

**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**

**LICENSING SUB COMMITTEE – 21 JANUARY 2010**

Title of report	<b>APPLICATION TO VARY A PREMISES LICENCE TO SPECIFY AN INDIVIDUAL AS A DESIGNATED PREMISES SUPERVISOR</b>
Contacts	<p>Councillor Alison Smith 01530 835668 <a href="mailto:alison.smith@nwleicestershire.gov.uk">alison.smith@nwleicestershire.gov.uk</a></p> <p>Commercial Services Manager 01530 454610 <a href="mailto:lee.mansfield@nwleicestershire.gov.uk">lee.mansfield@nwleicestershire.gov.uk</a></p> <p>Licensing Enforcement Officer 01530 454528 <a href="mailto:catherine.gale@nwleicestershire.gov.uk">catherine.gale@nwleicestershire.gov.uk</a></p>
Purpose of report	To determine an application to vary a premises licence to specify an individual as designated premises supervisor at Kris Store located at 54-56 High Street Ibstock, Coalville, Leicestershire, LE67 6LH. 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>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>

Human Rights	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.
Transformational Government	Not applicable.
Consultees	Leicestershire Constabulary
Background papers	Guidance issued under Section 182 of the Licensing Act 2003 - available for reference at <a href="http://www.culture.gov.uk">www.culture.gov.uk</a> and Statement of Licensing Policy -available for reference at <a href="http://www.nwleics.gov.uk/licensing">www.nwleics.gov.uk/licensing</a>
Recommendations	<b>THAT THE SUB-COMMITTEE DETERMINE THE APPLICATION.</b>

## 1. Background

- 1.1 The premises currently operate as a convenience 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 On 10<sup>th</sup> December 2009 an application to vary the premises licence to specify Mrs Lilubai Modhvardia as the designated premises supervisor at Kris Stores was received from Mrs Lilubai Modhvardia. A copy of the application is attached as **appendix 3**.
- 1.4 The applicant has applied for the outcome of this application to take immediate effect in accordance with Section 38 of the Licensing Act 2003.

## 2.0 Representations

- 2.1 The applicant is required to serve a copy of their application on Leicestershire Constabulary.
- 2.2 The Responsible Authority is able to make representations within 14 days of the notice of application to the Licensing Authority.
- 2.3 Where a Chief Officer of Police is satisfied that the exceptional circumstances of a case are such that granting the application would undermine the crime prevention objective, he must give the licensing authority a notice stating the reasons he is so satisfied.
- 2.4 The police gave such notice on 23<sup>rd</sup> December 2009 and stated in it that because Mrs Modhvardia has been charged with a relevant offence, namely 3 counts of supplying goods to which false trade description applied, contrary to the Trade Descriptions Act 1968 s1(1)(b) at Corby Magistrates Court on 25<sup>th</sup> March 2009.

2.5 Leicestershire Constabulary's letter of objection is attached as **appendix 4**.

### **3 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 1.28 to 1.30, 2.1 to 2.18, 4.19 to 4.27, 4.28 to 4.30, 4.32 to 4.34, 10.45 to 10.47 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 7.1, 12.2 to 12.3, 15.1 to 15.3, 17.1 to 17.3 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 prevention of crime and disorder.

5.2 The Committee may take one of the following steps, if any, as it considers necessary for the promotion of the licensing objectives:

- a) Approve the application to vary the designated premises supervisor.
- b) Remove the designated premises supervisor.

5.3 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 within 21 days of receiving the notice.

**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**

**Premises licence number**

NWL20064

**Part 1 – Premises details**

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

Kris Store Limited, 54-56 High Street, Ibstock

**Post town**

Leicestershire

**Telephone number**

**Post code**

LE67 6LH

**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**

Mr Kana Natha Godhanniya  
103 Uppingham Road  
Leicester  
LE5 3TB

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

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

Mr Kana Natha Godhanniya  
103 Uppingham Road  
Leicester  
LE5 3TB

**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: LEIPR0715

Issuing Authority: Leicester City 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



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Produced using ESRI (UK)'s MapExplorer 2.0 - <http://www.esriuk.com>

Date:  
SLA:  
Scale

06 January 2010  
Not Set  
1:800



## SCHEDULE 5

Regulation 13

**Application to vary a premises licence to specify an individual as designated premises supervisor 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/we MRS. LILOBA - M. MODHVADIA... being the premises licence holder,  
(full name(s) of premises licence holder)

apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003.

Premises licence number

NWL 20064-

**Part 1 – Premises details**

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

54-56 HIGH STREET.

Post town

IBSTOCK.

Post code

LE67 6LH.

Telephone number (if any)

Description of premises (please read guidance note 1)

CONVENIENCE STORE.

Part 2

Full name of proposed designated premises supervisor

MRS. LILUBAI MERAMAN. MODHVADIA

Personal licence number of proposed designated premises supervisor and issuing authority of that licence (if any)

LEIPRS 2070

Full name of existing designated premises supervisor (if any)

MRS. LILUBAI. MERAMAN MODHVADIA

Please tick ✓ YES

I would like this application to have immediate effect under section 238 of the Licensing Act 2003

I have enclosed the premises licence or relevant part of it.

