



Leeds
CITY COUNCIL

Entertainment Licensing
Leeds City Council
Civic Hall
Leeds
LS1 1UR

Elections and Regulatory Services

Civic Hall
Leeds LS1 1UR

Our Ref: A80/CB/LIC/PREM/03356/014

Your Ref:

Contact: Carmel Brennand



Date: 30 October 2023

Dear Sirs/Madam,

**REVIEW APPLICATION UNDER THE LICENSING ACT 2003
PREMISES: HAREHILLS MAXI FOODS, 268 – 270 HAREHILLS LANE, LS9
7BD**

Further to my formal representation submitted on the 12th October 2023, please accept this letter as supplementary information to be included for the hearing on the 7th November 2023.

On receipt of my representation, the solicitor for the applicant emailed me on the 20th October and within the email stated:-

As per the S182 Guidance at Para 11.10 my client would have hoped that enforcement would have taken a stepped approach to deal with the matters raised.

My client as a pro-active operator wants to work in partnership to ensure that any concerns are rectified as soon as possible, as was the case with the CCTV. We can also confirm that independent third party training in relation to the sale of alcohol to children has been arranged. Can you also please confirm that the premises passed the follow up test purchase on 25 September 2023, something that is not mentioned in your statement.

Can you also please confirm if there are any further steps that enforcement would recommend in order to deal with the concerns that are raised within your representation, as my client want to work in co-operation with you and all responsible authorities.

My client would welcome a meeting to discuss any further steps, please do let me know if this is something that you feel would be of benefit.

Further to a telephone conversation with the solicitor on Monday 23rd October, below is my response to him the following day:-

The Neighbourhood Policing Team has confirmed that the above passed a test purchase on the 25th September.

As we discussed I don't see the benefit of having a meeting with your client with only a couple of weeks before the hearing. All I would be able to advise him would be to ensure compliance with his Premises Licence and the Licensing Act 2003 as a whole.

On checking the premises record on the Council's Uniform database, I noted action taken by the Environmental Protection Team in June 2021.

When I have contacted the team leader of the Cleaner Neighbourhoods Team Amanda Matthews, she was able to confirm that the owner of the business Mr Dylan Safy had appeared at Kirklees Magistrates Court in June 2021 and pleaded guilty to 3 offences under Section 33 (1) (a); 2 offences under Section 33 (1) (c) and 1 offence under Section 34 (1) of the Environmental Protection Act 1990.

Mr Safy was ordered to pay a fine of £1907 for 1 offence with no separate penalty for the other offences, costs at £1981 and victim surcharge at £190 totalling £4078.

My colleague Ms Matthews reported that that her department had a history with this business which did result in a successful prosecution on several charges. The below shows a brief overview of the involvement she had as an officer, which did include a lot of educational/advisory work, then official notice, then a fixed penalty notice (FPN) for breaching the legal notice, then eventually prosecution due to persistent offences. She gave them plenty of opportunity to work with her and control their waste, however, they paid very little attention to their social impact. This premises in particular has such a variety of produce available to buy, including meats. Not only was the waste unsightly, dangerously piled up and uncontained (occasionally in the road itself!), it also gave off a foul odour on occasion. She had received complaints regarding verminous activity too, which is a real problem in Harehills generally.

The below shows that there is a pattern of behaviour here which did not change, in spite of the help and advice she gave.

18th March 2020 – Site visit and conversation with Mr Safy himself, advised that waste bins must be locked and waste stored inside at all times. On this occasion, there was a raw chicken root trapped in the lid of the bin – food source for rodents

1st April 2020 – Legal notice served pursuant to section 47 of the Environmental Protection Act – this focuses on the containment and disposal of commercial waste. Legal requirements in place for Mr Safy to adhere to. Enclosed was a general information sheet about the duty of care a business has over its waste.

8th June 2020 – revisit, bins open and overflowing, in breach of notice served, FPN issued.

1st July – revisit, bins unlocked and overflowing. No action taken as FPN was still outstanding for payment

Payment received for FPN 2nd July, but 7 days later on 9th July, another offence committed (Waste uncontained) – showing no change in behaviour, disregard for responsibility.

12th August – waste uncontained again

15th September – educational visit about bonfire night, and information/guidance attached. Time permitted for extra collections if needed (fire hazard and targets)

5th November – bins again unlocked and overflowing with side waste

Please see attached a copy of her statement which contains full details of interactions with Mr Safy, and a couple of photos to help visualise the impact this business was having on the locality.

