exhibit ref SDM2

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The grounds for imposing the penalty were under as follows:

The Health Protection (Coronavirus, Restrictions) (England) (No4) Regulations 2020.

In relation to a breach of Regulation 15(1) *(Business or service listed in Part 1 of the Schedule, or is carried on from, or provided at, premises of a kind specified in Part 1 of the Schedule):*

- *Failed, without reasonable excuse, to close the premises, or part(s) of the premises, in which food or drink are provided for consumption on the premises; and/ or*
- *Failed, without reasonable excuse, to cease providing food or drink for consumption on the premises.*

Particulars of the offence outlined in the penalty were as follow:

Following a visit by Greater Manchester Police wearing body worn camera to Waggon and Horses, 170 Chorley Road, Westhoughton, Bolton, BL5 3PN on 23rd November 2020 at around 17:05 Elizabeth Pritchard, Authorised Officer, witnessed that the premises were open and carrying on the business of a public house by providing drink for consumption on the premises.

Records show that Mr McNamara appealed the penalty, but the appeal was dismissed. The penalty notice remains unpaid and is now subject of judicial proceedings at a date yet to be confirmed. A copy of the appeal letter is produced as Exhibit ref SDM4, and the dismissal letter as Exhibit ref SDM5

I submit that the manner in which the premises have been managed, allowing people to drink on the premises in breach of the Government restrictions falls short of what is expected from a licensee in promoting the licensing objectives.

These actions put the welfare of staff, customers, attending Police, Council Officers, and the wider members of the public in danger of contracting a potentially fatal illness. I consider the behaviour and actions of the management at Waggon & Horses, 170 Chorley Road, Westhoughton, Bolton BL5 3PW to have been totally irresponsible especially during the period of'Stay at Home' restrictions that the UK had been placed under.

The instructions and regulations given to Licenced Premises are clear and should be understood by everybody. There is a clear risk to Public Health during a global pandemic.

The reasons for this review are:

1. On 23rd November 2020, these premises showed a blatant disregard for the legislation and global pandemic at a time when the UK had been placed into 'Stay at Home' restrictions.

2. The instructions and guidance given to licensed premises were clear –

   Hospitality venues such as cafes, restaurants, pubs, bars, and social clubs; with the exception of providing food and drink for takeaway (before 10pm; and not including alcohol), click-and-collect, drive-through or delivery.

3. These actions put the welfare of staff, customers, attending Police, Council Officers, and the wider members of the public in danger of contracting a potentially fatal illness.

4. The Government has published a four-step roadmap to ease restrictions across England which outline different measures that hospitality venues will have to adhere to at each step. Given the premises ignored the legislation previously I question whether they will follow the new requirements even with clear instructions and guidance provided, therefore potentially putting recovery at risk.

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

Photo 1 – Showing male hiding in toilet
Photo 2 – Showing drinks on a table on the bar area
Photo 3 – Showing Mr Michael McNamara stood by table with drinks on them

Please tick ✓ yes

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

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

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, 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
Steven Morris.....

Date **11th May 2021**
.....

Capacity **Licensing Enforcement Officer**
.....

