



Licensing Sub-Committee agenda

Date: Thursday 12 January 2023

Time: 6.30 pm

Venue: Via Video Conference

Membership:

J Rush, D Town and H Wallace (Chairman)

Webcasting notice

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

| Agenda Item | Page No |
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| 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.

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| 4 | Hearing Procedure Rules | 3 - 10 |
| | To note the hearing procedure rules and virtual licensing sub-committee procedural rules. | |
| 5 | Thames Valley Police in respect of Grosik, 4-5 Thame House, Castle Street, High Wycombe, HP13 6RZ | 11 - 48 |
| | To consider an application under s.51 of the Licensing Act 2003 for a review of the premises licence in respect of Grosik, 4-5 Thame House, Castle Street, High Wycombe, Bucks, HP13 6RZ (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

Licensing and Regulatory Sub-Committee Virtual Procedural Rules

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.

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.

Administration in Relation to the Hearing

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 shall proceed with the hearing unless it is in the public interest not to do so and shall adjourn the hearing to later on the same day or another date.

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.

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 be dealt with by way of a determination.

Representations can be withdrawn by prior notice 1 working day before the Hearing or orally at the Hearing.

At the Hearing any party can be assisted or represented by any person whether or not that person is legally qualified.

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.

The Sub-Committee may disregard any information which is not considered relevant to the application/representation/notice and the promotion of the licensing objectives.

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 a maximum period of time on how long each party may speak, progressing without undue delays and ensuring that there is a fair hearing. 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.

The Decision of the Licensing Sub Committee will be made after the close of the Hearing when the Chairman retires with the legal advisor and the Clerk to the Sub-committee in a private session to consider all the evidence and submissions made at the hearing.

The decision of the Sub-committee will be communicated to all parties by way of a written Decision Notice issued by Legal Services. This notice shall be issued within 7 days of the hearing and if there is to be a delay in issuing such a notice; the licensing officer will communicate with all parties. The notice will contain will be dated and set out the provisions of the Right to Appeal to the Magistrates Court.

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 reasonably necessary and proportionate.

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 disappplied.

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.

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. 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.

Only 3 members are permitted on 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 present in case an interest arises at the beginning of the Hearing or one of the 3 members identified as being on the LSC fails to attend 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

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 is 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.

In the event that the live webcast fails and cannot be resumed the meeting will be opened and adjourned to allow for it to take place at a hearing (the date and time of which will be fixed prior to the matter being adjourned).

The people on the Teams call who are present throughout the meeting are the Members of the Sub-Committee, any officer supporting the meeting and those who have submitted valid representations, applicant and/or legal representative. 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 Officer, 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 published on the website if the meeting is held in public.

Questions

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.

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 and any other procedural matters. If necessary, the sub-committee will retire to deliberate before making a decision.
4. 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 Applicant 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 Applicant will present their case and call their witnesses
 - e. Any other party may question the Applicant. Any party includes any responsible body.
 - f. The Members may question the Applicant
 - 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 Licensing Officer may question the Interested Parties.

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 at any time during the procedure above, 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. There may be a discussion at the hearing, on a without prejudice basis, where each party will be asked to address/give their views on any proposed conditions and suggest any other appropriate conditions to assist the Sub-Committee. Any agreed conditions may be incorporated into the Decision Notice if the application is successful. However, the Sub-Committee to determine any final conditions that will apply to the licence.
13. Each party will be invited to make closing submission in the order as set out in paragraph 10.
14. The Chairman will then close the Hearing and the Sub-Committee will meet (privately) virtually together with the 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 this procedure and 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 pause the meeting until that issue has been resolved. 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. 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.

