



HILLINGDON
LONDON



Notice of Hearing

Licensing Sub Committee (South)

Date: TUESDAY,
23 AUGUST 2011

Time: 10.00 AM

Venue: COMMITTEE ROOM 5
CIVIC CENTRE,
HIGH STREET,
XBRIDGE
UB8 1UW

Meeting Details: Members of the Public and Press are welcome to attend this meeting

This agenda and associated reports can be made available in other languages, in Braille, large print or on audio tape on request. Please contact us for further information.

Councillors on the Sub-Committee:

Josephine Barrett (Chairman)
Bruce Baker
Carol Melvin
Brian Stead
Lynne Allen

Important Information

On receipt of this notice, you **MUST** notify the Committee Clerk (contact details below) by the following date:

Friday 19 August 2011

If you don't notify you may lose your right to speak at the hearing. When notifying you must confirm:

- 1) Whether you intend to attend or to be represented by someone at the hearing;
- 2) If you consider a hearing to be unnecessary and;
- 3) Whether to request that another person attends (other than your representative) as a witness

Published: Monday 8 August 2011

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This Agenda is available online at:

<http://modgov.hillingdon.gov.uk/ieListDocuments.aspx?CId=301&MId=1223&Ver=4>

Lloyd White
Head of Democratic Services
London Borough of Hillingdon,
3E/05, Civic Centre, High Street, Uxbridge, UB8 1UW
www.hillingdon.gov.uk



INVESTOR IN PEOPLE

Useful information

Bus routes 427, U1, U3, U4 and U7 all stop at the Civic Centre. Uxbridge underground station, with the Piccadilly and Metropolitan lines, is a short walk away. Limited parking is available at the Civic Centre. For details on availability and how to book a parking space, please contact Democratic Services

Please enter from the Council's main reception where you will be directed to the Committee Room. An Induction Loop System is available for use in the various meeting rooms. Please contact us for further information.

Please switch off any mobile telephones and BlackBerries™ before the meeting. Any recording of the meeting is not allowed, either using electronic, mobile or visual devices.

If there is a FIRE in the building the alarm will sound continuously. If there is a BOMB ALERT the alarm sounds intermittently. Please make your way to the nearest FIRE EXIT.



Agenda

- 1 Apologies for Absence.
- 2 Declarations of Interest in matters coming before this meeting.
- 3 To confirm that items marked Part 1 will be considered in Public and items marked Part 2 will be considered in Private.
- 4 Consideration of reports from the Council's Licensing Officer.

Review Hearing Protocol

Pages 1 – 10

PART 1 - Members Public and Press

Application for the Review of the Premises Licences for the following:

	Title of Report / Address of Application	Ward	Time	Page
5.	Hayes News & Booze 772/774 Uxbridge Road Hayes	Barnhill	9.50 am Briefing 10 am Start of Hearing	11 - 38
6.	Botwellears 25 Botwell Lane Hayes	Botwell	11.05 am Briefing 11.15 am Start of Hearing	39 - 56
	Part 2 Appendix			57 -72

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Licensing Act 2003

Sub-Committee Hearings Protocol for determining applications for Reviews of Premises Licences or Club Premises Certificates

This protocol outlines the procedures that will apply:

Full details of the regulations surrounding sub-committee hearings are available for download on the Department of Culture, Media and Sport's website by [clicking here](#).

**It is important that you carefully read these
procedures if you wish to attend and be heard at a
Licensing sub-committee hearing**

1. On receiving the Notice of Hearing

What is the Notice of Hearing?

Hillingdon Democratic Services will give appropriate notice of the hearing, which depends upon the type of application to be considered. Exact timings are shown on the front page of the Agenda (attached to the front of the Notice of Hearing).

A Notice of the Hearing will be sent to all parties accompanied by:

- Date, time and location of the actual hearing and a procedural briefing to be held beforehand;
- This procedure note, the report from the Council's Licensing Officer with relevant requests attached;
- Confirmation that a party may be assisted / represented by a person who does not have to be legally qualified;
- Confirmation that a party to the hearing may address the authority, give further information on a point on which the authority requires clarification and, if considered by the authority to be required, question another party to the hearing;
- The consequences of not attending or being represented at a hearing (which normally will be that the hearing will proceed in the party's absence); and
- A note of any particular points on which the Hillingdon Licensing Service wants clarification.

Contact Information:

To give notice or any queries relating to the hearing please contact:

Clerk to the Committee

Tel: 01895 277655

Email: nwilliams@hillingsdon.gov.uk

Write to: Clerk to the Committee, Cabinet Office, 3E/05, Civic Centre, Uxbridge, UB8 1UW

What do I do when I receive the Notice of Hearing?

On receipt of the Notice of Hearing, all parties must inform the Clerk to the Committee – **normally no later than 2 working days before the hearing*** – whether they:

- Intend to attend or to be represented at the hearing;
- Consider a hearing to be unnecessary; and
- Wish to request that another person appear at the hearing (other than their representative) as a witness. If such a request is made, it should be accompanied by details of the name of that person and a full description of the points about which that person may be able to assist the hearing.

*Full details are given in the front of the Notice of Hearing of the deadline by which you should give your notice. All those who have made a request and the premises licence holder are also reminded of their right to have a legal representative at the hearing.

If a party does not notify the above to the Clerk to the Committee before the relevant deadline they will not be entitled to speaking rights at the hearing.

IT IS IMPORTANT THAT YOU REPLY TO THE NOTICE

If I want to withdraw my request - how do I do this?

Any party may withdraw their request by contacting the Clerk to the Committee by telephone, letter or email, providing they give notice no later than 24 hours before the hearing. If, during the hearing, any party wishes to withdraw their request they may do so orally by informing the Chairman.

What happens if I cannot attend the sub-committee hearing?

When a party informs the authority that he/she cannot attend the hearing or, without prior notice, fails to attend or be represented at the hearing, the sub-committee may either adjourn the hearing to a specified date, but **only** where it considers this to be necessary in the public interest or necessary for its consideration of any representations. Alternatively, the sub-committee may hold the hearing in the party's absence.

Where the sub-committee adjourns the hearing it shall notify the parties of the new date, time and place to which the hearing has been adjourned. Where the hearing is held in the absence of a party the sub-committee will still consider the application or any representations submitted by that party.

Can the date of the hearing be changed?

Only if the Licensing sub-committee scheduled to hear the review considers it to be necessary in the public interest or necessary for its consideration of any representations made by a party. In all other circumstances, the licensing authority cannot be flexible in the dates for hearings as the Licensing Act 2003 sets a strict legal deadline by which hearings must be heard.

Can you accommodate any special needs I may have?

Yes, if any person, who intends to be present at the hearing, has any special needs, (for example in connection with access, hearing, language or vision) this should be brought to the attention of the Clerk to the Committee prior to the hearing in order that appropriate provision may be made.

2. Before the Hearing

You will have been notified of the date and time of the Licensing Sub-committee hearing. The hearings will normally take place at the Civic Centre, High Street, Uxbridge in one of the Committee Rooms.

How do I get to the Civic Centre?

Parking may be available via the entrance to the Civic Centre in the High Street by contacting the Clerk to the Committee in advance. Parking is also available in the nearby Chimes Shopping Centre Car Park. Bus routes 607, 427, U1, U3, U4 and U7 all stop at the Civic Centre. Uxbridge underground station, with the Piccadilly and Metropolitan lines, is a short walk away.

Please enter from the main reception where you will be directed to the relevant Committee Room. Please switch off your mobile phone when entering the room and note that Hillingdon Council operates a no-smoking policy in its offices.

Will the hearing be in public?

There may be other members of the public and press that attend the hearing to observe the proceedings, but they will not be allowed to speak. At any hearing, the person who has requested the review may attend in person or, if the review is made by an organisation or corporate body, a duly authorised representative may be present, who is able to speak on their behalf can do so.

The hearing will take place in public. However, in exceptional circumstances, when the sub-committee considers that it is in the public interest, it may exclude the public from all or any part of a hearing. Hearings will normally take place during the day.

I have some new evidence - may I present it?

The sub-committee **will not** normally allow the production of new written evidence not previously submitted by any party. In the case where the sub-committee does allow new evidence, all other parties must give their consent before it is heard.

If new material is permitted, the hearing may need to be adjourned to allow time to consider it and for other parties to respond to it. Accordingly, any application to have new material considered should demonstrate exceptional reasons for its admission. It is, therefore important for parties to ensure that all evidence is submitted in writing as soon as possible and in accordance with the relevant timescales.

Will I be briefed on procedure before the hearing?

Yes, in the notice of hearing, you will have been asked to attend a procedural briefing before the hearing starts. All parties will be asked to attend this briefing so that the Council's Legal Advisor can outline the procedures to be followed at the hearing.

What if there is more than one Applicant or a number of different Parties to the review attend the hearing?

At the briefing, the Legal Advisor may ask that a spokesman is agreed amongst those present who have similar requests for a review or representations in support.

Who are the people on the Licensing sub-committee?

Three elected councillors of the London Borough of Hillingdon sit on a Licensing sub-committee and it is only they who can determine the application. Its minimum membership is two. Councillors who sit on the sub-committees have been trained in the new Licensing regulations and have experience of determining applications of various kinds.

One of the Councillors will be the Chairman of the hearing and it will be he/she who will call interested parties and responsible authorities to speak and ensure time limits are adhered to as set out in the procedures.

