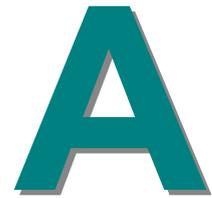




HILLINGDON
LONDON



NOTICE OF HEARING

Licensing Sub-Committee

Date: WEDNESDAY, 5 FEBRUARY 2020

Time: 10.00 AM

Venue: COMMITTEE ROOM 6 - CIVIC CENTRE, HIGH STREET, UXBRIDGE

Meeting Details: Members of the Public and Media are welcome to attend. This meeting may also be broadcast live.

If this is a public hearing, the agenda is available online at www.hillingdon.gov.uk or you can use a smart phone camera and scan the code below:



Councillors on the Sub-Committee:

Teji Barnes, (Chairman)
Allan Kauffman
Lynne Allen

IMPORTANT INFORMATION

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

Friday 31 January 2020

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 20 January 2020

Contact: Neil Fraser
Tel: 01895 250692
Email: democratic@hillington.gov.uk

Putting our residents first

Lloyd White
Head of Democratic Services
London Borough of Hillingdon,
Phase II, Civic Centre, High Street, Uxbridge, UB8 1UW

Useful information for residents and visitors

Watching & recording this meeting (if a public meeting only)

If this meeting is to be held in Public (Part 1) you can watch it on the Council's YouTube channel, live or archived after the meeting. Residents and the media are also welcome to attend in person, and if they wish, report on the public part of the meeting. Any individual or organisation may record or film proceedings as long as it does not disrupt proceedings.

Watch a **LIVE** broadcast of this meeting on the Council's YouTube Channel: *Hillingdon London*

Those attending should be aware that the Council will film and record proceedings for both official record and resident digital engagement in democracy.



It is recommended to give advance notice of filming to ensure any particular requirements can be met. The Council will provide seating areas for residents/public, high speed WiFi access to all attending and an area for the media to report. The officer shown on the front of this agenda should be contacted for further information and will be available to assist. When present in the room, silent mode should be enabled for all mobile devices.

Travel and parking

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Please enter via main reception and visit the security desk to sign-in and collect a visitor's pass. You will then be directed to the Committee Room.

Accessibility

For accessibility options regarding this agenda please contact Democratic Services. For those hard of hearing an Induction Loop System is available for use.

Emergency procedures

If there is a FIRE, you will hear a continuous alarm. Please follow the signs to the nearest FIRE EXIT and assemble on the Civic Centre forecourt. Lifts must not be used unless instructed by a Fire Marshal or Security Officer. In the event of a SECURITY INCIDENT, follow instructions issued via the tannoy, a Fire Marshal or a Security Officer. Those unable to evacuate using the stairs, should make their way to the signed refuge locations.



Agenda

CHAIRMAN'S ANNOUNCEMENTS

Hearing Protocol

- 1 Apologies for Absence
- 2 Declarations of interest in matters coming before this meeting
- 3 To confirm that the items of business marked Part I will be considered in Public and items marked Part II will be considered in Private
- 4 Matters that have been notified in advance or urgent

Part I - Members, Public and Press

	Title of Report / Address of application	Ward	Time	Page
5	Review of the premises licence in relation to Bottle N Brew of 1A Dawley Road, Hayes, UB3 1LS	Pinkwell	10 AM (Legal Briefing 9:45 AM)	3 - 40

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Order of proceedings – review under the Licensing Act 2003

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.

**Introduction by the Council's
Regulatory Services /
Licensing Officer**

The licensing officer will introduce the report and will outline impartially the matter before the sub-committee, giving any relevant background information.

**The Applicant for the
Review**

The Chairman calls on the Applicant to present their case giving factual information about their grounds for the review application, and calls any supporters or witnesses.

**Responsible Authorities
and/or Other Parties**

Responsible Authorities who have submitted relevant representations will be invited to address the Sub-Committee. Thereafter Other Parties (e.g. Residents, Ward Councillors) who have submitted relevant representations will be invited to address the Sub-Committee

The Licence Holder

The Licence/Certificate Holder presents their case and calls any supporters or witnesses.

DISCUSSION LED BY THE SUB-COMMITTEE

The Chairman will lead the discussion. This will be a chance for all parties to provide comments on any submissions that have been made to the Sub-Committee

**Closing remarks from
each party**

The Licence Holder makes brief closing remarks on the application under question, followed by Responsible Authorities and Other Parties. The Applicant(s) makes the final closing remarks.

**Sub-committee
deliberates**

The sub-committee will remain in the room to deliberate and make their decision, with only the Legal Advisor and Clerk to the Committee remaining. All other present will be asked to leave the room. If the meeting is being broadcast, any filming will be stopped for this part.

**Chairman announces the
decision**

Parties may return to the room when asked and the Chairman announces the decision. The Chairman reminds the Licence/Certificate Holder that the decision will be sent to them in writing. There can be no further questions or statements.

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Application for a Review of a Premises Licence

Committee	Licensing Sub-Committee
Officer Contact	Jhini Mukherjee, Licensing
Papers with report	Appendix 1 - Review Application Appendix 2 - Representation from Metropolitan Police Appendix 3 - Representation from Licensing Authority acting as responsible authority under the Act Appendix 4 - Current premises licence Appendix 5 - Remedial letter following a visit on 03 January 2020 Appendix 6 - Proposed conditions
Ward name	Pinkwell

1 SUMMARY

- 1.1 To consider a review of the premises licence pursuant to Section 51 of the Licensing Act 2003 ("LA03") in relation to Bottle N Brew of 1A Dawley Road, Hayes, UB3 1LS. A copy of the application for review is attached as **Appendix 1**.