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.
- The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020

| | |
|----------------------------|---|
| SUBJECT: | APPLICATION FOR A REVIEW OF A PREMISES LICENCE at: Grosik, 4/5 Thame House, Castle Street, High Wycombe, Bucks, HP13 6RZ |
| REPORT OF: | Application under section 51, Licensing Act 2003 |
| Responsible Officer | Kerryann Ashton – Licensing Officer |
| Report Author | Kerryann Ashton – Licensing Officer |
| Ward/s Affected | Abbey |

1. Purpose of Report

- 1.1 To provide Members with information to enable the determination of an application for the review of a premises licence.
- 1.2 The application has been submitted by Andy Dean, on behalf of the Chief Constable of Thames Valley Police, Thames Valley Police Headquarters South, Oxford Road, Kidlington , OX5 2NX the applicant”) in respect of ‘Grosik, 4/5 Thame House, Castle Street, High Wycombe, Bucks, HP13 6RZ (“the premises”).
- 1.3 This review application has been submitted on the grounds of promoting the prevention of crime and disorder. Supporting information has been provided in the application form shown in **Appendix 2**.

2. Background

- 2.1 The premises is located in High Wycombe Town Centre in a mixed commercial and residential area. The premises has offices above.
- 2.2 A premises licence was initially granted by Wycombe District Council in April 2012. This licence was subsequently subject to a period of suspension and then revocation following review applications submitted by Trading Standards, as detailed in the history below:
- 2.3 On the 12th August 2014, a hearing of the Licensing Sub-Committee convened to determine an application made by Trading Standards under section 51, Licensing Act 2003, for a review of the premises licence. The application was made following a visit to the premises in April

2014 by Trading Standards Officers, when a large quantity of cigarettes and alcohol was found in two hidden enclosures. These products were intended for sale but did not have UK duties paid.

- 2.4 The Licensing Sub-Committee determined to suspend the premises licence for a period of 12 weeks to promote the licensing objectives. An informative was given to the then licence holder in the decision notice that should there be further breaches of the Licensing Act 2003, serious consideration would be given to the revocation of the premises licence.
- 2.5 On the 24th February 2015, Trading Standards found a large quantity of tobacco that did not have UK duties paid, hidden in a light fitting in the premises and outside in a vehicle belonging to the former licence holders. In April 2015, the Licensing Sub-Committee determined to revoke the premises licence following an application for a Review. The decision to revoke the licence was not appealed.
- 2.6 An application for a new premises licence was received in December 2015, which was subsequently granted without representation in January 2016 to a new licence holder. The licence was then transferred in February 2020 to another new licence holder and then again in October 2021 to Mr Soran Ghaderi.
- 2.7 In August 2022, Council Licensing and Trading Standards Officers visited the premises and discovered illegal tobacco products hidden on the premises and identified several offences under the Licensing Act 2003, which included non-compliance with licence conditions and failure to display the licence summary.
- 2.8 During the visits of August 2022, Mr Soran Ghaderi informed Council officers that the owner of the business was Mr Salam, later identified by officers as Mr Diako Mohammad Salam. In a subsequent interview with officers from Buckinghamshire Council and Thames Valley Police, Mr Salam confirmed that he had bought the business in December 2021 but had not transferred the licence at the time as he was waiting for Lambeth Council to issue his personal licence.
- 2.9 As a condition of agreeing not to object to applications to transfer the licence and vary the DPS into Mr Salam's name, Thames Valley Police requested additional conditions be added to the premises licence. Consequently, a minor variation application was submitted on the 24th August 2022 to add additional conditions to the licence. This application was granted.
- 2.10 On 14th October 2022, staff employed at the premises failed an underage test purchase exercise when alcohol was sold to a person who was 16 years old. Officers from Buckinghamshire Council and Thames Valley Police in attendance also found non-compliance with the licence condition relating to operation of the CCTV system. Mr Salam, was issued with a formal warning for non-compliance with the condition relating to CCTV. A subsequent visit by Council officers on 17th October 2022 found further breaches of licence conditions.
- 2.11 A copy of the current licence is attached as **Appendix 1**.

2.12 A valid application to review the Premises Licence was made on the 2 December 2022 on the grounds of prevention of crime and disorder. The application can be found marked **Appendix 2**.