Other people who will be present along with the Councillors include:

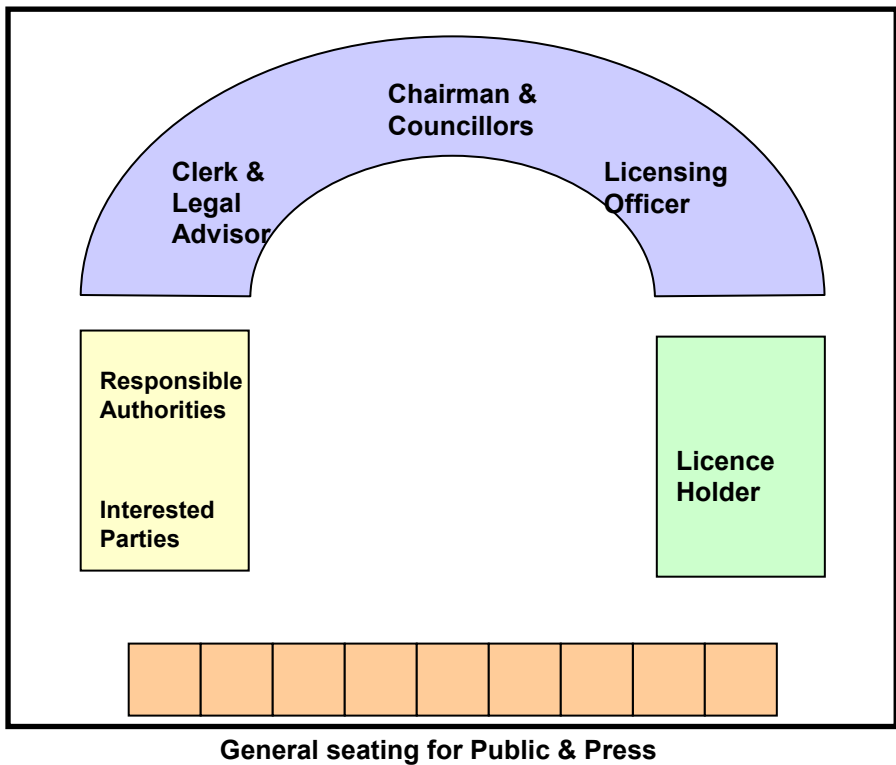
- The **Council's Licensing Officer** who will introduce the Officer report and outline his/her role.
- A **Legal Advisor** whose role is to assist the Committee with legal advice and to ensure that a fair and balanced hearing takes place.
- A **Clerk to the Committee** whose role is to summarise and record decisions on individual matters and to provide help and assistance to members of the public attending such meetings.

3. During the Hearing

The procedure at the sub-committee hearing will, in general, be based on those used in a court of law. Although the strict rules of evidence will not apply, they will be observed to a great extent, because this is the best way of hearing the evidence from all parties. The hearing will take the form of a discussion led by the sub-committee councillors. The sub-committee will seek clarification on the issues from the parties as it considers appropriate.

Where shall I sit at the hearing?

The hearing will begin immediately after the procedural briefing and the set up of the room for those involved will generally be as shown below:



In general, how will the hearing be conducted?

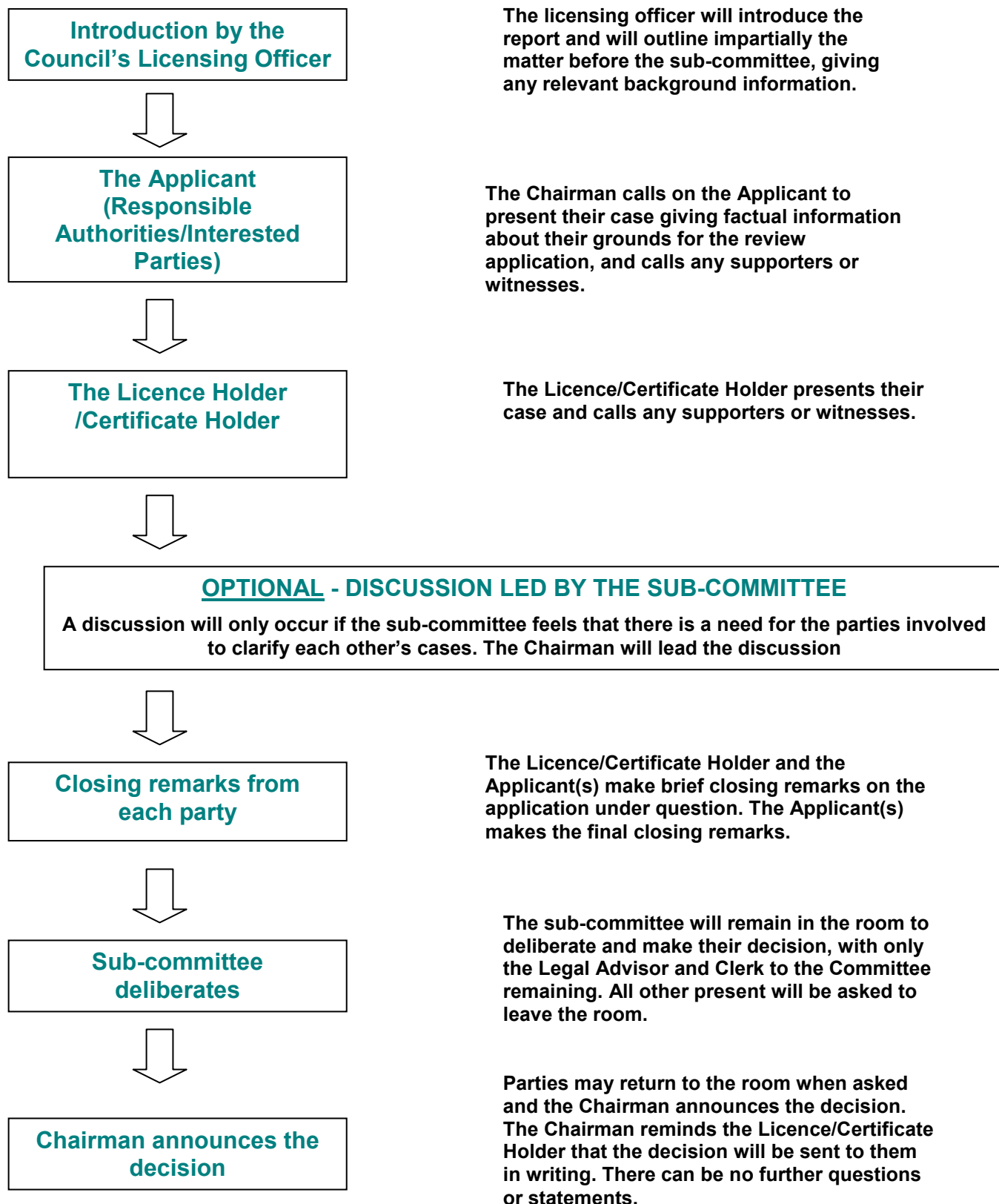
The procedure to be followed at the hearing will normally be as shown in the flow chart below, although all procedural matters will be subject to the discretion of the Chairman. All persons present will be requested to identify themselves and to give the reason for their presence. The sub-committee may consider any request from a party for another person to appear at the hearing as their representative.

It is important to note that cross-examination will not normally be permitted. Evidence, discussion and address must be relevant to the four licensing objectives. Repetition should also be avoided. The sub-committee will seek to prevent irrelevant and repetitive matters.

If, during its deliberations, the sub-committee considers that it is necessary for any person present at the hearing to provide further information or clarification on a particular point the hearing may be reconvened to deal with that issue. The sub-committee can also ask for procedural, technical or legal matter from officers present at any time during the proceedings.

What is the order of proceedings?

The Chairman of the sub-committee will open the hearing by introducing the Councillors explaining the purpose of the proceedings and the general procedure. The Chairman will then check that there are no additions or alterations to the list of those appearing at the hearing, which will have been prepared in advance by the Clerk to the Committee and will then outline the procedure that will be followed for the remainder of the hearing. The procedure is as follows:



Can a councillor sit on a sub-committee if the application is in their ward?

Councillors who sit on a sub-committee are advised to take steps to minimise their involvement in any application prior to its consideration by the sub-committee so that decisions are seen to be reached at the hearing impartially and with an open mind. Councillors should not appear to be acting both as an advocate on behalf of their residents and as an adjudicator on an application.

If a Councillor on the sub-committee has already taken a view on an application in advance of the hearing, they should not be present for the hearing of the application and should leave the meeting room for that item. They should also not visit any premises under consideration prior to the hearing. In any cases of doubt, the Councillor should not sit on the sub-committee for a particular application. In this instance, a substitute Councillor may need to be found from the main Licensing committee of the Council or the hearing may continue as long as two of the three Councillors are still present.

The agenda papers will show which ward each Councillor sits for and the reports from the Council's Licensing Officer will detail which ward the application is in.

Can a ward Councillor make a representation and or speak at a hearing?

If a ward Councillor, who does not sit on the sub-committee, wishes to make a formal objection to an application they may only do so if they make a written relevant representation as would apply to an Interested Party and in the same way as any other member of the public using the procedures outlined in this protocol. If the ward Councillor believes they have a personal or prejudicial interest in the application, they may still submit a relevant representation.

Ward Councillors, who do not sit on the sub-committee, may also speak at a sub-committee hearing in support or against an application, for example on behalf of their constituents without notice. They may also speak as an advocate or witness on behalf of the applicant or an Interested Party, even if they believe they have a personal or prejudicial interest. However, for the purposes of transparency, at the hearing, the ward Councillor should disclose what their personal or prejudicial interest is and whether they have been in contact with the applicant, agent, Interested Party or responsible authority beforehand or have visited the premises concerned.

Ward Councillors making either a written relevant representation or wish to speak at a hearing should not communicate about the application before the hearing with any Councillors who sit on the sub-committee. This is so the sub-committee makes their decision with an open mind.

What power does the Chairman have to control the meeting?

Under the Licensing act 2003, the Chairman may require any person attending the hearing who is behaving in a disruptive manner to leave the hearing and may refuse to permit that person to return or may permit the person to return only on such conditions as he or she may specify.

How will the sub-committee make its final decision?