2 OPTIONS AVAILABLE TO THE SUB-COMMITTEE

- 2.1 Under Paragraph 11.19 of the Revised Guidance under Section 182 of the Licensing Act 2003, the options available to the Licensing Sub-Committee in a Review Application are the following.
- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
 - exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)¹⁰;
 - remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - suspend the licence for a period not exceeding three months;
 - revoke the licence

3 RECOMMENDATION

- 3.1 **That the Sub-Committee suspend the premises licence and impose further conditions to aid the licence holder in rectifying the shortcomings that have led to the review being instigated. Further conditions on the licence will help to set parameters going forward, within which the premises can operate lawfully. The proposed conditions are set out as Appendix 6.**

4 INFORMATION

- 4.1 On 07 February 2019, based on intelligence received, Trading Standards Officers accompanied by a tobacco brand representative and a tobacco detection dog inspected Bottle N Brew on 1A Dawley Road to establish if illegal tobacco was being sold from the premises.
- 4.2 A total of 75 packs of counterfeit cigarettes, 12 packs of counterfeit hand-rolling tobacco and 158 counterfeit Sildenafil Citrate tablets (brand name Viagra) were seized from the shop on the day.

- 4.3 On 12 December 2019 the Licensing Authority received an application to review the premises licence of Bottle N Brew. The review was requested on the grounds of prevention of crime and disorder.

5 CONSULTATION

- 5.1 The 28 days consultation period started from 12 December 2019 and it closed on 09 January 2020. As required by the legislation, the notice of the review was displayed at the premises and a copy of it was also displayed on the Civic Centre Notice board and also on the Council's website.

6 REPRESENTATIONS

- 6.1 Responsible Authorities

Responsible Authority	Ground for Representation	Appendix
Metropolitan Police	Prevention of Crime & Disorder	Appendix 2
Licensing Authority	Prevention of Crime & Disorder	Appendix 3

The Metropolitan Police Services and the Licensing Authority have both submitted relevant representations in support of the review submitted by the Trading Standards Service. They have sought a suspension of the Premises Licence for 3 months on the grounds that the premises have been used for criminal purposes. In addition to this, both responsible authorities would like further conditions to be added on to the existing premises licence.

7 BACKGROUND INFORMATION

7.1 Current Premises Licence

The premises has been licensed as an off-licence since 2005. The current licence is in the name of the individual, Didar Singh Malotra, who is also the present Designated Premises Supervisor (DPS).

A copy of the premises Licence has been attached for reference as **Appendix 4**.

7.2 Description of the Premises

The premises is located on a small parade of shops and the surrounding area is mainly residential.

7.3 Licensable Activities currently authorised

Activity	Permitted
Sale of Alcohol: Consumption off the premises	✓

7.4 Licensable Activity and opening hours currently authorised

	Sale of Alcohol	Opening Hours
Monday	08:00-23:00	Not restricted
Tuesday	08:00-23:00	Not restricted

Wednesday	08:00-23:00	Not restricted
Thursday	08:00-23:00	Not restricted
Friday	08:00-23:00	Not restricted
Saturday	08:00-23:00	Not restricted
Sunday	10:00-22:30	Not restricted

8. OFFICER'S OBSERVATIONS

- 8.1 On Wednesday 03 January 2020 the Licensing Authority visited the premises where further breaches were observed. The result of the visit has been documented by Daniel Ferrer acting as Responsible Authority for licensing on the remedial letter which is appended at **Appendix 5**.

Relevant paragraphs of the S182 Guidance

- 8.2 Paragraph 11.24:

"A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children.

Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective."

- 8.3 Paragraph 11.26:

"Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder."

- 8.4 Paragraph 11.27:

"There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;

- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol."

8.5 Paragraph 11.28:

"It is envisaged that licensing authorities, the police, and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered."

8.6 Chapter 10 of the S182 Guidance contains information on the imposition of conditions on the Premises Licence.

9. RELEVANT SECTIONS OF THE COUNCIL'S LICENSING POLICY

9.1 The Sub-Committee's attention is drawn to the following, particularly relevant sections of the London Borough of Hillingdon's Licensing Policy:

9.1.1 At paragraph 7.9: "When making decisions about an application the Licensing Sub-Committee will have regard to the Borough's Crime Prevention Strategy and any conditions attached to licences or certificates will so far as possible reflect local crime prevention strategies."

9.1.2 At paragraph 17.2: "Any conditions attached to licences following relevant representations will focus on matters within the control of the Premises Licence Holder or Club Management Committees. They will address matters which have a direct impact on those living, working or engaged in normal activities in the vicinity, as well as patrons of the licensed premises. They will not be used as a means of attempting to attach responsibility to Premises Licence Holders or Club Management Committees for matters outside their reasonable control, such as anti-social behaviour once away from the premises or licensable activity."

10.0 Legal Considerations

10.1 When considering an application for review of a Premises Licence, the Sub-Committee shall carry out its functions with a view to taking steps it considers appropriate for promoting the licensing objectives. The licensing objectives are:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

Members should note that each objective is of equal importance.