2.13 The plan attached to the Premises Licence can be found marked, **Appendix 3**.

2.14 The location of the premises can be found, **Appendix 4**.

3. Relevant Representations

3.1 Responsible Authorities:

3.1.2 **The Fire and Rescue Authority:** No Response received: No comment

3.1.3 **The Local Planning Authority (Head of Sustainable Development):** No Response received: No comment

3.1.4 **The Local Environmental Health Authority (Head of Environmental Health):** No response received. No comment

3.1.5 **Weights and Measures Authority (Trading Standards Officer):** Representation submitted. Attached as **Appendix 5**.

3.1.6 **The Safeguarding and Child Protection Unit:** No response received. No comment

3.1.7 **The Licensing Authority:** Representation submitted. Attached as **Appendix 6**.

3.1.8 No responses were received from **Any Other Person**.

3.2 The licensing authority has complied with the requirement to advertise the application in accordance with the regulations at the premises, on the Council's website and at the Council offices in High Wycombe.

4. Relevant Policy Considerations:

4.1 Regard must be given to the Council's Statement of Licensing Policy (published March 2022) when determining this application. Of particular relevance (but not limited to) are the following sections from Part C, "promoting the licensing objectives" and Part D, "the system in action":

"Part C...

3.6 The Licensing Authority will also take this Policy into account when deciding upon review applications. If a failure to comply with the Policy has been a contributory factor in the non-promotion of the licensing objectives, this is likely to be reflected in any decision made by the Licensing Authority.

3.14 The Licensing Authority seeks to encourage the highest standards of management in licensed premises and expects this to be demonstrated through the operating schedule. When assessing the applicant's or licensee's ability to demonstrate a

commitment to high standards of management the Licensing Authority will take into account whether the applicant or licensee:

- Can demonstrate comprehensive knowledge of best practice.
- Has sought advice from the responsible authorities.
- Has implemented any advice that has been given by the responsible authorities.
- Is able to understand verbal and written advice and legal requirements.
- Can demonstrate knowledge of the licensing objectives, relevant parts of the Policy and their responsibilities under the Licensing Act 2003.
- Is able to run their businesses lawfully and in accordance with good business practices.
- Can demonstrate a track record of compliance with legal requirements.

3.15 Where there is a history and pattern of non-compliance associated with the management of the premises, linked to an adverse effect on the promotion of the licensing objectives, the Licensing Authority is unlikely to grant a new or variation application, or permit premises to continue to operate without further restrictions on review, unless there is evidence of significant improvement in management standards.

3.26 Section 17 of the Crime and Disorder Act 1998 places a legal duty on the Council to consider the reduction of crime and disorder, including the reduction of anti-social behaviour, in all its activities. The Licensing Authority will look to the police as the main source of advice on crime and disorder matters and will also seek to involve the local Community Safety Partnership for advice on anti-social behaviour.

3.28 The Licensing Authority will treat the police as the main source of advice on conditions to be applied in order to promote the crime prevention objective. Conditions imposed on licences will, so far as possible, reflect any local crime prevention strategies and the local Police and Crime Plan published by the Police and Crime Commissioner for Thames Valley.

3.32 In considering licence applications, where a relevant representation has been made, or if advice is sought from a potential applicant regarding the crime and disorder objective, the Licensing Authority will particularly consider the following:

Accountability

Robust systems of accountability should be in place to ensure the premises are run in accordance with the Premises Licence or Club Registration Certificate. Such systems should clearly show how duties will be delegated, deal with authorisations to dispense alcohol and identify who is in control of the premises on a day to day basis.

Responsible sale and supply of alcohol

It is expected that all premises licensed to sell and supply alcohol will have measures in place to prevent:

- The sale and supply of alcohol to children
- Serving alcohol to customers who are drunk
- Permitting drunkenness on the premises
- Encouraging irresponsible drinks promotions
- Spiking of drinks
- Anti-social street drinking in the local vicinity.

The expected measures include written policies and procedures, documented staff training and refresher training, the use of refusal logs and incident reports and use of appropriate signage.

Part D...

4.3 In making licensing decisions, the Licensing Authority will have regard to its duties under the following legislation:

- a) Section 17 of the Crime and Disorder Act 1998, which requires the Licensing Authority to exercise its functions with due regard to the likely effect of its decisions on crime and disorder and the misuse of drugs, alcohol and other substances.