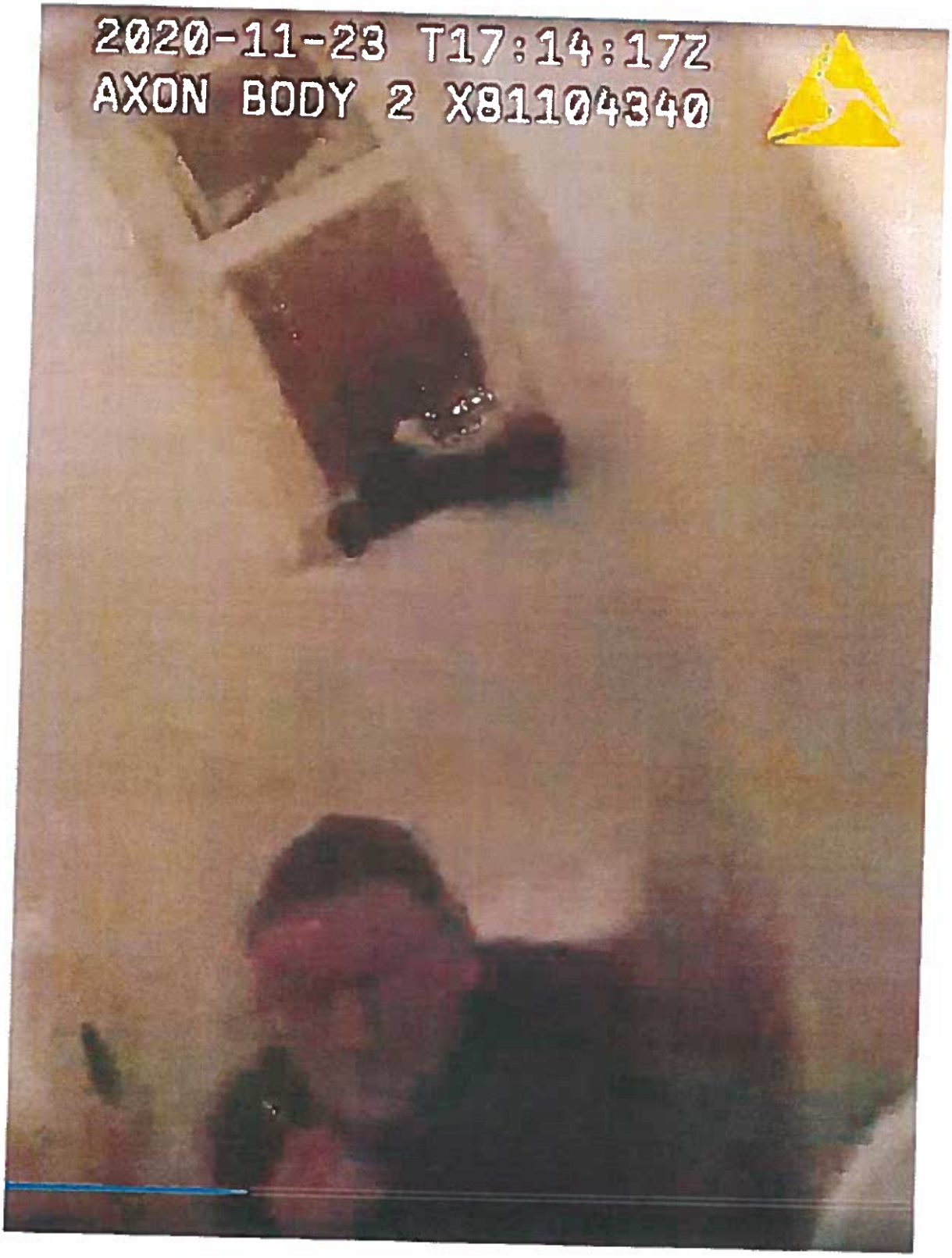
Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)	
Post town	**Post Code**
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

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.

SDM2.1

SDM2.2



SDm2.3

SDM3

ZB0006717 3

Borough Council of Bolton

The Health Protection (Coronavirus, Restrictions) (England) (No.4) Regulations 2020, as amended[1] (SI. 2020: No. 1200)

FIXED PENALTY NOTICE

25th November 2020

Part A

To: MR MICHAEL MCNAMARA *(NOTE: in the case of a notice issued in respect of a breach of a business restriction offence, this must be an individual responsible for carrying on the business or providing the service, whether as the owner, proprietor or manager. If an offence committed by a body corporate, is proved to have been committed with the consent or connivance of an officer of the body corporate or, to be attributable to any neglect on the part of such an officer, the officer (as well as the body corporate) is guilty of the offence and liable to be prosecuted, proceeded against and punished accordingly)*

At: 170 Chorley Road, Westhoughton, Bolton, BL5 3PN

Trading as: Waggon and Horses

This Fixed Penalty Notice is served under Regulation 21(1) of The Health Protection (Coronavirus, Restrictions) (England) (No4) Regulations 2020 (the Regulations).

The Regulations impose certain restrictions to protect against the risks to public health arising from coronavirus. Failure to comply with the requirements of the Regulations, without reasonable excuse, is a criminal offence.

I, **Elizabeth Pritchard**, designated as an authorised person for the purposes of the Regulations by **Borough Council of Bolton**, have reasonable grounds for believing that you have committed a criminal offence under the Regulations. I am issuing this Notice to offer the opportunity to discharge liability to conviction for the offence by payment of a fixed penalty.

Borough Council of Bolton may not take criminal proceedings against you in respect of the offence during the period of 28 days following the date of this Notice. Payment of the fixed penalty within that period means that you cannot be convicted in relation to the offence set out in Part C of this Notice.

Part B. Amount of Penalty and period to pay

The monetary penalty you must pay is: **£1000**

Payment of the fixed penalty must be made within 28 days of the date of this notice.