Once the sub-committee has heard from officers and the parties to the hearing and has had answers to its questions, the sub-committee will usually withdraw to make its decision on the application. The sub-committee must disregard any information given or evidence produced by a party or witness, which is not relevant to the application, representations or notice or the promotion of the licensing objectives.

Members of the sub-committee have a duty to behave impartially, not to predetermine the issue and not to discuss matters with press or residents. In making its decision the sub-committee must state the reasons for that decision, taking into account the evidence presented by all parties during the hearing.

4. After the Hearing

When will we get formal notice of the decision?

The Chairman will normally announce the Sub-committee's decision in public at the end of the hearing and the reasons for the sub-committee's decision. This decision will then be communicated in writing to the parties as soon as possible after the hearing.

The Council's Legal Advisor will send the premises licence holder a decision letter shortly after the meeting outlining the decision and any conditions that are attached to the licence. In addition, a copy of the decision letter will be sent to all those who made an application for a review in connection with the premises. This will confirm the decision made; any conditions attached to a review application or the reasons for revocation. Details of the respective appeal rights will also be sent with this notice.

The minutes of the meeting will be made available on the Council's website at:
www.hillingdon.gov.uk

Can we appeal against the decision?

Following the decision, the premises licence holder or any person who has made an application for a review can appeal to the Magistrates Court.

How can I find out about other applications in my area?

The council's Licensing Service is required to arrange for a poster to be displayed at, or near, the premises in question when applications for Reviews of premises licences or club premises certificates are received. A poster is also displayed at the Civic Centre.

All applications once they are lodged will be available for viewing on Hillingdon Council's website at www.hillingdon.gov.uk and in the Civic Centre Offices by appointment with the Licensing Service during working hours.

APPLICATION FOR REVIEW OF PREMISES LICENCE - HAYES NEWS AND BOOZE, 772/774 UXBRIDGE ROAD, HAYES

Committee	Licensing Sub Committee
Officer Contact	Sharon Garner, Licensing Officer Tel: 01895 277230
Papers with report	<ul style="list-style-type: none">• Copy of Review application and relevant documents from Sgt Ian Meens• Copy of letter and evidence from Martin King in support of the review• Copy of the premises licence• List of responsible authorities• Map of the area
Ward(s) affected	Barnhill

SUMMARY

To consider an application for a Review of a premises licence under Part 3 Section 51 of the Licensing Act 2003 made by Sgt Ian Meens on behalf of the Metropolitan Police Service in respect of **Hayes News and Booze, 772/774 Uxbridge Road, Hayes UB4 0RS.**

RECOMMENDATION

That the Licensing Sub Committee determine the application.

INFORMATION

- 1.1 An application for a Review of the premises licence for Hayes News and Booze made by Sgt Ian Meens on behalf of the Metropolitan Police Service, was received on 1st July 2011 on the grounds of:-

Prevention of crime and disorder – the sale and display for sale of non-duty paid goods

Breach of Licence Conditions

- 1.2 The premises is a single unit shop selling groceries and alcohol. The premises licence was issued to Mrs Lakhjinder Badyal on 29th November 2007.
- 1.3 Sgt Meens sent copies of the application to all the Responsible Authorities as required by the Licensing Act 2003. A copy of the application is annexed to this report as **Appendix 1.**
- 1.4 In accordance with the legislation, a poster giving details of the application was displayed at the premises for 28 days and checks were made by the council's Licensing Officers to ensure that the poster was still correctly displayed.
- 1.5 As required by the legislation, a poster was also displayed on the Civic Centre notice board for 28 days and the details were listed on the council's website.

Licensing Sub-Committee – 23 August 2011

- 1.6 The legislation provides for other Responsible Authorities and/or interested parties such as residents to support the Review application. The period for Responsible Authorities and local residents to support the application expired on 29th July 2011. One letter of support was received from the Council's Trading Standards Officer.

This letter of support is annexed to this report as **Appendix 2**.

2.0 **LEGAL IMPLICATIONS**

The licensing authority must review the premises licence where it is alleged in an application for review by a Responsible Authority or an Interested Party that any of the licensing objectives are being undermined.

2.1 "Relevant representations" are those which :–

- Are relevant to one or more of the licensing objectives;
- Are made by a responsible authority or an interested party within the prescribed period;
- Are made by the holder of the premises licence in response to an application for a review of the said premises
- Have not been withdrawn; and
- If made by an interested party, that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.

The four licensing objectives are –

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

Each objective must be considered to be of equal importance

- 2.2 The Licensing Sub-Committee must also consider the London Borough of Hillingdon's licensing policy when what action, if any, to institute. The terms of the Statement of Licensing Policy are highly persuasive, but not binding, on the Licensing Sub-Committee. The Licensing Sub-Committee may depart from the guidance contained in the Statement of Licensing Policy if it considers there are clear and convincing reasons to do so.

Where there is a conflict between the Licensing Act 2003 and the Statement of Licensing Policy, the Licensing Act must prevail.

- 2.3 Members are required to have regard to the DCMS Guidance in carrying out the functions of licensing authority. However, guidance does not cover every possible situation, so long as the guidance has been properly and carefully understood, members may depart from it if they have reason to do so. Full reasons must be given if this is the case.

- 2.4 The sub-committee may decide to: –
- Take no action
 - Modify the conditions of the licence by altering, omitting or adding any condition;
 - Issue a formal warning, recommending an improvement within a specified time frame;
 - Exclude a licensable activities from the scope of the licence;
 - Remove the designated premises supervisor;
 - Suspend the licence for a period not exceeding three months; or
 - Revoke the licence.

For this purpose the conditions of a premises licence are modified if any of them are altered or omitted or any new condition is added. Modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months.

- 2.5 The Sub-Committee may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives.

In deciding what remedial action if any it should take, the Sub-Committee must direct its mind to the causes or concerns which the representations identify. The remedial action should generally be directed at these causes and should always be no more than a necessary and proportionate response.

It is of particular importance that any detrimental financial impact that may result from a licensing authority's decision is necessary and proportionate to the promotion of the licensing objectives in the circumstances that gave rise to the application for review.

2.6 **Conditions**

Conditions will not be necessary if they duplicate a current statutory requirement..

Members are also referred to the Home Office guidance on conditions, specifically section 10.7 and Annexe D.

The Statutory Guidance states that only necessary, proportionate and enforceable conditions, which promote one or more of the licensing objectives, should be attached to the licence.

The Licensing Authority may therefore only impose such conditions as are necessary to promote the licensing objectives arising out of the consideration of the Review application (paragraph 10.11), and should avoid straying into undisputed areas (paragraph 9.24). Statutory Guidance also states that the pool of conditions that are supplied by the Secretary of State should not be applied universally irrespective of particular circumstances, but may be used as examples that can be tailored to suit individual premises and particular situations.

2.7 Notification of Determination

Where the authority determines an application for review it must notify the determination and reasons for making it to: –

- The holder of the licence;
- Any person who made relevant representations;
- The chief officer of police for the area (or each police area) in which the premises are situated

2.8 The Role of the Licensing Sub-Committee

Sub-Committee members will note that, in relation to this application, the Council has multiple roles. Council officers from various departments have been asked to consider the application from the perspective of the Council as authority responsible respectively for environmental health, trading standards, health and safety and as the planning authority.

Members should note that the Licensing Sub-Committee is meeting on this occasion solely to **perform the role of licensing authority**. The Sub-Committee sits in quasi-judicial capacity, and must act impartially. It must offer a fair and unbiased hearing of the application. In this case, Members should disregard the Council's broader policy objectives and role as statutory authority in other contexts. Members must direct themselves to making a determination solely based upon the Licensing Law, Guidance and the Council's Statement of Licensing Policy.

As a quasi-judicial body the Licensing Sub-Committee is required to consider the application on its merits. The Sub-Committee must take into account only relevant factors, and ignore irrelevant factors. The decision must be based on evidence, that is to say material, which tends logically to show the existence or non-existence of relevant facts. The Licensing Sub-Committee must give fair consideration to the contentions of all persons entitled to make representations to them.

The Licensing Sub-Committee is entitled to consider events outside of the premises if they are relevant, i.e. are properly attributable to the premises being open. The proprietors do not have to be personally responsible for the incidents for the same to be relevant. However, if such events are not properly attributable to the premises being open, then the evidence is not relevant and should be excluded. Guidance is that the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public, living, working or engaged in normal activity in the area concerned.

The Sub-Committee can only consider matters within the application that have been raised through representations from interested parties and responsible authorities. Interested parties must live in the vicinity of the premises. This will be decided on a case to case basis.

Under the Human Rights Act 1998, the Sub Committee needs to consider the balance between the rights of the applicant and those making representations to the application when making their decision. The Sub-Committee has a duty under section 17 Crime and Disorder Act 1998 when making its decision to do all it can to prevent crime and disorder in the Borough.

Interested Parties, Responsible Authorities and the applicant have the right to appeal the decision of the Sub-Committee to the Magistrates' Court within a period of 21 days beginning with the day on which the applicant was notified by the licensing authority of the decision to be appealed against.

3.0 FINANCIAL IMPLICATIONS

Members should be aware that the Planning, Environment and Community Services does not have a budget provision for costs, should the applicant be successful in appealing to the Court(s) against a decision of the Council. In the event that a Court was to uphold an appeal, officers would need to identify how the costs would be funded before action could be taken in order to comply with Council financial policy.

RELEVANT DOCUMENTS

- Copy of Review application and relevant documents from Sgt Ian Meens
- Copy of letter and evidence from Martin King in support of the review
- Copy of the premises licence

BACKGROUND DOCUMENTS:

The Licensing Act 2003
Guidance Under Section 182 of the Licensing Act
Statement of Licensing Policy

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Appendix 1

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 Police Sergeant Ian Meens

(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

Hayes Newsagents
(Hayes News and Booze)
772/774 Uxbridge Road
Hayes

Post town Hayes

Post code (if known) UB4 ORS

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

Lakhjinder Badyal

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

744/07

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 Ian MEENS Licensing Sergeant Hillingdon Police on behalf of the Commissioner Metropolitan Police 2 Murray Road Northwood Middlesex HA6 2YN
Telephone number (if any) 0208 246 1933
E-mail address (optional) ian.meens@met.police.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

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

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

Prevention of crime and disorder.