4.26 The Licensing Authority can only review a licence on specific application and where it is alleged that the licensing objectives are being breached. The Act allows for any person to apply for a review, including local residents and responsible authorities. Applications for a review of a premises licence which involve the issues outlined below (the list not being exhaustive) are viewed particularly seriously:

- Illegal purchase and consumption of alcohol by minors.
- Use of premises for the sale of smuggled tobacco, alcohol or other goods.

4.4 Regard must also be had to the national Guidance issued by the Home Office under Section 182 of the Licensing Act 2003, as amended. Chapter 11 of the Guidance relates specifically to licence reviews, of particular relevance are the following paragraphs:

“11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review.

11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

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

- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) 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.”

5. Resources, Risk and Other Implications

Resource:

5.1 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.

Human Rights:

5.2. 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 local residents. Any decision taken must be appropriate and proportionate to the objective being pursued. In particular, the following should be taken onto consideration: Article 6 - the right to a fair hearing Article 8 - respect for private and family life Article 1, First Protocol - peaceful enjoyment of possessions (which can include the possession of a licence).

5.3. 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 cannot be interfered with.

5.4. Therefore, if Members determine to revoke or suspend the licence, remove the DPS or modify the conditions, this will be a breach of the rights of the licence holder unless such decision is appropriate, proportionate and can be justified, on balance, by being outweighed by the rights of the community at large. Any decision must not go beyond what is strictly necessary to achieve its legitimate purpose in order to mitigate the interference with the community at large's rights.

5.5. 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.

5.6 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 application:

- (a) modify the conditions of the licence;
- (b) exclude a licensable activity from the scope of the licence;
- (c) remove the designated premises supervisor;
- (d) suspend the licence for a period not exceeding three months;
- (e) revoke the licence.
- (f) take no further action or take informal action

6.5 The Sub-Committee is asked to note that it may not make a decision merely because it considers it desirable to do so. The decision 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: | Kerryann Ashton (01296 585 560) – email address: kerryann.ashton@buckinghamshire.go.uk |
| Background Papers: | Application Ref 22/01126/LAREV <u>Licensing Act 2003, as amended</u> <u>Licensing Policy – As adopted March 2022.</u> <u>Home Office Guidance issued under Section 182 of the Licensing Act 2003, as amended (December 2022).</u> |



Licensing Act 2003 Premises Licence

Reference Number

22/00770/LAMINV

Premises Licence Number

214/PREM

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

Grosik
4 - 5 Thame House
Castle Street
High Wycombe
Buckinghamshire
HP13 6RZ

Telephone number

07727 145839

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

11:00 - 21:00

The opening hours of the premises

Every Day

09:00 - 21:00

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

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

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

Diako Mohammad Salam
16A Bonnington Square
London
SW8 1TQ

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

Diako Mohammad Salam
16A Bonnington Square
London
SW8 1TQ

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

Ref: 22/00239/PERSON

Issued by: Lambeth Council

Date: 2 September 2022



Signed:

Authorised Officer

Annex 1 – Mandatory conditions

Mandatory Condition 1

- (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

THE LICENSING ACT 2003 (MANDATORY LICENSING CONDITIONS) (AMENDMENT) ORDER 2014 (SI2014/1252)

Mandatory Condition 2

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

General

- A refusals register shall be kept on the premises and be made available immediately upon request to an authorised officer of the Police or Local Authority.

- The licence holder will ensure that within six weeks of any appointment of a member of staff, they receive adequate training to Responsible Alcohol Retailing standards or equivalent. A training record will be kept at the premises, which will be made available immediately upon request to an authorised officer of the Police or Local Authority.
- Staff records with regards to licensing accreditations and training shall be kept on the premises and produced to the Police and Authorised Local Authority Licensing Officers on demand.
- There shall be a minimum of two staff on duty at the premises whenever the premises are open.

