

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LICENSING SUB COMMITTEE - 1 OCTOBER 2009

Title of report	APPLICATION FOR THE REVIEW OF A PREMISES LICENCE
Contacts	<p>Councillor Alison Smith 01530 835668 alison.smith@nwleicestershire.gov.uk</p> <p>Commercial Services Manager 01530 454610 lee.mansfield@nwleicestershire.gov.uk</p> <p>Licensing Enforcement Officer 01530 454528 catherine.gale@nwleicestershire.gov.uk</p>
Purpose of report	To determine an application for review of the premises licence at Mercury News located at 4 Silver Street, Whitwick, Coalville, Leicestershire, LE67 5ET. This report outlines the application and summarises the representations received. It also highlights the licensing objectives, the relevant parts of Government guidance and the pertinent sections of the Licensing Authority's Licensing Policy.
Strategic aims	Strong and Safer Communities
<p>Implications:</p> <p>Financial/Staff</p> <p>Link to relevant CAT</p> <p>Risk Management</p> <p>Equalities Impact Assessment</p> <p>Human Rights</p>	<p>Implications arising from an appeal made to the Magistrates Court by anyone aggrieved by the decision of the Sub-Committee.</p> <p>Safer CAT.</p> <p>The usual risks of cost involved if the applicant appeals against the decision of the Committee. In any event and in order to mitigate these risks, the Committee should give clear reasons for its decisions and any such reasons would need to be substantiated in Court.</p> <p>Equality impact assessment to be undertaken during 2009/2010.</p> <p>Article 1 of Protocol 1 of the European Convention of Human Rights provides that everyone is entitled to the peaceful enjoyment of his possessions, except in the public interest and subject to the conditions provided for by law.</p>

Transformational Government	Not applicable.
Consultees	Leicestershire Constabulary, Leicestershire Fire and Rescue Service, Trading Standards, Health and Safety, Planning and members of the public/local businesses by way of notice on the premises.
Background papers	Guidance issued under Section 182 of the Licensing Act 2003 - available for reference at www.culture.gov.uk and Statement of Licensing Policy -available for reference at www.nwleics.gov.uk/licensing
Recommendations	THAT THE SUB-COMMITTEE DETERMINE THE APPLICATION.

1. Background

- 1.1 The premises currently operate as a newsagents and confectionary store and have the benefit of a premises licence. The premises licence authorises the sale of alcohol for consumption off the premises. A copy of the premises licence is attached as **appendix 1**.
- 1.2 A map showing the location of the premises is attached as **appendix 2**.
- 1.3 The premises licence holders for these premises are Eastcliffe News Shops Limited and the designated premises supervisor is Steven Crowder who holds a personal licence issued by North West Leicestershire District Council.
- 1.4 On 10th August 2009 an application and supporting documents for the review of the premises licence was received from Leicestershire Constabulary. A copy of the application is attached as **appendix 3**. The review application relates to the licensing objectives concerning prevention of crime and disorder and the protection of children from harm. The grounds for review are:
- Steven Crowder became the designated premises supervisor (DPS) at this shop in April 2008.
 - On the 28th June 2008 police conducted a test purchase operation at the premise and the sale was refused.
 - On the 25th July 2008 police conducted a test purchase operation at the premises and the sale was refused.
 - On 28th November 2008 police conducted a test purchase operation at the premises and a 16 year old boy was sold alcohol by a member of staff. He was issued with a £80 fixed penalty ticket.
 - On the 18th April 2009 police conducted a test purchase operation at the premises and the sale was refused.
 - On the 24th July 2009 police conducted a test purchase operation at the premises and a 15 year old was sold a bottle of WKD Blue (an alcoholic drink) by the DPS. He admitted making the sale and was issued with an £80 fixed penalty ticket.
 - Leicestershire Constabulary recommended that the following conditions are added to the premises licence.

