



Licensing Sub-Committee agenda

Date: Thursday 10 December 2020

Time: 10.00 am

Venue: Via Video Conference

Membership:

C Jackson, N Marshall and I McEnnis

Webcasting notice

Please note: this meeting may be filmed for live or subsequent broadcast via the council's website. At the start of the meeting the chairman will confirm if all or part of the meeting is being filmed.

You should be aware that the council is a data controller under the Data Protection Act. Data collected during this webcast will be retained in accordance with the council's published policy.

Therefore by entering the meeting room, you are consenting to being filmed and to the possible use of those images and sound recordings for webcasting and/or training purposes. If members of the public do not wish to have their image captured they should ask the committee clerk, who will advise where to sit.

If you have any queries regarding this, please contact the monitoring officer at monitoringofficer@buckinghamshire.gov.uk.

Agenda Item	Time	Page No
1		
Introductory remarks by the Chairman		
2		
Apologies for absence		
3		
Declarations of interest		
To receive any disclosure of disclosable pecuniary interests by Members relating to any items on the agenda. If any Member is uncertain as to whether an interest should be disclosed, he or she is asked if possible to contact the		

District Solicitor prior to the meeting.

Members are reminded that if they are declaring an interest, they should state the nature of that interest whether or not they are required to withdraw from the meeting.

- | | | |
|----------|---|----------------|
| 4 | Hearing Procedure Rules | 3 - 14 |
| | To note the hearing procedure rules and virtual licensing sub-committee procedural rules. | |
| 5 | Anatolia Food Centre, 51 - 52 Oxford Street, High Wycombe, HP11 2DJ | 15 - 46 |
| | To consider an application under s.51 of the Licensing Act 2003 for a review of the premises licence in respect of Anatolia Food Centre, 51 - 52 Oxford Street, High Wycombe, HP11 2DJ (report attached). | |

If you would like to attend a meeting, but need extra help to do so, for example because of a disability, please contact us as early as possible, so that we can try to put the right support in place.

For further information please contact: Liz Hornby on 01494 421261, email democracy@buckinghamshire.gov.uk

BUCKINGHAMSHIRE COUNCIL

LICENSING SUB-COMMITTEE HEARING PROCEDURE

Procedure at Hearings before the Licensing Sub-Committee in relation to matters mainly under the Licensing Act 2003 as amended (“The 2003 Act”) **except** Interim Hearings (Summary Review of a Premises Licence) conducted pursuant to Section 53B of the Licensing Act 2003, as amended (separate Procedure).

Hearings for Gambling Premises are dealt with under the Gambling Act 2005 as amended.

ADMINISTRATION IN RELATION TO A HEARING

1. Prior written notice of the Hearing will have been given to the interested/relevant parties.
 - (a) Where a party has informed the Council that they will not be attending or represented the Hearing may proceed in their absence.
 - (b) Where a party has not replied to the notice, does not attend and is not represented then the Sub-Committee may proceed with the Hearing in that party’s absence or adjourn the Hearing if it is considered necessary in the public interest to do so.
 - (c) If a party has indicated they will attend but does not appear, that party must inform the Council of any delay – with reasons - and in consideration thereof the Sub-Committee can decide to proceed with the Hearing or adjourn to later the same day or another time. If a party is more than 15 minutes late and has not contacted the Council with details of any delay – the Sub-Committee can decide to proceed with the Hearing or adjourn to later the same day or to another time.

If the Hearing is held in a party’s absence, the Sub-Committee will still consider the application, representation or notice made by that party.

2. A Hearing can be dispensed with if all parties give notice that they consider a hearing unnecessary. If this is the case the application/notice will still be determined by the Sub-Committee in public – unless it is considered to be in the public interest that the determination should be in private - on the basis of the advance papers provided, with the Licensing Officer introducing his/her report and answering any queries the Sub-Committee may have before they make their determination.
3. Representations can be withdrawn by prior notice 1 working day before the Hearing or orally at the Hearing.
4. Hearings shall take place in public **except where** the Council considers that the public interest in excluding the public from all or part of the Hearing outweighs the public interest in it remaining public. The Council considers it to be in the public interest to exclude the public, including all parties, when the Sub-Committee are deliberating in order to reach their decision. Where facilities permit, public hearings will be available to be viewed and participated in online using the Councils webcast service. Members of the public who wish to record, photograph, film and report on public hearings are asked to advise the

Democratic Services Officers before the Hearing so that where possible all necessary practical arrangement can be made.

5. At the Hearing any party can be assisted or represented by any person whether or not that person is legally qualified.
6. The Hearing will be before the Licensing Sub-Committee which will be made up of three Members of the Buckinghamshire Council's Licensing Committee who will at the beginning of the session agree and identify which of them is to act as Chairman for the Hearing. Each matter/application will be dealt with individually and three Members **must** be able to participate in relation to each application for the Hearing to proceed and remain until the subject application/notice is determined.
7. The Chairman will address any issues of interests under the Council's Member Code of Conduct at the Hearing after the introductions have been made
8. Members of the Licensing Sub-Committee must consider beforehand if they need to declare any personal interests and whether their personal interest is also a prejudicial interest in which case they will not be able to attend the Hearing. Members who have any Disclosable Pecuniary Interests will not be able to attend the Hearing either. Members should also consider beforehand if they have or would be considered to have predetermined the matter in which case they should also distance themselves from the determination of the matter and not attend the Hearing.
9. Members of the Licensing Sub-Committee will have received in advance (5 clear days) in relation to each application/notice to be considered, the Licensing Officer's Report and associated papers and will come to the Hearing having read those papers.
10. Account can be taken of documentary or other information produced by a party in support of their application, representation or notice (as applicable) either 1 working day before the Hearing or - with the consent of all other parties - at the Hearing, in which case sufficient copies are required to be provided for all relevant parties. Any party wishing to call another person (other than a person representing them) to make oral representations must provide details of this to the Council within the time stated in the Notice of Hearing which the Council will serve on the Parties. At the beginning of the Hearing the Sub-Committee will consider any such requests and confirm whether permission is granted for that person to speak.
11. The Sub-Committee may disregard any information which is not considered relevant to the application/representation/notice and the promotion of the licensing objectives.
12. The purpose of a Hearing is to enable those with a right to appear to amplify their written application or representation and to test the case of their opponents. It is also to assist the Sub-Committee to gather evidence and understand the relevant issues. The parties (including other persons on their behalf) will be allowed an equal reasonable period of time to address the Hearing and ask questions – the Chairman may set such maximum period of time in the interests of the progress of the Hearing in the public interest. Where the representations made relate to the same or similar issues, a spokesperson should be

appointed where possible to speak on behalf of any person who has made a written representation.

13. Parties can ask questions of other parties in accordance with the procedure below. The Chairman can stop a party asking questions if they feel the questions are unnecessary. Parties are expected to treat other parties with respect and any form of harassment or excessive questioning will not be tolerated. In such cases the Chairman will ask the party to discontinue that type of questioning. The Chairman can require any person (including any of the parties) who is disrupting the proceedings to leave the Hearing.
14. The Decision of the Licensing Sub Committee will be made after the close of the Hearing for that matter and confirmed in writing to the Applicant and all parties who submitted relevant representations together with details of the right of appeal within the time limits set out in Legislation and Regulations. The date of formal notification for the purposes of any appeal against the Licensing Sub-Committee's decision will be the date the letter from the Licensing Officer enclosing the Decision Notice and confirming the rights of appeal and the timescales involved is deemed to have been served on the parties.
15. The Sub-Committee may depart from this procedure (as varied/amended from time to time based on changes to law and practice) if it considers it necessary and/or equitable to do so.

AT THE HEARING

1. The Chairman will open the Hearing and start the introductions of the Sub-Committee and Officers and ask each party to introduce themselves. The Chairman will confirm that if a party is not present their representations/application will have been read and will be considered in reaching the decision.
2. The Chairman will address any interest arising under the Code of Conduct.
3. The Chairman will consider any submitted requests from a party for permission for another person to appear at the Hearing. If necessary, the sub-committee will retire to deliberate before making a decision.
4. The Chairman will confirm that the Hearing will take the form of a round the table discussion led by the Sub-Committee in accordance with this procedure. If all parties present confirm that they have seen and understand the procedure to be followed at the Hearing and agree they are ready to proceed then the Hearing **shall commence as set out from para 9 below.**
5. The Chairman will remind everyone that the purpose of the Hearing should be borne in mind at all times i.e.
 - to enable those with a right to appear to advance their point of view and concerns and to test the case of their opponents and
 - to assist the Sub-Committee to gather evidence and understand the relevant issues.