The sale and display for sale of non duty paid goods being an offence

Minor breach of the Premises licence conditions.

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

On the 7th April 2011 the Metropolitan Police in company with officers from London Borough of Hillingdon Trading Standards and HM Revenue and Customs visited the premises in order to carry out regulatory checks.

At the premises Customs officers removed a number of items under seizure powers of the Customs and Excise Acts. Removed from the premises was 292.5 litres of mixed wine

The customs officers were satisfied that due to the proprietors inability to produce invoices or receipts to prove duty payment that the United Kingdom duty had not been paid on the said goods.

The revenue due on the goods seized has been calculated as £1281.72

On the particular day of this regulatory check inspections were also made at 8 other shops in and around the UB post code area. 6 of the premises checked had substantial amounts of non duty paid and or counterfeit goods and all 6 are expected to be the subject of the review process. 2 others had small amounts, only one shop did not have any such product.

The level of disregard for the law is clearly evident and is an indication of the problem in parts of Hillingdon

On the 29th June 2010 Ps Meens had attended the shop following a request from the Safer Neighbourhood Team Sergeant concerning the continual problem of drinking using a small area to the side of the shop and belonging to the shop.
Statements attached from Sergeant Hewett and Ps Meens.

The police feel that the abuse is at such a level that warrants the matter being brought before the committee and in such cases the guidance suggests that revocation of the licence should be a matter for strong consideration.

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

[Handwritten signature]

Date

1/7/11

Capacity

Licencee Sergeant

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.

WITNESS STATEMENT

ENGLAND AND WALES ONLY

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; MC Rules 1981, r.27, CP Rules Part 27.1)

Statement of: Philip Andrew Bush

Age if under 18: Over 18 (If over 18 insert 'over 18')

Occupation: H M Revenue & Customs

This statement (consisting of _____ page(s) each signed by me 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.

Signature: _____

Date: _____

I am an Officer of H M Revenue & Customs based in Jubilee House, Stratford, London, E15 1AT. In my role as a Law Enforcement Coordinator my duties include being responsible for exchanging information with the Police and other Agencies relating to matters of mutual interest.

I have been asked by Sgt Ian Meens from Hillingdon Police Station, to supply details of an inspection made HM Revenue & Customs Officers, on 7th April 2011 to 772-774 Uxbridge Road, Hayes, Middlesex. UB4 0RS trading as Hayes News and Booze, for the purpose of supporting an action being taken by the Licensing Unit at Hillingdon Police Station.

I have examined the reports concerning those visits and can confirm that Officers seized a total of 292.5 litres of mixed wines and 1.8 Kilo grammes of Chewing tobacco as liable to forfeiture by virtue of the Customs & Excise Acts. They were satisfied that due to the proprietors inability to produce invoices or receipts to prove duty payment, that United Kingdom Excise Duty had not been paid on said goods.

The revenue due on the seized goods is £1,281.72

The goods were seized as liable to forfeiture under section 139 of Customs & Excise Management Act 1979.

No notice of claim against forfeiture was received within the statutory time limit. Therefore the goods were condemned as forfeited in accordance with schedule 3 to the Customs & Excise Management Act 1979.

Date: _____

Signature: _____

(signature of witness)

Signature: _____

(signature witnessed by)

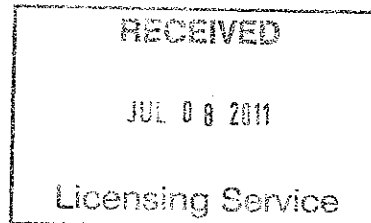
STATEMENT OF WITNESS: ENGLAND AND WALES ONLY



Ian Meens.
Licensing Sergeant.
Hillingdon Police,
2 Murray Road,
Northwood,
Middlesex.
HA6 2YN

London Fire and Emergency Planning
Authority runs the London Fire Brigade

Date 6 July 2011
Our Ref 26/013065



Dear Sir,

LICENSING ACT 2003

Premises: Hayes Newsagents, 772-774 Uxbridge Road, Hayes, Middlesex. UB4 0RS.

With reference to the premises licence review notification received from **The Metropolitan Police** on **6 July 2011**, concerning the above premises, **the Fire Authority does not propose to make any representation** to the Licensing Authority or attend the hearing.

Any queries regarding this letter should be addressed to the person named below. If you are dissatisfied in any way with the response given, please ask to speak to the Team Leader quoting our reference.

Yours faithfully,

D.A.Bird

for Assistant Commissioner (Fire Safety Regulation)

Fire and Community Safety Directorate
firesafetyregulationNW@london-fire.gov.uk

Reply to Derek Bird
Direct T 020 8555 1200 x38795

cc: Hillingdon Licensing Service, Civic Centre, High Street, Uxbridge, UB8 1UW



HILLINGDON

LONDON

Sharon Garner
Licensing Service
London Borough of Hillingdon
Civic Centre

28 July 2011

Dear Mrs Garner

LICENSING ACT 2003

I write in relation to the premises licence at 772-774 Uxbridge Road, Hayes, which has been called in for review by the Metropolitan Police Service.

As a responsible authority, the Trading Standards Service fully supports the review of this premises licence and I would ask the Licensing Sub-Committee to consider the enclosed information.

Trading Standards Officers were present during the multi-agency visit to the premises on 7 April 2011. Their role was to examine the alcohol on the premises to ensure that it was genuine. Although no counterfeit bottles of alcohol were found, officers from HMRC did seize a quantity of alcohol on suspicion that no duty had been paid on it.

On 21 March 2011, the owner of the business, Lakhjinder Badyal (who is also the premises licence holder), received a formal (simple) caution in respect of offences she had committed under the Trade Marks Act 1994 and the Consumer Protection from Unfair Trading Regulations 2008. As a result of information received, Trading Standards Officers visited the premises on 27 April 2010 and seized twelve 70cl bottles of Glens vodka and two 1 litre bottles of Glens vodka believing them to be counterfeit. The bottles were subsequently examined by the trade mark holder who confirmed the 70cl bottles were counterfeit. The trade mark holder stated that although the two 1 litre bottles contained genuine product, fake "duty paid" labels had been affixed to the bottles.

Mrs Badyal was subsequently interviewed under caution in connection with this matter. At interview, Mrs Badyal stated that the vodka was purchased from an unknown person who



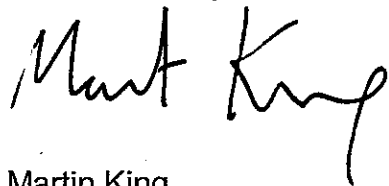
called at the shop offering for sale Glens vodka. No receipt was given by this person and Mrs Badyal does not have any contact details for this person.

Having due regard to the Council's enforcement policy, it was decided to offer Mrs Badyal a caution in respect of having these non-compliant bottles on the premises. Mrs Badyal accepted the caution. By accepting the caution, Mrs Badyal admits to committing the offences.

Witness statements from TSO King Yip Cheung and Thomas Taylor (the Trade Mark holder) are attached along with a transcript of the tape recorded interview and a copy of the caution.

Please do not hesitate to contact me should you require any further information.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Martin King'. The signature is fluid and cursive, with the first name 'Martin' and the last name 'King' clearly distinguishable.

Martin King

TEAM LEADER - TRADING STANDARDS SERVICE

STATEMENT OF WITNESS

(Criminal Procedure Rules, r 27.1(1);
Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980, s.5B)

STATEMENT OF: King-Yip Cheung

Age of witness: (if over 18 enter "Over 18") Over 18

Occupation of witness: Senior Trading Standards Officer

This statement consisting of 2 page(s) each signed by me, 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 that I know to be false or do not believe to be true.

Dated the 10th day of February 2011 Signed: U.Y. Cheung

I am a Senior Trading Standards Officer employed by The London Borough of Hillingdon Trading Standards Department and my duties include enforcing the Trade Marks Act 1994. On 29 April 2010, I went to the premises of Hayes Newz and Booze, 772 – 774 Uxbridge Road, Hayes regarding a complaint about suspected counterfeit Glens Vodka being sold at these premises. When I arrived at the premises I introduced myself to the owner of the shop, Mrs Lakhjinder Badyal and showed her my warrant card and explained that I was a Trading Standards Officer of the London Borough of Hillingdon. Already at the premises was Alex Russell, Senior Environmental Health Officer. I explained to Mrs Badyal that I suspected that the Glens Vodka she had at the premises may be counterfeit product. I examined two 1 litre bottles of Glens Vodka situated on a shelf behind the front counter. I also examined the twelve 70 cl bottles contained in the rear store room. As I believed the goods were counterfeit I informed Mrs Badyal that I would seize them so that they can be examined by the owner of the Glens trade mark. I then issued Mrs Badyal a Notice of Powers and Rights. I produce the Notice of Powers and Rights in evidence marked as exhibit KYC1. I placed the two 1 litre bottles into evidence bag No. P00120590 and twelve 70 cl bottles into evidence bag No. A000595. I produce the 2 x 1 litre bottles of Glens Vodka and 12 x 70 cl Glens Vodka bottles in evidence marked as exhibits KYC2 and KYC3 respectively. I issued Mrs Badyal a Seizure Notice for the goods. I produce the Seizure

Signed: U.Y. Cheung

Notice in evidence marked as exhibit KYC5. I then left the premises with the seized goods. On my return to the office I placed the goods into the Department's secure property room. On 24 May 2010, I broke open the bag containing the two 1 litre bottles (evidence bag No. P00120590) and removed one of these bottles. I placed the bottle into evidence bag No. N00165850. I resealed the opened bag with seal . I broke open the bag containing twelve 70 cl bottles (evidence bag No. A000595) and removed two of these bottles. I placed the two bottles into evidence bag No. N00165452. I resealed the opened bag with seal A000506. The bottles that I removed are a representative sample of the goods that I seized. I examined each bottle and they all had similar if not identical labels. I then sent these 3 sample bottles and 1 x 70cl bottle (seal C8613) to Glen Caterine the owner of the Glens trademark to determine if the goods were counterfeit. The 1 x 70cl bottle (seal C8613) was given to me by Alex Russell, Senior Environmental Health Officer. On 16 August 2010, Senior Environmental Health Officer, Alex Russell and I carried out a formal tape-recorded interview with Lakhjinder Kaur Badyal. I produce the Master Tape and Written Transcript of the interview in evidence marked as exhibits KYC6 and KYC7 respectively.