- 1) CCTV
- 2) Adoption of Challenge 21 policy
- 3) DPS take a qualification
- 4) Container Marking

2.0 Representations

- 2.1 The Licensing Authority is responsible for advertising the review application by prominently displaying a notice at, on or near the premises to which the application relates and at the main offices of the Licensing Authority for not less than 28 consecutive days. The relevant notices were displayed on the premises and in the reception area of the Council Offices, Coalville on 11th August 2009 and remained on display for the following 28 days.
- 2.2 In respect of the review of a premises licence, the applicant is responsible for serving the application on the premises licence holder and each of the responsible authorities, namely, Fire Authority, Trading Standards Department and the District Council's Health and Safety, Environmental Protection and Planning Sections. Officers are satisfied that the applicant has served all parties as required. No representations have been made by these parties.
- 2.3 Interested parties in the vicinity of the premises are able to make representations within 28 days of display of the notice of application to the Licensing Authority. No representations have been made by these parties.

3.0 Statutory Guidance

- 3.1 In making its decision, the Sub-Committee is obliged to have regard to Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003. All Licensing Committee members have been provided with a full copy of the guidance document. Officers consider that paragraphs 1.23 to 1.27, 2.1 to 2.19, 2.41 to 2.50, 2.51, 10.21 11.15 to 11.21, 11.25, 11.26 and 12.1 to 12.10 may have a bearing upon the application.

4.0 Statement of Licensing Policy

- 4.1 The Sub-Committee is also obliged to have regard to its own Statement of Licensing Policy. Officers consider that paragraphs 5.2 & 5.3, 7.1 & 7.2, 10.1 to 10.5, 10.8, 10.9, 11.1 to 11.3, 12.2 & 12.3 may have a bearing upon the application.

5.0 Observations

- 5.1 The Committee is obliged to determine this application with a view to promoting the licensing objectives, which are:
- the prevention of crime and disorder
 - the prevention of public nuisance
 - public safety
 - the protection of children from harm
- 5.2 The Committee may take such of the following steps, if any, as it considers necessary for the promotion of the licensing objectives:

- a) Modify the conditions of the licence.
- b) Exclude a licensable activity from the scope of the licence.
- c) Remove the designated premises supervisor.
- d) Suspend the licence for a period not exceeding three months.
- e) Revoke the licence.

5.3 Any determination made by the Sub-Committee shall not come into effect until the end of the period given for appealing against the decision or if the decision is appealed against, until the appeal is disposed of.

5.4 There is a right of appeal to the Magistrates Court against the decision of the Sub-Committee by the applicant, premises licence holder and persons who made relevant representations.

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

Premises licence number

NWL20047

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description

Mercury News Shop
4 Silver Street
Whitwick

Post town Leicestershire

Post code LE67 5ET

Telephone number

Where the licence is time limited the dates

Licensable activities authorised by the licence

The sale by retail of alcohol for consumption off the premises

The time the licence authorises the carrying out of licensable activities

On weekdays, other than Christmas day 8am to 11pm
On Sundays, other than Christmas day 10am to 10.30pm
On Christmas day, 12 noon to 3pm and 7pm until 10.30pm
On Good Friday, 8am to 10.30pm

The opening hours of the premises

Where the licence authorises supplies of alcohol whether these are on and/or off supplies

The sale by retail of alcohol for consumption off the premises

Part 2

Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence

Eastcliffe News Shops Limited
York House
Pennine Way
Saltley Business Park
Birmingham
B8 1JW

Registered number of holder, for example company number, charity number (where applicable)

Company - 3220671

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

Steven Crowder
11 Gladstone Street
Ibstock
Leicestershire
LE67 6NH

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Personal Licence number of Designated Premises Supervisor: NWL10642

Issuing Authority: North West Leicestershire District Council

Annex 1 – Mandatory conditions

The permitted hours set out above do not prohibit:

