

LICENSING SUB-COMMITTEE

AGENDA



Tuesday 8th February 2022

at 2.00pm

**in the Council Chamber,
Civic Centre, Hartlepool.**

A limited number of members of the public will be able to attend the meeting with spaces being available on a first come, first served basis. Those wishing to attend the meeting should phone (01429) 523568 or (01429) 523019 by midday on Monday 7th February and name and address details will be taken for NHS Test and Trace purposes.

You should not attend the meeting if you are required to self-isolate or are displaying any COVID-19 symptoms such as (a high temperature, new and persistent cough, or a loss of/change in sense of taste or smell), even if these symptoms are mild. If you, or anyone you live with, have one or more of these symptoms you should follow the [NHS guidance on testing](#).

MEMBERS: LICENSING SUB-COMMITTEE:

Councillors Elliott, Fleming and Prince.

- 1. APOLOGIES FOR ABSENCE**
- 2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
- 3. ITEMS FOR DECISION**
 - 3.1 Application for the review of a premises licence – Charlies, 44A Duke Street, Hartlepool – *Assistant Director, Regulatory Services***

CIVIC CENTRE EVACUATION AND ASSEMBLY PROCEDURE

In the event of a fire alarm or a bomb alarm, please leave by the nearest emergency exit as directed by Council Officers. A Fire Alarm is a continuous ringing. A Bomb Alarm is a continuous tone. The Assembly Point for everyone is Victory Square by the Cenotaph. If the meeting has to be evacuated, please proceed to the Assembly Point so that you can be safely accounted for.

LICENSING ACT 2003

Procedure for Review Hearings



Prior to the commencement of the meeting, a representative of the Democratic Services Section shall establish the identity of those present, who they represent and who intends, or wishes to speak.

1. The Chair's opening comments, including introduction of Members of sub-committee and officers present. Explanation of the decision to be considered.
2. The Assistant Director (Environment & Neighbourhood Services) outlines the application, any relevant representations and relevancy to Licensing Policy and statutory guidance.
3. Members ask any questions of the Assistant Director (Environment & Neighbourhood Services).
4. Applicant for Review presents their case (either personally or via legal representation) and introduces witnesses where appropriate.
5. Questions by Members to applicant and/or applicant's witnesses.
6. Representations by responsible bodies and/or interested parties and witnesses introduced where appropriate.
7. Questions by Members to responsible bodies/interested parties and/or their witnesses.
8. Licence/Club Certificate holder presents their case (either personally or via legal representation) and introduces witnesses where appropriate.
9. Parties may question and clarify issues raised with the consent of the Chair.
10. If required, applicant/responsible bodies/interested parties to be given opportunity to sum up.
11. If required, the Licence /Club Certificate holder to be given opportunity to sum up.
12. Members to have the opportunity to clarify any points raised. The Chair shall ask whether all parties are satisfied they have said all they wish to.
13. Members to go into closed session to deliberate.
14. Chair informs parties of their decision, with reasons.

Report of: Assistant Director, Regulatory Services

Subject: APPLICATION FOR THE REVIEW OF A PREMISES LICENCE – *CHARLIES*, 44A DUKE STREET, HARTLEPOOL

1. PURPOSE OF REPORT

- 1.1 To consider an application for the review of a premises licence in respect of *Charlies*, 44a Duke Street, Hartlepool.

2. SUMMARY OF APPLICATION

- 2.1 Party requesting review: Hartlepool Borough Council Trading Standards
- 2.2 A copy of the review application is attached as **Appendix 1**.
- 2.3 A copy of the premises licence is attached as **Appendix 2**.
- 2.4 Street View images of the premises are attached as **Appendix 3** and a map showing the premises location is attached as **Appendix 4**.
- 2.5 The application for review refers to the following licensing objectives:
- The Prevention of Crime and Disorder
 - The Protection of Children from Harm

3. ISSUES

- 3.1 An application for the review of a licence is made under Section 51 of the Licensing Act 2003. The application must be made by either a Responsible Authority or any other person as defined by the Act. In this case, the application has been made by Hartlepool Borough Council's Trading Standards department which is a Responsible Authority.
- 3.2 The application must also relate to at least one of the Act's 'licensing objectives' which are: -
- i) The prevention of crime and disorder;
 - ii) Public safety;
 - iii) The prevention of public nuisance; and
 - iv) The protection of children from harm

3.1

- 3.3 The Trading Standards department is alleging that on 2nd November 2021, an undercover modern apprentice, aged 18 years old, and employed by Hartlepool Borough Council, was asked to visit *Charlies* to see if she could purchase a 'Geek Bar' or a 'Geek Bar Pro'.
- 3.4 'Geek Bars' are disposable electronic cigarettes and are age restricted products – meaning they cannot be sold to anyone under the age of 18 years.
- 3.5 'Geek Bar Pros' are illegal in the UK due to the amount of nicotine they contain.
- 3.6 The volunteer apprentice visited *Charlies* and purchased a *Geek Bar Pro* without being asked to confirm her age in any way.
- 3.7 Immediately following the sale, two Senior Trading Standards Officers entered the premises and seized a quantity of *Geek Bar Pros*. While they were there, it is alleged that a number of young children entered the shop attempting to purchase *geek bars* (an age restricted product).
- 3.8 By selling a *Geek Bar Pro* to an 18 year old, *Charlies* did not commit an offence under the Licensing Act as nicotine delivery devices (such as *geek bars*, vapes and even cigarettes) are not 'licensable products' and are not regulated by the Act.
- 3.9 However, it is the contention of Trading Standards that the shop's failure to verify the age of the 18 year old apprentice, when she was attempting to purchase an age restricted product (a *geek bar*), combined with the number of children who attended the premises when Trading Standards were there, and other evidence available, causes a concern that alcohol (a licensable product) may be sold to underage people without age verification checks being carried out.
- 3.10 Following consideration of all of the evidence presented, the steps available to the licensing sub-committee are: -
- To take no action;
 - To modify the conditions on the licence;
 - To remove the Designated Premises Supervisor;
 - To suspend the licence for a period not exceeding three months;
 - To revoke the licence.

4. RECOMMENDATIONS

- 4.1 That Members consider the representations made by the applicant and the licence holder and determine what action, if any, should be taken.

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 **Mrs Rachael Readman**

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

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

Charlies
44A Duke Street

Post town Hartlepool

Post code (if known) TS26 8UP

Name of premises licence holder or club holding club premises certificate (if known)

Abdul Khaliq Rizwan
50 Costa Street
Middlesbrough
TS1 4PH

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

HART/PS/090

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)

☒

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

Please tick ✓ yes

I am 18 years old or over

☐

**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 Mrs Rachael Readman Senior Trading Standards Officer Public Protection Civic Centre Hartlepool TS24 8AY
Telephone number (if any) 01429 523352
E-mail address (optional) <u>Rachael.readman@hartlepool.gov.uk</u>

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

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>

Please state the ground(s) for review (please read guidance note 2)

I am requesting the review on behalf of Hartlepool Borough Council's Trading Standards department - a Responsible Authority under the Licensing Act 2003. I believe the current trading practices at *Charlie's* are contradicting the Licensing Objectives of protection of children from harm and the prevention of crime and disorder.

Trading Standards have received reports from the general public, concerned parents and schools regarding *Charlies* selling disposable vape bars, known as Geek Bars, to children. Geek bars are nicotine delivery devices (similar to vapes) and are age restricted products – meaning they cannot be sold to anyone under 18 years of age.

On the 2nd November 2021, an 18 year old modern apprentice who works for the Council attended Charlies and purchased a Geek Bar *Pro* under the instruction of two Trading Standards Officers. She made the purchase without any checks being made to confirm her age. Geek Bar *Pro* vape bars cannot be legally sold to people of any age in the UK therefore breaching the Tobacco Products Directive.

Immediately following the sale, the two Senior Trading Standards officers attended the premises noticing there were a lot of children in the vicinity. The shop had further Geek Bar *Pro* vape bars for sale.

The non-compliant vape bars were seized by the Trading Standards Officers. During the time the officers were in the premises there were numerous groups of young children coming into the shop and asking to purchase "Geek Bars". One of the girls who had attempted to purchase a Geek Bar, stated she regularly bought them there until she was challenged by one of the Trading Standards Officers and stated that she was a student at Dyke House School.

Charlies are making these products readily available to children and, as an age restricted product, they should have systems in place to verify a prospective purchaser's age to ensure children cannot make a purchase – in the same way as they should when selling other age restricted products such as alcohol. The test purchase carried out by Trading Standards, and the presence of children attempting to purchase products when Trading Standards were on site, proved that they were not doing so.

It is Trading Standards' contention that selling age restricted products to children without verifying the purchaser's age casts significant doubt on the licence holder's suitability to be licensed to sell age restricted products i.e. alcohol.

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

To support my application supporting evidence will be provided by Mr Daniel Briggs, Senior Trading Standards Officer, Clare Lawton PC 1620 from the Licensing Support Unit for Cleveland Police and two concerned parents whose children have stated they have bought Geek Bars from the premises.

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
<input type="text"/>	<input type="text"/>	<input type="text"/>

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



Date **14 December 2021**

Capacity **Senior Trading Standards 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.

**The Licensing Team
Hartlepool Borough Council
Civic Centre**

REV01

THE LICENSING ACT 2003
PREMISES LICENCE (PART A)

Premises licence number

HART/PS/090

Part 1 - Premises details

Postal address of premises or, if none, ordnance survey map reference, or description			
Charlies 44A Duke Street			
Post Town	Hartlepool	Post code	TS26 8UP
Telephone number 01429 233849			

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licenceAlcohol Sales

Off-Licence

The time the licence authorises the carrying out of licensable activitiesAlcohol Sales

Off-Licence	Monday – Saturday	0800 – 2300
	Sunday	1000 – 2230
	Christmas Day	1200 – 1500
		1900 – 2230
	Good Friday	0800 – 2230

The opening hours of the premises

At the discretion of the licensee

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

Off Sales

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Abdul Khaliq Rizwan

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

N/A

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

Abdul Khaliq Rizwan

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

Date licence granted: 24th May 2019

ANNEX 1 – Mandatory Conditions

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

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

2. (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.

ANNEX 2 – Conditions consistent with the Operating Schedule

1. Alcohol shall not be sold or supplied for Off Sales, except during permitted hours

The above restrictions do not prohibit:

- (a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;
- (b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (c) the sale of alcohol to a trader or club for the purposes of the trade or club;
- (d) 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;

2. Alcohol shall not be sold in an open container or be consumed in the licensed premises.

ANNEX 3 – Conditions attached after a hearing by the Licensing Authority

None

ANNEX 4 - Plans

YOU ARE REMINDED THAT IT IS YOUR LEGAL OBLIGATION TO ATTACH THE CURRENT 'PLAN' TO THIS PREMISES LICENCE AND KEEP THIS LICENCE (OR A CERTIFIED COPY) IN A SECURE PLACE AT THE LICENSED PREMISES.

IT IS AN OFFENCE NOT TO PRODUCE YOUR PREMISES LICENCE (INCLUDING THE PLAN) UPON REQUEST BY A POLICE OFFICER, LOCAL AUTHORITY OFFICER OR AUTHORISED PERSON.



3.1 Appendix 4



