

Meeting of: LICENSING COMMITTEE, SUB – COMMITTEE HEARING UNDER THE
LICENSING ACT 2003

Time: 10.00am Date 8th September 2022

Venue: The Council Chamber, Futures Park, Bacup, OL13 0BB



Membership: 3 members of the Licensing Committee

Supported by: Joanna Wood, Committee and Member Services Officer, Tel: 01706 252426 or email joannawood@rossendalebc.gov.uk

The Council Chamber is located on the 464 bus route (Lee Mill bus stop). The 464 bus runs between Accrington and Rochdale, calling at stops in Haslingden, Rawtenstall, Waterfoot, Bacup and Whitworth. Directions to the Council Chamber and transport information can be found [here](#).

ITEM	CONTACT OFFICER
A. BUSINESS MATTERS	
A1. Apologies for Absence and Notification of Substitutes	
A2. Declarations of Interest <i>Members are advised to contact the Monitoring Officer in advance of the meeting to seek advice on interest issues if necessary.</i> Members are requested to indicate at this stage, any items on the agenda in which they intend to declare an interest. Members are reminded that, in accordance with the Local Government Act 2000 and the Council's Code of Conduct, they must declare the nature of any personal interest and, if the interest is prejudicial, withdraw from the meeting during consideration of the item.	Joanna Wood, Committee and Member Services Officer, Tel: 01706 252426 or email joannawood@rossendalebc.gov.uk
B. DECISIONS	
B1. Determination Hearing - Application for the review of the premises licence – Mace Express, 45A Bank Street, Rawtenstall, Rossendale, BB4 7QN.	Susan Chadwick, Licensing Enforcement Officer, 01706 238648, susanchadwick@rossendalebc.gov.uk

Neil Shaw
Chief Executive

Date Published: 30th August 2022

* This licensing authority will only allow licensing decisions to be taken by a minimum of three councillors. In the event of one member being unable to attend, their place will be substituted by another member taken from the membership of the full Licensing Committee or a suitably trained member. In the event of this substitution taking place all parties will be informed of the change of membership at the beginning of the hearing.

The agenda and reports are also available for inspection on the Council's website <https://www.rossendale.gov.uk/>. Other formats are available on request. Tel 01706 217777 or contact Rossendale Borough Council, Futures Park, Bacup, OL13 0BB.

Report of:	Public Protection Manager	Licence Type:	Premises Licence
Report to:	Licensing Committee	Date:	8 th September 2022
Contact Officer:	Susan Chadwick	Telephone:	01706 238 648
Email:	susanchadwick@rossendalebc.gov.uk		

PREMISES DETAILS

Name:	Mace Express
Address:	45A Bank Street, Rawtenstall, Rossendale, BB4 7QN
Ward:	Hareholme
Application:	Application for the review of a premises licence

1.	REASON FOR REFERRAL
1.1	To advise members of an application for the review of a premises licence under Section 51 of the Licensing Act 2003.
2.	RECOMMENDATIONS
2.1	It is recommended that members determine the application in accordance with the provisions of the Licensing Act 2003.
3.	LICENSING OBJECTIVES
3.1	Members are reminded of the Licensing objectives as follows: <ul style="list-style-type: none"> • The prevention of crime and disorder; • Public Safety; • The prevention of public nuisance; and • The protection of children from harm
4.	BACKGROUND
4.1	In October 2011, an application for the grant of a premises licence was received from Mr Irfan Ismail and that application was granted on 5 th December 2011.
4.2	On 14 th September 2021, Mr Jenishkumar Patel applied to have the licence transferred. That application was granted on 23 rd September 2021 and the application had effect whilst pending.
4.3	Mr Patel is the premises licence holder and is named on the licence as the designated premises supervisor (DPS).
4.4	The premises licence is appended at <u>Appendix A</u> .
4.5	The premises licence authorises the following activities: <p><u>Sale of Alcohol (Off)</u> Between 0730 hours and 1930 hours Monday to Friday Between 0800 hours and 1930 hours Saturday.</p>

4.6	The conditions imposed upon the premises licence (bar from mandatory conditions which the Licensing Authority have no discretion over) are appended as <u>Appendix B</u> .
5.	THE APPLICATION
5.1	On 19 th July 2022, an application to review the premises licence was received by the Licensing Authority. This application was made by Trading Standards and is appended at <u>Appendix C</u> .
5.2	The application is made on the grounds of the prevention of crime and disorder.
5.3	In accordance with the requirements of the Act, the application was properly served upon the licence premises licence holder and all responsible authorities.
5.4	In accordance with the requirements of the Act, the review application was advertised at the premises by way of the statutory blue notice for a consecutive period of 28 days. A notice was attached to the front door of the premises as well as a lighting column to the side of the business. The application was also advertised on the Council's website.
5.5	<p>Members are guided to paragraphs 11.27 and 11.28 of the statutory guidance issued under Section 182 of the Licensing Act which deals specifically with reviews on this matter. That guidance being:</p> <p><i>11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:</i></p> <ul style="list-style-type: none"> • <i>for the sale or storage of smuggled tobacco and alcohol.</i> <p><i>11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.</i></p>
6.	REPRESENTATIONS
6.1	No relevant representations were received during the representation period.
7.	OPTIONS
7.1	Members should always consider whether concerns raised can be overcome by the addition of conditions.
7.2	<p>Members should consider the application, the representations and all submissions made and must take the steps below (if any) as it considers appropriate for the promotion of the licensing objectives. The steps are:</p> <ol style="list-style-type: none"> 1. To modify the conditions of the licence; 2. To exclude a licensable activity from the scope of the licence; 3. To suspend the licence for a period of not exceeding three months;

