



**Application for the review of / Representation in respect of a
Premises licence or Club Premises certificate
under the Licensing Act 2003**

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Before completing this form, please refer to FPP 07001 (Licensing (Licensing Act 2003))

I Colin Pollard, on behalf of the Chief Officer of Hampshire Constabulary,
(Insert name of applicant)

Apply for the review of a premises licence.

Apply for the review of a club premises certificate.

(Select as applicable)

Make a representation about a premises licence/club premises certificate

Premises or Club Premises details

Postal address of premises:	Danny Mart 2 Ludlow Road Portsmouth
Postcode (if known):	PO6 3SN

Name of premises licence holder or club holding club premises certificate (if known) Nandakumar VAYANAPERUMAL
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Number of premises licence or club premises certificate (if known) 09/00651/LAPREM

Details of responsible authority applicant

Mr Mrs Miss Ms Other title / Rank:
Surname: Pollard First Names: Colin
Current postal address : Police Licensing Team Core 5, Lower Ground Floor Portsmouth Civic Offices Portsmouth Hampshire
Postcode: PO1 2AL
Daytime telephone number: 02392 688754
E-mail address: (optional) licensing@hampshire.police.uk



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Hampshire Constabulary is a responsible authority and the applicant has the delegated authority of the Chief Officer of Police in respect of his responsibilities under the Licensing Act 2003



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

*Select 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 grounds for review which must be based on one or more of the licensing objectives together with supporting information:

The Chief Officer of Police requests a review of the premises licence for Danny Mart, 2 Ludlow Road, Portsmouth under the Prevention of Crime and Disorder and Protection of Children from Harm Licensing Objectives.

This follows an incident where an 8 year old female reported she had been the victim of an assault at the premises by a female member of staff and the Designated Premises Supervisor and Premises Licence Holder refused to provide the CCTV. This has meant that officers have been unable to investigate fully the report. This has left an 8 year old girl and her family being unable to receive justice and the Premises Licence Holder/DPS (PLH/DPS), likely committing offences in relation to S136 Licensing Act 2003 in the process.

The Chief Officer of Police believes that these events have led to a situation whereby the licensing objectives have failed to be promoted at the premises and has undermined the confidence in the ability of the PLH/DPS to promote them moving forwards.

The premises is a convenience store and holds a licence to sell alcohol for consumption "off" the premises. The Designated Premises Supervisor and Premises Licence Holder are the same person, Nandakumar Vayanaperumal. This person also calls themselves "Nanda". Nanda has operated off licences in a number of differing locations and is an experienced licensee.

There are a number of conditions on the licence. One of which is in relation to CCTV, the key points of which are as follows:

- CCTV must be fully operational whilst the premises is open to the public
- It will have a capacity for storage of 31 days good quality pictures
- Police need to have access to the system quickly and easily
- Provision will be made for someone to have access to the system and operate it

In 2016 Police were investigating an incident where away from the premises a vehicle was broken into and a bank card stolen. The bank card was later used at the store to purchase items fraudulently.

As part of the investigation officers made efforts to contact the premises and the PLH/DPS in order to access CCTV and identify the offender in the case. Officers struggled to do this



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despite:

- Attending the premises to request the CCTV. Officers were told by staff working at the premises that the only person who could work the CCTV was the PLH/DPS and he was unavailable.
- Efforts to contact the PLH/DPS numerous times on his phone number which were not answered.
- Leaving a number of voicemails on the PLH/DPS phone. He did not respond.
- Requests for staff to contact the PLH/DPS and speak with him. He did not answer their calls either.

The officers investigating the incident reached out to the Police Licensing Team as they were frustrated by the lack of co-operation of the Licence Holder to provide the CCTV in line with the premises licence conditions.

PC Rackham spoke with the Licensee over the phone and explained to him the need for CCTV and explained to him his responsibilities under the Licensing Act 2003. He then followed this up with him by email where he:

- Detailed the lack of response from him in relation to CCTV requests.
- Advised that this lack of response was hampering an investigation into a theft/fraud incident.
- Explained that his CCTV condition detailed that he needed to provide access to the Police and provide someone to operate the system.
- Explained that failing to do so was a breach of his licence condition and a potential offence under S136 Licensing Act 2003 and that this could result in prosecution and/or trigger of the review mechanism.
- Advised that he needed to contact the Police officer dealing with the investigation and provide the information requested swiftly to avoid any action being taken from a licensing perspective.