K.Y. Cheung

STATEMENT OF WITNESS

(Criminal Procedure Rules 2005, r 27.1(1);
Criminal Justice Act 1967, s.9; Magistrates' Court Act 1980, s.5B)

Statement of: Thomas Keith Taylor

Age if Witness: Over 18

Occupation: Quality Manager

This statement consisting of three pages each signed by me, 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 3rd Day of September 2010

Signature:

I am Thomas Keith Taylor and I have been employed by Glen Catrine Bonded Warehouse Ltd, 7 Laigh Road, Catrine, Ayrshire, KA5 6SQ as Quality Manager for eighteen years. In this capacity, I am familiar with the design, appearance, composition and quality of all genuine Glen Catrine products and I am authorised to speak on behalf of the company in relation to such matters. I can confirm that Glen's Vodka is a vodka brand for which Glen Catrine Bonded Warehouse Ltd owns the Trade Mark Number E3231107 and the brand was introduced in April 2003. I produce a copy of the Trademark Certificate and identify it as TKT/1. No other person, other than an agent authorised by our company, has permission to manufacture, produce or distribute any items bearing our trademark. On 3rd June 2010, I received a package from Mr King-Yip Cheung of the London Borough of Hillingdon Trading Standards Service. The package contained two sealed plastic evidence bags numbers N00165452 and N00165850 and one plastic bag sealed with seal number C8613. Evidence bag number N00165452 contained two 70cl bottles that were labelled "Glen's Vodka". Evidence bag number N00165850 contained a 1 Litre bottle that was labelled "Glen's Vodka". The plastic bag that was sealed with seal number C8613 also contained a 70cl bottle that was labelled "Glen's Vodka". The package also contained a covering letter from Mr King-Yip Cheung stating that all of the bottles had been seized from Lakhjinder Badyal of Hayes Newz & Booze, 772 - 774 Uxbridge Road, Hayes, Middlesex, UB4 0R5. I placed the sealed plastic bags in secure storage and removed the bottles from them prior to examination.

Signature:

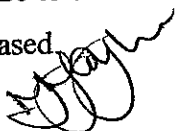
Statement of Thomas Keith Taylor – Continued

On examination of the two 70cl bottles in evidence bag number N00165452, I came to the conclusion that both of the bottles were counterfeit. My reasons for determining that these were not genuine bottles of Glen's Vodka were as follows; Previously, for genuine Glen's Vodka 70cl, our company only used a bottle supplied by Allied Glass Containers which can be identified by a small AGC logo on the base of the bottle. The following information is also embossed in the glass around 5mm from the base - 70cl 58mm \pm G1 2173. Since October 2009, our company has only used a bespoke bottle supplied by Allied Glass Containers which has the AGC logo, 2589, and G.C.B.W. embossed in the base. The first bottle used for the counterfeit product had the following information embossed in the glass - 70c 58mm \pm G1 2358. Our company does not and has never used this bottle for Glen's Vodka. The second bottle had the following information embossed in the glass - 70cl 58mm \pm G1 2173. While this bottle was the same as we used previously, the front and back labels on both counterfeit bottles appeared to be self-adhesive as there was no visible glue pattern. Genuine Glen's Vodka 70cl labels are applied by a Kosme Rotary Labelling Machine using a wet adhesive which produces a distinctive glue pattern on the back of the label (horizontal lines approximately 2mm apart). The printing fonts used for the labels on both counterfeit bottles were different from those used on genuine labels. On all genuine bottles, a lot code is etched by laser into the glass or printed by ink-jet onto the bottle to allow traceability of where and when the bottle was filled. There were no lot codes on the counterfeit bottles. The spirit in the counterfeit bottles was organoleptically different from genuine Glen's Vodka, the spirit quality was poor, and had an unpleasant odour. The alcoholic strength of the contents of both bottles was tested and found to be 37.0% vol. and 38.8% vol. instead of 37.5% \pm 0.3% vol. for genuine Glen's Vodka. After examining the bottles I placed them in a new evidence bag number ME031364 along with the original evidence bag and sealed it. On examining the 1 Litre bottle in evidence bag number N00165850 and the 70cl bottle in the bag sealed with seal number C8613 I found that both were genuine Glen's Vodka but counterfeit UK Duty Stamp disks had been stuck onto the existing back labels. The number on the counterfeit UK Duty Stamps was A70000000170 which is not our number for Glen's Vodka. Genuine UK Duty Stamps are incorporated into the labels at the time of printing and the number is A00000000618. After examining the 1 Litre bottle from evidence bag number N00165850 I placed it in a new evidence bag number ME031365 along with the original evidence bag and sealed it. After examining the 70cl bottle from the plastic bag sealed with seal number C8613, I

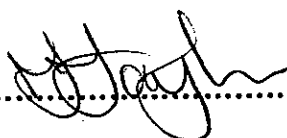
Signature:

Statement of Thomas Keith Taylor – Continued

placed it in a new evidence bag number ME031410, along with the original bag and seal, and sealed the bag. The sealed bags were placed in suitable packaging and returned by courier to Mr King-Yip Cheung of the London Borough of Hillingdon Trading Standards Service. I can confirm that Lakhjinder Badyal of Hayes Newz & Booze, 772 – 774 Uxbridge Road, Hayes, Middlesex, UB4 0R5, is not authorised in any way by our company to sell or offer for sale goods which bear the Glen's Vodka trade mark other than as displayed on genuine Glen's Vodka product. Counterfeiting is extremely detrimental to the brand image of our company's product and also to the consumer who has no guarantees of the quality or safety of the product they have purchased.



Signature:



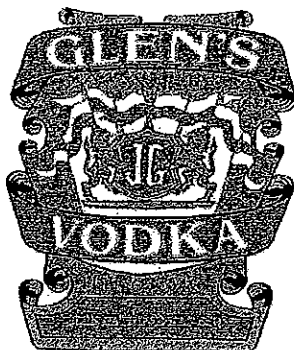
TKT/1



Case details for Community Trade Mark E3231107

[Explanation of terms used on this page](#)

Mark



Mark text:

GLEN'S VODKA

Status

UK case status:	Registered
Original language:	English
Second language:	French
Class:	33

Relevant dates

Filing date:	18 June 2003
Publication date:	17 January 2005
Registration date:	07 December 2004

Priority claims

Priority date:	18 December 2002
Country:	United Kingdom
Reference:	2319225

List of goods or services

Class 33:	Alcoholic beverages, vodka, gin, white and dark rum.
-----------	--

Names and addresses

Applicant:	Glen Catrine Bonded Warehouse Limited 7 Laigh Road, Catrine, Ayrshire, United Kingdom, KA5 6SQ
Representative:	MURGHITROYD & COMPANY Scotland House 165-169 Scotland Street, Glasgow, United Kingdom, G5 8PL

Earlier rights notification

Not opted in

[Explanation of terms used on this page](#)

The "E" prefix is used purely within the UK and is not part of the Community Trade Mark Number.

This enquiry shows Community Trade Mark information held by us. If you want to see details of the definitive Community Trade Mark, please visit the [Office for Harmonization in the Internal Market](#).

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Intellectual Property Office is an operating name of the Patent Office



HILLINGDON
LONDON

PREMISES LICENCE

Ref:

LE/248

Premises Licence Number:

LBHIL 744/07

This Premises Licence has been issued by Norman C Stanley on behalf of the Licensing Authority, London Borough of Hillingdon, Civic Centre, High Street, Uxbridge, UB8 1UW

Signature:

Date: 29 November 2007

Part 1 – Premises Details

Postal Address of Premises or, if none, Ordnance Survey map reference or description -

Hayes Newsagents
(Hayes News and Booze)
772/774 Uxbridge Road

Post Town – Hayes

Postcode – UB4 0RS

Telephone number – 020 8848 8886

Where the licence is time limited, the dates -

N/A

Licensable activities authorised by the licence -

The sale of alcohol by retail

The times the licence authorises the carrying out of licensable activities –

Between the hours of 07.00 and 22.00 each day

The opening hours of the premises -

Between the hours of 07.00 and 22.00 each day

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

OFF SALES ONLY

Part 2

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

Lakhjinder Badyal, 772-774 Uxbridge Road, Hayes UB4 0RS

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 -

Rupinder Kaur,

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

London Borough of Hillingdon LBHIL 1386

Annex 1 – Mandatory Conditions

ALCOHOL

1. No sale / supply of alcohol shall be made when there is no Designated Premises Supervisor in respect of the Premises Licence.
2. No sale / supply of alcohol shall be made when the Designated Premises Supervisor does not hold a Personal Licence or when his / her Personal Licence is suspended.
3. Every sale / supply of alcohol under the Premises Licence shall be made, or authorised by a person who holds a Personal Licence.