6. The Chairman will confirm what advance papers have been received and that these have been read and therefore there is no need to repeat these matters.
7. The Chairman will make clear that parties should only address the Sub-Committee in relation to matters previously raised/submitted. Late evidence to be submitted at the Hearing will only be considered by the Licensing Sub-Committee with the consent of all parties present.
8. The Chairman will then outline the procedure to be followed by reading out points 9 to 15 below **unless** all parties present have confirmed that they have seen and understood the procedure and are ready to proceed with the Hearing.
9. The Chairman will ask the Applicants whether they wish to make any amendments to their application with a view to addressing issues raised by the representations.

10. ORDER OF ORAL PRESENTATIONS

- a. The Licensing Officer will present their report outlining the details of the application/notice and representations received.
- b. Any party may question the Licensing Officer.
- c. The Members may question the Licensing Officer.
- d. The Responsible Authorities will present their case and call their witnesses*.
- e. Any other party may question the Responsible Authorities.
- f. The Members may question the Responsible Authorities.
- g. Each Interested Party will present their case in turn and call their witnesses*.
- h. Any other party may question the Interested Party.
- i. The Members may question the Interested Parties.
- j. The Applicant/Licence Holder will present their case and call their witnesses*.
- k. The other parties may question the Applicant/Licence Holder.
- l. The Licensing Officer may question the Applicant/Licence Holder.
- m. The Members may question the Applicant/Licence Holder.

* If permission has been given to do so.

11. Before moving onto the next party, the Chairman will check there are no further points the current party wishes to make or any further questions that need to be put to that party.
12. On a without prejudice basis, the Licensing Officer will present the schedule of proposed non mandatory Conditions to be imposed of any Licence if granted as set out in their report. Each party will be asked to address/give their views on those proposed conditions and suggest any other appropriate conditions to assist the Sub-Committee. If possible an agreed schedule of conditions will result. It will remain however for the Sub-Committee to determine what conditions will apply should the application be successful.
13. Each party will be invited to make closing submissions in the following order
 - a. Licensing Officer
 - b. Responsible Authorities
 - c. Interested Parties

d. the Applicant

14. The Chairman will then close the Hearing and the Sub-Committee will retire together with the Committee Clerk and the Sub-Committee Legal Advisor for the matter to be determined.

15. The Sub-Committee will come to a decision which will be sent to the Applicant and all other parties' who submitted relevant representations within the time limits set out in Regulations together with details of the right of appeal.

NOTE

IN PRODUCING THIS PROCEDURE, THE FOLLOWING HAVE BEEN CONSIDERED: -

- Licensing Act 2003 *as amended* - and Explanatory Notes
- National Guidance
- The Licensing Act 2003 (Hearings) Regulations 2005 as amended
- The Human Rights Act 1998.
- Local Government Act 1972 as amended.

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Licensing and Regulatory Sub-Committee Virtual Procedural Rules

Introduction

The Secretary of State for Housing, Communities and Local Government made [Regulations](#) (The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020) to ensure local authorities can conduct business during the current public health emergency and this legislation was passed on 4 April 2020. The Regulations will apply to local authority meetings (full council, executive, joint committee, committee or sub-committee) held before 7 May 2021 from 4 April 2020. Councils can make standing orders in respect of virtual meetings, and will not be constrained by any existing restrictions. The Licensing Act 2003 and the Licensing Act 2003 (Hearing) Regulations 2005 provide flexibility to Licensing Authorities in determining their own hearing procedures.

Councils can make standing orders in respect of virtual meetings, and will not be constrained by any existing restrictions.

Before the Hearing

Access to Information

The Council can hold and alter the frequency and occurrence of meetings without requirement for further notice.

The new 2020 Regulations make provision for local authority members and officers, and the public, to have access to documents without attending council buildings and it will be sufficient for local authorities to publish the documents on their website. This includes notices, agendas, reports, background papers and minutes. The Proper Officer will give the requisite notice to the public of the time of the meeting, and the agenda, together with details of how to join the meeting which will be available on the website.

The obligation under the old Regulations (Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012) to supply copies of such documents in response to requests made by members of the public and on behalf of newspapers is disapplied.

The requirement in England for 5 clear days' notice to be given of principal council meetings, including annual meetings, still applies however notice can now be given on the council's website. However, it should be noted that Licensing is not subject to this but is bound by the Licensing Act 2003 and there may be occasional times when these requirements cannot be met.

Time and Place of Meetings

Meetings can be held remotely, including by (but not limited to) telephone conferencing, video conferencing, live webcast, and live interactive streaming even if particular members of the public cannot access them. This Council will use Microsoft Teams to hold virtual meetings and will invite external participants to virtual meetings, if any, via email or telephone. Where possible, virtual meetings will be webcast where the Hearing is held in public via a link published on the meeting webpage.

The Constitution states that when reasonably practical, a sub-committee meeting should be held at the Council facility which is closest to the premises or issue that is the subject of the meeting. However, this requirement cannot be met during this current period.

During the Hearing

It is a requirement for such hearings that:

- a) proper notice is given, with all papers served timeously on the authority and published online;
- b) the actual parties to the hearing are able to participate;
- c) any member of the public can see or hear, albeit not participate in, the hearing.

Although held in a virtual format, Hearings dealing with new licences or variations to existing licences will follow the standard procedure. Panel Members may ask questions of any party at any time. Questions are usually taken after each person has spoken. It is helpful to undertake a document check at the start of the Hearing.

In terms of issues that may arise during the Hearing the following rules apply:-

Quorum for Meetings

The rules for quorum will still apply. This is 3 Councillors for a licensing or regulatory sub-committee. It is also considered good practice to have a reserve member, in case of interests. The constitution states that if a quorum is not present within 10 minutes of the scheduled start of the meeting or such longer time as allowed by the Chairman, the business of the meeting will be adjourned. The Chairman may allow for flexibility around the start time of the meeting where there are any technical issues.

In the event of any apparent failure of the technology the Chairman should immediately determine if the meeting is still quorate. The Chairman could adjourn for 10-15 minutes to allow the connection to be re-established. If an individual remote participation fails the Chairman may call a short adjournment. As the hearing must have 3 members present, the meeting will be reliant on the lost connection being re-established to ensure all members are present for the entire discussion in order to hear all of the facts and vote on the matter.

You can only have 3 members on the Licensing and Regulatory Sub-Committees (LSC) for each Hearing (as per Section 9 of the Licensing Act 2003 and the Constitution Terms of Reference for the LSC). The reserve member is only there in case an interest rises at the beginning of the Hearing or one of the 3 members identified as being on the LSC fails to turn up to the virtual meeting. It is only those 3 members who have been identified as being on the LSC for that Hearing who can ask questions of the other parties. A reserve member would not be able to participate if the technology fails for one of the members present as whilst they would be listening they will not have taken an active role nor been included in the process/asked to see if they have any questions etc.

Attendance at meetings and webcasting

Once everyone is present at the start of the Hearing the 'room can be locked' unless the Chairman/Democratic Services Officer believe that additional persons need to be included during the Hearing.

A roll call or introductions will be made at the start of the meeting to record those present. There is no requirement for councillors to sign their names on the attendance sheets when attending a

virtual meeting. The Democratic Services Officer will maintain a list of attendance throughout the meeting.

To be classified as a 'member in attendance' and attend a meeting remotely, the following conditions must be satisfied:

- a) councillors must be able to hear and (where practicable) see and be heard and (where practicable) be seen by other councillors in attendance at the meeting. This full requirement also extends to members of the public attending to exercise a right to speak at the meeting
- b) All other members of the public must as a minimum be able to hear (but if practicable be seen as well)

In practice this means that if councillors and speaking members of the public can be heard and hear each other and other members of the public not speaking can hear, this would fulfil the requirements of holding a virtual meeting.

Members of the press and public may only be excluded from a meeting in accordance with the Access to Information Rules.