The prevention of crime and disorder

- CCTV shall be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition. Cameras shall encompass all ingress and egress to the premises and all areas where the sale/ supply of alcohol occurs. Equipment must be maintained in good working order, be correctly time and date stamped, recordings must be kept in date order, numbered sequentially and kept for a period of 28 days and handed to Police on demand.
The Premises Licence Holder must ensure that at all times the DPS and all appointed members of staff are capable and competent at downloading CCTV footage in a recordable format either disc or memory stick to the Police/Local Authority on demand.
The Recording equipment and recordings shall be kept in a secure environment under the control of the DPS or other responsible named individual.
An operational daily log report must be maintained endorsed by signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded.
In the event of technical failure of the CCTV equipment the Premises Licence holder/DPS must report the failure to the Police.
- Sales of alcohol are not to include any super strength lagers, beers or ciders where strength exceeds 6.5% ABV for the avoidance of doubt this should not exclude the sale of specialist or premium alcoholic beverages”
- Goods will not be accepted by staff unless the receipt displays the preprinted name, address, contact number and VAT number of the supplier.
- All receipts for purchases of alcohol and tobacco purchased in the preceding 12 months will be kept at the premises and be available for inspection upon request of an authorised officer so as to be able to identify from where any items of alcohol or cigarettes were purchased.
- If boxes are damaged or have previously been opened items of alcohol or tobacco will not be accepted by staff.
- No alcohol or tobacco is to be stored under the counter.
- All staff are to be trained in the above procedure and a training record kept which will be available for inspection by a Licensing Officer.
- No staff to pay for or accept deliveries of goods without the written approval of the Premises Licence Holder

The prevention of public nuisance

- Persons shall be discouraged from congregating outside of the premises
- The licence holder shall operate and maintain a refusals register in respect of declined sales of alcohol where the attempted purchaser was suspected of being under 18 years of age or drunk.

The protection of Children from harm

- The challenged 25 scheme will be implemented
- To ensure that any person selling or supplying alcoholic drink under the authority of a personal licence holder follows the guidelines of the Challenge 25 scheme and asks for photo ID proof of age where they have reason to suspect that the individual may be under 25 years of age and to ensure that signs relevant to this condition are prominently displayed at the premises.

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

None

Annex 4 – Plans

See plan with ref: 15/02414/LAPREN

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Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand, please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I, 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 GROSIK. 4/5 Thame House, Castle Street | |
| Post town High Wycombe | Post code (if known) HP13 6RZ |

| |
|--|
| Name of premises licence holder or club holding club premises certificate (if known) Daiko Salem |
|--|

| |
|---|
| Number of premises licence or club premises certificate (if known) 214 / 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 309 275

E-mail address (optional)

licensing@thamesvalley.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)

On behalf of the Chief Officer of Police for the Thames Valley Police Service we bring this application against the premises licence (214 / PREM) which is presently held by Daiko Salam. I'll come back to him later in this report;

Looking at the history of the premises - which Thames Valley Police feel is very important - as to what we are concerned about and has a bearing on this premises licence.

As you have heard from the Buckinghamshire Licensing Officer, the licence was initially granted in 2012. However, on 12th August 2014 Trading Standards had been to the premises and located tobacco products that were either non-duty paid or counterfeit. They called a Review and at the hearing, the panel issued a three-month licence suspension (04/09/2014 to 27/11/2014). They re-opened and continued to trade. In around March 2015; Trading Standards re-visited the premises with a tobacco dog and again found counterfeit tobacco products hidden. The premises was again taken to review and the Panel decided on this occasion to revoke the licence pending appeal. The licence was thereby revoked on 12th May 2015.

On the 23rd November 2015, an application was received for a new premises licence and after a number of meetings with the applicants, the licence was granted.

It appeared that all was running fine with no issues being raised or highlighted to Police until August 2018 when some underage boys entered the store and were allowed to purchase alcohol as no ID was requested. The then licensee was spoken to by Police Officers but no further formal action was taken as age is very subjective.

In July 2018 a joint Police / Council - Underage Sale Test Purchase Operation was carried out in the premises where the underage operatives were challenged on their age and as they were unable to provide identification were refused service.

In February 2020, the licence was transferred to another licensee and during that time, police had received no intel regarding the premises.