10.2 An application for review of a premises licence may be made pursuant to s.51 of the Licensing Act 2003 and is essentially governed by [Licensing Act 2003, reg.29 of the Licensing Act 2003 \(Premises licences and club premises certificates\) Regulations 2005/42](#)), [Licensing Act 2003 \(Hearings\) Regulations 2005/44](#)) and s.182 Secretary Code of Guidance.

10.3 A responsible authority, or any other person, may apply to the relevant Licensing Authority for a review of a premises licence. The applicant responsible authority may be part of the same local authority as the Licensing Authority s.53 Licensing Act 2003.

10.4 Following receipt of a review application the Licensing Authority must hold a hearing to consider it and any relevant representations. At the hearing, the Sub-committee must, having regard to the application and any relevant representations, take such of the steps following steps (if any) as it considers appropriate for the promotion of the licensing objectives:

- modify the conditions of the licence;
- exclude a licensable activity from the scope of the licence;
- remove the designated premises supervisor;
- suspend the licence for a period not exceeding three months; and/or
- revoke the licence

For this purpose, the conditions of the licence are modified if any of them are altered or omitted or any new condition is added.

10.5 The Sub-Committee must also have regard to the London Borough of Hillingdon's Statement of Licensing and the Secretary of State's Guidance issued under the Licensing Act 2003 when deciding what action, if any, to instigate. The terms of the Statement of Licensing Policy and Guidance are highly persuasive, but are not binding on the Licensing Sub-Committee.

10.6 The Sub-Committee may depart from the guidance contained in the Statement of Licensing Policy and or Guidance if it considers there are clear and justifiable reasons to do so. Full reasons must be given if this is the case.

10.7 Following receipt of a review application the Licensing Authority must hold a hearing to consider it and any relevant representations. Those who have made representations in respect of an application may choose to rely upon their written representations or they may attend the hearing and can be represented by any person whether that person is legally qualified or not ([reg.15 of the Licensing Act 2003 \(Hearings\) Regulations 2005/44](#)).

10.8 The Licensing Authority can determine its own procedure to be followed at a hearing, which should be the procedure contained within its Statement of Licensing Policy, which is made publicly available ([s.9](#) and [s.183](#); [reg.21 of the Licensing Act 2003 \(Hearings\) Regulations 2005/44](#)).

10.9 At the beginning of the hearing, the Licensing Authority will explain its procedure and the hearing takes the form of a discussion led by the Licensing Authority with its members being able to ask any question of any party or other person appearing at the hearing ([regs 17, 22 and 23 of the Licensing Act 2003 \(Hearings\) Regulations 2005/44](#)). Cross-examination is not permitted unless the Licensing Authority considers that the case is such that it is required ([reg.23](#)). All parties must be allowed an equal maximum period of time to make their representations and address the Licensing Authority ([reg.24](#)).

10.10 In considering representations, the Licensing Authority may take into account documentary or other information produced by a party in support of their position, either before the hearing or, with the consent of all other parties, at the hearing ([reg.18](#)). The Licensing Authority may exclude the public from all or part of a hearing where it considers that the public interest in excluding the public outweighs the public interest in the hearing taking place in public ([reg.14](#)).

10.11 The Sub-Committee can only consider matters within the application or that have been raised through relevant representations from and each application will be decided on a case by case basis.

10.12 Relevant representations are those that relate to the effect of the granting of the application on the promotion of the licensing objectives made by an interested party or responsible authority that have not been withdrawn and are not, in the opinion of the relevant licensing authority, frivolous, vexatious or repetitious s.51(4)(b)(i) and (ii).

- 10.13 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 application and representations identify.
The remedial action should generally be directed at these causes or concerns and should always ensure that any response is necessary and proportionate.
- 10.14 In deciding which of their powers to invoke, it is expected that Licensing Authorities should seek as far as is possible to identify the cause/s of the concerns the representations have identified. Any remedial action should be directed at these causes and should be no more than an appropriate and proportionate response ([s.182 of the Guidance at 11.20](#)).
- 10.15 The provisions of the Act should not be used for punishment. A decision should be made in order to protect the licensing objectives.
- 10.16 Members are referred to the Secretary of State's Guidance on conditions, specifically paragraph 1.16 and chapter 10 which state that licensing conditions should be practical and enforceable, tailored to the size, type, location and characteristics and activities taking place at the premises. Conditions should be determined on a case by case basis and standardised conditions which ignore these individual aspects should be avoided. Conditions will not be necessary if they duplicate a current statutory requirement. Licensing Authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.
- 10.17 Conditions should also be determined on a case by case basis and standardised conditions which ignore these individual aspects should be avoided. Conditions will not be necessary if they duplicate a current statutory requirement. Licensing Authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.
- 10.18 Breach of a condition in a licence carries criminal sanctions. Conditions must therefore be clear and precise in their terms, not just clear to those having specialised knowledge of licensing, such as the local authority or the manager of the premises, but also to the independent bystander who may have no knowledge of licensing at all - [Crawley BC v Attenborough \[2006\] EWHC 1278 \(Admin\); \(2006\)](#).
- 10.19 The Sub-Committee must ensure that all licensing decisions have:
- A direct relationship to the promotion of one or more of the four licensing objectives
 - regard to the Council's statement of licensing policy
 - regard to the Secretary of State guidance
 - there must not be a blanket policy to the extent that it is applied so rigidly that an exercise of discretion in each individual case is precluded.
- 10.20 Where a decision is made that is contrary to or a departure from the statement of licensing policy and the guidance, that decision must clearly state on what basis a decision was made to depart from the policy or guidance.
- 10.21 The Sub-Committee must consider the application on its own individual merits and take into account all relevant matters then determine the application by taking the steps it considers appropriate and proportionate to promote the licensing objectives.
- 10.22 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective.
It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the

premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems.