The Regulations state that meetings being open to the public include access by remote means. Such access includes (but not limited to) video conferencing, live webcast, and live interactive streaming and where a meeting is accessible to the public through such remote means the meeting is open to the public whether or not members of the public are able to attend the meeting in person. For clarity, a meeting recorded and then posted online after the event would not satisfy this requirement.

The people on the Teams call who are present throughout the meeting are the Members 'round the table' and any officer supporting the meeting. The public gallery, where Members can sit and observe the meeting alongside members of the public, is the webcast version. It is important to keep numbers in the meeting (except for those allowed to be present as Members) to a minimum to enable the proper flow of the virtual meeting.

Conflicts of interest

Councillors should consider if they have an interest, and, if required, seek advice from the Monitoring Office, or their deputy, before the meeting starts. If a Councillor appointed to a licensing hearing considers that their interest is prejudicial they should notify Democratic Services as soon as possible so that an alternative councillor can be appointed to the licensing hearing. Where a councillor has an interest they must declare their interest and the nature of it at the start of the meeting. If the interest is 'personal' having declared a personal interest the councillor may continue to speak and vote on the item of business concerned. If the councillor has a prejudicial interest they will not be able to take part in the discussion or decision and must leave the meeting. A reserve councillor, if available, will then be called upon to serve on the hearing in their absence.

Minutes of meetings

The Minutes of meetings will be signed and kept by the Chairman until government guidance allows councillors and officers to return the signed copy to the office.

Questions

Questions will be asked in the normal way as set out in the Constitution.

Order of business (as normal)

1. The Chairman will open the Hearing and start the introductions of the Sub-Committee and Officers and ask each party to introduce themselves. The Chairman will confirm that if a party is not present their representations/application will have been read and will be considered in reaching the decision.
2. The Chairman will address any interest arising under the Code of Conduct.
3. The Chairman will consider any submitted requests from a party for permission for another person to appear at the virtual Hearing. If necessary, the sub-committee will retire to deliberate before making a decision.
4. The Chairman will confirm that the Hearing will take the form of a virtual round the table discussion led by the Sub-Committee in accordance with this procedure. If all parties present confirm that they have seen and understand the procedure to be followed at the virtual Hearing and agree they are ready to proceed then the Hearing **shall commence as set out from para 9 below**.
5. The Chairman will remind everyone that the purpose of the virtual Hearing should be borne in mind at all times i.e.
 - to enable those with a right to appear at the virtual meeting to advance their point of view and concerns and to test the case of their opponents and
 - to assist the Sub-Committee to gather evidence and understand the relevant issues.
6. The Chairman will confirm what advance papers have been received and that these have been read and therefore there is no need to repeat these matters.
7. The Chairman will make clear that parties should only address the Sub-Committee in relation to matters previously raised/submitted. Late evidence to be submitted at the Hearing will only be considered by the Licensing Sub-Committee with the consent of all parties present.
8. The Chairman will then outline the procedure to be followed by reading out the order of oral presentations **unless** all parties present have confirmed that they have seen and understood the procedure and are ready to proceed with the virtual Hearing.
9. The Chairman will ask the Applicants whether they wish to make any amendments to their application with a view to addressing issues raised by the representations.
10. Order of oral presentations
 - a. The Licensing Officer will present their report outlining the details of the application/notice and representations received.
 - b. Any party may question the Licensing Officer.
 - c. The Members may question the Licensing Officer.

- d. The Responsible Authorities will present their case and call their witnesses*.
- e. Any other party may question the Responsible Authorities.
- f. The Members may question the Responsible Authorities.
- g. Each Interested Party will present their case in turn and call their witnesses*.
- h. Any other party may question the Interested Party.
- i. The Members may question the Interested Parties.
- j. The Applicant/Licence Holder will present their case and call their witnesses*.
- k. The other parties may question the Applicant/Licence Holder.
- l. The Licensing Officer may question the Applicant/Licence Holder.
- m. The Members may question the Applicant/Licence Holder.

* If permission has been given to do so.

Once they have made their representations under the requirements of the constitution they will need to switch off their microphone and not participate any further in the meeting unless they are asking any questions or wish to sum up. No speaking is timed.

11. Before moving onto the next party, the Chairman will check there are no further points the current party wishes to make or any further questions that need to be put to that party.
12. On a without prejudice basis, the Licensing Officer will present the schedule of proposed non mandatory Conditions to be imposed of any Licence if granted as set out in their report. Each party will be asked to address/give their views on those proposed conditions and suggest any other appropriate conditions to assist the Sub-Committee. If possible an agreed schedule of conditions will result. It will remain however for the Sub-Committee to determine what conditions will apply should the application be successful.
13. Each party will be invited to make closing submissions in the following order:
 - a. Licensing Officer
 - b. Responsible Authorities
 - c. Interested Parties
 - d. the Applicant
14. The Chairman will then close the Hearing and the Sub-Committee will meet virtually together with the Committee Clerk and the Sub-Committee Legal Advisor for the matter to be determined.
15. The Sub-Committee will come to a decision which will be sent to the Applicant and all other parties' who submitted relevant representations within the time limits set out in Regulations together with details of the right of appeal.

When can the Chairman be interrupted?

There are circumstances allowed for in the Constitution where the Chairman can be interrupted such as:-

- Technology is not working effectively
- Officer needs to provide advice

- Point of order or personal explanation

or any other area where the Constitution or Chairman allows.

Disturbance during proceedings

The Constitution states that if anyone interrupts proceedings the Chairman will warn the person concerned and if they continue to interrupt the Chairman will order their removal from the virtual meeting room. There may be circumstances where the person needs to be removed immediately for example if they are being inappropriate and the Chairman can do this by muting their microphone. If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as they consider necessary.

Adjournments

People will remain on the call with mics muted and cameras off until the meeting starts again. The Chairman may also want to consider having a comfort (screen) break for longer meetings. If there is a problem with the technology the Chairman should adjourn the meeting. However, this does not stop a meeting going ahead because a person does not have access to the required technology in the first place. If technology fails for a wholly remote meeting, and the meeting is no longer open to the public, any decisions made could be challenged as unlawful which renders the whole meeting incapable of proceeding and therefore the Chairman should adjourn until the remote meeting can be restored within a reasonable period, or at a time and date fixed by the Chairman or until the next ordinary meeting. Any interested party eligible to speak who attends to exercise their right to speak and is unable to do so renders only their item incapable of proceeding unless they are happy to submit their comments through a written representation.

The Council will try and achieve the best possible outcome.

Deliberations and Exclusion of the Press and the Public

Under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005 the licensing authority may exclude the public from all or part of the hearing where it considers that the public interest in doing so outweighs the public interest in the Hearing or part of that Hearing taking place in public. In addition there may be information in the agenda pack pertaining to the hearing be exempt from publication or discussion in public under Schedule 12A of The Local Government Act 1972 as amended. In these circumstances the public will be excluded from part or the whole of the Hearing as appropriate.

At the conclusion of the Hearing, the Sub-Committee together with the Democratic Services Officer and Legal Advisor, will remain in a private virtual meeting in order to deliberate on the decision. Interested parties will then be notified of the outcome of the hearing in writing after the meeting in accordance with required timescales.

Each Member in remote attendance must ensure and verbally declare that there are no other persons present who are not entitled to be (either hearing or seeing) consideration of such items, and/or recording the proceedings.

The Sub-Committee may depart from this procedure (as varied/amended from time to time based on changes to law and practice) if it considers it necessary and/or equitable to do so.

Buckinghamshire Council

Licensing Sub-Committee Hearing Date:
10 December 2020, 10:00 hours

Agenda Item No: 5

SUBJECT:	APPLICATION FOR THE REVIEW OF A PREMISES LICENCE at: Anatolia Food Centre, 51 - 52 Oxford Street, High Wycombe, HP11 2DJ
REPORT OF:	Application under section 51, Licensing Act 2003
Responsible Officer	Brian Whittall – Licensing Officer
Report Author	Brian Whittall – Licensing Officer
Ward/s Affected	W001 – Abbey

1. Purpose of Report

To provide Members with information to enable the determination of an application for the review of a Premises Licence. The review Application has been submitted by Andy Dean, Licensing Officer on behalf of the Chief Constable, Thames Valley Police, Headquarters (South), Kidlington, Oxfordshire, OX5 2NX (“the applicant”), in respect of Anatolia Food & Wine, 51-52 Oxford Street, High Wycombe, HP11 1DJ (“the premises”).