The penalty must be paid to: **Borough Council of Bolton**

Payment can be made by the following means: **Contact 01204 331634, Option 2, (payment can only be taken over the phone via credit card or debit card Monday to Friday 9am to 4pm) or by post to Town Hall, Victoria Square, Bolton, BL1 1RU with a letter containing the amount of the penalty quoting the reference number: ZB0006717 3**

[1] Amended by 2020 No. 1242

Part C. Grounds for imposing the Penalty

In relation to a breach of Regulation 15(1) *(Business or service listed in Part 1 of the Schedule, or is carried on from, or provided at, premises of a kind specified in Part 1 of the Schedule):*

- *Failed, without reasonable excuse, to close the premises, or part(s) of the premises, in which food or drink are provided for consumption on the premises; and/ or*
- *Failed, without reasonable excuse, to cease providing food or drink for consumption on the premises*

Particulars of the offence: **Following a visit by Greater Manchester Police wearing body worn camera to Waggon and Horses, 170 Chorley Road, Westhoughton, Bolton, BL5 3PN on 23rd November 2020 at around 17:05 Elizabeth Pritchard, Authorised Officer, witnessed that the premises were open and carrying on the business of a public house by providing drink for consumption on the premises.**

Part D. Challenging this Fixed Penalty Notice

If you consider that the Notice should not have been issued, you can make representations to Borough Council of Bolton in writing outlining your reasons for challenging the Notice, within 14 of the date on this Notice.

Your challenge will be processed in accordance with **Borough Council of Bolton's Complaint Procedure: Fixed Penalty Appeals, Ellesmere House, Mayor Street Depot, Ellesmere Street, Bolton, BL3 5DT**

Contact: **Mr Andrew Bolan**

Alternatively, you may challenge this Notice by way of Judicial Review. Should you wish to pursue this option, you may wish to consult a lawyer to obtain independent legal advice.

This Notice remains in force even if you have raised a challenge.

Should the local authority's review of your challenge determine that the Notice should be revoked, you will be notified in writing that the Notice has been revoked.

Part E. Consequences of non-payment/ continued non-compliance

Failure to pay fixed penalty within 28 days may lead to criminal proceedings being commenced against you in respect of the offence set out in Part C of this Notice.

Continued contravention of a requirement in the Regulations, without reasonable excuse, is an offence punishable by a fine on summary conviction in a Magistrates Court.

Signed: Date: **25.11.20**

Name in Capitals:

Name and Address of Local Authority: **Borough Council of Bolton, Ellesmere House, Mayor Street Depot, Ellesmere Street, Bolton, BL3 5DT**

Telephone: Email:

If you are not sure of your rights or the implications of this notice, you may want to seek independent legal advice.

SDM4

MR McNAMARA
170 CHORLEY RD
BOLTON
BL5 3PN

F.T.A.O MR A BOLAN
REF 2300006717 3.

Dear Sir
I Formally wish to Appeal the above Fixed penalty on the grounds all facts are not correct.

1) The premises were not open to the Public
2) One Friend was on the premises who had called to see me. I admit I gave him a drink which he was not charged for.
3) I was not serving the Public For PROFIT

4) The Curtains and doors were open how I were Supplying takeaway food.

5) I Dont obstruct any officer's let them Strught In.

6) I admit it were wrong to Send my friend to the toilets.

7) We both accepted a £50.00 fine.

8) I Showed the officer no glass washer or Ice Machine in use

9) I showed the office No Monies had been taken Via till Roll.

10) I have Made a Complaint of the officer attitude and illegaly Searching My PRIVATE Property UPSTAIRS

11) Damage done to ladies toilet door which the officer Kicked In.

12) The Police have visited the Wayyou Houses on 4 Previous Dates and Nobody was on the D.

D. ...

If My Appeal is unsuccessful I will have to get legal Aid and Dispute in Court. I don't have £1000 to pay in 28 days have no Income at the Moment and no future trade expected.

Regards

SDMS

Date: 9th December 2020
Your Ref: **ZB0006717 3**
Our Ref: Waggon and Horses

Bolton Council

Department of Place
Ellesmere House
Mayor Street Depot
Ellesmere Street
Bolton
BL3 5DT
Tel: 01204 336930

www.bolton.gov.uk

Mr McNamara
Re: Waggon and Horses
170 Chorley Road
Westhoughton
Bolton
BL5 3PN

Dear Mr McNamara,

Fixed Penalty Notice Appeal Outcome
The Health Protection (Coronavirus, Restrictions) (England) (No.4) Regulations 2020

Thank you for your recent correspondence regarding the above matter. I am now in a position to provide you with a response into my investigation.