Applicable from 1st October 2010

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

The premises licence holder shall ensure that the following conditions are fully complied with:-

Prevention of crime and disorder

1. Spirits, champagne and other similar high valued goods shall be displayed behind the counter and all alcohol within the shop shall be displayed within direct sight of the till operator and not be obscured by other shelving etc.
2. The premises shall be staffed by a minimum of two adults after 18.00 hours
3. Premises shall be well lit both inside and outside to deter offenders and to support the CCTV system.
4. The premises shall be protected by a Closed Circuit Television system (CCTV) with a minimum of five cameras as follows:-
5. One camera shall be positioned to capture all persons entering and leaving the premises.
6. One camera shall be positioned to capture all transactions at the counter
7. Two cameras shall be positioned to capture the area immediately outside the premises looking from the boundary of the shop on either side across the entrance door
8. One camera shall be positioned to cover the general alcohol sales area.
9. The CCTV system shall be maintained in effective working order.
10. The CCTV recordings shall be retained for a minimum of 30 days and images shall be made available to the Police and local authority officers on request and free of charge.
11. If the CCTV system fails, the premises shall not be used for the purpose of the licence until the system has been repaired or replaced.
12. A CCTV monitor shall be provided in a location which is easily visible to patrons and to staff at the till. The monitor shall show the images of one or more of the installed cameras.
13. The floor area in front of the counter shall be kept clear of any objects which could be used as a step to attack the staff.
14. The floor area behind the counter shall be raised 15 centimetres.
15. The width of the service counter shall be a minimum of 60 centimetres and the counter shall be at least 110cm high.
16. The premises shall be protected by a monitored Intruder Alarm system including a panic button immediately accessible to staff at the till.
17. The tills shall be secured from being lifted or moved and there shall be a door across the access to the till area.

Protection of children from harm

18. A proof of age scheme shall be in operation

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

N/A

Annex 4 – Plans

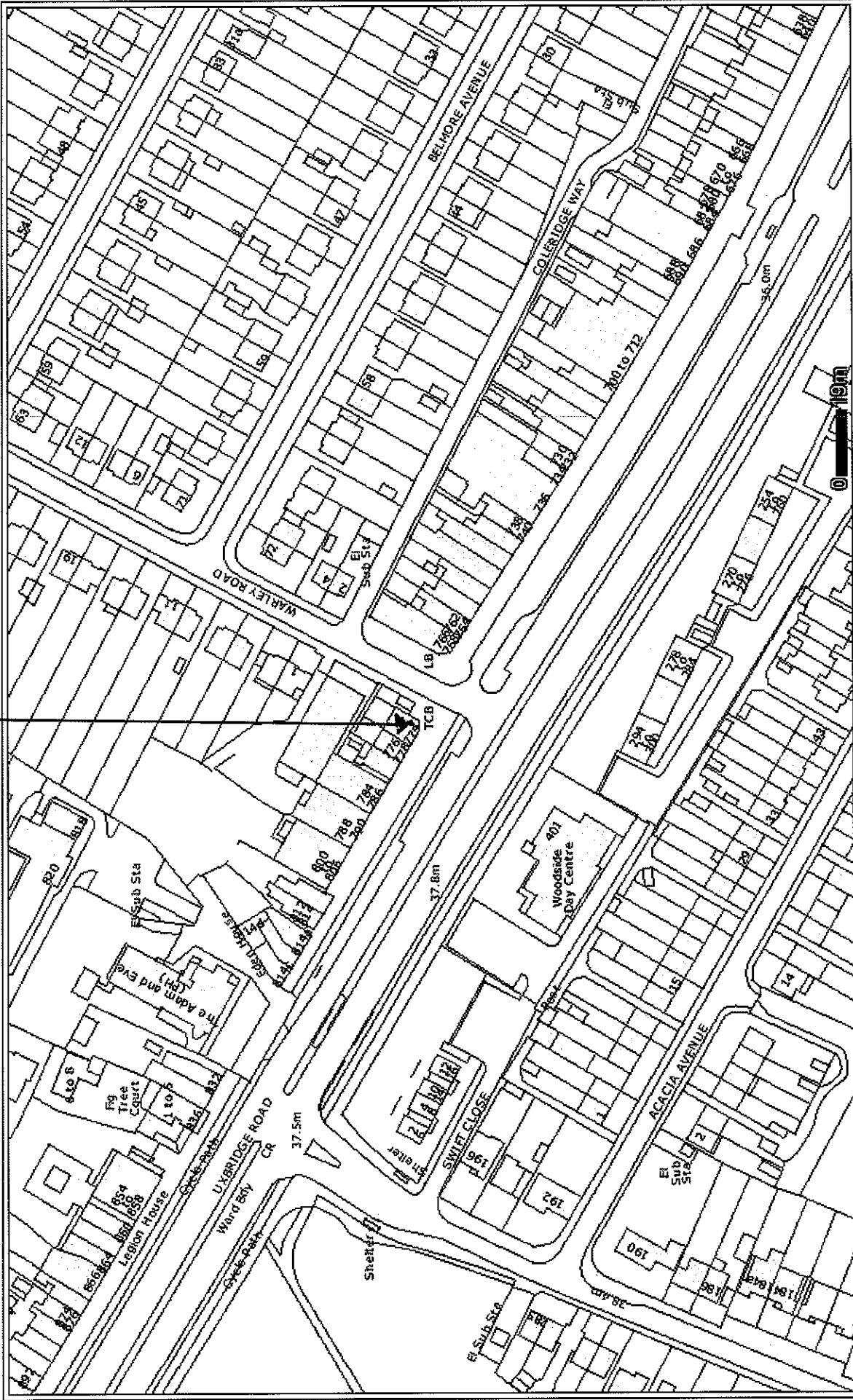
**Unit Shopfitting drawing by David Pavey
Licensing Service registered number 979/07**

RESPONSIBLE AUTHORITIES FOR GRANT, VARIATION OF A PREMISES LICENCE OR CLUB PREMISES CERTIFICATE WITHIN THE LONDON BOROUGH OF HILLINGDON

The applicant must send the original application to the Licensing Service and a complete copy of the application including the form, operating schedule and plan in the prescribed form to each responsible authority as follows:-

<p>The Licensing Service London Borough of Hillingdon Civic Centre A357 High Street Uxbridge UB8 1UW licensing@hillington.gov.uk <i>Licensing Authority</i></p>	<p>Chief Officer of Police c/o Northwood Police Station Murray Road Northwood HA6 2YW Attn Sgt I Meens licensing-xh@met.pnn.police.uk <i>Hillingdon Police Enforcement</i> *for all areas except Heathrow</p>
<p>Chief Officer of Police (Licensing) Heathrow Police Station East Ramp Hounslow TW6 2DJ <i>Heathrow Police Enforcement</i> *for Heathrow area only</p>	<p>Fire Safety Regulation: North West Area 1 London Fire Brigade 169 Union Street London SE1 0LL Attn: North West Area Team hillingtongroup@london-fire.gov.uk <i>Hillingdon Fire Authority</i></p>
<p>Service Manager- Safeguarding Children and Quality Assurance 4S/07 Social Services London Borough Of Hillingdon Civic Centre Uxbridge UB8 1UW PHewitt@hillington.gov.uk <i>A body involved in the Protection of Children from Harm</i></p>	<p>Food, Health and Safety Team London Borough of Hillingdon Civic Centre Uxbridge UB8 1UW environmentalhealthcp@hillington.gov.uk <i>Enforcing Authority for the Health and Safety at Work Act 1974</i></p>
<p>Trading Standards Service London Borough of Hillingdon Civic Centre Uxbridge UB8 1UW Attn Divisional Trading Standards Officer tradingstandards@hillington.gov.uk <i>Enforcing Authority under the Weights and Measures Act 1985</i></p>	<p>Environmental Protection Unit London Borough Of Hillingdon Civic Centre Uxbridge UB8 1UW environmentalhealthepu@hillington.gov.uk <i>Enforcing Authority for matters relating to Environmental Pollution and Public Nuisance</i></p>
<p>Head of Planning and Enforcement London Borough Of Hillingdon Civic Centre Uxbridge UB8 1UW planning@hillington.gov.uk <i>The Planning Authority</i></p>	

HAYES NEWS & BOOZE



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Approx. Scale: 1599
Date of Print: 29.7.2011
SLA: 100019283 2011

APPLICATION FOR REVIEW OF PREMISES LICENCE – BOTWELLEARS, 25 BOTWELL LANE, HAYES

Committee	Licensing Sub Committee
Officer Contact	Sharon Garner, Licensing Officer Tel: 01895 277230
Papers with report	<ul style="list-style-type: none">• Copy of Review application and relevant documents from Sgt Ian Meens• Copy of letter and evidence from Martin King in support of the review• Copy of the premises licence• List of responsible authorities• Map of the area
Ward(s) affected	Botwell

SUMMARY

To consider an application for a Review of a premises licence under Part 3 Section 51 of the Licensing Act 2003 made by Sgt Ian Meens on behalf of the Metropolitan Police Service in respect of **Botwellears, 25 Botwell Lane, Hayes**.

RECOMMENDATION

That the Licensing Sub Committee determine the application.

INFORMATION

- 1.1 An application for a Review of the premises licence for Botwellears made by Sgt Ian Meens on behalf of the Metropolitan Police Service, was received on 1st July 2011 on the grounds of:-

Prevention of crime and disorder – the sale and display for sale of non-duty paid goods

- 1.2 The premises is a single unit shop selling groceries and alcohol. The premises licence was issued to Mr Arul Roobathas on 2nd January 2008.
- 1.3 Sgt Meens sent copies of the application to all the Responsible Authorities as required by the Licensing Act 2003. A copy of the application is annexed to this report as **Appendix 1**.
- 1.4 In accordance with the legislation, a poster giving details of the application was displayed at the premises for 28 days and checks were made by the council's Licensing Officers to ensure that the poster was still correctly displayed.
- 1.5 As required by the legislation, a poster was also displayed on the Civic Centre

Licensing Sub-Committee – 23 August 2011

PART 1 – MEMBERS PUBLIC AND PRESS

notice board for 28 days and the details were listed on the council's website.