2. Background

- 2.1 The premises were historically used for many years as a shoe shop. In June 2012 an application was received under s.17 of the Licensing Act 2003 for a premises licence. The licence was granted without representations.
- 2.2 The current nature of the business is a convenience store and off licence.
- 2.3 In February 2015 an application was made to vary the premises licence splitting the premises into a retail minimarket known as Anatolia Food Centre and a separate food takeaway outlet to be known as Anatolia Kebab Centre.
- 2.4 On the 10 August 2016 an application was made under section 42 of the Act to transfer the licence in respect of Anatolia Food Centre into the name of Mr Goldi Singh Gurwara. Simultaneously, an application was made to appoint Mr Gurwara into the position of Designated Premises Supervisor (DPS), with both applications to take immediate effect.

- 2.5 On the 12 August 2016 a compliance visit was made to the premises. At the time of the visit the premises licence plan was not compliant and an additional three other licence conditions were being breached. A formal warning was issued in respect of these matters, **Appendix 1**.
- 2.6 In July 2018 the Licensing Authority, in partnership with Thames Valley Police, invited all Premises Licence holders with 'off sales only' authorisations to attend a training event at the Council Offices. The scope of the meeting was to inform licence holders of the requirements of the Licensing Act 2003 to ensure that they were promoting the licensing objectives and to enlist support in respect of incidents of alcohol related crime and anti-social behaviour within the town centre. The meeting was well supported and was attended by Mr Goldi Singh Gurwara.
- 2.7 The meeting concluded with a request to licence holders who were not already conditioned to do so to amend their premises licence to include the following condition; "No single cans and/or bottles of cider, beer or lager are to be sold to any customer". The Licensing Authority agreed to waive the £89 fee for any applications made to amend licences to include this condition. Mr Gurwara did not apply to make this change but did place signage within his premises specifying "minimum 2 can", **Appendix 2**.
- 2.8 On Saturday 19 January 2019, a Test Purchase / Hotel Watch Operation was undertaken by Thames Valley Police involving the Licensing Team from the Licensing Authority and other agencies including Trading Standards, **Appendix 3**. In summary the finding of the visit to Anatolia were as follows:
- Mr Gurwara sold a single can of alcohol to PCSO Allan which, although was not a breach of his premises licence conditions, was against his own policy.
 - Upon inspection – Mr Gurwara was found to be selling a cider product over 6% in breach of the premises licence conditions.
- Mr Gurwara was found to have non-UK duty paid foreign cigarettes and tobacco underneath the till point. Mr Gurwara claimed he was storing them for a friend. The packets did not bear any UK health warnings as required by relevant legislation. Mr Gurwara admitted six charges, three relating to the possession of cigarettes bearing infringing trademarks and was sentenced to a 12-month community order on February 5 2019.
- 2.9 On 17 April 2019 the Police initiated a Licence review in accordance with section 51, Licensing Act 2003.
- 2.10 On the 17 April 2019 a Licensing Officer visited the premises following an application to review the licence from the police in order to place the blue notice on the premises. Whilst on the premises the person working behind the counter identified themselves as Ms Kator ZYNA. During this visit I witnessed a sale of a single can of alcohol and questioned Ms ZYNA about this given the notices on display at the premises. She responded, "Sold so not to have a fight with customer".
- 2.11 Following a Hearing of the Licensing Sub-Committee, the licensing authority suspended the Premises Licence for a period of 3 months, **Appendix 4**. The Decision Notice was issued to

Mr Gurwara as required by the Act which also imposed additional conditions onto the licence which came into force following the period of suspension.

- 2.12 Mr Gurwara appealed the decision of the Licensing Sub-Committee to the Magistrates Court. During this time Mr Gurwara continued to benefit from the Premises Licence issued to him. On the 3 December 2019 Mr Gurwara attended court and formally withdrew his appeal thereby agreeing to the three month suspension period and additional licence conditions. Magistrates agreed to award costs of £2,305 to the Licensing Authority.
- 2.13 Following an enforcement visit by officers of the authority and Thames Valley Police on Tuesday 6 October 2020, investigations indicated breaches of the Licensing Act 2003 at the above named premises. The following breaches were witnessed:
- All alcohol offered for sale shall be labelled with a sticker showing the shop name
 - No alcohol or tobacco products are to be stored below the counter
 - There are members of trained staff at the premises during operating hours able to provide viewable copies of CCTV on request to police or other authorised officers as soon as is reasonably practicable in accordance with the Data Protection Act 2018 (or any replacement legislation).
- 2.14 At 11:45 hours, 6 October 2020 Mr Gurwara was formally cautioned in accordance with Paragraph 10.5, Code of Practice C, Police and Criminal Evidence Act 1984 as amended. Under caution he confirmed that:
- Alcohol was on display and available for the retail sale of alcohol without being labelled with sticker bearing the premises name.
 - Tobacco products were stored under the counter
 - That his staff member, Mr Nasin ROUF of 237 Desborough Road, High Wycombe, HP11 2TW could not operate the CCTV system as he had “forgotten how”
- 2.15 A final warning was issued to Mr Guwara regarding the above offences, a copy of which was also served upon Thames Valley Police for their records.

A copy of the current Premises Licence is attached to this report marked **Appendix 5**.

A location plan showing the premises location is attached to this report marked **Appendix 6**.

3. The Application

- 3.1 This application is for a review of the Premises Licence on the grounds of the prevention of public nuisance and the prevention of crime and disorder. A copy of the review application is attached to this Report marked **Appendix 7**.

3.2 The current permitted licensable activities are as follows:

<u>Licensable activity</u>	<u>Standard days and timings</u>
Retail sale of alcohol (Off sales)	Every Day 09:00 – 23:00
Hours premises are open to the public	Every Day 09:00 – 23:00

4. Relevant Representations

4.1 Responsible Authorities:

- 4.1.1 **The Chief Officer of Police:** No further response received
- 4.1.2 **The Fire and Rescue Authority:** No Response received: No comment
- 4.1.3 **The Local Planning Authority (Head of Sustainable Development):** No Response received: No comment
- 4.1.4 **The Local Environmental Health Authority (Head of Environmental Health):** No Response received: No comment
- 4.1.5 **Weights and Measures Authority (Trading Standards Officer):** No response received. No comment
- 4.1.6 **The Safeguarding and Child Protection Unit:**
No response received. No comment
- 4.1.7 No responses were received from any other Responsible Authority.
- 4.1.8 No representations were made by any Interested Party.
- 4.2 No letters of support for the licence holder were received.

5. Relevant Policy Considerations:

In relation to the Prevention of Crime and Disorder the Statutory Guidance states:

- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime

directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

In relation to a Review of a Premises Licence the Statutory Guidance states:

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- 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);
 - 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; or
 - revoke the licence.

- 11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response.
- 11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.
- 11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.
- 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.

The Council Policy states the following in relation to a Review of a Premises Licence

- 1.6 The importance of working in partnership to achieve the promotion of licensing objectives cannot be under-stated and responsible authorities will aim to give licensees early warning of any concerns identified at a premise. At any stage following the grant of a premises licence, however, a responsible authority, an interested party including a local Councillor may ask the licensing authority to review the licence because of a matter arising at the premises in connection with one of the four licensing objectives. In addition, a review of the licence will normally follow any action to close the premises

(for up to 24 hours) on the grounds of disorder or noise nuisance or as a result of a magistrates' court determination.