The facts surrounding the alleged offence in relation to The Health Protection (Coronavirus, Restrictions) (England) (No.4) Regulations 2020, as amended (SI. 2020: No. 1200) have been reported to me by the investigating officer of the Licensing Unit.

In view of the evidence you have stated within your communication, I am writing to inform you that after consideration, I am dismissing your appeal on the grounds that there is sufficient evidence that would enable Bolton Council to proceed against you for contravention of the above legislation.

The information you have submitted is not valid evidence that would mitigate the circumstances described in the investigating officers testimonies and I am satisfied that at the time of the visit the business was providing alcohol during the emergency period other than as permitted by the legislation.

The activity witnessed is a violation of Regulation 15(1) of the aforementioned legislation –

As a business or service listed in Part 1 of the Schedule, or is carried on from, or provided at, premises of a kind specified in Part 1 of the Schedule you:

- *Failed, without reasonable excuse, to cease providing food or drink for consumption on the premises*

Director of the Department of Place **Gerry Brough**

May I take this opportunity to remind you that if you do not discharge your liability to prosecution for the offence, Bolton Council will have no option but to initiate prosecution procedures for the offence in the Magistrates Court, where the maximum fine available is **unlimited**. The Court may also award costs against the defendant, and if convicted, you may obtain a criminal record for the offence.

Please be aware that no further reminders will be issued in respect of this notice.

Yours sincerely,

Mr. A Bolan
Head of Service
Regulatory Services Bolton Council

APPENDIX 2

Bolton Council

Licensing Act 2003

Premises Licence

PLA0706

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

WAGGON & HORSES
170 Chorley Road, Westhoughton, Bolton BL5 3PN

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

An Exhibition of a Film
An Indoor Sporting Event
A Performance of Live Music
Any Playing of Recorded Music
A Performance of Dance
Provision of Late Night Refreshment
The Sale by Retail of Alcohol

THE OPENING HOURS OF THE PREMISES:

Description	Time From	Time To
MONDAY – THURSDAY	10:00am	12:30am
FRIDAY – SATURDAY	10:00am	1:30am
SUNDAY	11:00am	12:30am
CHRISTMAS DAY	11:00am	11:00pm
NON STANDARD TIMINGS New Years Eve: 10:00 to New Years Day – terminal hour as proposed		

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES:

Activity (area if applicable)	Description	Time From	Time To
B. Exhibition of Films (indoors)	MONDAY – THURSDAY	10:00am	Midnight
	New Years Eve: 10:00 to new years Day terminal hour as proposed. When hours for sale of alcohol are extended these hours also extended		
	FRIDAY – SATURDAY	10:00am	1:00am
	SUNDAY	11:00am	Midnight
	CHRISTMAS DAY	11:00am	11:00pm
	NON STANDARD TIMINGS New Years eve: 10:00 to new years Day terminal hour as proposed. When hours for sale of alcohol are extended these hours also extended		
C. Indoor Sporting Event	MONDAY – THURSDAY	10:00am	Midnight
	New Years Eve: 10:00 to new years Day terminal hour as proposed. When hours for sale of alcohol are extended these hours also extended		
	FRIDAY – SATURDAY	10:00am	1:00am
	SUNDAY	11:00am	Midnight
	CHRISTMAS DAY	11:00am	11:00pm