- 10.23 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. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective. Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings.
- 10.24 Where the Sub-Committee determines an application for review it must provide written notice and reasons for its decision.
- 10.25 The Council in its capacity as Licensing Authority has a duty to have regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary, section 149 provides that a Public Authority must, in the exercise of its functions have due regard to the need to:
- i. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - ii. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - iii. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 10.26 Section 149(7) of the Equality Act 2010 defines nine relevant protected characteristics examples are; race, sex, age, disability and religious beliefs.
- 10.27 The licence holder, applicant for review or any party that made relevant representations have the right to appeal the decision of the Licensing Sub-Committee to the Magistrates' Court within a period of 21 days beginning with the day on which the applicant was notified in writing by the Licensing Authority of its decision.
- 10.28 An appeal against the final review decision may be made to a magistrates' court within 21 days of the appellant being notified of the licensing authority's determination on the review. An appeal may be made by the premises licence holder, the chief officer of police and/or any other person who made relevant representations.
- 10.29 A record of the proceedings must be kept by the Licensing Authority for a period of six years from the date of the determination or, where an appeal is brought, six years from the disposal of the appeal ([reg.30 of the Licensing Act 2003 \(Hearings\) Regulations 2005/44](#)).
- 10.30 Depending on the type of application, the Licensing Authority must make its determination at the conclusion of the hearing or within five working days of the conclusion of the hearing ([reg.26](#)).

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HILLINGDON
LONDON

**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 Mark Gloc (Senior Trading Standards Officer)

(Insert name of applicant)

apply for the review of a premises licence under section 51 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 Bottle N Brew 1a Dawley Road	
Post town Hayes	Post code (if known) UB3 1LS

Name of premises licence holder or club holding club premises certificate (if known) Didar Singh Malhotra	
---	--

Number of premises licence or club premises certificate (if known) LBHIL 138/05

Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible
authority (please read guidance note 1, and complete (A)
or (B) below)

2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates
(please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr

Mrs

Miss

Ms

Other title
(for example, Rev)

Surname

First names

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 Mark Gloc Senior Trading Standards Officer Trading Standards Service London Borough of Hillingdon Civic Centre High Street Uxbridge UB8 1UW
Telephone number (if any) 01895-250162
E-mail address (optional) mgloc@hillingdon.gov.uk

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

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

Please tick one or more boxes ✓

-
-
-
-

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

This application relates to the business trading as Bottle N Brew of 1A Dawley Road, Hayes UB3 1LS.

The business is owned by a company AT Food & Wine Limited (Company Number: 11304696). The director is Avtar Singh Malhotra. Avtar's brother Didar Singh Malhotra is the premises licence holder and designated premises supervisor for the purposes of the Licensing Act 2003.

This application is submitted under the licensing objective *the prevention of crime and disorder*. It is believed that the business has contravened the following trading standards legislation: the Trade Marks Act 1994 (possession of counterfeit tobacco); the Consumer Protection from Unfair Trading Regulations 2008 (possession of unlicensed medicines); the Tobacco and Related Products Regulations 2016 (possession of tobacco containing health warnings in languages other than English); and the Standardised Packaging of Tobacco Products Regulations 2015 (possession of tobacco not in standardised packaging).

Also, section 183 guidance under the Licensing Act 2003 states, "there is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of licensed premises for the sale or storage of smuggled tobacco and alcohol.

On 7th February 2019, acting on intelligence received, Trading Standards Officers accompanied by a tobacco brand representative and a tobacco detection dog (with handler) inspected Bottle n Brew, 1A Dawley Road in order to establish if illegal tobacco was being sold. Avtar Singh Malhotra was the only person present in the shop when it was inspected

A quantity of illegal tobacco products and medicinal products were found concealed on the premises. These were seized by Trading Standards Officers. As a result of this inspection, breaches of the aforementioned legislation have been recorded.

The Trading Standards Service believes that this indicates a complete disregard of the law which raises questions as to how the business is managed.

In the circumstances, the Trading Standards Service feels that it would be a proportionate response to request the review of the premises licence. The Trading Standards Service recommends that the premises licence is suspended for a period of three months to allow the owner to bring his business into compliance.

The Trading Standards Service would also like the Licensing Sub-Committee to consider adding the following conditions to the premises licence:

- All alcohol and tobacco products will be purchased from established and bone fide VAT registered traders who provide receipts and invoices;
- Invoices for all stock will be kept on file for a minimum of 12 months and will be made available to police officers, HMRC officers, and authorised local authority officers (including Trading Standards Officers) upon request.

RESPONSIBLE AUTHORITY: Section 13(4) of the Licensing Act 2003 and Regulation 7 of the Licensing Act 2003 (Premises Licenses and Club Premises) Regulations 2005 make a local weights and measures authority a responsible authority for the purposes of the legislation. The London Borough of Hillingdon is a local weights and measures authority and that function is carried out by the Trading Standards Service.

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

On 7 February 2019, Trading Standards Officers carried out an inspection of Bottle n Brew, 1A Dawley Road, Hayes. A quantity of tobacco and medicinal products were found concealed on the premises.