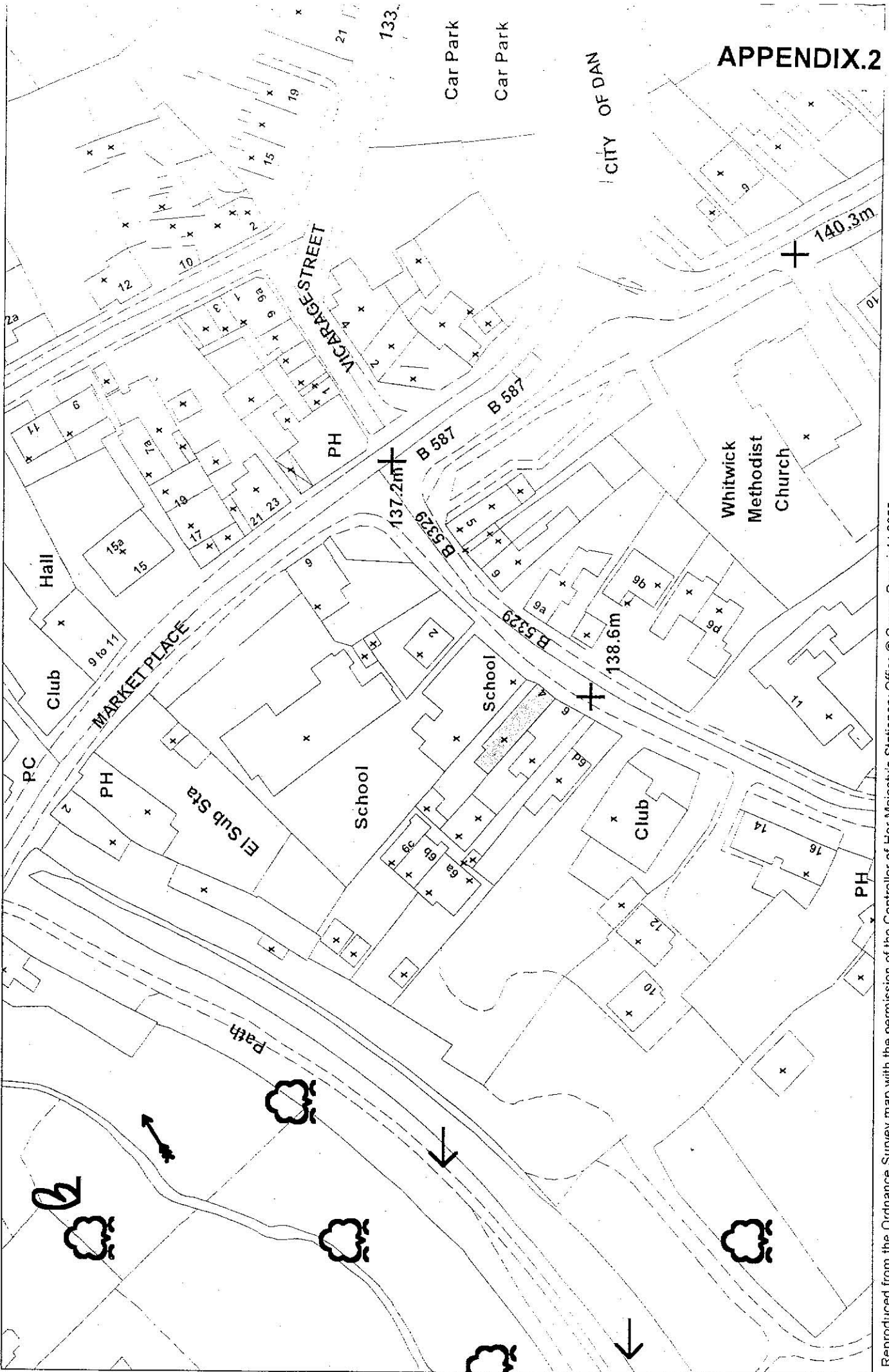
1. During the first twenty minutes after the above mentioned hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;
2. The ordering of the alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
3. The sale of alcohol to a trader or club for the purposes of the trade or club;
4. The sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces.
5. Alcohol shall not be sold in an open container and shall not be consumed on the licensed premises.
6. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
7. 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.