Licensing Act 2003

Premises Licence

PLA0706

	NON STANDARD TIMINGS New Years eve: 10:00 to new years Day terminal hour as proposed. When hours for sale of alcohol are extended these hours also extended
E. Performance of live music (indoors)	MONDAY – THURSDAY 10:00am Midnight New Years Eve: 10:00 to new years Day terminal hour as proposed. When hours for sale of alcohol are extended these hours also extended FRIDAY – SATURDAY 10:00am 1:00am SUNDAY 11:00am Midnight CHRISTMAS DAY 11:00am 11:00pm NON STANDARD TIMINGS New Years eve: 10:00 to new years Day terminal hour as proposed.
F. Playing of recorded music (indoors)	MONDAY – THURSDAY 10:00am Midnight New Years Eve: 10:00 to new years Day terminal hour as proposed. When hours for sale of alcohol are extended these hours also extended FRIDAY – SATURDAY 10:00am 1:00am SUNDAY 11:00am Midnight CHRISTMAS DAY 11:00am 11:00pm NON STANDARD TIMINGS New Years eve: 10:00 to new years Day terminal hour as proposed.
G. Performance of Dance (indoors)	MONDAY – THURSDAY 10:00am Midnight New Years Eve: 10:00 to new years Day terminal hour as proposed. When hours for sale of alcohol are extended these hours also extended FRIDAY – SATURDAY 10:00am 1:00am SUNDAY 11:00am Midnight CHRISTMAS DAY 11:00am 11:00pm NON STANDARD TIMINGS New Years eve: 10:00 to new years Day terminal hour as proposed.
L. Late Night refreshment (indoors)	MONDAY – THURSDAY 11:00pm Midnight FRIDAY – SATURDAY 11:00pm 1:00am SUNDAY 11:00pm Midnight NON STANDARD TIMINGS New Years eve: 10:00 to new years Day terminal hour as proposed. When hours for sale of alcohol are extended these hours also extended
M. Sale by Retail of Alcohol for Consumption ON and OFF premises	MONDAY – THURSDAY 10:00am Midnight FRIDAY – SATURDAY 10:00am 1:00am SUNDAY 11:00am Midnight CHRISTMAS DAY 11:00am 11:00pm NON STANDARD TIMINGS New Years eve: 10:00 to new years Day terminal hour as proposed.

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND/OR OFF PREMISES
M. The Sale by Retail of Alcohol for Consumption ON and OFF the premises

Bolton Council

Licensing Act 2003

Premises Licence

PLA0706

Part 2

NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE
New River Trustee 7 Limited, IFC 5, St Helier, Jersey, JE1 1ST New River Trustee 8 Limited, IFC 5, St Helier, Jersey, JE1 1ST

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)	
New River Trustee 7 Limited	114157
New River Trustee 8 Limited	114158

NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL
Mr Steven Christopher WILKINSON **Deleted by LU **

PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL	
Licence Number: PA2570	Issued By: Bolton

ANNEXES

Annex 1 – Mandatory Conditions under the Licensing Act 2003
Mandatory conditions where licence authorises supply of alcohol

1. 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.

2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

The following conditions shall come into force on 6th April 2010

1.(1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children-
(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to-
(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on-
(i) the outcome of a race, competition or other event or process, or
(ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

The following conditions shall come into force on 1st October 2010

4. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
(2) 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 a holographic mark.

5. The responsible person shall ensure that-

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-
(i) beer or cider: ½ pint;
(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
(iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.

The following conditions shall come into force on 28th May 2014
Ban on sales of alcohol below the permitted price

The relevant person (the holder of the premises licence, the designated premises supervisor (if any) in respect of such a licence, the personal licence holder who makes or authorises a supply of alcohol under such a licence, or any member or officer of a club present on the premises in a capacity which enables the member or officer to prevent the supply in question) 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.

The permitted price is defined as the aggregate of the duty chargeable in relation to the alcohol on the date of its sale or supply and the amount of that duty multiplied by a percentage which represents the rate of VAT chargeable in relation to the alcohol on the date of its sale or supply. Detailed guidance on how to make this calculation and a calculator to determine permitted prices for each product are available on the Home Office website.

Where there is a change to the rate of duty or VAT applying to alcohol (for instance, following a Budget), the relevant person should ensure that the permitted price reflects the new rates within fourteen days of the introduction of the new rate.

It is still permitted to sell alcohol using promotions (as long as they are compatible with any other licensing condition that may be in force), and the relevant person should ensure that the price of the alcohol is not less than the permitted price. Detailed guidance on the use of promotions is given in the guidance document available on the Home Office website

Mandatory conditions: door supervision

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.

2.But nothing in subsection (1) requires such a condition to be imposed-
a) In respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films),
or
b) In respect of premises in relation to-
1. any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
2. any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

3.For the purposes of this section-
a) "security activity" means an activity to which paragraph 2 (1)(a) of that Schedule applies, and
b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

Mandatory condition: exhibition of films

1. Where any film is to be exhibited by virtue of the permissions granted by this licence and where the film has been classified by the British Board of Film Censors (BBFC), the admission of children to the

exhibition of the film shall be restricted in accordance with the recommendation of the BBFC.

