

# Application for a Review of a Premises Licence

<b>Committee</b>	Licensing Sub-Committee
<b>Officer Contact</b>	Jhini Mukherjee (x7443)
<b>Papers with report</b>	<b>Appendix 1</b> - Review Application <b>Appendix 2</b> - Photos of displayed notice of review on the premises and the council's office <b>Appendix 3</b> - Premises Licence <b>Appendix 4</b> - Site Map of the local area <b>Appendix 5</b> - Photos of the shop
<b>Ward name</b>	Cavendish

## 1. SUMMARY

To consider a review of the Premises Licence pursuant to Section 51 of the Licensing Act 2003 ("LA03") in relation to Eastcote News of 239 Field End Road, Ruislip, HA4 9NJ. A copy of the application for review is attached as **Appendix 1**.

## 2. RECOMMENDATION

**The Licensing Sub-Committee is requested to support the Trading Standards Service's recommendation and suspend the Premises Licence for one month, in addition to including the conditions as proposed by the Trading Standards Service in their review application.**

## 3. INFORMATION

- 3.1 On 26 April 2018, a multi-agency operation was carried out which involved inspections at various off-licensed premises in Hillingdon identified as possibly selling counterfeit goods. Eastcote News of 239 Field End Road, Ruislip, HA4 9NJ was one of those premises.

Officers from the Council's Trading Standards team, accompanied by brand representatives from the Alcohol and Tobacco industry, inspected the store.

A total of 440 counterfeit cigarettes, amounting to the value of £77.00, were seized from the premises on the day. According to the tobacco representatives, the average price of cigarettes when counterfeit are £3.50 per pack of 20. However, a legitimate pack of 20 is sold for around £10.00.

- 3.2 On 19 June 2018, the Licensing Authority received an application to review Eastcote News. The review was requested on the grounds of prevention of crime and disorder.

## 4. CONSULTATION

- 4.1 The 28 day consultation period started after the review was received by the Licensing Authority on 19 June 2018. 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. Photos of the displayed notice on the premises and the Council's office are appended as **Appendix 2**.

#### 4.2 Last date for representations

17 July 2018

### 5. REPRESENTATIONS

5.1 No relevant representations have been received from any of the Responsible Authorities, Interested Parties or Ward Councillors.

### 6. BACKGROUND INFORMATION

#### 6.1 Current Premises Licence and Designated Premises Supervisor (DPS)

The premises previously traded under the company Eastcote Newsbox Ltd., in which Mr Kartar Singh Lamba was a Director, alongside Mr Kuldeep Singh Bedi. This company was incorporated on 06 September 2011 and dissolved on 07 February 2017. The current Premises Licence has been in force since 18 July 2016 and is in the name of Mr Kartar Singh Lamba, who is also the DPS of the premises.

A copy of the premises Licence has been attached as **Appendix 3**.

#### 6.2 Description of the Premises

The premises is located on a shopping parade with residential accommodation above the shops. A site map of the local area is attached as **Appendix 4**

Photos of the interior of the shop are appended as **Appendix 5**.

#### 6.3 Other licensed premises nearby

Name of premises	Alcohol	Reg Ent	Late - night Refreshment	Opening Hours
Sainsburys Supermarkets Ltd 216 Field End Road	✓			Monday to Sunday 00.00 to 24.00
Village Pizza 214 Field End Road			✓	Sunday to Thursday 11.30 to 00.30
Polski Sklep 213-215 Field End Road	✓			Friday and Saturday 11.30 to 02.00
Captain Morgans 210 Field End Road	✓	✓	✓	Monday to Saturday 08.00 to 23.00 Sunday 10.00 to 22.30
Remos Village Italian Restaurant 267 Field End Road	✓	✓	✓	Sunday to Wednesday 11.00 - 00.30 Thursday to Saturday 11.00 - 02.30

Eastcote Food & Wine 265 Field End Road	✓			Monday to Saturday 0800 to 2300 Sunday 1000 to 2230
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#### 6.4 **Licensable Activities and opening hours currently authorised**

	<b>Sale of Alcohol</b>	<b>Opening Hours</b>
<b>Monday</b>	08:00-23:00	Not restricted
<b>Tuesday</b>	08:00-23:00	Not restricted
<b>Wednesday</b>	08:00-23:00	Not restricted
<b>Thursday</b>	08:00-23:00	Not restricted
<b>Friday</b>	08:00-23:00	Not restricted
<b>Saturday</b>	08:00-23:00	Not restricted
<b>Sunday</b>	10:00-22:30	Not restricted

#### 7. **VISITS MADE BY LOCAL AUTHORITY LICENSING OFFICERS**

A visit was made on 19 June 2018 to Eastcote News. During the visit, the public notice was hand-delivered to the premises user to display in the window. At the time of the visit, no breaches of the license conditions were witnessed.

#### 8. **OFFICER'S OBSERVATIONS**

- 8.1 The review application states that the premises has a history of selling counterfeit cigarettes associated with it. On 17 December 2015, as submitted by Trading Standards, a visit to the shop resulted in the seizure of a bulk of counterfeit cigarettes and tobacco. A warning letter was issued at that time to the then DPS, Mr Kuldip Singh Bedi, advising that a review of the premises licence will follow if there is intelligence of any similar non-compliance in the future. As mentioned in paragraph 6.1, Mr Kartar Singh Lamba, the present DPS was a director of the company at that time and the premises licence was in the name of the company, Eastcote Newsbox Ltd., in 2015.
- 8.2 The premises was found to be non-compliant during the joint visit on 26 April 2018 again. The details of the visit are elaborated in the review application and the accompanying witness statements. As mentioned in paragraph 6.1, the premises licence is now in Mr Kartar Singh Lamba's name and he is also the DPS of the premises.
- 8.3 The Trading Standards Service believes that the business is not being run in a fit and proper manner and that the licensing objective to prevent crime and disorder is being undermined by the incidents above. They have sought a suspension of the premises licence for a month, in addition to inclusion of the conditions proposed by them.

## 9. Relevant paragraphs of the S182 Guidance

### 9.1 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."

### 9.2 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."

### 9.3 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."

### 9.4 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."

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

## **10. RELEVANT SECTIONS OF THE COUNCIL'S LICENSING POLICY**

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

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."

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."

## **11.0 LEGAL COMMENTS**

11.1 The Licensing Authority must review the premises licence where it is alleged, in an application for review by a Responsible Authority or other persons, that any of the licensing objectives are being undermined.

11.2 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.

11.3 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. 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.

- 11.4 The Sub-Committee can only consider matters within the application, or that have been raised through relevant representations, and each application will be decided on a case to case basis.
- 11.5 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 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.
- 11.6 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.
- 11.7 Under the Human Rights Act 1998, the Sub-Committee needs to consider the balance between the rights of the applicant, licence holder 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.
- 11.8 Where the Licensing Authority determines an application for review, it must provide written notice and reasons for its decision.
- 11.9 The licence holder, applicant 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 by the Licensing Authority of the decision to be appealed against.