Annex 2 – Conditions consistent with the operating schedule

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

Annex 4 - Plans

APPENDIX.2



Reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationary Office © Crown Copyright 2000. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Date: 28 August 2009
SLA: Not Set
Scale: 1:1000

APPENDIX.3

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 Sean Moore Ps567

(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 Mercury News. 4 Silver Street, Whitwick,	
Post town Coalville	Post code (if known) LE67 5ET

Name of premises licence holder or club holding club premises certificate (if known) Eastcliffe News Shops Ltd.

Number of premises licence or club premises certificate (if known) NWL20047

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 PS567 Sean Moore, Leicestershire Constabulary Licensing Department, Mansfield House, 74 Belgrave Gate, Leicester LE1 3GG
Telephone number (if any)
E-mail address (optional)

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)

1. Steven Crowder became the designated premises supervisor (DPS) at this shop in April 2008.
2. On the 28th June 2008 police conducted a test purchase operation at the premises and the sale was refused.
3. On the 25th July 2008 police conducted a test purchase operation at the premises and the sale was refused.
4. On the 28th November 2008 police conducted a test purchase operation at the premises and a 16 year old boy was sold alcohol by a member of staff. He was issued with and £80 fixed penalty ticket.
5. On the 18th April 2009 police conducted a test purchase operation at the premises and the sale was refused.
6. On the 24th July 2009 police conducted a test purchase operation at the premises and a 15 year old was sold a bottle of WKD Blue (an alcoholic drink) by the DPS. He admitted making the sale and was issued with an £80 fixed penalty ticket.
7. Whilst not wishing to fetter the Committee's discretion we ask that the following steps be considered in order to address this problem:
 - (a) A condition that the licensee will ensure that CCTV is installed following advice from the Leicestershire Constabulary Crime Reduction Officer and maintained in accordance with the Information Commissioner's CCTV Code of Practice be added

to the licence. (Where CCTV is already in use this will amount to a survey and recommendations from the Crime Reduction Officer. This can prevent as well as detect crime.)

(c) A condition be added that the licensee will adopt the Challenge 21 policy and provide adequate, documented training for staff before they are allowed to serve alcohol. This training will be repeated every three months, in order to retain focus, and records of that training will be provided to Council licensing officers and police on request.

(d) A condition be added that the current Designated Premises Supervisor will obtain a recognised qualification for Designated Premises Supervisors. These courses focus on the role and responsibilities of the DPS above and beyond the syllabus for the level 2 National Certificate for Personal Licence Holders. The Licence holder must provide the licensing authority with sight of the certificate within the next 3 months.

(e) A condition be added that no alcohol will be sold unless the container bears a label identifying the store from which it was sold. (This will assist the responsible authorities in identifying the source of recovered alcohol and containers.)

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

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

Sean Moore P387

Date

5th August 2009

Capacity Licensing Officer

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)	

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.

Licensing Act 2003 - Test Purchase - Interview
Notes with DPS - Not Under Caution.

Name:.....STEVEN CROWTHER.....
Date of birth.....4/11/57.....
Address: 11, GLEADSTONE ST.....
.....FISHER.....
.....LEGS LET 7 GNIH.....

1. I am investigating an incident which occurred on ...24...July...2009
where a person entered the ...MCCOY NEWS Silver St...WITWICK
which is a premise subject to the Licensing Act 2003 and was sold
.....WKS BLUE....., an alcoholic based drink. This
person was15.....years old at the time of the sale and
therefore under the legal age of 18 to be sold alcohol. Were you
the seller.

R.....YES.....

2. How are you aware of the incident?

R.....N/A.....

3. Are you the DPS?

R.....YES.....

4. Who is the premises licence holder?

R.....THE COMPANY.....

5. What involvement do they have regarding licensing issues at the
premises?

R.....ALL ISSUES.....