Following this engagement the PLH/DPS contacted the officers involved and organised the information required. No further action was taken as it was felt at the time that the Licensee had taken on board the feedback and ensured that he was compliant with the conditions of his premises licence.

Provided are the emails and contact in relation to this incident within Annex A of the Police evidence in this case.

On 12th July 2022 a report was made to the Police by the father of an 8 year old female. Incident 44220279311 refers and has been recorded as an Assault without injury.

The circumstances of the incident are as follows:

An 8 year old girl enters the Danny Mart at 2 Ludlow Road and the shop keeper, a female, requests to take a photo of her. She refuses and a photo is taken of her. The girl leaves the premises. On the 12th July 2022 the girl attends with her 12 year old friend to purchase



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sweets. The two purchase the sweets and following this the same female comes from behind the counter and grabs the 8 year old girl by the arm and pushes her against a stand in the store. The female then asks if she can take a photo of her to which the girl says to her "GET OFF".

The incident has upset the 8 year old girl and has concerned the girls parents. Officers from the local Neighbourhood Policing Team seek to investigate the circumstances to understand what has happened by viewing CCTV and seeking to obtain the details of the staff member working at the time.

The Police make numerous efforts to obtain CCTV from the premises, attending the store and making contact with the PLH/DPS eight times. All efforts to obtain CCTV are met with resistance and the PLH/DPS fails to provide the CCTV which is key in this case. He is obstructive in his dealings with the Police. The efforts of the local Neighbourhood Policing Team to obtain the CCTV and investigate the report are detailed in ANNEX B of the Police evidence bundle.

Following the failure of the PLH/DPS to provide the CCTV footage or assist with the investigation, PCSO Hambrook contacted the Licensing Department in order to ask for support with the retrieval of the CCTV. This contact is within Annex C of the Police evidence bundle.

On Thursday 11th August 2022 at around 17:15 hours, PC Rackham, of the Police Licensing Team, contacted the PLH/DPS by phone, introduced himself and advised of the incident and the difficulties for the Police obtaining CCTV into the assault on a young female. The PLH/DPS responded by stating words to the effect of, "the Police have never helped me so why should I help the Police."

PC Rackham again reiterated the circumstances of the incident and why it was important for police to obtain the footage. The PLH/DPS again repeated the line that the Police had never helped him so why should he help the Police.

PC Rackham explained to the the Licence Holder/DPS that he was legally responsible as both the DPS and the Premises Licence Holder for two things:

- The Promotion of the Licensing Objectives at the premises, specifically the prevention of crime and disorder and the protection of children from harm.
- Compliance with the conditions of the premises licence.

PC Rackham stated to the Licence Holder/DPS that he had a CCTV condition requiring him to keep footage for 31 days, provide access to the Police and ensure that there was a person on site at all times who could operate it. During the course of this conversation the Licence Holder/DPS stated that the footage of the incident on the 12th July had been overwritten and now did not exist.

Statements from both PCSO Hambrook and PC Rackham have been written and provided to Portsmouth City Councils Licensing Team for consideration of an investigation into offences under S136 of the Licensing Act 2003. These are contained in Annex D of the



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Police evidence bundle.

As you can see, numerous attempts have been made to obtain the footage in the case of the assault on the 8 year old girl and the failure of the PLH/DPS to provide this footage has significantly undermined the ability of the Police to investigate this matter. The Police position is that this has significantly undermined the Prevention of Crime and Disorder Licensing Objective and that of the Protection of Children from Harm.

The PLH/DPS has breached the premises licence conditions in relation to CCTV at the premises. On 5 occasions following the assault on the 8 year old girl, Police have attended the premises and no one has been able to operate the CCTV or provide Police with access to it.

The PLH/DPS has failed to ensure that the CCTV system operates for 31 days as per the conditions of the Premises Licence. On the 28th July he states to PCSO Hambrook that he believes that the footage has been overwritten. This is only 17 days after the incident and should have been available. The PLH/DPS states on the 11th August 2022 that the footage is not available. This was the 31st day when footage should have been made available to Police.