- 8.5 In order to successfully bring a review of a licence, evidence will be required of breaches of one of the licensing objectives. As a result it may assist interested parties to liaise with the relevant responsible authority prior to submitting an application for review (e.g. the police in cases of disorder or the Control of Pollution department in cases of noise nuisance). The person requesting the review is also required to notify the premises licence holder and all responsible authorities of their review application.
- 8.6 In cases where the crime prevention objective is being undermined it is expected that revocation of the licence (even in the first instance) will be seriously considered,

5. Resources, Risk and Other Implications

- 5.1 **Resource:** The only resource implications to date have been officer time, however, if the applicant or persons making relevant representations appeal against the decision of the Licensing Sub-Committee this would result in legal fees to defend the appeal and further costs. In the event of a successful appeal the Council may also have to pay the applicant/other party's costs.
- 5.2 **Human Rights:** The Panel should consider its responsibilities under the Human Rights Act when considering the fair balance between the interests of the applicant and the rights of licence holder. Any decision taken must be appropriate and proportionate to the objective being pursued and also in accordance with Article 6 of the Human Rights Act 1998, the right to a fair hearing, which is an absolute right.
- 5.3 Article 8 and Article 1 of the First Protocol - the right to respect for private/family life and peaceful enjoyment of property/possessions (including Licences) - also needs to be considered. The persons making relevant representations have a right to respect for their private and family life and their home. They are entitled not to be disturbed by unreasonable noise and/or nuisance. However, this is a qualified right and has to be balanced against the rights of others including the rights of businesses in the area to operate.
- 5.4 Article 14 of the Human Rights Act 1998 - the right to freedom from discrimination (which is an absolute right) also needs to be considered. The human rights provided under the Human Rights Act 1998 must not be subject to discrimination under various headings, including race, national or social origins, association with a national minority group or other status.
- 5.5 Interference with these rights is acceptable within the terms of the Human Rights Act 1998 if it safeguards the rights of others, is legitimate, proportionate and balanced in that there is a need to find a fair balance between the protection of individual rights and the interests of the community at large – other than rights under Article 6 and 14 which are absolute rights and can not be interfered with.

5.6 By taking into consideration all the material considerations relating to this application and balancing the interests/rights of all parties involved it is considered that the Licensing Sub-Committee's decision will be both proportionate and justified having had regard to the Human Rights Act 1998.

5.7 The Equality Act 2010, including the Council's Public Sector Equality Duty, must be taken into account when making decisions in relation to licensing applications.

6. Determination by the Licensing Sub-Committee

6.1 The Sub Committee is obliged to determine applications in the light of the above and any other material considerations with a view to promoting the four licensing objectives. Which are:

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

Regard must also be had to the Council's Licensing Policy, Home Office Guidance issued under Section 182 of the Licensing Act 2003, as amended, relevant representations received and the evidence presented at the Hearing.

6.2 Each application must be considered on its own merits and any conditions attached to premises licences must be tailored to the individual style and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to promote the licensing objectives in any individual case.

6.3 The Sub-Committee must avoid duplication of other legal requirements and should only impose conditions on a premises licence which are appropriate and proportionate for the promotion of the licensing objectives and where additional and/or supplementary measures are required in order to promote the licensing objectives.

6.4 The following options are available to the Licensing Sub Committee in determining the review application:

- 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;
- revoke the licence; or
- take no further action or take informal action.

6.5 The Sub-Committee is asked to note that it may not reject the whole or part of the application or attach conditions merely because it considers it desirable to do so. It must actually be **appropriate and proportionate** in order to promote the 4 licensing objectives

and be in response to the representations received and full reasons must be given for the Sub-Committees decision.

Informative/s -

Officer Contact:	Brian Whittall (01494 421 346) – email address: brian.whittall@buckinghamshire.gov.uk
Background Papers:	Application Ref 09/00460/LAPRET Licensing Act 2003, as amended Licensing Policy –Wycombe District Area Published December 2018. Home Office Guidance issued under Section 182 of the Licensing Act 2003, as amended.

Enquiries to: Brian Whittall
Email: brian.whittall@wycombe.gov.uk
Direct line: (01494) 421346
Our ref: 16/01682/LAPRED
Your ref: 043/PREM
Date: 12 August 2016

APPENDIX 1

WYCOMBE
DISTRICT COUNCIL

Mr Goldi Singh Gurwara
1098 Uxbridge Road
Hayes
Middx
UB4 8QH

Dear Mr Gurwara,

Licensing Act 2003 – Premises Licence
Re: Breach of Section 136
Anatolia, 51 - 52 Oxford Street, High Wycombe, HP11 2DJ

Following an enforcement visit to the above premises on Friday 12th August 2016, investigations would indicate that possible breaches of the Licensing Act 2003 have been made at the above named premises.

1. The layout of the premises has changed and no longer complies with the plan attached to your premises licence with our reference number 15/00259/LAPREV. I would advise that you submit a new plan for the premises as a Minor Variation in accordance with section 41A of the Licensing Act. I have attached the necessary application form to be completed. Please note the plan must comply with the attached regulations. There is a statutory application fee of £89.
2. The licence has the following condition, "*No cider, beer or lager with an alcohol content in excess of 6.0% volume shall be stored or available for sale from the premises at any time. An exception shall be made for specialist varieties unless otherwise not agreed in writing by the licensing authority and/or Thames Valley Police.*" I have consulted Andy Dean, Police Licensing Officer today and he considers that the products on sale at the premises in excess of 6%abv are not specialist. Therefore, all beer, lager and cider products in excess of the 6% abv limit must be removed from the premises before the 19th August 2016, otherwise it shall be considered a breach of your premises licence.
3. The following condition, "*Written records shall be kept of all formal and informal training and such records shall be available for inspection by the Licensing Authority*". On request you were unable to provide training records for your staff in breach of this condition. A further audit shall be undertaken at the premises and you shall be given until 19th August 2016 to comply with this condition.
4. The following condition, "*A log book shall be completed recording all incidents of crime and disorder / public nuisance at the premises (including under age and/or persons drunk). The log shall include details of the date and time of the incident,*

Environment - Caroline Hughes, Head of Service

Wycombe District Council, Queen Victoria Road, High Wycombe, Bucks HP11 1BB
Tel: 01494 461000 DX 4411 High Wycombe -1 www.wycombe.gov.uk Twitter: @wycombedc

persons witnessing the incident and any action taken. All records must be made in English. The log book shall be made available for inspection by an authorised officer of the Licensing Authority or Police upon request". On request you were unable to provide an incident log book in breach of this condition. A further audit shall be undertaken at the premises and you shall be given until 19th August 2016 to comply with this condition.

As you are no doubt aware, a breach of licence conditions is an offence under section 136 of the Licensing Act 2003, which states:

- (1) A person commits an offence if—*
- (a) he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation, or*
 - (b) he knowingly allows a licensable activity to be so carried on.*
- (4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £20,000, or to both.*

Should the premises be considering any licensable activity, for which it is not authorised, then I would advise that this activity does not take place. Should an activity be required by the premises then the Licensing Act makes provision for the current licence to be amended or for a Temporary Event Notice to be applied for.

This notice is a **formal warning** to you not to allow unlicensed activity to take place from the above named premises. Following this warning, should evidence of further breaches of the Licensing Act be witnessed at your re-inspection on the 19th August 2016 then a prosecution under s136 of the Licensing Act can be considered.

If you wish to make any additional comments concerning this matter, then please submit these in writing within 14 days.

Yours sincerely,



Brian Whittall
Licensing Officer

Cc Licensing, Thames Valley Police

06 5

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alkoholu

1854

! MINIMUM 2 CAN THANK YOU
! MINIMUM 2 CAN THANK YOU
! MINIMUM 2 CAN THANK YOU

OFFICIAL-SENSITIVE (when complete)

STATEMENT OF WITNESS

(Criminal Procedure Rules, r.16.2; Criminal Justice Act 1967, s.9)

Statement of: Lawrence Eldridge**Age of Witness:** Over 18

(If over 18, enter "Over 18")

This statement (consisting of 3 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.

Dated: 10th May 2019Signature: LE Eldridge

I am employed by Buckinghamshire and Surrey Trading Standards and my current role is Supervisor of the Investigations Team in Aylesbury.

On the 21st January 2019, our service received a complaint from Caroline STEVEN from Wycombe District Council regarding the premises called Anatolia, 51-53 Oxford Street, High Wycombe, Bucks, HP11 2DJ. Caroline informed me that an underage sales test purchasing operation had taken place at Anatolia and during this operation a number of tobacco products had been found at Anatolia. These tobacco products were seized by Thames Valley Police, due to suspicions they were illegal as the labelling on the packaging was not in English.