6. Are you in day to day control of running the premises?

R.....YES.....

7. On average how often and at what times are you on the premises?

R.....EVERY DAY.....

8. How long have you been the DPS?

R..... ONE YEAR.....

9. Can you tell me your personal licence number and issuing authority?

R..... NWLDC.....

10. How long have you worked in the licensing trade?

R..... ONE YEAR.....

11. Who employs staff at the premises?

R..... I Do.....

12. How many staff are there?

R..... FIVE.....

13. How many staff have personal licences?

R..... NONE.....

14. Who provides the training for the staff?

R..... I Do.....

15. What training do you give to the staff regarding under age sales?

R..... CHALLENGE 21 - SHOW THE STAFF
DVS OF UNDER AGE SALES AND WHAT
TO LOOK OUT FOR
EACH MEMBER OF STAFF HAS A CERTIFICATE
TO SHOW THEY UNDERSTAND UNDER AGE SALES
AND THE LAW.....

16. Does the business have a written training procedure in relation to under age sales? If so can I see a copy?

R... YES

17. What records do you have that show the initial training and any refreshers for the seller?

R... TRAINING PACKAGE

18. Did you authorise him/her to sell alcohol on the day of the test purchase?

R... N/A

19. Do you train staff regarding the Challenge 21 policy?

R... YES

20. Do you consider the training given to the staff at your premises regarding under age sales adequate?

R... YES TO VERY GOOD

21. Do you have record of staff working at the time of this incident?

R... N/A

22. Were there any door staff on duty?

R... N/A

23. Why didn't you think it was necessary to ask for identification on this occasion?

R... I HAD A LEAD SAY - I THOUGHT SHE WAS 18 - I ALWAYS CHALLENGE 21 -

24. Is there anything you wish to add to this interview?

R... I HAVE BEEN A PM SITE FOR NEARLY 9
YEARS - I HAD ONLY OCCASIONALLY FAILED A TEST FOR
DEFECTS - I THOUGHT SITE WAS 18 - IT WAS A MISTAKE
I SHOULD HAVE CHALLENGED 21

Time, date and place of interview:

1930 20/7/09

Rank, name and number of Officer conducting:

PC 152 PHILLIPS

A report will be submitted to our licensing department. This may lead to an application to review the premises licence.

The above is a true record of our interview:

Name and signature of DPS:



Questionnaire prepared by the Leicestershire Constabulary
Licensing Department 20th June 2008. Extension 4330.

Alcohol Sales Questionnaire

Initial Training

PE 29

Please answer the following questions (putting a circle around multiple choice answers).

1. Name the Designated Premises Supervisor (D.P.S) for these premises.
.....
2. What are the hours that you are allowed to sell alcohol from these premises?
 Monday –Saturday.....
 Sunday.....
 Good Friday.....
 Christmas Day.....
3. Circle from the list below who you must refuse to serve alcohol.
 A: A person who appears to be drunk.
 B: A person who appears to be under 21 with no I.D.
 C: A person under the age of 18.
 D: A person who is purchasing for somebody else who is drunk.
 E: A person who is purchasing for somebody who is under 18.
 F: A person you do not know.
4. Who has to authorise you to sell alcohol?.....
5. To sell alcohol without supervision an employee must:
 A: Be aged over 21.
 B: Have more than 2 years experience.
 C: Have been authorised by the D.P.S.
 D: Be aged over 18.
6. What is the meaning of Challenge 21?

7. If you are in any doubt what must you do?

8. Where must you record details of any refused sales?

9. Who must you tell about the refusal and when?

10. What may happen if you sell alcohol to somebody who is under 18?

Branch Name.....
Staff Name.....

Branch No.....
Date.....

Alcohol Sales Questionnaire Refresher Training

PE 30

Please answer the following questions (putting a circle around your chosen answer)

1. Which of the following is one of the licensing objectives?
 - A: Protecting children from harm.
 - B: Promoting a family friendly environment.
 - C: Ensuring quality of service to customers.
 - D: Ensuring correct hygiene standards are maintained.