In my opinion this does not show the behaviour of a pro-active and responsible operator who is willing to work with authorities to ensure that it is a safe and clean business for staff, customers and for residents living close by.

In my representation of the 12th October I evidenced the breach of Premises Licence conditions in relation to the cctv which is a criminal offence as well as the sale of alcohol to a child which demonstrate a failure to operate responsibly in upholding the objectives; the prevention of crime and disorder and the protection of children from harm.

This additional information shows a failure to uphold the licensing objective 'the prevention of public nuisance'.

Under Section 5 of the Licensing Act 2003 the Licensing Authority is required to prepare a statement of principles that they propose to apply in exercising their functions under this Act.

The below section is taken from Leeds City Council's Licensing Policy 2023 – 2027 which came into effect in January this year.

Public Nuisance

- 4.20 In considering the promotion of this licensing objective, applicants need to focus on the effect of licensable activities on people living and working in the area around the premises which may be disproportionate and unreasonable.
- 4.21 The council is aware that the prevention of public nuisance is not narrowly defined in the Act and can include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community. It may also include, in appropriate circumstances, the reduction of the living and working amenity and environment of other people living and working in the licensed premises. Public nuisance may also arise because of the adverse effects of artificial light, dust, odour, litter, vermin, and insects or where its effect is prejudicial to health.

Whilst I appreciate that the Cleaner Neighbourhood Team is not a responsible authority under the Licensing Act 2003 I would respectfully request that the Licensing Sub Committee take into consideration the formal action required in order for this operator to comply with their legislation.

Any decision taken by the Council about determination of licences, certificates and notifications should aim to promote the licensing objectives which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

Yours faithfully



Mrs Carmel Brennand
Senior Liaison & Enforcement Officer, Entertainment Licensing

WITNESS STATEMENTS
(CRIMINAL PROCEDURE RULES, PART 16)

Statement of witness
(*Criminal Procedure Rules, 16.2*);
Criminal Justice Act 1967, s. 9,

STATEMENT OF: Amanda Matthews

Age of witness: over 18.

Address retained by case officer who has record of this if required: Yes

This statement, consisting of 8 pages is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 14th January 2021

Signed



My name is Amanda Matthews and I am employed by Leeds City Council as an Environmental Action Officer in the East North East Locality Team. My duties include investigating and taking enforcement action against commercial premises wherein waste arrangements are found to be insufficient or causing a nuisance to the locality and environment. I also conduct proactive commercial duty of care inspections at sites to ensure legal waste arrangements are in place.

In March 2020 I launched an investigation into the severe commercial waste issues stemming from businesses located between 260-288 Harehills Lane. This section of Harehills Lane runs parallel with Cowper Mount, Leeds, LS9 and all commercial waste receptacles for the businesses at these addresses are stored at the rear of the shops

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on the public footpath of Cowper Mount. On the opposite side of the road are a high number of back-to-back terraced houses, the windows of which overlook the commercial waste bins. Alongside complaints of overflowing waste, there had been a number of reports made in regards to rodent activity thought to be caused by poor commercial waste management.

On Wednesday 18th March 2020 I visited Cowper Mount, Leeds, LS9 and was able to identify which waste receptacles stored on the public footpath belonged to which business, by visiting each shop.

I went into Harehills Maxi Food and spoke with a man whom introduced himself as the owner of the business, Dylan Safy. I invited Mr Safy to join me at the rear of Harehills Maxi Food on Cowper Mount and asked him to identify which waste bins belonged to his business. Mr Safy confirmed that the 1100ltr AWM general waste receptacle and three 1100ltr Sonoco recyclable waste receptacles at the rear of the shop were for his business. Mr Safy advised me the general waste bin was lifted twice a week on a Wednesday & Saturday and the Sonoco bins were lifted once per week on a Wednesday. I took photographs of these receptacles, copies of which are identified as Exhibit AM01 and AM02, dated 18th March 2020.

During this visit I made note that the general waste receptacle was unlocked and had a raw chicken foot trapped between the lid and the rim of the bin. I took a photograph showing that the bin was unlocked but Mr Safy removed the chicken foot before I captured it in the image. A copy of this is shown as Exhibit AM03, dated 18th March 2020. I advised Mr Safy that all commercial waste receptacles must be locked closed and waste contained within them at all time. I also suggested that it may benefit the business to increase collection frequency of the recyclable containers in order to reduce the number of bins on the footpath.