(if you have not enclosed the premises licence, or relevant part of it, please give reasons why not)

Reasons why I have failed to enclosed the premises licence or relevant part of it

Please tick ✓ YES

I have made or enclosed payment of the fee.

I will give a copy of this application to the chief officer of police.

I have enclosed the consent form completed by the proposed premises supervisor.

I have enclosed the premises licence, or the relevant part of it or explanation.

I will give a copy of this form to the existing premises supervisor, if any.

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 OF 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 2)

**Signature of applicant's solicitor or other duly authorised agent. (See guidance note 3).  
If signing on behalf of the applicant please state in what capacity.**

Signature .....

Date .....

Capacity .....

**For joint applications signature of second applicant or second applicant's solicitor or other authorised agent. (please read guidance note 4). If signing on behalf of the applicant please state in what capacity.**

Signature ..... *Ulu* .....

Date ..... *10-12-2009* .....

Capacity ..... *OWNER* .....

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 5)	
<i>Mrs. ALUBA MEBAMA WODHURDA</i>	
<i>22 WATHERLEIGH ROAD</i>	
Post town	Post code
<i>LEICESTER</i>	<i>LE5 5NB</i>
Telephone number (if any)	
If you would prefer us to correspond with you by e-mail your e-mail address (optional)	

**Guidance notes**

1. Describe the premises. For example the type of premises it is.
2. The application form must be signed.
3. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
4. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
5. This is the address which we shall use to correspond with you about this application.

SCHEDULE 11

Regulation 24

Consent of individual to being specified as premises supervisor

I MR. LILUBAI. M. MODHVADIA [full name of prospective premises supervisor] of 22 HATHRALEIGH ROAD LEICESTER - LE5 5NF [home address of prospective premises supervisor] hereby confirm that I give my consent to be specified as the designated premises supervisor in relation to the application for [type of application] by Mrs. LILUBAI. M. MODHVADIA [name of applicant] relating to a premises licence NWL 20064 [number of existing licence, if any] for S. K. J. CASH STORES 54-56 HIGH ST 137 TOWN LE67 6LH [name and address of premises to which the application relates] and any premises licence to be granted or varied in respect of this application made by Mrs. L. M. MODHVADIA [name of applicant] concerning the supply of alcohol at S. K. J. CASH STORES 54-56 HIGH ST 137 TOWN LE67 6LH [name and address of premises to which application relates]. I also confirm that I am applying for, intend to apply for or currently hold a personal licence, details of which I set out below.

Personal licence number LEIPA31070 [insert personal licence number, if any]

Personal licence issuing authority LEICESTER CITY COUNCIL NEW WALK CENTER LEICESTER LE1 62G [insert name and address and telephone number of personal licence issuing authority, if any]

Lilubai signed  
MR. L. M. MODHVADIA  
10-12-2009 name (please print)  
10-12-2009 dated

PART B

Consent of premises licence holder to transfer

I/we MR. KANA. NATHA GODHAMIYA [full name of premises licence holder(s)] the premises licence holder of premises licence number NWL 20064 [insert premises licence number] relating to KRIS STORES LIMITED 54-56 HIGH ST 137 TOWN LE67 6LH [name and address of premises to which the application relates] hereby give my consent for the transfer of premises licence number NWL 20064 [insert premises licence number] to MRS. L. M. MODHVADIA [full name of transferee].

K. N. GODHAMIYA signed  
MR. KANA. N. GODHAMIYA name (please print)  
10-12-2009 dated

## APPENDIX.4

Please ask for Sergeant 567 Sean Moore, Licensing Department.

Licensing Department  
NWL District Council  
Council Offices  
Coalville  
Leicestershire  
LE67 3FJ

23 December 2009

Dear Sir,

Licensing Act 2003 -- Chief Officer's Notice of Objection under Section 37(5) --  
Variation of premises licence at 54-56 High Street, Ibstock, Leicestershire to  
specify Lilubai Modhvadia as premises supervisor.

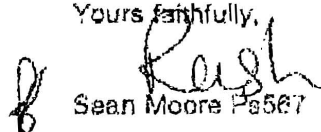
I write in my capacity as Licensing Officer for the Leicestershire Constabulary.

Please take notice that the chief officer of police is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective.

The reason is that Lilubai Modhvadia appears to have been convicted of three counts of supplying goods to which false trade description applied, contrary to the Trade Descriptions Act 1988 s.1 (1)(b) at Corby Magistrates Court on the 25<sup>th</sup> March 2009. She was fined £100 on each count with costs of £100. This is a relevant offence under Schedule 4 of the Licensing Act 2003.

Enquiries with Leicester City Council Licensing Department, who issued Lilubai Modhvadia with a Personal Licence under the Act (No. LEIPRS1070) on the 28<sup>th</sup> April 2006, reveal that they have not been notified of the conviction.

Yours faithfully,

  
Sean Moore Ps567

Copy to: