

REPORT OF CORPORATE DIRECTOR FOR COMMUNITIES

REVIEW OF PREMISES LICENCE

Premises concerned	Open All Hours 38 George Street Nottingham NG1 3BG Please see attached Premises Licence
Premises licence holder	Peter David Shearstone
Party submitting review	Jane Bailey - for and on behalf of Nottingham City Council Trading Standards Service Lawrence House Talbot Street Nottingham NG1 5NT Please see attached application.
Date application Received:	21 December 2011
Last date for representations:	18 January 2012 The Licensing Officer displayed public notice of this application in accordance with the Licensing Act 2003 (Premises Licences) Regulations 2005 from 22 December 2011 to 18 January 2012 inclusive.
Matters which the Authority has asked the parties to clarify	1. Identification of all issues (both factual legal) which are in dispute. 2. Identification of all areas of law, Guidance and Policy upon which they intend to rely.
Issue	Whether it is necessary and proportionate to take any one or more of the steps identified below in order to promote (1) the prevention of crime & disorder (2) public safety (3) the prevention of public nuisance or (4) the protection of children from harm or whether no action is necessary to promote the licensing objective(s).
Relevant Legislation	S51 – 53 Licensing Act 2003
Relevant Policy	Paragraphs 6.44 and 6.45 of the Statement of Licensing Policy.
Relevant Guidance	Paragraphs 11.1-11.27, Chapter 11 of the guidance issued under section 182 of the Licensing Act 2003.
Steps which the Licensing	1. To modify the conditions of the licence permanently or for a temporary period of up to 3

<p>Authority may take</p>	<p>months; and/or</p> <ol style="list-style-type: none"> 2. To exclude a licensable activity from the scope of the licence permanently or for a temporary period of up to 3 months; and/or 3. To remove the designated premises supervisor; and/or 4. To suspend the whole premises licence for a period not exceeding 3 months; or 5. To revoke the licence.
<p>Published documents referred to in compiling this report</p>	<p>Licensing Act 2003 Guidance issued under Section 182 of the Licensing Act 2003. Statement of Licensing Policy issued by Nottingham City Council.</p>

Andrew Errington
Director of Community Protection
Central Police Station, North Church Street, Nottingham NG1 4BH

Contact Officer: Sue Bowler, Licensing Officer 0115 9152089



Open All Hours
38 George Street

 City Boundary

0 39.7 Meters



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Nottingham
City Council

Printed at 08:44 11/01/2012



**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.

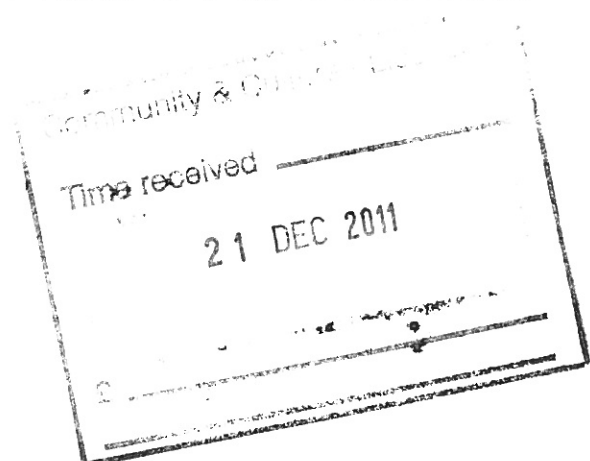
- I Jane Bailey, for and on behalf of Nottingham City Council Trading Standards Service is applying for the review of a premises licence under Section 51 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description OPEN ALL HOURS, 38 GEORGE STREET	
Post town NOTTINGHAM	Post code (if known) NG1 3BT

Name of premises licence holder or club holding club premises certificate (if known) Mr Peter David SHEARSTONE
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Number of premises licence or club premises certificate (if known) 037070



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 Nottingham City Council Trading Standards Service Lawrence House, Talbot Street, Nottingham NG1 5NT
Telephone number (if any) 0115 9156161
E-mail address (optional) jane.bailey@nottinghamcity.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
- 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 Licensing Objectives of Public Safety, Prevention of Public Nuisance and Protection of Children from Harm have been seriously undermined in that:

On 30th November 2011 a test purchase volunteer aged 15 years was sold alcohol by a person at Open All Hours, 38 George Street, Nottingham.

(2) PUBLIC SAFETY

Sales of alcohol to children under the age of 18 can cause concerns of public safety. This could cause intoxicated underage children to engage in unsafe behaviour putting themselves, and others at risk. An example of unsafe behaviour due to underage children drinking alcohol could be whilst in an intoxicated state they walk into the path of a moving vehicle putting themselves and the motorist at risk of injury.

(3) The PREVENTION of PUBLIC NUISANCE

It is also alleged that the sale of alcohol to underage children could also cause a public nuisance. This could be due to groups of intoxicated children causing anti social behaviour, which has previously been evident in parts of the City. Another by product of children being sold alcohol is litter such as empty cans and bottles being discarded in the area they gather. Again this has been evident in parts of the City.

(4) The PROTECTION of CHILDREN from HARM

The sale of alcohol to children can expose them to a risk to their health and wellbeing, either:

- by the direct effects to their health of consuming alcohol
- by making themselves more vulnerable to crime in particular those of a violent or sexual nature.
- by becoming in their intoxicated state a perpetrator of crime especially violence.

In this case a child aged 15 years was sold a bottle of Blossom Hill wine, which had an alcohol content of 12%. This is a particular concern as the higher the percentage of alcohol the more likelihood there is that a child's health and well being will be detrimentally affected.

The circumstances of the case are that on 30th November 2011 Section 146(1) of the Licensing Act 2003 was breached in that Mr Karpal Singh RATOUR sold the aforementioned alcohol to a person under the age of 18 years of age. This sale was witnessed by a member of Trading Standards. As a consequence Mr RATOUR has been issued with a fixed penalty ticket and a Prosecution Report will be raised in relation to Mr Peter SHEARSTONE who is the sole Premises License Holder and the Designated Premises Supervisor.

Open All Hours was subject to a license review in December 2010. This was as a result of a failed test purchase exercise in June 2010 when again they sold alcohol to a person under the age of 18 namely 13 years old. Mr SHEARSTONE was formally cautioned on this occasion but a number of conditions were attached to the premises licence. These included a condition that any person selling alcohol should be fully trained in Licensed Product sales before being authorised to make sales of such products.

On interview Mr SHEARSTONE admitted that Mr RATOUR had not received any training.

Summary

By reason of the matters aforesaid, it is felt that it would be a necessary and proportionate response of the Nottingham City Council Trading Standards Service to make an application for a review of the premises licence.

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

Historical

In March 2009 a complaint was received by Trading Standards that Open All Hours was selling alcohol to persons under the age of 18.

In January 2010 Trading Standards conducted a test purchase exercise in the City Centre and an attempt was made to purchase alcohol at Open All Hours. This however was aborted because the volunteer could not locate the alcohol in the shop.

On 30th June 2010 Trading Standards conducted an underage test purchase exercise at the premises and a bottle of 20cl Glen's vodka was sold to a 13 years old child.

On 24th July 2010 further information was received from a Special Constable who had seized some fake ID from a 15 years old male. The male informed the officer that he had used the fake ID to purchase alcohol from City Centre shops and specifically named Open All Hours.

On 28th July 2010 Mr SHEARSTONE and his then business partner Mr KAREER were interviewed in relation to the underage sale on 30/06/2010. Both subsequently received cautions in relation to this matter.

On 21st December 2010 following an application by the Nottingham City Council Trading Standards Service a licensing hearing was held to review the premises licence in respect of Open All Hours. By this time Mr KAREER who was the joint Licensee had sold his share of the business to Mr SHEARSTONE and as a result wished to surrender his personal licence. The Licensing Authority determined that the premises licence should be modified and a number of new conditions were imposed on it. These included:

- (1) Any person selling alcohol to have been fully trained in Licensed Product sales before being authorised to make sales of such products.
- (2) A challenge 25 policy to operate at the premises. Any person who appears to be under the age of 25 shall not be sold alcohol unless they produce an acceptable form of identification (e.g Passport, Driving licence or PASS accredited card).

On 30th November 2011 Trading Standards conducted a further underage test purchase exercise in the City Centre. In total thirteen premises were visited and only one failed that being Open All Hours. At 13:34 hours that day (30/11/2011) two 15 year old girls entered the shop. One of them selected a bottle of Blossom Hill wine with an alcohol content of 12%. This was presented at the till point. The seller; Mr Karpal Singh RATOUR; and the only person in the shop at that time did not ask for any ID or challenge the child's age. He merely sold the wine to the girl without any question. The sale was witnessed by a Trading Standards officer who was present in the shop with the two girls. Mr RATOUR was issued with a fixed penalty ticket.