2. Where the venue intends to exhibit a film which has not been classified by the BBFC the premises licence holder shall submit the film which it is intended to exhibit to the licensing authority, 28 days before the date on which it is proposed that the exhibition of the fi lm will take place and the admission of children to the exhibition of the film must be restricted in accordance with the recommendation of the licensing authority.

3. Where the licensing authority has notified the holder of the premises licence that section 20(3) of the Licensing Act 2003 applies to any film, the admission of children to the exhibition of the film must be restricted in accordance with the recommendation of the licensing authority.

Annex 2 – Conditions consistent with the operating schedule
The prevention of crime and disorder

1. Any person exercising a security activity (as defined by paragraph 2(1)(a) of schedule 2 of the Private Security Industry Act 2001) shall be licensed by the Security Industry Authority.

2. Such a person will be employed at the premises at the discretion of the designated premises supervisor/holder of the Premises Licence.
3. Any person defined in condition (1) will clearly display his name badge at al l times whilst on duty.
4. No customers apparently carrying opened bottles upon entry shall be admitted to the premises at any times the premises are open to the public.
5. Where CCTV is installed with recording facilities such recordings shall be retained for a period of 30 days and made available within a reasonable time upon request by the police.
6. Alcoholic and other drinks may not be removed from the premises in open containers save for consumption in any external area provided for that purpose.

Public safety
No further risks have been identified which need to be addressed, save as below
1. To comply with the reasonable requests of the fire officer from time to time.
2. To comply with the reasonable requests of the building control officer.

The Prevention of Public Nuisance

No further risks have been identified which need to be addressed, save as below
1. Where appropriate, prominent, clear and legible notices shall be displayed at all exits requesting the public respect the need of local residents and to leave the premises and area quietly.

2. Noise or vibration shall not emanate from the premises so as to cause a nuisance to nearby properties.

The Protection of Children from Harm
The restrictions set out in the Licensing Act 200 3 will apply. No unusual or additional risks of harm to children have been identified.

Bolton Council

Licensing Act 2003

Premises Licence

PLA0706

No films or videos of any description will be shown so that they can be viewed by persons under the age of any applicable BBFC/Local Authority certification.

Children under the age of 16 shall not be permitted to enter the Premises after 22:00 hours

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

NONE

Licensing Act 2003

Premises Licence Summary

PLA0706

Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

WAGGON & HORSES
170 Chorley Road, Westhoughton, Bolton BL5 3PN

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

An Exhibition of a Film
An Indoor Sporting Event
A Performance of Live Music
Any Playing of Recorded Music
A Performance of Dance
Provision of Late Night Refreshment
The Sale by Retail of Alcohol

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F. Playing of Recorded Music (indoors)	MONDAY – THURSDAY 10:00am Midnight New Years Eve: 10:00 to new years Day terminal hour as proposed. When hours for sale of alcohol are extended these hours also extended FRIDAY – SATURDAY 10:00am 1:00am SUNDAY 11:00am Midnight CHRISTMAS DAY 11:00am 11:00pm NON STANDARD TIMINGS New Years eve: 10:00 to New Years Day terminal hour as proposed.
G. Performance of Dance (indoors)	MONDAY – THURSDAY 10:00am Midnight New Years Eve: 10:00 to new years Day terminal hour as proposed. When hours for Sale of Alcohol are extended these hours also extended FRIDAY – SATURDAY 10:00am 1:00am SUNDAY 11:00am Midnight CHRISTMAS DAY 11:00am 11:00pm NON STANDARD TIMINGS New Years eve: 10:00 to new years Day terminal hour as proposed.
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M. Sale by Retail of Alcohol for Consumption ON and OFF premises	MONDAY – THURSDAY 10:00am Midnight FRIDAY – SATURDAY 10:00am 1:00am SUNDAY 11:00am Midnight CHRISTMAS DAY 11:00am 11:00pm NON STANDARD TIMINGS New Years eve: 10:00 to new years Day terminal hour as proposed.

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND/OR OFF PREMISES

The Sale by Retail of Alcohol for Consumption On and Off the Premises

NAME AND (REGISTERED) ADDRES OF HOLDER OF PREMISES LICENCE

New River Trustee 7 Limited, IFC 5, St Helier, Jersey, JE1 1ST
New River Trustee 8 Limited, IFC 5, St Helier, Jersey, JE1 1ST

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

New River Trustee 7 Limited 114157
New River Trustee 8 Limited 114158

NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Mr Steven Christopher WILKINSON

STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

None save for the presence of AWP machines already authorised, the use of which is not permitted by persons under the age of 18