The reaction of the PLH/DPS to these requests has been obstructive. He has refused to assist the Police and on a number of occasions stated his rationale that he doesn't believe the Police have helped him so he shouldn't help the Police. This is extremely unhelpful and has significantly undermined the investigation of a reported assault by a staff member on an 8 year old girl.

The question for the committee is how this is dealt with at the hearing. The Police position is that we have a DPS who is also the Premises Licence Holder. This person is an experienced operator and understands his responsibilities under the Licensing Act 2003. He has deliberately:

- Refused to provide CCTV through his belief that he should not have to support the Police as he feels the Police have not supported him. This is despite the fact that he has the details of the Police Licensing Team and could contact them at any point. It is also despite the fact that he has the right to review any case as a victim if he is unhappy with how he has been dealt with by the Police. To the Police's knowledge the PLH/DPS has not reached out to the Police Licensing Team, nor have they ever requested a victim's right to review.
- Deliberately breached conditions consistently. All licensable activity will have been conducted other than in accordance with the Premises Licence resulting in S136 Licensing offences through the failure to provide CCTV, being unable to provide CCTV on Police request and also the CCTV being written over within 31 days.
- Deliberately failed to support a Police investigation into an assault on an 8 year old girl, by a staff member at the premises.

The options open to the committee are numerous and I shall go through them:

Do nothing - It is the view of Police that this will result in a continuation of the deliberate



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failures to uphold the Prevention of Crime and Disorder and Protection of Children from Harm Licensing Objectives as highlighted in this review.

Removal of the DPS – It is clear that the DPS, by his actions, and management in this case, has significantly undermined the Licensing Objectives. Ordinarily a change in DPS would ensure that someone can be posted to the role who is able to promote the objectives and also comply with the conditions on the licence. However, Police do not feel that this would be effective as the current DPS is also the Licence Holder and business owner. He would still effectively be making decisions and operating the premises. The removal as DPS would not ensure the promotion of the licensing objectives or compliance with the conditions on the licence.

Apply further conditions – When a PLH and or DPS fails to comply with existing conditions, there are no further conditions which could be applied to ensure compliance. The DPS/Licence Holder has demonstrated an inability to comply with the current conditions. Imposing different conditions would lead them to being breached and would not lead to the promotion of the licensing objectives.

Suspension of the Licence – Any suspension would act merely as a punishment in the short to medium term. Ordinarily suspension might be used to allow a PLH/DPS time to put in place measures to ensure any future licensable activity would be conducted in accordance with their licence permission and ensure that the Licensing Objectives would be promoted. This may be further conditions or training. In this case police do not see any long term value to a suspension as further conditions or training are not likely to remedy the reasons this premises has been called for review and will not result in preventing crime and disorder or protecting children from harm.

Provision of a warning – Following the incident in 2016 the PLH/DPS was warned by PC Rackham of his lawful obligations under the Licensing Act 2003 and potential enforcement action should he fail to promote the objectives or comply with his conditions. Based on the police experience with the more recent incident involving the 8 year old girl, this warning had no long term effect. For this reason it is the view of police that any further warning is unlikely to achieve compliance or the promotion of the Licensing Objectives.

Revocation of the Premises Licence – It is the view of police that revocation is the only option available to the Licensing Sub-Committee to effectively achieve the prevention of deliberate breaches of licence conditions, deliberate failure to promote the Licensing objectives of the Prevention of Crime and Disorder and Protection of Children from Harm and any resulting 136 Licensing Offences.

Police respectfully recommend that the committee revoke the premises licence.

Have you made an application for review relating to these premises before: Yes | No

If yes please state the date of that
application:

/ /

Day Month Year



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If you have made representations before relating to this premises please state what they were

N/A

Please tick

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 have sent a copy of this representation to the principal licensing officer of Portsmouth City Council

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

Signature of Officer Completing

Name Colin Pollard

Collar Number: 16866

Signature: Colin Pollard

Date: 04/10/2022

Signature of Authorising Officer (Inspector or above)

Name Robert Cohen

Collar Number: 2849

Signature: R. Cohen

Date: 05/10/2022