- 1.6 The legislation provides for other Responsible Authorities and/or interested parties such as residents to support the Review application. The period for Responsible Authorities and local residents to support the application expired on 29th July 2011. One letter of support was received from the Council's Trading Standards Officer.

This letter of support is annexed to this report as **Appendix 2**.

2.0 **LEGAL IMPLICATIONS**

The licensing authority must review the premises licence where it is alleged in an application for review by a Responsible Authority or an Interested Party that any of the licensing objectives are being undermined.

- 2.1 "Relevant representations" are those which :–

- Are relevant to one or more of the licensing objectives;
- Are made by a responsible authority or an interested party within the prescribed period;
- Are made by the holder of the premises licence in response to an application for a review of the said premises
- Have not been withdrawn; and
- If made by an interested party, that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.

The four licensing objectives are –

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

Each objective must be considered to be of equal importance

- 2.2 The Licensing Sub-Committee must also consider the London Borough of Hillingdon's licensing policy when what action, if any, to institute. The terms of the Statement of Licensing Policy are highly persuasive, but not binding, on the Licensing Sub-Committee. The Licensing Sub-Committee may depart from the guidance contained in the Statement of Licensing Policy if it considers there are clear and convincing reasons to do so.

Where there is a conflict between the Licensing Act 2003 and the Statement of Licensing Policy, the Licensing Act must prevail.

- 2.3 Members are required to have regard to the DCMS Guidance in carrying out the functions of licensing authority. However, guidance does not cover every possible situation, so long as the guidance has been properly and carefully understood, members may depart from it if they have reason to do so. Full reasons must be given if this is the case.

- 2.4 The sub-committee may decide to: –

Licensing Sub-Committee – 23 August 2011

- Take no action
- Modify the conditions of the licence by altering, omitting or adding any condition;
- Issue a formal warning, recommending an improvement within a specified time frame;
- Exclude a licensable activities from the scope of the licence;
- Remove the designated premises supervisor;
- Suspend the licence for a period not exceeding three months; or
- Revoke the licence.

For this purpose the conditions of a premises licence are modified if any of them are altered or omitted or any new condition is added. Modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months.

2.5 The Sub-Committee may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives.

In deciding what remedial action if any it should take, the Sub-Committee must direct it's mind to the causes or concerns which the representations identify. The remedial action should generally be directed at these causes and should always be no more than a necessary and proportionate response.

It is of particular importance that any detrimental financial impact that may result from a licensing authority's decision is necessary and proportionate to the promotion of the licensing objectives in the circumstances that gave rise to the application for review.

2.6 **Conditions**

Conditions will not be necessary if they duplicate a current statutory requirement.

Members are also referred to the Home Office guidance on conditions, specifically section 10.7 and Annexe D.

The Statutory Guidance states that only necessary, proportionate and enforceable conditions, which promote one or more of the licensing objectives, should be attached to the licence.

The Licensing Authority may therefore only impose such conditions as are necessary to promote the licensing objectives arising out of the consideration of the Review application (paragraph 10.11), and should avoid straying into undisputed areas (paragraph 9.24). Statutory Guidance also states that the pool of conditions that are supplied by the Secretary of State should not be applied universally irrespective of particular circumstances, but may be used as examples that can be tailored to suit individual premises and particular situations.

2.7 **Notification of Determination**

Licensing Sub-Committee – 23 August 2011

PART 1 – MEMBERS PUBLIC AND PRESS

Where the authority determines an application for review it must notify the determination and reasons for making it to: –

- The holder of the licence;
- Any person who made relevant representations;
- The chief officer of police for the area (or each police area) in which the premises are situated

2.8 The Role of the Licensing Sub-Committee

Sub-Committee members will note that, in relation to this application, the Council has multiple roles. Council officers from various departments have been asked to consider the application from the perspective of the Council as authority responsible respectively for environmental health, trading standards, health and safety and as the planning authority.

Members should note that the Licensing Sub-Committee is meeting on this occasion solely to **perform the role of licensing authority**. The Sub-Committee sits in quasi-judicial capacity, and must act impartially. It must offer a fair and unbiased hearing of the application. In this case, Members should disregard the Council's broader policy objectives and role as statutory authority in other contexts. Members must direct themselves to making a determination solely based upon the Licensing Law, Guidance and the Council's Statement of Licensing Policy.

As a quasi-judicial body the Licensing Sub-Committee is required to consider the application on its merits. The Sub-Committee must take into account only relevant factors, and ignore irrelevant factors. The decision must be based on evidence, that is to say material, which tends logically to show the existence or non-existence of relevant facts. The Licensing Sub-Committee must give fair consideration to the contentions of all persons entitled to make representations to them.

The Licensing Sub-Committee is entitled to consider events outside of the premises if they are relevant, i.e. are properly attributable to the premises being open. The proprietors do not have to be personally responsible for the incidents for the same to be relevant. However, if such events are not properly attributable to the premises being open, then the evidence is not relevant and should be excluded. Guidance is that the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public, living, working or engaged in normal activity in the area concerned.

The Sub-Committee can only consider matters within the application that have been raised through representations from interested parties and responsible authorities. Interested parties must live in the vicinity of the premises. This will be decided on a case to case basis.

Under the Human Rights Act 1998, the Sub Committee needs to consider the balance between the rights of the applicant and those making representations to the application when making their decision. The Sub-Committee has a duty under section 17 Crime and Disorder Act 1998 when making its decision to do all it can to prevent crime and disorder in the Borough.

Interested Parties, Responsible Authorities and the applicant have the right to

appeal the decision of the Sub-Committee to the Magistrates' Court within a period of 21 days beginning with the day on which the applicant was notified by the licensing authority of the decision to be appealed against.

3.0 FINANCIAL IMPLICATIONS

Members should be aware that the Planning, Environment and Community Services does not have a budget provision for costs, should the applicant be successful in appealing to the Court(s) against a decision of the Council. In the event that a Court was to uphold an appeal, officers would need to identify how the costs would be funded before action could be taken in order to comply with Council financial policy.

RELEVANT DOCUMENTS

- Copy of Review application and relevant documents from Sgt Ian Meens
- Copy of letter and evidence from Martin King in support of the review
- Copy of the premises licence

BACKGROUND DOCUMENTS:

The Licensing Act 2003
Guidance Under Section 182 of the Licensing Act
Statement of Licensing Policy

APPENDIX ①

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 Police Sergeant Ian Meens

(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 Botwellears 25 Botwell Lane Hayes	
Post town Hayes	Post code (if known) UB3 2AB
Name of premises licence holder or club holding club premises certificate (if known) Arul Roobathasi	
Number of premises licence or club premises certificate (if known) 228/05	

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 | <input type="checkbox"/> |
| b) a body representing persons living in the vicinity of the premises | <input type="checkbox"/> |
| c) a person involved in business in the vicinity of the premises | <input type="checkbox"/> |
| d) a body representing persons involved in business in the vicinity of the premises | <input type="checkbox"/> |

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 Ian MEENS Licensing Sergeant Hillingdon Police on behalf of the Commissioner Metropolitan Police 2 Murray Road Northwood Middlesex HA6 2YN
Telephone number (if any) 0208 246 1933
E-mail address (optional) ian.meens@met.police.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

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

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

Prevention of crime and disorder.

The sale and display for sale of non duty paid goods being an offence

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

On the 7th April 2011 the Metropolitan Police in company with officers from London Borough of Hillingdon Trading Standards and HM Revenue and Customs visited the premises in order to carry out regulatory checks.

At the premises Customs officers removed a number of items under seizure powers of the Customs and Excise Acts. Removed from the premises was 99 litres of mixed wines and 30.5 litres of Spirits

The customs officers were satisfied that due to the proprietors inability to produce invoices or receipts to prove duty payment that the United Kingdom duty had not been paid on the said goods.

The revenue due on the goods seized has been calculated as £934.15

On the particular day of this regulatory check inspections were also made at 8 other shops in and around the UB post code area. 6 of the premises checked had substantial amounts of non duty paid and or counterfeit goods and all 6 are expected to be the subject of the review process. 2 others had small amounts, only one shop did not have any such product.

The level of disregard for the law is clearly evident and is an indication of the problem in parts of Hillingdon

The police feel that the abuse is at such a level that warrants the matter being brought before the committee and in such cases the guidance suggests that revocation of the licence should be a matter for strong consideration.

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

--	--	--	--	--	--	--	--

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

Carolyn

Date

11/7/11

Capacity

Barry Largent

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.

WITNESS STATEMENT

ENGLAND AND WALES ONLY

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; MC Rules 1981, r.27, CP Rules Part 27.1)

Statement of: Philip Andrew Bush

Age if under 18: Over 18 (If over 18 insert 'over 18')

Occupation: H M Revenue & Customs

This statement (consisting of _____ page(s) each signed by me 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.

Signature: _____

Date: _____

I am an Officer of H M Revenue & Customs based in Jubilee House, Stratford, London, E15 1AT. In my role as a Law Enforcement Coordinator my duties include being responsible for exchanging information with the Police and other Agencies relating to matters of mutual interest.

I have been asked by Sgt Ian Meens from Hillingdon Police Station, to supply details of an inspection made HM Revenue & Customs Officers, on 7th April 2011 to 25 Botwell Lane, Hayes, Middlesex, UB3 2AB trading as Botwellears, for the purpose of supporting an action being taken by the Licensing Unit at Hillingdon Police Station.

I have examined the reports concerning those visits and can confirm that Officers seized a total of 99 litres of mixed wines, 30.5 litres of Spirits and 1.2 kilogrammes of Chewing tobacco as liable to forfeiture by virtue of the Customs & Excise Acts. They were satisfied that due to the proprietors inability to produce invoices or receipts to prove duty payment, that United Kingdom Excise Duty had not been paid on said goods.