As a result of this complaint, I spoke with Police Sergeant 1030 James HOSKINS who had seized the tobacco products from Anatolia on the 19th January 2019. He explained that some of the tobacco products were found underneath the shop counter and seized. James HOSKINS said later on the same day he witnessed a staff member of

Signature: LE Eldridge Signature witnessed by: _____

Anatolia loading a number of tobacco products into the boot of a Vauxhall Zafira registration plate KC07 ZWR outside Anatolia. Again these tobacco products had foreign language on the packaging and James HOSKINS seized them. The registered keeper of Vauxhall Zafira registration plate KC07 ZWR is Goldi Singh GURWARA and the vehicle is also insured to him.

Thames Valley Police have signed over the seized tobacco products to Trading Standards, so that we can conduct an investigation into the products and establish if any criminal offences may have been committed by Goldi Singh GURWARA.

In total there was 423 packets of 20 cigarettes and 6 x 50gram pouches of hand rolling tobacco seized from Anatolia. In total there were 12 different brand variations of tobacco products seized. All of the tobacco products seized are not in the correct coloured packaging and therefore do not comply with the requirements of The Standardised Packaging of Tobacco Products Regulations 2015. All of the tobacco products seized also do not have the correct written and pictorial warnings in the prescribed format and therefore do not comply with the requirements of Tobacco and Related Products Regulations 2016.

Where possible, we have sent off the tobacco products to the brand holders in order to ascertain if they are authentic tobacco products. We have received confirmation from the trademark holders that the Richmond, Mayfair and Marlboro Red cigarettes seized are counterfeit. We have received confirmation from the trademark holder that

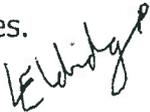
Signature: LEldridge

Signature witnessed by: _____

the Amber Leaf hand rolling tobacco seized is counterfeit. Therefore there is a four potential breaches of the Trade Marks Act 1994.

If these tobacco products were genuine products that could be sold legitimately in the United Kingdom then they would have a value of approximately £4,800.

At present we are still investigating these potential offences.



Signature: LEldridge

Signature witnessed by: _____

LICENSING ACT 2003

Sections 51 & 52 Licensing Act 2003

**NOTIFICATION OF DECISION FOLLOWING REVIEW OF A PREMISES LICENCE
WHERE A VALID APPLICATION FOR REVIEW HAS BEEN MADE**

PREMISES: Anatolia Food Centre, 51-52 Oxford Street, High Wycombe HP11 2DJ

To:

The Applicant
Any Persons who made Relevant Representations
Any Responsible Authority who made Relevant Representations
The Chief Constable of Thames Valley Police

Take Notice

THAT following a review hearing of the Licensing Sub-Committee

ON 13TH JUNE 2019

WYCOMBE DISTRICT COUNCIL as the Licensing Authority for the Premises

**RESOLVED TO SUSPEND THE PREMISES LICENCE FOR A PERIOD OF 3
CALENDAR MONTHS**

**THE SUSPENSION SHALL TAKE EFFECT FROM THE END OF THE PERIOD
GIVEN FOR APPEALING AGAINST THIS DECISION OR IF THE DECISION IS
APPEALED AGAINST, THE DATE THE APPEAL IS DISPOSED OF.**

RESOLVED TO MODIFY THE CONDITIONS OF THE PREMISES LICENCE.

**THE PREMISES LICENCE IS MODIFIED TO TAKE EFFECT FROM THE END OF
THE SUSPENSION (3 CALENDAR MONTHS) WITH THE INSERTION OF
ADDITIONAL CONDITIONS AS SET OUT IN SCHEDULE 3**

SCHEDULE 1

(Mandatory Conditions contained on existing Premises Licence)

SCHEDULE 2

(Conditions contained on existing Premises Licence)

Public Safety

- A nominated manager shall be on the Premises at all times that it is open to the general public to ensure due diligence in the promotion of public safety.

Prevention of Public Nuisance

- A log book shall be completed recording all incidents of crime and disorder/public nuisance at the Premises (including under age and/or persons drunk). The log shall include details of the date and time of the incident, persons witnessing the incident and any action taken. All records must be made in English. The log book shall be made available for inspection by an authorised officer of the Licensing Authority or Police upon request.

Protection of Children from Harm

- The Licensee shall ensure that all staff are trained and comply with the Challenge 25 proof of age trading initiative and shall display signs promoting this initiative at all times.

SCHEDULE 3

(Conditions necessary to promote the Licensing objectives and imposed in response to a review of the Premises Licence)

Prevention of Crime and Disorder

- No cider, beer or lager with alcohol content in excess of 6% abv will be sold from the premises.
- The Premises License Holder shall maintain a register under which staff shall record the date and supplier of every item of alcohol and tobacco stock cross referenced against the receipt for the item purchased.
- All receipts for the purchase of alcohol and tobacco purchased in the preceding 12 months shall be kept at the premises and shall be immediately available for inspection upon request of an authorised officer, so as to be able to identify the origin of any such items of alcohol or tobacco.
- All alcohol offered for sale shall be labelled with a sticker showing the shop name.
- No single cans and/or bottles of cider, beer or lager shall be sold to any customer.
- No alcohol or tobacco products are to be stored below the counter.
- The Premises Licence Holder must ensure that:
 - CCTV cameras are located within the premises to cover all public areas including all entrances and exits.
 - The CCTV system records clear images permitting the identification of individuals.
 - The CCTV system is able to capture a minimum of 4 frames per second and all recorded footage must be securely retained for a minimum of 28 days.
 - The CCTV system operates at all times while the premises are open to the public. All equipment must have a constant and accurate time and date generation.

- The CCTV system is fitted with security functions to prevent recordings being tampered with, ie password protected.
- There are members of trained staff at the premises during operating hours able to provide viewable copies on request to police or other authorised officers as soon as is reasonably practicable in accordance with the Data Protection Act 2018 (or any replacement legislation).

SUSPENSION

The premises licence shall be suspended. The effect of this suspension is that no retail sale of alcohol activities may be undertaken for the period of the suspension. Should any sale of alcohol be undertaken during the suspension period, this would be a criminal offence under section 136 of the Licensing Act 2003.

Factors taken into consideration by the Panel

The Panel took into account the written and oral representations from Thames Valley Police and the written representations from Trading Standards together with the oral representations made by the Premises Licence Holder's representative. In particular, the Panel noted the following:

- Previous failures to provide CCTV footage to Thames Valley Police on request.
- The evidence that the Premises Licence holder was selling single cans to alcohol including to:
 - (i) a PSPO who bought a single can during an enforcement exercise on 19th January 2019,
 - (ii) the evidence of the Licensing Officer that he observed the sale of a single can on 19th April 2019 when he visited the premises and
 - (iii) the hearsay evidence of street drinkers to officers.

On the balance of probabilities the Panel found that the Premises Licence Holder was not complying with his own agreed practice regarding the sale of single cans of alcohol.

- On 19th January the Premises Licence Holder was in breach of the condition of his premises licence regarding the storing and having available for sale alcohol in excess of 6%abv, which was not specialist beer or lager.
- As part of the same enforcement exercise a quantity of cigarettes was found behind the counter which appeared to be imported and where relevant taxes had not been paid.
- Evidence from the police that later the same day they observed a member of staff (who they had spoken with earlier) at the rear of the premises by the boot of a black Vauxhall Zafira motor vehicle registration number KC07 ZWR which had been with a number of items had been placed including a large quantity of cigarettes and tobacco which appeared to be removed from the premises. The vehicle was registered to the Premises Licence Holder.
- A statement from Trading Standards that 423 packets of cigarettes and 6 x 50 gram pouches of hand rolled tobacco which had been seized by the Thames Valley Police and passed to them was found to be in breach of the requirements of the Standardised Packaging of Tobacco Products Regulations 2016 and a number of which had been confirmed to be

- counterfeit by the trademark holders. The Panel was particularly concerned about the public health risk regarding what persons may have ingested.
- The Premises Licence Holders explanation for the presence of the packets of cigarettes and tobacco which he stated a regular customer had left at the shop, and which had been brought to his attention by a staff member who was proposing to take them and smoke them himself. He admitted that he had moved them to his vehicle. The Panel did not find the explanation offered to be credible.
 - The representations made on behalf of the Premises Licence Holder that he was prepared to agree to more robust conditions on his Premises Licence to move forward, however, the Panel observed that the conditions proposed either reflected existing licence conditions or current legal requirements.