The following products were seized from a cardboard box located on the top of a fridge at the rear of the shop:

	Number of packs	Status
Marlboro Gold cigarettes (English labelled)	10	Counterfeit/non-standard logos
Marlboro Gold cigarettes (Polish labelled)	6	Counterfeit/non-plain packaging & non-standard logos/ non-English health warnings
Golden Virginia hand rolling tobacco (English labelled)	11	Counterfeit
Amber Leaf hand rolling tobacco (foreign labelled)	8	Counterfeit/non-plain packaging & non-standard logos/non-English health warnings
Benson & Hedges Gold cigarettes (English labelled)	4	Counterfeit
Richmond King-size cigarettes (English labelled)	10	Counterfeit/non- plain packaging & non-standards logos
Sildenafil citrate tablets	140 tablets	Unlicensed medicinal products

The following products were seized from the tobacco gantry behind the shop counter:

	Number of packs	Status
Marlboro Gold cigarettes	5	Counterfeit
Lambert & Butler Original Silver cigarettes	13	Counterfeit

The following products were seized from an Asda carrier bag which was concealed in a microwave oven. The oven was beneath the shop counter.

	Number of packs	Status
Golden Virginia hand rolling tobacco	2	Counterfeit
Richmond King-size cigarettes	10	Counterfeit/ non-plain packaging & non-standard logos
Amber Leaf hand rolling tobacco	2	Counterfeit/ non-plain packaging/non-standard logos/ non-English health warning
Marlboro Gold cigarettes	17	Counterfeit/combination of non-plain packaging & non-standard logos; mostly non-English health warnings
Sildenafil citrate tablets	18 tablets	Unlicensed medicinal products

The sildenafil citrate tablets are medicinal products which are not licensed for sale in the UK by the Medicines and Healthcare Products Regulatory Agency (MHRA). Since it is not a licensed product it cannot be guaranteed a safe product for usage in the UK. There may also be an issue around a non-pharmacist selling such a product who is not at all qualified to advise a purchaser concerning its suitability, dosage, usage or side effects.

On 11th June 2019 Avtar Singh Malhotra was interviewed under caution by Trading Standards Officers. A Punjabi interpreter was also present. Mr Malhotra explained in the interview that he purchased the seized items on one occasion only (in January 2019) from an itinerant trader (of Polish or Romanian origin) who cold called regularly at his shop. Mr Malhotra did not know his full name, his telephone number nor address. He was given no documentation and was advised by the trader not to display the items on open sale as VAT had not been paid on them. Mr Malhotra stated he was aware of the requirement as to standardised packaging but said he cannot read so he did not realise that some of the warning labels were not in English. He said that he made a mistake.

It should be noted the delay in submitting this request for a review of the premises licence was due to a criminal investigation being conducted in relation to the seized goods which took priority.

Also attached to this application are photographs taken during the inspection of the premises which show examples and the location of the seized product.

Please tick ✓ yes

Have you made an application for review relating to the premises before

If yes please state the date of that application

Day Month Year

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

If you have made representations before relating to the premises please state what they were and when you made them

Please tick ✓ yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, 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 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date 10th December 2019

.....

Capacity Senior Trading Standards officer

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

BOTTLE 'N' BREW
CONVENIENCE STORE

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Spirits
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BEERS, WINES & SPIRITS