In October 2021 the premises licence was transferred again; to a Mr Soran. In MAY 2022, police received intelligence that the premises was once again selling illegal tobacco products.

In August 2022, Trading Standards once again visited the premises and again illegal tobacco products were located well hidden within the premises. A number of condition breaches were found by the Council Licensing Officer

In addition, in August 2022, the present owner of the business was requested to attend a meeting with the Council and Police regarding this recent find and Mr Daiko Salem and his Licensing consultant attended the meeting. It transpired that Mr Salem had owned the business (but not the paperwork) at the time of the find but denied all knowledge of it. He indicated that he was about to transfer the licence into his name and become the DPS. I told him at that meeting that he should seriously consider removing all staff that had been employed at the time of the raid by Trading Standards as a show of good faith. It was also expressed to him the implications and consequences of this sort of operation and that he and his staff need to know their conditions and adhere to them otherwise action would be taken. He and his consultant fully agreed and understood by their responses what was expected of them. The transfer documentation was submitted and knowing what had been said at the meeting, it was allowed to go through.

On the 14th October 2022, Thames Valley Police along with Buckinghamshire Licensing Officer carried out an underage sales test purchase operation. The underage person entered the premises and was able to purchase a bottle of spirits without being challenged by the member of staff. (The Licensing Authority is presently following up this aspect of the law).

On the 17th October 2022, Mr Whittall and I attended the premises to follow up on the failed test purchase to request a copy of the CCTV for the Councils investigation. Working behind the counter at this time and selling alcohol was the previous licensee Mr Soran – who Mr Salem had agreed not to employ as he was within the business when it was raided, Also at that time it was identified that no one could use the CCTV to provide a copy although we were able to view it. The CCTV showed the sale going ahead and which member of staff was involved – Mr Soran and another member of staff present in the shop – who also couldn't use CCTV - did not know who the staff member was. This is of great concern. Intel suggests that this person is not a regular staff member and is not employed by Mr Salem.

(Thames Valley Police are quite sure that more of the specifics will become clearer during the Council's investigation on this underage sale issue.)

Also at this time, the staff were advised not to serve any more alcohol as the premises licence was not complied with about CCTV and staff usage.

Since the Premises Licence was re-granted in February 2016 there has been a history of licensee's failing compliance, breaching the licence, and then transferring it on only for the law to be abused again.

In view of all this - the recent issues surrounding illegal tobacco, underage sales and the breaching of conditions especially after the pre transfer meeting: Thames Valley Police respectfully request that the Premises Licence (214/PREM) be revoked.

Please tick ✓ yes

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

If yes please state the date of that application

| Day | Month | Year |
|-----|-------|------|
| | | |

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

Please tick ✓ yes

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

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant’s solicitor or other duly authorised agent (please read guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature A. Dean

Date 2nd December 2022

Capacity Licensing Officer – Responsible Authority – Thames Valley Police

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

Post town

Post code

Telephone number (if any)