The revenue due on the seized goods is £934.15

The goods were seized as liable to forfeiture under section 139 of Customs & Excise Management Act 1979.

No notice of claim against forfeiture was received within the statutory time limit. Therefore the goods were condemned as forfeited in accordance with schedule 3 to the Customs & Excise Management Act 1979.

Date: _____

Signature: _____

(signature of witness)

Signature: _____

(signature witnessed by)

STATEMENT OF WITNESS: ENGLAND AND WALES ONLY



HILLINGDON

LONDON

Sharon Garner
Licensing Service
London Borough of Hillingdon
Civic Centre

29 July 2011

Dear Mrs Garner

LICENSING ACT 2003

I write in relation to the premises licence at 25 Botwell Lane, Hayes, which has been called in for review by the Metropolitan Police Service.

As a responsible authority, the Trading Standards Service fully supports the review of this premises licence and I would ask the Licensing Sub-Committee to consider the enclosed information.

Trading Standards Officers were present during the multi-agency visit to the premises on 7 April 2011. Their role was to examine the alcohol on the premises to ensure that it was genuine. Although no counterfeit bottles of alcohol were found, officers from HMRC did seize a quantity of alcohol on suspicion that no duty had been paid on it. The Trading Standards Officers present were Andrew Beale and Stephen Pearson.

Please do not hesitate to contact me should you require any further information.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Martin King'.

Martin King
TEAM LEADER - TRADING STANDARDS SERVICE



LICENSING ACT 2003
Section 24



HILLINGDON
 LONDON

PREMISES LICENCE

Ref:

AG103/05

Premises Licence Number:

LBHIL 228/05

This Premises Licence has been issued by Norman C Stanley on behalf of the Licensing Authority, London Borough of Hillingdon, Civic Centre, High Street, Uxbridge, UB8 1UW

Signature:

... Date: 2 January 2008

Part 1 – Premises Details

Postal Address of Premises or, if none, Ordnance Survey map reference or description -

Botwellears Superstore
 25 Botwell Lane

Post Town - Hayes

Postcode – UB3 2AB

Telephone number – 0208 561 3048

Where the licence is time limited, the dates -

N/A

Licensable activities authorised by the licence -

Sale by retail of alcohol

The times the licence authorises the carrying out of licensable activities –

Monday to Saturday 0800 to 2300 hours
 Sunday 1000 to 2230 hours
 Good Friday 0800 to 2230 hours
 Christmas Day 1200 to 1500 and 1900 to 2230 hours

The opening hours of the premises -

Not restricted

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

OFF SALES ONLY

Part 2

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

Arun Roobathas, 25 Botwell Lane, Hayes UB3 2AB 0208 561 3048

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 -

Mr A Roobathas,

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

London Borough of Harrow -- 05AR-00AQ-YF4K-HMJF

Annex 1 – Mandatory Conditions

Alcohol

1. No sale / supply of alcohol shall be made when there is no Designated Premises Supervisor in respect of the Premises Licence.
2. No sale / supply of alcohol shall be made when the Designated Premises Supervisor does not hold a Personal Licence or when his / her Personal Licence is suspended.
3. Every sale / supply of alcohol under the Premises Licence shall be made, or authorised by a person who holds a Personal Licence.

Applicable from 1st October 2010

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

General

The premises licence holder shall ensure that alcohol is not sold in an open container or consumed in the licensed premises.

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

N/A

Annex 4 – Plans

Plan Number Shop and Location 5/H/10

Licensing Service Registered Number 227/05

APPENDIX ④

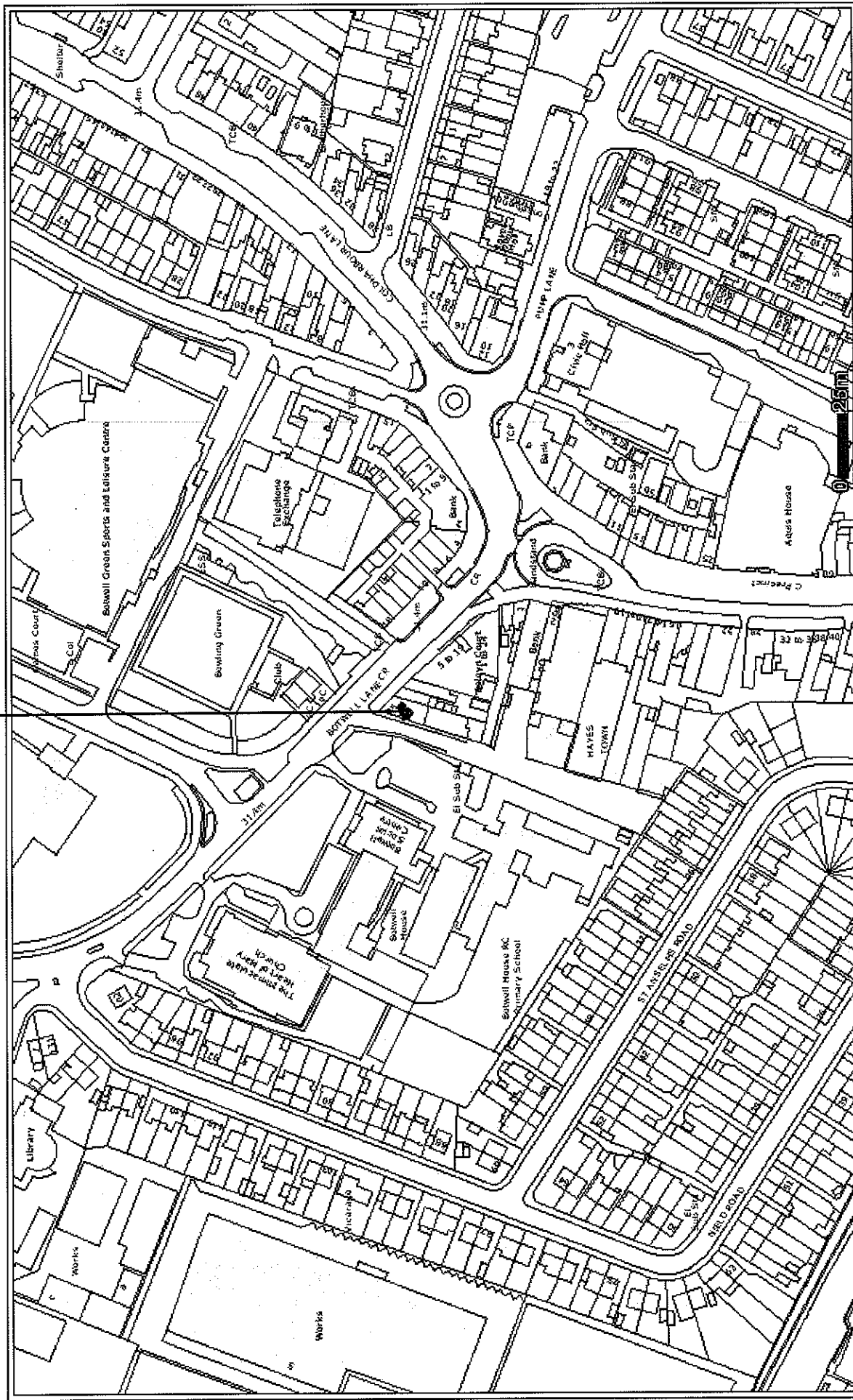
RESPONSIBLE AUTHORITIES FOR GRANT, VARIATION OF A PREMISES LICENCE OR CLUB PREMISES CERTIFICATE WITHIN THE LONDON BOROUGH OF HILLINGDON

The applicant must send the original application to the Licensing Service and a complete copy of the application including the form, operating schedule and plan in the prescribed form to each responsible authority as follows:-

<p>The Licensing Service London Borough of Hillingdon Civic Centre A357 High Street Uxbridge UB8 1UW licensing@hillington.gov.uk <i>Licensing Authority</i></p>	<p>Chief Officer of Police c/o Northwood Police Station Murray Road Northwood HA6 2YW Attn Sgt I Meens licensing-xh@met.pnn.police.uk <i>Hillingdon Police Enforcement</i> *for all areas except Heathrow</p>
<p>Chief Officer of Police (Licensing) Heathrow Police Station East Ramp Hounslow TW6 2DJ <i>Heathrow Police Enforcement</i> *for Heathrow area only</p>	<p>Fire Safety Regulation: North West Area 1 London Fire Brigade 169 Union Street London SE1 0LL Attn: North West Area Team hillingtongroup@london-fire.gov.uk <i>Hillingdon Fire Authority</i></p>
<p>Service Manager- Safeguarding Children and Quality Assurance 4S/07 Social Services London Borough Of Hillingdon Civic Centre Uxbridge UB8 1UW PHewitt@hillington.gov.uk <i>A body involved in the Protection of Children from Harm</i></p>	<p>Food, Health and Safety Team London Borough of Hillingdon Civic Centre Uxbridge UB8 1UW environmentalhealthcp@hillington.gov.uk <i>Enforcing Authority for the Health and Safety at Work Act 1974</i></p>
<p>Trading Standards Service London Borough of Hillingdon Civic Centre Uxbridge UB8 1UW Attn Divisional Trading Standards Officer tradingstandards@hillington.gov.uk <i>Enforcing Authority under the Weights and Measures Act 1985</i></p>	<p>Environmental Protection Unit London Borough Of Hillingdon Civic Centre Uxbridge UB8 1UW environmentalhealthepu@hillington.gov.uk <i>Enforcing Authority for matters relating to Environmental Pollution and Public Nuisance</i></p>
<p>Head of Planning and Enforcement London Borough Of Hillingdon Civic Centre Uxbridge UB8 1UW planning@hillington.gov.uk <i>The Planning Authority</i></p>	

BOTWELLGARS

APPENDIX 5



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