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There was also a large number of plastic bread crates stacked next to the waste bins visible in Exhibits AM01 & AM03. I advised Mr Safy that the plastic crates should not be stored on the public footpath as they are not secured in any way. As there is a storage area located in the rear of the business premises, I told Mr Safy that the crates must be stored inside there until they are collected. Mr Safy explained that due to the high volume of breads that were delivered, it would not be possible to store all crates inside the storage room at once, for example on a weekend. I made note to reflect this difficulty in any legal correspondence I would send out. The bread crates were tagged with paper labels that had the name of the recipients written on. Some of these tags marked "Maxi Food" had become loose or had been ripped off the crates and were found discarded further down the public footpath. I took a photographs of this, copies of which are shown as Exhibit AM04 and Exhibit AM05, dated 18th March 2020. I advised Mr Safy that I would serve a legal notice against the business to put into effect what I had discussed with him.

On 1st April 2020 I conducted a search on Leeds City Council's Non-Domestic Tax Rates database for the trading address of Harehills Maxi Food, 268-270 Harehills Lane, LS9 7BD and found that Harehills Maxi Food was a trading name of HGS-UK LTD. A copy of this search is shown as Exhibit AM06, dated 1st April 2020. I cross referenced the company name and number with the Companies House database and found the company had only one active board member; Dylan Safy. A copy of the screenshots of this search is shown as Exhibit AM07, dated 1st April 2020.

I served a notice pursuant to Section 47 of the Environmental Protection Act 1990 against Dylan Safy as the only named and active board member of HGS-UK LTD. This Notice was sent via first class post to the registered office address of 268-270 Harehills Lane, LS9 7BD. The notice allowed a period of 28 days in which measures could be put in place in order to improve the way in which waste produced by Harehills Maxi Foods was managed. An information leaflet was included which highlighted the main points of

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duty of care a business has over its waste. A copy of the covering letter and Notice 20/01088/EP47 are shown as Exhibit AM08, dated 1st April 2020. A copy of the information leaflet accompanying the Notice is shown as Exhibit AM09, dated 1st April 2020. I was confident that Dylan Safy understood my verbal advice given on the 18th March 2020 and was expecting my legal correspondence.

I inspected the site on the Monday 8th June 2020 and found all four waste receptacles to be unlocked, open and overflowing with waste. Bags of general waste were piled on top of the lid of the open AWM container and a large number of plastic crates were found to be on the public footpath. I took photographs of the bins, copies of which are shown as Exhibits AM10, AM11 and AM12 all dated 8th June 2020. I also noted that the bread crates had the "Maxi Food" written on a label and had definitely come from Harehills Maxi Food. I took a close up photograph of this label, a copy of which is shown as AM13 dated 18th June 2020.

As a consequence of failing to adhere with Notice 20/01088/EP47, on 10th June 2020 I issued a £100 fixed penalty notice (FPN) to Dylan Safy of Harehills Maxi Food for failing to adhere to the terms of the Section 47 notice. A copy of the covering letter and FPN150/00121 is shown as Exhibit AM14, dated 10th June 2020. This was sent via first class post to the registered office address. I subsequently sent out a reminder letter for payment on the 25th June 2020, a copy of which is shown as Exhibit AM15, dated 25th June 2020. Our records showed that on 2nd July 2020, the £100 fine was paid in full.

I had passed the site on the 1st July 2020 and found the general waste bin to be unlocked, open and overflowing. I took a photograph of this but as the FPN was still outstanding for the first offence, I did not take further action. A copy of this photograph is shown as Exhibit AM16, dated 1st July 2020.

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As payment of the FPN issued on 10th June 2020 had been received, this brought the original offence on the 8th June 2020 to a close. I continued to monitor the commercial waste management at Harehills Maxi Food.

On Thursday 9th July 2020, only 7 days after liability for the first offence had been discharged, I found the waste produced by Harehills Maxi Food to be once more out of control of the business. One of the recycling containers was unlocked and overflowing and a number of crates were stored on the public footpath. There was also a build-up of waste around the base of the general waste bin making the area appear untidy. I recalled Mr Safy mentioning that the collection of the recyclable materials takes place on a Wednesday, so I believed there may have been an issue with collection and resolved to revisit at a later date. I took two photographs for evidence but did not take further action at this point, copies of which are shown as Exhibit AM17 and Exhibit AM18, dated 9th July 2020.