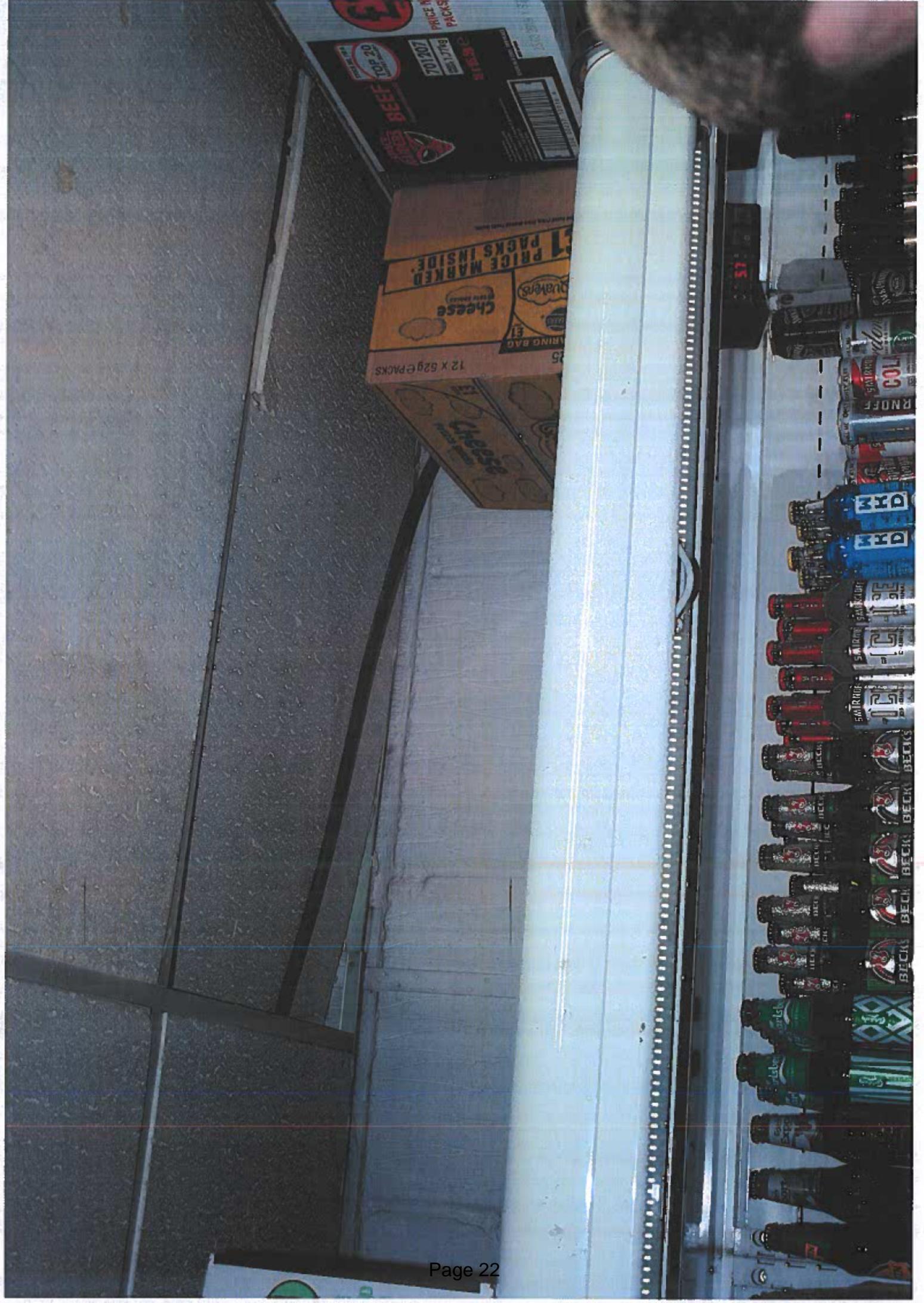


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Ice Cream
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Tabaksrook bevat benzeen,
nitrosaminen, formaldehyde
en waterstofcyanide
La fumée contient du
benzène, des nitrosamines,
du formaldéhyde
et du cyanure d'hydrogène
Rauch enthält Benzol,
Nitrosamine, Formaldehyd
und Blausäure

Smoking seriously harms you and others around you

Smoking causes heart attacks



De rook bevat benzeen,
nitrosaminen, formaldehyde
en waterstofcyanine.
La fumée contient du
benzène, des nitrosamines,
du formaldéhyde
et du cyanure d'hydrogène.
Rauch enthält Benzol,
Nitrosamine, Formaldehyd
und Wasserstoffcyanid.

Smoking seriously harms you and others around you

Smoking seriously harms you and others around you

Smoking seriously harms you and others around you

Smoking causes heart attacks

Smoking causes heart attacks

Smoking causes heart attacks

AMBER LEAF

10x509 CIGARETTES



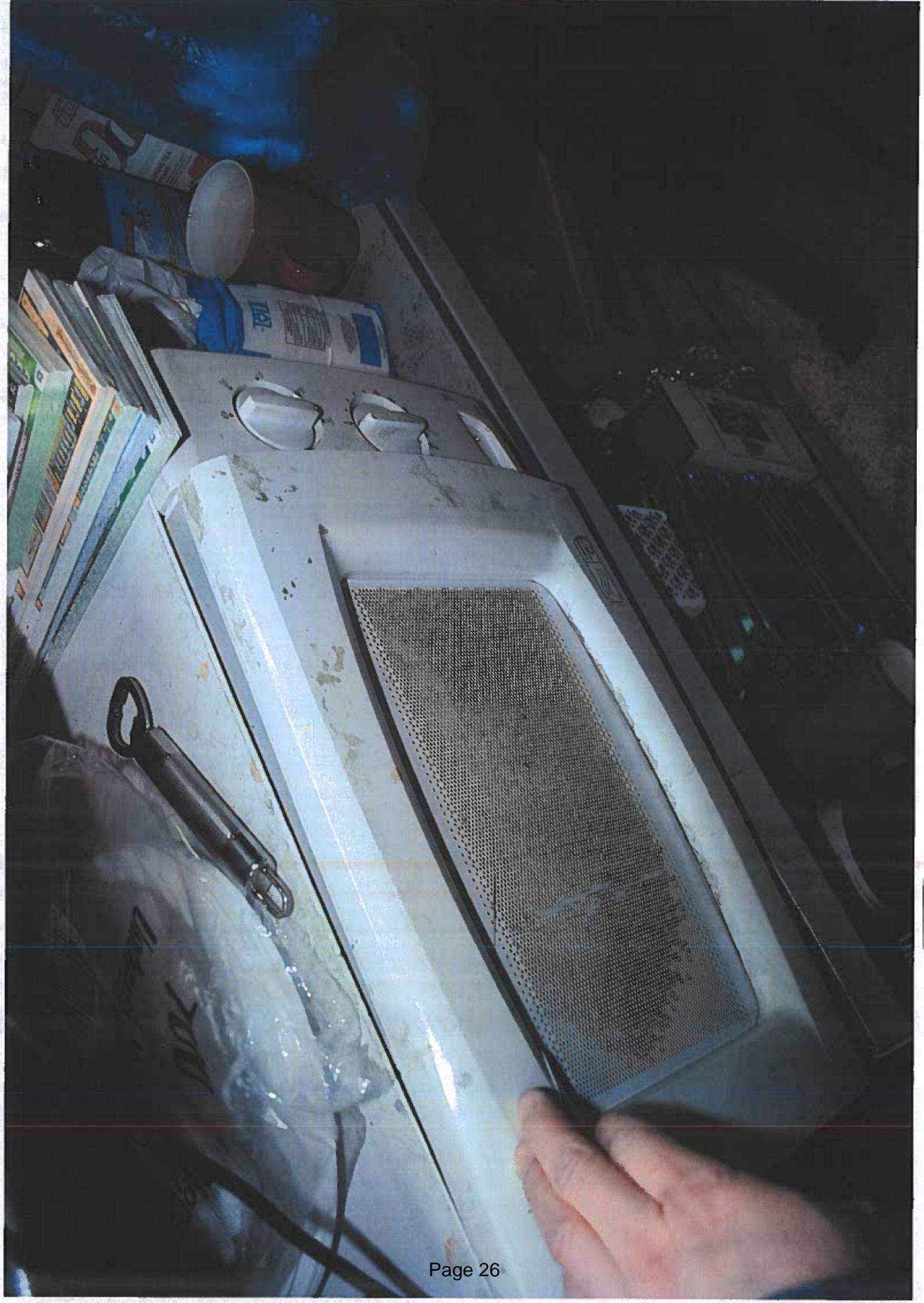
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**METROPOLITAN
POLICE**