	<p>4. To revoke the licence</p> <p>5. To issue a warning (which must be written and given to the licence holder);</p> <p>6. To take no further action.</p>
8.	POLICIES TO CONSIDER
8.1	<ul style="list-style-type: none"> • Rossendale Borough Council's Statement of Licensing Policy effective 20th March 2019. • Guidance issued under Section 182 of the Licensing Act 2003.
9.	CRIME AND DISORDER
9.1	<p>Section 17(1) of the Crime and Disorder Act 1998 places a duty on the Local Authority to have due regard to the likely effect of the exercise of these functions on preventing in its area, the following;</p> <ul style="list-style-type: none"> • crime and disorder; • misuse of drugs alcohol and other substances; and • re-offending.

APPENDICES

Appendix A	Premises Licence
Appendix B	Premises Licence Conditions
Appendix C	Application Form for Review

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

45A Bank Street, Rawtenstall, Rossendale, Lancashire, BB4 7QN

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- Sale of Alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES**Sale of Alcohol (Outdoors)**

Description	Time From and Time To
Monday to Friday	07:30 - 19:30
Saturday	08:00 - 19:30

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Friday	07:30	19:30
Saturday	08:00	19:30

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

Alcohol is supplied for consumption OFF the premises only.

NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCEMr Jenishkumar Rameshbhai Patel
[REDACTED]**REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)**

Not applicable

NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOLMr Jenishkumar Rameshbhai Patel
[REDACTED]**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: 137799

Issued By: Bolton

Annex 1 - Mandatory Conditions

No supply of alcohol may be made under the premises licence at a time when there is no designated premises supervisor in respect of the premises licence or at a time when the designated premises supervisor does not hold a personal licence or their licence is suspended.

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

A relevant person 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.

For the purposes of the condition set out in the above paragraph:

- a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- b) "permitted price" is the price found by applying the formula-

$$P=D+(D \times V)$$

where—

- i. P is the permitted price,
 - ii. D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - iii. V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence—
 - i. the holder of the premises licence,
 - ii. the designated premises supervisor (if any) in respect of such a licence, or
 - iii. the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

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:

- 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 in a manner which carries a significant risk of undermining a licensing objective;
- 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 in a manner which carries a significant risk of undermining a licensing objective;
- d) 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;
- e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

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 either—

- a) a holographic mark, or
- b) an ultraviolet feature.

The responsible person must 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;
- b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

- c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Where a premises licence authorises the exhibition of films:

Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.

Where:

- a) the film classification body is not specified in the licence, or
b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,

admission of children must be restricted in accordance with any recommendation made by that licensing authority.

In this section:

“children” means persons aged under 18; and

“film classification body” means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984.

Where a premises licence includes a condition that an individual must carry out a security activity:

Each individual in the premises to carry out a security activity must be licensed by the Security Industry Authority unless the premises or part of the premises where they are present are being used are wholly or mainly a restaurant or guest house, theatrical performances, plays or a Gaming Licence is for the time being in force in respect of those premises.

Annex 2 – Conditions imposed by virtue of being consistent with the operating schedule

A tamper proof CCTV system shall be installed, maintained and operated at the premises in liaison with and to the satisfaction of Lancashire Constabulary and shall be used to record during all hours that the premises are open to the public.

The premises shall operate a 'No ID, no sale' scheme.

An "all due diligence" book shall be kept to record all instances where sales of alcohol are challenged or refused.

The required age verification policy shall stipulate an age of 21 years.

Annex 3 – Conditions imposed by virtue of a determination hearing

No conditions imposed by virtue of a determination hearing held by the Local Authority.

Annex 4 – Plans

The plan titled "Mace Express" as held by the Local Authority refers.

Appendix B

Mace Express Conditions (Current)

Members should note that many of the conditions below are a little out of date and as such they could be better worded.

Condition 1:

A tamper proof CCTV system shall be installed, maintained and operated at the premises in liaison with and to the satisfaction of Lancashire Constabulary and shall be used to record during all hours that the premises are open to the public.

Condition 2:

The premises shall operate a 'No ID, no sale' scheme.

Condition 3:

An "all due diligence" book shall be kept to record all instances where sales of alcohol are challenged or refused.

Condition 4:

The required age verification policy shall stipulate an age of 21 years.