Reasons for the Suspension

Due to the breaches of the licensing conditions over a considerable period the Panel observed that the Premises Licence Holder was failing to uphold the licencing objectives of the Prevention of Crime and Disorder. In addition, in view of the counterfeit nature of some of the products the Panel noted there was a real danger to public safety as members of the public had no idea what the products contained and that the licensing objective in respect of Public Safety was also being undermined. Taking into account paragraphs 11.23 to 11.28 of the Statutory Guidance issued by the Home Office pursuant to Section 182 Licensing Act 2003 and the Wycombe District Council's own Statement of licensing Policy paragraphs 8.2 to 8.5 the Panel gave serious consideration to the revocation of the premises licence.

The Panel, however, noted the fact that there had been no further breaches of the current licence conditions reported since 19th January 2019, and the Premises Licence Holder was agreeing to more stringent conditions regarding stock control as well as other licence conditions and, on balance, the Panel decided not to revoke the licence, on this occasion. The Panel considered a three month suspension as appropriate and proportionate to promote the licensing objectives of the Prevention of Crime and Disorder and Public Safety. In addition, the Panel wished to send a clear message to the Licence Holder and all other licence holders within the authority that undermining the law in this way is a serious matter that will not be tolerated.

Reasons for the Modification of the Licence Conditions

The Panel found that, on the balance of probabilities, the Premises Licence Holder had disregarded his own practice not to sell single cans of beer, cider or lager and therefore the Panel's confidence in the Premises Licence Holder's willingness to uphold the licencing objective of the Prevention of Crime was diminished. Having regard paragraphs 10.8; 10.10 and 11.20 of the National Guidance and paragraphs 6.2 and 6.3 of the Council's Licensing Policy the Panel did not believe that the conditions offered by the representative for the Premises Licence Holder were sufficiently robust to ensure that the promotion of the licensing objectives of the Prevention of Crime and Disorder and Public Safety. The Panel also took account of the fact that the Premises Licence Holder was an experienced Licensee who had

committed a number of breaches of his licence conditions over a considerable period of time.

In reaching their decision the Panel has taken into account the relevant provisions of the Human Rights Act 1998, namely:

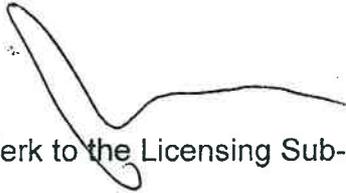
- Article 6 – the right to a fair hearing
- Article 8 – respect for private and family life
- Article 1, First Protocol – peaceful enjoyment of possessions.

The Panel considered that, in all the circumstances, the modified conditions were sufficient to promote the licensing objectives of the Prevention of Crime and Disorder and Public Safety.

INFORMATIVE

The Panel considers that any further breaches of the Licensing Act by the Licence Holder shall be given serious consideration and any further review of the licence may result in the revocation of the premises licence.

Any Party aggrieved by the Decision given in this Notice may make a written Appeal within 21 days to the Clerk to the Justices, Wycombe and Beaconsfield Magistrates Court, Milton Keynes Magistrates Court, 301 Silbury Boulevard, Milton Keynes, Buckinghamshire MK9 2AJ.

A handwritten signature in black ink, consisting of a large, stylized initial 'W' followed by a horizontal line.

Clerk to the Licensing Sub-Committee

Date: 20.6.19.



Licensing Act 2003 Premises Licence

Reference Number

19/02905/LAPRCA

Premises Licence Number

043/PREM

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

Anatolia Food Centre
51 - 52 Oxford Street
High Wycombe
Buckinghamshire
HP11 2DJ

Telephone number

01494 530072

Licensable activities authorised by the licence

Sale by Retail of Alcohol

Times the licence authorises the carrying out of licensable activities

Sale by Retail of Alcohol

Every Day

09:00 - 23:00

The opening hours of the premises

Every Day

09:00 - 23:00

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

The licence authorises the sale of alcohol for consumption off the premises only

Name, (registered) address and telephone number of premises licence holder

Goldi Singh Gurwara
89 Cleave Avenue
Hillingdon
Hayes
UB3 4HB

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

Goldi Singh Gurwara
89 Cleave Avenue
Hillingdon
Hayes
UB3 4HB

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

Ref: LBHIL2969

Issued By: London Borough Of Hillingdon

Date: 7 October 2020



Signed:

Authorised Officer

Annex 1 – Mandatory conditions

For the purposes of this schedule;

"the Act" means the Licensing Act 2003;

"Anti-Social Behaviour" has the meaning given in section 36 of the Anti-social Behaviour Act 2003;

"Disability" has the meaning given in section 1 of the Disability Discrimination Act 1995;

"Relevant Premises" has the meaning given in paragraphs (a) and (b) of the definition in section 159 of the Act;

"Responsible Person" has the meaning given in paragraphs (a) and (b) of the definition in section 153(4) of the Act (the relevant parts of which are attached to this licence)

Mandatory Condition – s19 of the Licensing Act 2003

No supply of alcohol may be made under the premises licence:

- (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made authorised by a person who holds a personal licence

MANDATORY CONDITIONS SPECIFIED BY THE LICENSING ACT 2003 (MANDATORY LICENSING CONDITIONS) ORDER 2010 AS AMENDED BY THE LICENSING ACT 2003 (MANDATORY LICENSING CONDITIONS)(AMENDMENT) ORDER 2014:

Mandatory Condition 1

(1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability)

Mandatory Condition 2

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

Mandatory Condition 3

(1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy

(3) 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 either—

- (a) a holographic mark, or
- (b) an ultraviolet feature

Mandatory Condition 4

The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available."

MANDATORY CONDITIONS SPECIFIED BY THE LICENSING ACT 2013 (MANDATORY CONDITIONS) ORDER 2014:

Mandatory Condition 5

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price

2. For the purposes of the condition set out in paragraph 1—

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula—

$$P = D + (D \times V)$$

where—

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence—

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny

4.—(1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day

Annex 2 – Conditions consistent with the Operating Schedule

The prevention of crime and disorder

- A 24 hour colour CCTV system shall be installed, maintained and operated correctly and to the satisfaction of Thames Valley Police and the Licensing Authority. One camera must monitor the point of sale and any area for the display of alcohol. Recordings shall be made available to an authorised officer of the Licensing Authority or a police officer together with facilities for viewing
- No cider, beer or lager with an alcohol content in excess of 6.0% volume shall stored or available for sale from the premises at any time. An exception shall be made for specialist varieties unless otherwise not agreed in writing by the licensing authority and/or Thames Valley Police
- Written records shall be kept of all formal and informal training and such records shall be available for inspection by the Licensing Authority

Public safety

- A nominated manager shall be on the premises at all times that it is open to the general public to ensure due diligence in the promotion of public safety

The prevention of public nuisance

- A log book shall be completed recording all incidents of crime and disorder / public nuisance at the premises (including under age and/or persons drunk). The log shall include details of the date and time of the incident, persons witnessing the incident and any action taken. All records must be made in English. The log book shall be made available for inspection by an authorised officer of the Licensing Authority or Police upon request

Protection of children from harm

- The Licensee shall ensure that all staff are trained and comply with the Challenge 25 proof of age trading initiative and shall display signs promoting this initiative at all times