TOTAL POLICING

The Licensing Officer
Licensing services
Civic Centre
Uxbridge
UB8 1UW

Hillingdon Borough
Licensing Dept.
Uxbridge Police Station
1 Warwick Place
Uxbridge
UB8 1PG.

Telephone: 020 8246 1933
Email: Licensing-xh@met.police.uk

Date: 07/01/2020

You're Ref: **Bottle N Brew, 1a Dawley
Road, Hayes, UB3 1LS**

Re: 'Review of a premises licence'

Police would like to make the following representations in support of Trading Standards review of the premises license of Bottle N Brew, 1a Dawley Road, Hayes, UB3 1LS.

The Metropolitan Police Service is supporting this review in line with the licensing objectives and in particular the prevention of crime and disorder. Police licensing received the application for the review of the premises licence which contained Trading Standards grounds for review.

On the 7th February 2019 Trading Standards Officers accompanied by a tobacco brand representative and a tobacco detection dog unit attended Bottle N Brew in Hayes. Trading Standards found and seized a quantity of illegal tobacco products and medicinal products.

It is clear the premises licence holder has neglected to observe the prevention of crime and disorder licensing objective. Although Hillingdon Police Licensing Team were not present at Bottle N Brew on 7th February 2019 when goods were found and seized, we would like to support Trading Standards in their review of the premises licence.

***PC Amy Kalinowski
Police Licensing Officer
Hillingdon Borough.***

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HILLINGDON
LONDON

Ms Jhini Mukherjee
Licensing Officer
The Licensing Service
London Borough of Hillingdon
Civic Centre
High Street
Uxbridge
UB8 1UW

Our reference: LBH/DF/138/05
E-MAIL ONLY

Date: 7th January 2020

Dear Ms Mukherjee,

LICENSING ACT 2003
BOTTLE N BREW, 1A DAWLEY ROAD, HAYES UB3 1LS

I am writing to you as the Officer duly authorised to make representations on behalf of the Licensing Authority, in regard to the review of premises licence application submitted by the Trading Standards Service, for the above premises on 10th December 2019

The Licensing Authority fully support the Trading Standards application for Review on the grounds of the 'Prevention of Crime and Disorder' licensing objective following their inspection on 7th February 2019.

My colleague and I carried out a licensing inspection at the premises on 3rd January 2020 at 11:05 hours. A number of issues were detected in relation to the Licensing Act 2003 and the premises licence, 138/05. I have detailed these below:

1. The full premises licence could not be produced.
2. There was no Section 57, Custody Notice, displayed in a prominent position.
3. The sole member of staff behind the counter could not confirm whether he was authorised to sell alcohol.
4. The CCTV time stamp was an hour ahead of real time.
5. There was no refusals/incident log kept at the premises.

In regards to issue 3, Mandatory condition 3 of the premises licence states;

"Every sale/supply of alcohol under the premises licence shall be made or authorised by a person who holds a personal licence".

It should be noted that issues 4 and 5 are not requirements set out in specific conditions of the premises licence, however, we would expect a responsible operator to have these measures in place to fully promote the 'Prevention of Crime and Disorder', licensing objective. Indeed, the premises licence is silent on matters

Licensing Service
Residents Services
T.01895 277 753 F.01895 250011
dferrer@hillington.gov.uk
London Borough of Hillingdon,
3S/08, Civic Centre, High Street, Uxbridge, UB8 1UW
www.hillingdon.gov.uk

concerning CCTV and a refusal/incident log. Following, the Trading Standards inspection and our visit I would advise that it would be appropriate for relevant conditions dealing with both of these matters, to be attached to the premises licence accordingly.

I have included my letter dated 7th January 2020 which were sent to the premises licence holder and Designated Premises Supervisor, Mr. Didar Singh Malotra. Further visits and enquiries will be made in due course to ensure compliance with the Act and the promotion of the licensing objectives.

To conclude, I support the recommendation in the Trading Standards review application to suspend the premises licence for three months and to attach appropriate conditions.

I intend to be present at the hearing to verbally deliver my representation and also to answer any queries from the Licensing Sub-Committee.