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

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

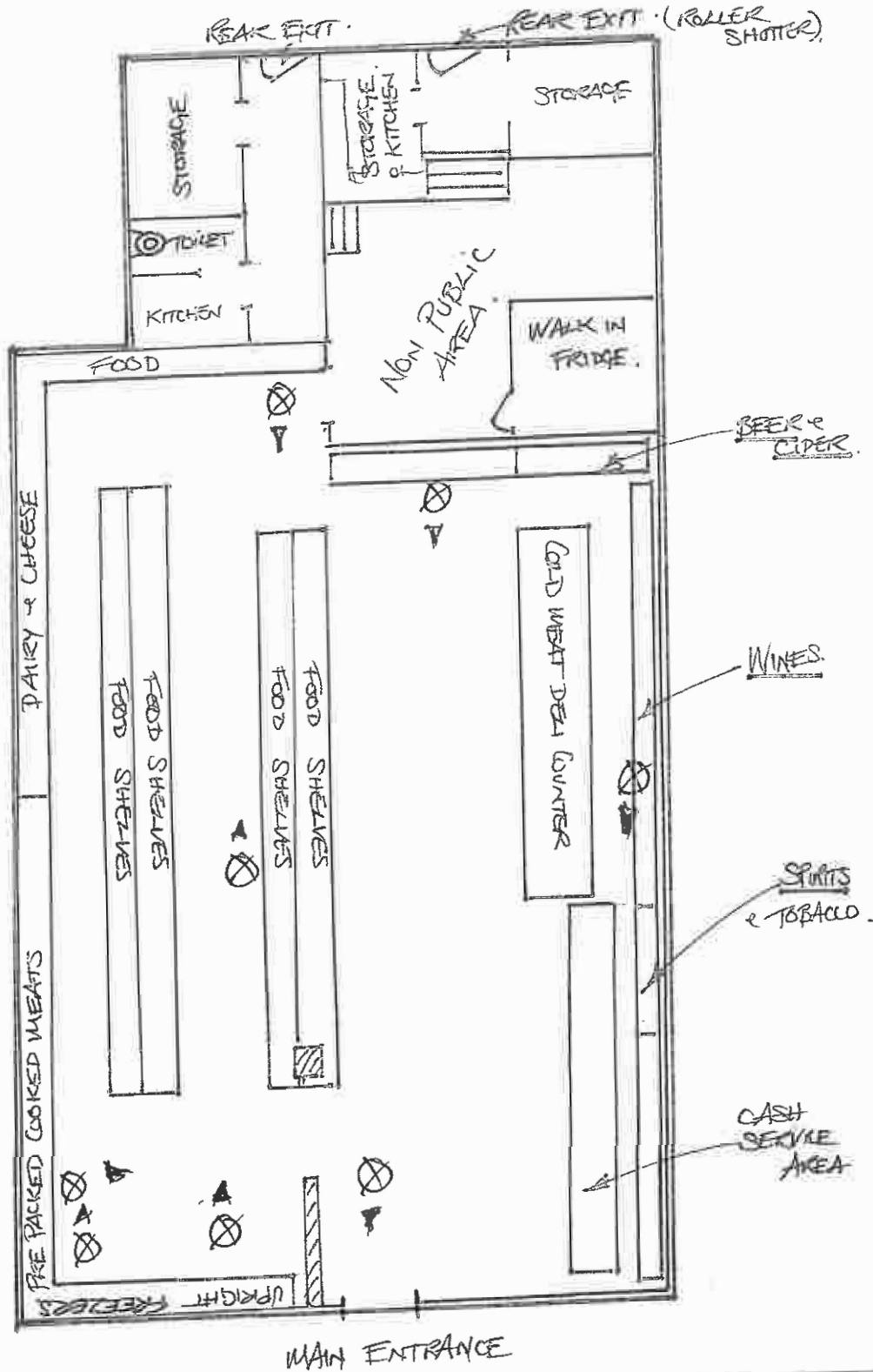
APPENDIX 3

GROSIK HIGH WYCOMBE LTD
UNIT 4+5 THAME HOUSE
CASTLE STREET
HIGH WYCOMBE
HP13 6RZ.

SCALE 1:100

11 NOVEMBER 2015.

⊗ = CCTV CAMERA.



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APPENDIX 4
 Wycombe District Council
 Town & Country Planning Acts
PERMISSION



Grosik Supermarket
 4-5 Thame House
 Castle Street
 High Wycombe
 HP13 6RZ
 T019408

OS MasterMap 1250/2500/10000 scale
 Tuesday, October 1, 2019, ID: BLJT-00831341
 www.planningapplicationmaps.co.uk

1:1250 scale print at A4, Centre: 486596 E, 193132 N

©Crown Copyright Ordnance Survey. Licence no. 100051661




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STATEMENT OF WITNESS

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

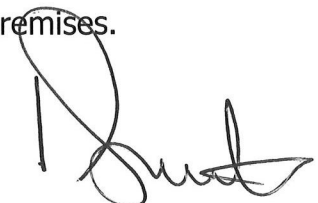
Statement of: Ian Smith**Age of Witness:** Over 18
(If over 18, enter "Over 18")