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

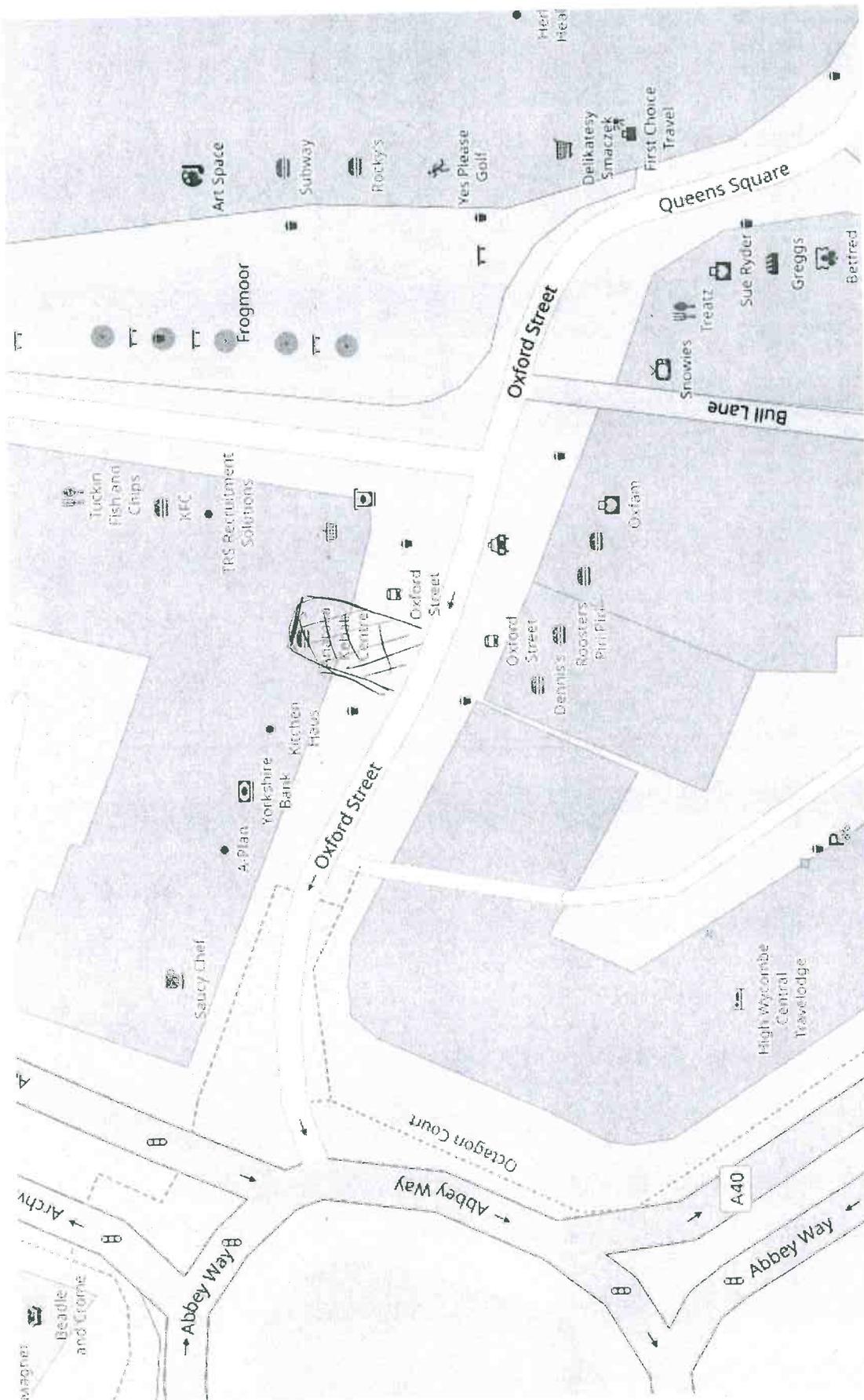
Prevention of Crime and Disorder

- No cider, beer or lager with alcohol content in excess of 6% abv will be sold from the premises.
- The Premises License Holder shall maintain a register under which staff shall record the date and supplier of every item of alcohol and tobacco stock cross referenced against the receipt for the item purchased.
- All receipts for the purchase of alcohol and tobacco purchased in the preceding 12 months shall be kept at the premises and shall be immediately available for inspection upon request of an authorised officer, so as to be able to identify the origin of any such items of alcohol or tobacco.
- All alcohol offered for sale shall be labelled with a sticker showing the shop name.
- No single cans and/or bottles of cider, beer or lager shall be sold to any customer.
- No alcohol or tobacco products are to be stored below the counter.
- The Premises Licence Holder must ensure that:
 - CCTV cameras are located within the premises to cover all public areas including all entrances and exits.
 - The CCTV system records clear images permitting the identification of individuals.
 - The CCTV system is able to capture a minimum of 4 frames per second and all recorded footage must be securely retained for a minimum of 28 days.
 - The CCTV system operates at all times while the premises are open to the public. All equipment must have a constant and accurate time and date generation.
 - The CCTV system is fitted with security functions to prevent recordings being tampered with, ie password protected.
 - There are members of trained staff at the premises during operating hours able to provide viewable copies on request to police or other authorised officers as soon as is reasonably

practicable in accordance with the Data Protection Act 2018 (or any replacement legislation).

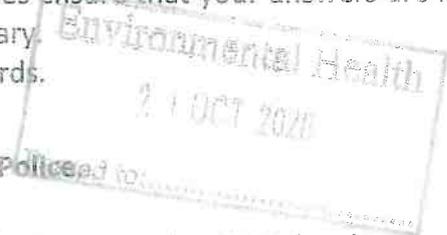
Annex 4 – Plans

Plans with ref: 17/00274/LAMINV



PLEASE READ THE FOLLOWING INSTRUCTIONS

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, **Andy Dean**, on behalf of the **Chief Constable of Thames Valley Police**
(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 ANATOLIA, 51 – 53 Oxford Road	
Post town High Wycombe	Post code (if known) HP11 2DJ

Name of premises licence holder or club holding club premises certificate (if known) Mr Goldi Singh Gurwara
--

Number of premises licence or club premises certificate (if known) 0043 / PREM

Part 2 – Applicant details

- | I am | Please tick ✓ yes |
|---|-------------------------------------|
| 1) an interested party (please complete (A) or (B) below) | <input type="checkbox"/> |
| 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) | <input checked="" type="checkbox"/> |
| 3) a member of the club to which this application relates (please complete (A) below) | <input type="checkbox"/> |

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

Mr

Mrs

Miss

Ms

Other title
(for example, Rev)

Surname

First names

Please tick yes

I am 18 years old or over

Current address

Post Town

Postcode

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

Thames Valley Police
Thames Valley Police Headquarters South
Oxford Road
Kidlington
OX5 2NX

Telephone number (if any)

01865 542 059

E-mail address (optional)

licensing@thamesvalley.pnn.police.uk

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

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

✓



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

Prevention of Crime and Disorder

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

Recent History;

On 09/04/19 Thames Valley Police requested a Review of the Premises licence for this premises under the prevention of Crime and Disorder due to their being a number of indications and breaches recorded against the premises including selling alcohol to street drinkers, suspected possession of an offensive weapon, illegal cigarettes, CCTV breach and suspected stolen property. A Panel Hearing was convened on the 13 / 6 / 19 which heard the Review after which the Panel decided that a 3 month suspension of licence was relevant in this case. An appeal was lodged but eventually retracted 26/11/2019 and the suspension adhered to commenced until 26th February 2020.

To present day;

On around the 17th September 2020 Thames Valley Police received intelligence from an untested source indicating that the premises was selling single cans of alcohol breaching one of the new licensing conditions, they were selling foreign cigarettes (possibly non duty paid) and buying passports off Romanian Nationals.

This information was taken on board and on 6th October 2020 a joint operation between Thames Valley Police and Wycombe Area Licensing Officers and Community Safety was carried out which visited Anatolia along with other premises. During this visit it was found that the staff member on duty was unable to work the CCTV as per the licensing condition, Foreign Cigarettes were located in a bag below the counter, and the bottles and cans of alcohol on the shelves were not displaying the shop named price tag as per the licensing condition.

This once again shows that Mr Gurwara has no real intention of adhering to the licensing Act 2003 if he can get away with it.

After going through a 3 month suspension one would have thought that he would have done all he can to ensure that he knew his licensing conditions so that he could adhere to them and not get himself into this type of situation again.

In view of the attitude portrayed by Mr Gurwara over the full time he has had this licence it only goes to strengthen the fact that Thames Valley Police have no belief any longer that he is worthy of holding a Premises Licence and we would be looking toward the Panel for a full revocation of such.

(There is some Body Worn Video footage taken by PC Kent who was attached to the operation which just shows the bag of cigarettes under the counter and the bottles have no price tags – this is now on DVD. He also provided me with a Gen 40 (Licensed Premises Incident Report) see Appendix A.)

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
0	9	0
4	2	0
1	9	

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

Prevention of Crime and Disorder; compliance issues, suspected stolen property, unpaid tax / hoax cigarettes. The hearing for this was around 13/06/2019.

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 (please read guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature Andy Dean

Date

Capacity Thames Valley Police Licensing Officer

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 5)

Andy Dean, Police Station, Queen Victoria Road

Post town

High Wycombe

Post code

HP11 1BE

Telephone number (if any)

01865 309275

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

Andy.Dean@thamesvalley.pnn.police.uk

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