2. Under what circumstances can customers consume alcohol on the premises?
 - A. When they are over 18.
 - B. When they are 21.
 - C. At a free tasting event.
 - D. At the discretion of the staff.

3. Who are empowered to send persons aged under 18 into licensed premises to attempt to buy alcohol?
 - A. HM revenue and customs.
 - B. Food hygiene inspectors.
 - C. Social workers.
 - D. Police and Weights and Measures inspectors (Trading Standards).

4. Where is Part B (the summary) of the Premises Licence kept?
 - A. In the office (looked after by the DPS).
 - B. Under the counter.
 - C. On display so that it can be seen by the public.
 - D. At the home of the DPS.

5. If you don't hold a Personal Licence you can sell alcohol?
 - A. If the customer is happy for you to do so.
 - B. If a busy period requires you to do so.
 - C. If you have been trained and authorised by a Personal Licence Holder.
 - D. At the discretion of another member of staff.

6. To be classified as 'alcohol free' a drink must contain no more than?
 - A. 1.2% abv.
 - B. 0.5% abv.
 - C. 0.8% abv.
 - D. 0.05% abv.

Branch Name.....

Branch No.....

Staff Name.....

Date

REFRESHER TRAINING TO BE CARRIED OUT 6 MONTHS AFTER INITIAL TRAINING

LEICESTERSHIRE CONSTABULARY
PENALTY NOTICE

PN No. **33 / A** 6018390 0 **£80**

PART 4 CTO COPY

TITLE **MR** SURNAME _____

CRONIN

FORENAMES **STEVEN**

DATE OF BIRTH (ddmm/yyyy) **04/11/1957** ADDRESS **11**

GROBURY ROAD

TASSOCK

POST CODE **LE10 7 6NY**

OFFENCE TIME **1835** HRS. OFFENCE DATE **24/07/2009** BEAT **N24**

AT (LOCATION) **MERCURY NEWS**

SILVER ST WHITWICK

OFFENCE CODE **G099** DATE OF ISSUE **20072009**

YOLL (offence particulars) **Sold Alcohol to a person under 18 yrs**

CONTRARY TO (Act containing offence) **Sec 146(1)(f) Licensing Act 2003**

PLACE OF ISSUE: Street Custody

I acknowledge receipt of this Penalty Notice
Signature _____

ISSUED BY: Surname _____ Signature _____

Collar no. **0152** LPU/Area **NW**

Rank **PC**

MUST BE COMPLETED
ADDITIONAL DETAILS OF RECIPIENT

Gender: M F IC Code **1** Self Defined Ethnicity **W/C**

Occupation **DPS**

3rd Party Witness Statement: Particulars Obtained?
Y N

Notebook No. _____

Local Authority Code **NW**

A/S No. _____

Custody (Fic) No. _____

C.I.S. No. _____

PNC ID No. _____



Please ask for Sergeant 567 Sean Moore, Licensing Department.

**Leicestershire
Constabulary**

The Licensing Section
Mansfield House
74 Belgrave Gate
Leicester
LE1 3GG

Tel: 0116 222 2222

The Managing Director,
Eastcliffe News Shops Ltd.,
York House,
Pennine Way,
Saitley Business Park,
Birmingham B8 1JW

05/08/2009

Dear Sirs,

**Licensing Act 2003 – Police application to review premises licence at the Mercury News Shop,
Whitwick, Leicestershire.**

I write in my capacity as licensing officer for the Leicestershire Constabulary.

I enclose a copy of our application as above, which I trust is self-explanatory.

North West Leicestershire Council Licensing will be contacting you regarding this matter in the near future.

If you have any queries regarding this, or any other licensing matters please do not hesitate to contact me.

Yours faithfully,

Sean Moore PS567

Copy to:

Licensing Department,
North West Leicestershire
District Council
Council Offices
Coalville
Leicestershire LE67 3FJ