On 5th December 2011 Peter SHEARSTONE was interviewed by Pc Wheddon and Rosie Bielby (Trading Standards). He admitted that on 30/11/2011 he had left Mr RATOUR in charge of the shop whilst he went to the bank. He admitted that Mr RATOUR had had no formal training in licensed product sales. He said he was just a friend who was helping him out. He said when he left the shop he reminded Mr RATOUR about the challenge 25 policy. He was shown the photograph of the two volunteers and said that he would imagine they were 15 or 16. He said they should

have been challenged.

This is a clear breach of both the aforementioned conditions. Mr SHEARSTONE has been reported for summons for the sale of alcohol on 30/11/2011, which gives rise to this review application.

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

0	3	1	1	2	0	1	0
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If you have made representations before relating to this premises please state what they were and when you made them

On 03/11/2010 an application to review the premises licence of 'Open All Hours' by the Nottingham City Council Trading Standards Service.

On 21st December 2010 a licensing hearing was held. By this time Mr KAREER who was the joint Licensee had sold his share of the business to Mr SHEARSTONE and as a result wished to surrender his personal licence. The Licensing Authority determined that the premises licence should be modified and a number of new conditions were imposed on it.

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

Joan Bailey

Date

20th December 2011

Capacity

Trading Standards Manager

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

Communities

Derwent Building
Eastcroft Depot
London Road
Nottingham
NG2 3AH
Tel: 0115 915 5555
Fax: 0115 915 2118

Premises Licence

Premises licence number: 037070

Part 1 – Premises details

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

Open All Hours
38 George Street

Post town	Nottingham
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Post code	NG1 3BG
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Telephone number	
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Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence

Sale by retail of alcohol;

The times the licence authorises the carrying out of licensable activities

Alcohol Sales

Monday	from 10.00 hrs to 24.00 hrs
Tuesday	from 10.00 hrs to 24.00 hrs
Wednesday	from 10.00 hrs to 24.00 hrs
Thursday	from 10.00 hrs to 24.00 hrs
Friday	from 10.00 hrs to 24.00 hrs
Saturday	from 10.00 hrs to 24.00 hrs
Sunday	from 10.00 hrs to 24.00 hrs

The opening hours of the premises

Monday	from 0630 hrs to 2400 hrs
Tuesday	from 0630 hrs to 2400 hrs
Wednesday	from 0630 hrs to 2400 hrs
Thursday	from 0630 hrs to 2400 hrs
Friday	from 0630 hrs to 2400 hrs
Saturday	from 0630 hrs to 2400 hrs
Sunday	from 0700 hrs to 2000 hrs

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

Alcohol - Off the premises

Part 2

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

Peter David Shearstone, 105 Bannerman Road, Bulwell, Nottingham NG6 9JA

(Transferred: 31 December 2010)

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 alcohol

Peter David Shearstone

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

036766 issued by Nottingham City Council

Signed:.....
Licensing Officer

Dated: 26 November 2005
Reviewed: 21 December 2010

Annex 1 - Mandatory conditions

S.19 Licensing Act 2003

1. No supply of alcohol may be made under this licence
 - a. At a time when there is no designated premises supervisor in respect of it or,
 - b. At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.

S19 (4) Licensing Act 2003

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.

Annex 2 - Conditions consistent with the Operating Schedule

1. A CCTV system shall be installed and maintained in accordance with the recommendations of Police Licensing Officers. Images shall be retained for 31 days and made available to the Police or other authorised Officers.

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

(Reviewed: 21 December 2010)

1. No alcohol to be sold at the premises by any person under the age of 18 years old;
2. Any person selling alcohol to have been fully trained in Licensed Product sales before being authorised to make sales of such products;
3. A Challenge 25 policy to operate at the premises. Any person who appears to be under the age of 25 shall not be sold alcohol unless they produce an acceptable form of identification (e.g. Passport driving Licence or PASS accredited card);
4. Suitable notices concerning the Challenge 25 policy to be prominently displayed in the premises for customers and in positions which act as a till prompt for staff;
5. Suitable notices to be prominently displayed at the premises for customer's information to confirm that alcohol will not be sold to any person under the age of 18 years old;
6. A bound and sequentially paginated refusals book shall be kept to record all refusals to sell alcohol. This book was to be made available to the Police or Responsible Authorities upon immediate request of either and retained on the premises for at least 12 months;
7. A full written record of all training of staff to be kept at the premises and a refresher training course undertaken every 12 months by individual members of staff by attending one of the approved Nottingham Trading Standards Department licensing courses;
8. If the premises adopt the EPOS System, that system must prompt staff at the point of sale, to the fact that the sale involves an age restricted product.

Annex 4 – Plans

Plan received with the application on 26 October 2005

Drawing number CDS029-03/1

Plan applicable from issue date of the licence

26 November 2005

21 December 2010