I revisited on Wednesday 12th August 2020 and again found the waste to be outside the control of the business as three of the four waste containers were unlocked and overflowing with waste and a number of crates were stored on the footpath. I took photographs to document the continuing pattern of poor waste management. Copies of my photographs are shown as Exhibits AM19, AM20 and AM21, dated 12th August 2020.

This proved to me that the collection schedule in place for Harehills Maxi Food was not frequent enough to ensure that the commercial waste at this site is sufficiently contained and managed. Allowing receptacles with dry mixed recyclables to be left unlocked and waste overflowing poses two threats; one is an increased risk of fire in what is an incredibly densely populated area and the second is that the lightweight nature of the waste means adverse weather conditions will easily carry such waste away from the control of the business. A point for further consideration is that Sonoco collect only dry

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recyclables, therefore if the waste is wet or contaminated, the waste would not be collected. As poor waste management was already an issue here, this was something that must be avoided.

On Tuesday 15th September 2020 I visited every business on Harehills Lane providing them with information and support around waste management prior to Bonfire Night 2020. The anti-social behaviours that had occurred on Bonfire Night 2019 had resulted in a number of commercial waste receptacles being targeted, set alight and pulled out into the public highways. The bins had created dangerous obstructions and incurred significant costs of clean up. I spoke with a representative of each business individually in regards to their duty of care over their waste and asked them to ensure the risks of their bins being set alight or stolen be reduced as much as possible by ensuring excess waste was collected and bins remained locked. A copy of the correspondence that was hand delivered to all business is shown as Exhibit AM22, dated 15th September 2020.

On Thursday 5th November 2020 I was on duty in Harehills conducting follow up checks of commercial waste bins to ensure they were secured and waste sufficiently contained. I inspected the waste arrangements at Harehills Maxi Food and witnessed all four receptacles open, unlocked and overflowing with waste. The general waste bin had an amount of plastic packaging hanging out over the rim that had residues from raw meats and animal blood. The crates were stacked to a height of approximately 8 feet and were not secured in any way. I took a number of photographs prior to entering the shop. Copies of these photographs are shown as Exhibits AM23, AM24, AM25, AM26 and AM27, all dated 5th November 2020.

I went into the shop in order to speak with Mr Safy, however he was not available. I spoke with a member of staff and expressed my concerns around the flammable waste and overflowing general waste bin and asked him to join me at the back of the shop. When passing through the shop, I saw significant space at the rear of the premises in

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which the crates and excess waste could have been stored without risk of interfering with the fire exit. The member of staff worked with a colleague to attempt to compact all overflowing waste in order to be able to lock the bin. In the process, the cardboard was doused with water, effectively contaminating it for collection.

Harehills Maxi Food is just one business out of fifteen located between 260-288 Harehills Lane. I have successfully taken action against all fifteen of these businesses. Three of these businesses were issued with £100 FPNs for contraventions of notices served pursuant to Section 47 of the Environmental Protection Act 1990 (not including Harehills Maxi Food) which were paid and have since continued to manage their waste correctly.

Harehills Maxi Food have had multiple opportunities between my initial inspection on 18th March 2020 and my final visit on 5th November 2020 to improve the commercial waste arrangements at site. Dylan Safy acknowledged that an offence had been committed by the business in June 2020 and accepted responsibility for the offence by paying the FPN. Further information was provided to the business on 15th September 2020 and again in person by me on 5th November 2020.

Since the original offence, I have recorded three occasions on which the waste produced by Harehills Maxi Food was stored on the public footpath (in a dangerous and uncontained manner) without authorisation from Leeds City Council or relevant permit. It must be noted that these items were stored on the public footpath in spite of sufficient space existing inside the premises and after verbal advice and legal notice had been given.

I have recorded three occasions on which the waste produced by Harehills Maxi Food was treated, stored and disposed in a manner likely to cause pollution of the environment or harm to human health.

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I have recorded three occasions on which the waste produced by Harehills Maxi Food has been insufficiently managed and has escaped the control of the business. This has been noted by waste overflowing from the bins and labels from bread crates found discarded on the public footpath.