If you have any queries regarding this matter, then please feel free to contact me

Daniel Ferrer
Licensing Team Manager

LICENSING ACT 2003
Section 24



HILLINGDON
 LONDON

PREMISES LICENCE

Ref:

LBH/RF

Premises Licence Number:

LBHIL 138/05

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

Signature:

Date: 20th June 2017

Part 1 – Premises Details

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

Bottle N Brew
 1a Dawley Road

Post Town - Hayes

Postcode – UB3 1LS

Telephone number – 0208 848 7488

Where the licence is time limited, the dates -
 N/a

Licensable activities authorised by the licence -

Sale of alcohol by retail

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 –

Didar Singh Malotra

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 –

Didar Singh Malotra

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 Ealing - 3408

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.

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 holders shall ensure that alcohol shall not be sold in an open container or be consumed in the licensed premises.

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

N/a

Annex 4 – Plans

Licensing Service Registered Number 157/05

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HILLINGDON
LONDON

Didar Singh Malotra

Our reference: LBHIL 138/05

Date: 7th January 2020

Dear Mr. Malotra,

LICENSING ACT 2003
BOTTLE N BREW, 1A DAWLEY ROAD, HAYES UB3 1LS

I write to you in relation to my licensing inspection that was carried out at the above premises on Friday 3rd January 2020 at 11:05 hours. My colleague and I met with your member of staff behind the counter, Mr Sher Ahmed.

A number of issues were detected in relation to the Licensing Act 2003 and I have detailed these below:

1. The full premises licence could not be produced.
2. There was no Section 57, Custody Notice, displayed in a prominent position.
3. Mr Ahmed could not confirm whether he was authorised to sell alcohol.
4. The CCTV time stamp was an hour ahead of real time.
5. There was no refusals/incident log kept at the premises.

In relation to issue 1 and 2, above, these matters have been brought to your attention so that you can fully comply with the requirements set out in Section 57 of the Licensing Act 2003.

In regards to issue 3, Mandatory condition 3 of your premises licence states;

"Every sale/supply of alcohol under the premises licence shall be made or authorised by a person who holds a personal licence".

Furthermore, paragraph 10.33 of the Government guidance issued under Section 182 of the Licensing Act states that,

Licensing Service

Residents Services

T.01895 277 753

dferrer@hillington.gov.uk

London Borough of Hillingdon,

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www.hillingdon.gov.uk

"It is strongly recommended that personal licence holders give specific written authorisations to individuals whom they are authorising to retail alcohol. A single written authorisation would be sufficient to cover multiple sales over an unlimited period."

In regards to issues 4 and 5, you do not have specific conditions attached to your premises licence that deal with these matters, however, I would advise you to address these concerns so as to fully promote the relevant licensing objective.

Therefore, could you please make the necessary arrangements to comply with the requirements of the Licensing Act 2003 so as to fully promote the licensing objectives. Further licensing visits may follow to ensure compliance.

If you have any queries regarding this matter, then please feel free to contact me

Yours sincerely,

Daniel Ferrer
Licensing Team Manager

Appendix 6: proposed conditions

Prevention of crime and disorder

1. All alcohol and tobacco products will be purchased from established and bona fide VAT registered traders who provides receipts and invoices.
2. Invoices of all stock will be kept on file for a minimum of 12 months and will be made available to Police Officers, HMRC Officers and authorised local authority officers (including Trading Standards Officers) upon request.
3. The premise license holder shall ensure that CCTV camera and recorders are installed at the premises and are of a standard acceptable to and approved by the police.
4. The system shall be maintained in good working order and at all times the premise is open to the public, be fully operational covering both internal and external areas of the premises to which the public have access. All images should be stored for a minimum of 31 days.
5. The CCTV views are not to be obstructed, at least one CCTV camera is to be placed near to the exit in order to capture clear facial images of all patrons leaving the premises.
6. A suitable trained staff member will be able to show and provide police or council licensing officers recent data footage with the minimum delay when requested.
7. All staff employed at the premises will have UK right to work status checked, once passed that stage they shall be offered employment.
8. All staff shall be trained in relevant age restrictions in respect of products, recognising signs of drunkenness, how to refuse service, the premises' duty of care, action to be taken in the event of an emergency, including the preservation of a crime scene and reporting an incident to the emergency service, the conditions in force under this licence.
9. Documented records of training completed shall be kept for each member of staff. Training shall be regularly refreshed and at no greater than 6 monthly intervals. Training records shall be made available for inspection upon request by a police officer or an authorised officer of London Borough of Hillingdon.

Public safety

10. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
11. Fire exit signs displayed
12. To comply with all current, fire, health and safety laws.
13. CCTV working at all times

The prevention of public nuisance

14. Strict policy in place to tell all staff not to serve alcohol to drunks at all.
15. Appropriate signage will be displayed, in prominent position informing customers they are being recorded on CCTV.

The protection of children from harm

16. A challenge 25 policy will be in force, where any person looking under the age of 25 shall be asked to prove their age when attempting to purchase alcohol and signs to this effect will be displayed at the premises.
17. Challenge 25 posters displayed where alcohol is sold.

18. The only acceptable ID will be those with photographic identification documents; including passport, photo-card, driving, license or proof of age card bearing the PASS hologram.
19. An incident/refusal log shall be kept at the premises, and made available for inspection on request to an authorised officer of the council of the police which will record the following:
 - a) All crimes reported at the venue;
 - b) Any complaints received, any faults in the CCTV system;
 - c) Any refusal of the sale of alcohol, any visit by a relevant authority;
 - d) CAD reference number where police are called.