**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 Sam McConnell,

(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 MZ Newsagents Ltd trading as Bank Street News 45A Bank Street	
Post town Rawtenstall	Post code (if known) BB4 7QN

Name of premises licence holder or club holding club premises certificate (if known) Mr Jenishkumar Rameshbhai Patel
--

Number of premises licence or club premises certificate (if known) 21/00233/LAPRE3
--

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	<input type="text"/>	Post Code	<input type="text"/>
------------------	----------------------	------------------	----------------------

Daytime contact telephone number	<input type="text"/>
---	----------------------

E-mail address (optional)	<input type="text"/>
----------------------------------	----------------------

(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	
Sam McConnell Lancashire County Council Trading Standards Service 4 th Floor, Lancashire Point County Hall Pitt Street Preston Lancashire PR1 0LD	
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
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

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

The application for review is submitted by Lancashire County Council Trading Standards Service on the grounds that the licensing objective relating to the prevention of crime and disorder is not being observed at Bank Street News, 45A Bank Street, Rawtenstall BB4 7QN.

The Premise Licence Holder (PLH) and Designated Premises Supervisor (DPS) is Mr Jenishkumar Rameshbhai Patel.

The Trading Standards Service has received two complaints in relation to the supply of illicit tobacco from this shop, and on 14th June 2022 Trading Standards carried out an inspection at the premises and seized 50 illicit tobacco products.

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

PREVENTION OF CRIME AND DISORDER / PROTECTION OF CHILDREN FROM HARM

14/08/20 – Complaint received from a member of the public who stated that they went into the shop to purchase Amber Leaf tobacco, and was sold a packet which contained foreign text and was not in plain packaging as required by law. The complainant alleged that they were told that it was genuine but had no tax paid, and they were told to take it quickly and put it in their pocket.

13/02/22 – Complaint received from a member of the public, via Lancashire Police. The complainant claimed to have been sold a pack of Amber Leaf tobacco with foreign text and was not in plain packaging. They stated that they returned to the shop afterwards to complain that they believed the tobacco to be fake, and was threatened that they would be 'beaten up' if they reported the matter.

22/02/22 – Test purchase attempted by Trading Standards. No sale made.

14/06/22 – Trading Standards and Police attended the shop and carried out an inspection. Mr Jenishkumar Rameshbhai Patel was present. 17 packs of Amber leaf tobacco, 19 packets of Richmond cigarettes, 2 packets of Marlboro cigarettes, 4 packets of B&H cigarettes, 4 packets of L&B cigarettes, and 4 packets of Flandria cigarettes were discovered and seized, as they were not in plain packaging, did not contain the correct health warnings and picture warnings, and were suspected to be counterfeit. 294 improperly labelled e-liquids were also seized from the shop.

RELEVANT INFORMATION

- Supplying (including possessing for supply) tobacco products bearing trademarks without the consent of the proprietor of the mark (counterfeit) is an offence contrary to the Trade Marks Act 1994;
- Supplying (including possessing for supply) tobacco products which are not in plain packaging is an offence, contrary to the Standardised Packaging of Tobacco Products Regulations 2015;
- Supplying (including possessing for supply) tobacco products that do not display compliant health warnings is an offence, contrary to the Tobacco and Related Products Regulations 2016;
- Improperly marked tobacco products deny consumers valuable information about the dangers of smoking. Counterfeit tobacco is normally sold much cheaper than its genuine counterparts – typically half the price – which undermines price-based strategies to prevent smoking by making it more accessible to adults and children. Cut price tobacco presents unfair competition to legitimate retailers in the area and typically deprives the taxman of £6.17 for cigarettes and £11.30 for hand rolling tobacco, in terms of lost duty and VAT. In the case of counterfeit products, there is a further risk in that unlike their genuine counterparts, there are no controls over what goes into making them or on the levels of harmful substances they might contain. These products have also been found not to comply with requirements to self extinguish if left unattended.

Paragraphs 11.27 & 11.28 of 'The Revised Guidance issued under Section 182 of The Licensing Act 2003' (Home Office April 2018) states that:

'There is certain criminal activity that may arise in connection with licensed premises that should be treated particularly seriously. These are the use of the licensed premises

...for the sale or storage of smuggled alcohol and tobacco.

It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

The following options are available to the committee:-

- 1) Do nothing;
- 2) Modify the conditions of the licence;
- 3) Exclude a licensable activity from the scope of the licence;
- 4) Remove the Designated Premises Supervisor;
- 5) Suspend the licence for a period not exceeding three months;
- 6) Revoke the premises licence so that no alcohol can be sold at all.

In the opinion of Lancashire County Council Trading Standards Service, the information presented in the application is clear evidence that the Prevention of Crime and Disorder licensing objective has been disregarded at these premises.

Notwithstanding any further information being provided, Lancashire County Council Trading Standards respectfully requests that the committee considers whether revocation of the premises licence would be an appropriate finding in the circumstances.

Please tick yes

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

If yes please state the date of that application

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

If you have made representations before relating to this 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, 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: S. McConnell.....

Date: 30th June 2022.....

Capacity: Principal Officer, Lancashire Trading Standards Service.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)	
Lancashire County Council Trading Standards Service 4 th Floor, Lancashire Point County Hall Pitt Street	
Post town Preston	Postcode PR1 0LD
Number (if any) [REDACTED]	
If you would prefer us to correspond with you using an e-mail address, your e- [REDACTED]	

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.