There are a number of changes that Harehills Maxi Food could reasonably instigate in order to correctly store and dispose of the waste produced by this business. These changes could include scheduling extra waste collections, installing further locking mechanisms on the bins to ensure they remain locked closed, ensuring a member of staff is on site when the bread delivery arrives so the products may be decanted and the crates taken away immediately, conducting a daily check of the bins and compacting waste correctly when placing it in the bins to create more space.

Harehills Maxi Food have not attempted to make any of these reasonable changes.

Signed



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Business waste – are you disposing of yours legally?

If you operate any form of business, you have a legal responsibility and a Duty of Care under the Environmental Protection Act 1990 and other related legislation, to safely contain and legally dispose of any waste produced from your business. If you don't, you can be taken to court because you are committing criminal offences. Please note that your business rates do not include costs of your business waste disposal.

Examples of commercial waste are anything what so ever that is no longer required that is produced in the course of your business operations, such as old mail, cleaning products, packaging, sweepings, packages from and food eaten on the premises, damaged goods etc.

Disposal of commercial waste – two options

Option 1 – disposal of your own waste

You must be able to provide documents called waste transfer notes, or provide some form of receipt / tipping note showing;

- Where you disposed of the waste (tip location)
- How much waste you disposed of (weight)
- When it was disposed of (date)

You must keep such receipts for a minimum of 2 years.

You can take the waste to one of the Councils waste transfer stations that accepts trade waste, alternatively privately run waste sites can be found in the Yellow Pages and online.

Option 2 – have someone collect and dispose of the waste for you

- Anyone collecting your waste **MUST** be a licensed waste carrier
- You must have filled in a form, commonly known as a Duty of Care, with your chosen contractor

A contractor will provide you with a bin, or bags, depending on how much waste you produce and your preferences. You can check with the Environment Agency if your contractor is licensed. You are committing offences and can be prosecuted if you give your waste to anyone who is not licensed to carry and dispose of controlled waste.

Duty of Care

A legal Duty of Care applies to anyone who produces, stores, transports and disposes of commercial waste. The main misconception is that once commercial waste has been put out for collection by a business either in bags or in their commercial bins, the waste is no longer their responsibility. This is untrue. The waste still belongs to you until your waste disposal company removes it. Common problems found are bins found unlocked, lids wide open with waste spilling out, bins or bags of waste found thrown on the floor and often spilling out. This is an offence.

Most common forms of **illegal** waste issues from businesses

You will be committing offences if you do any of the following with your commercial waste:

- Store loose waste in your yard
- Place any waste outside on the floor / or on / around your bin
- Allow any waste to escape from your bins
- Fail to keep your waste storage area clean and waste free
- Take it home and put it in your household waste bin
- Take it to a household waste facility
- Give it to someone who is not authorised to accept your waste
- Put it in a public litter bin
- Cannot produce receipts / tipping notes, or a contract

You can face prosecution through the courts if found committing these types of offences. One of the main reasons businesses are taken to court is due to offences caused by their staff or by their own mismanagement. This could have easily been avoided by employees knowing the basic rules and procedures for your companies waste.

Make sure your staff are fully trained on your own waste disposal methods and waste storage arrangements. If they deal with your waste on your behalf, they should know what to do with it and where it should go.

The Councils environmental enforcement officers are here to help and advise you how to best manage your waste arrangements and to prevent your business falling foul of the law.

Council officers have the power to inspect your commercial waste arrangements.

This may be by the service of a section 34(5) legal notice in accordance with the Environmental Protection Act 1990. This notice gives you a specified time period to produce your documents to us. If you can not and do not have written proof of the correct disposal of your business waste, you will be committing offences. This can result in a fixed penalty notice of £300, or prosecution through the courts where the maximum fine is £5000.

Officers can also issue you with a section 47 legal notice in accordance with the Environmental Protection Act 1990. This notice requires you to obtain the specifics waste disposal arrangements contained within the notice. For example, the Officer may require you to obtain a 1100litre bin to be emptied twice a week and stored in your yard. Failure to comply with this notice can result in a fixed penalty notice of £100, or prosecution through the courts where the maximum fine is £1000.

Flytipping, or the illegal deposit of waste on land, is a serious criminal offence, and you can be taken to court and face a penalty of £50,000 and / or 5 years imprisonment. If YOUR business waste is found dumped, and you have not complied with all the requirements as above, YOU may face such action.

For help or advice call the East North East Locality Team now on 0113 ~~2301561~~ AM

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Pasta - Sauce
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