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: 19th DECEMBER 2022Signature: 

I am employed by Surrey County Council as Supervisor for Buckinghamshire and Surrey Trading Standards Service's Regulation Team based at County Hall, Walton Street, Aylesbury HP20 1UP and I am authorised for the purposes of the Trade Marks Act 1994, the Standardised Packaging of Tobacco Products Regulations 2015, the Tobacco and Related Products Regulations 2016. I can also confirm that the Service, as a responsible authority, wishes to support a licensing review for the business currently trading from the premises identified below. From my own personal knowledge and from records held by the Service I can confirm the following concerning the business trading as Grosik at 4/5, Thame House, Castle Street, High Wycombe.

On the 23rd August 2021 a test purchaser employed by Trading Standards purchased 2 x packets of illicit L & M brand cigarettes from the premises.



Signature: _____ Signature witnessed by: _____

On the 9th June 2022 a further test purchaser visited the premises of Grosik on the instruction of Trading Standards and purchased 10 packets of Compliment brand illicit smuggled cigarettes for £60.

On the 10th August 2022, as part of a wider operation of inspections at premises for illicit tobacco Trading Standards Officers conducted an inspection at Grosik, at 4/5, Thame House, Castle Street, High Wycombe with a tobacco sniffer dog. During the course of the inspection approximately 9500 individual cigarettes (475 packets of 20 cigarettes) were found concealed in the roof of a walk-in chiller room situated at the rear of the premises. The top of the walk-in chiller appeared to have been adapted to create a space where the cigarettes may be concealed. The top of the chiller was covered by a steel plate held securely down by an electromagnet. The cigarettes were seized from the roof of the walk-in chiller as they were not compliant with the colour or health warning requirements provided by the Standardised Packaging of Tobacco Products Regulations 2015 or the Tobacco and Related Products Regulations 2016 as expected for cigarettes that may be legitimately sold in the UK. I produce as exhibits IS/100822/1 and IS/100822 a photographs of the cigarettes in question as discovered in the roof of the walk-in chiller.

Examination by brand holders of examples of the cigarettes seized confirmed that a number of those that had been seized were counterfeit and that the others were intended for markets other than the UK.



The discovery of the illegal cigarettes found at the premises of Grosik on the 10th August 2022 currently remains under investigation by Buckinghamshire and Surrey Trading Standards Service in relation to potential criminal offences under Trade Marks Act 1994, the Standardised Packaging of Tobacco Products Regulations 2015, the Tobacco and Related Products Regulations 2016.

A handwritten signature in black ink, appearing to be 'Ian Smith', written over the end of the text block.

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Exhibit IS/100822/1



Exhibit IS/100822/2



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Communities

Gateway, Gatehouse Road, Aylesbury,
HP19 8FF
licensing@buckinghamshire.gov.uk
01494 421749
www.buckinghamshire.gov.uk

Dear Sir/Madam

Licensing Act 2003 – Representation from the Licensing Authority

Premises: Grosik, Castle Street, High Wycombe

I am submitting this representation on behalf of the Licensing Authority in respect of an application to review a Premises Licence initiated under section 51 of The Licensing Act 2003 (“The Act”) by The Chief Constable, Thames Valley Police.

In drafting this representation, careful consideration has been given to the promotion of the four licensing objectives and the Secretary of State Section 182 Guidance. I have also taken into account both the Council’s Statement of Licensing Policy, effective from 7th March 2022.

I have had responsibility as a Licensing Officer for the enforcement of these premises since a Premises Licence was initially granted by Wycombe District Council in April 2012. Since this time, the previous premises licence issued in respect of the premises was revoked further to a period of suspension following review applications submitted by Trading Standards, as detailed below:

1. On the 12th August 2014 a hearing of the Licensing Sub-Committee convened to determine an application made by Trading Standards under section 51 for a Review of the Premises Licence. The application was made following a visit to the premises in April 2014 by Trading Standards Officers, when a large quantity of cigarettes and alcohol was found in two hidden enclosures. These products did not have UK duties paid and were intended for sale.
2. The Licensing Sub-Committee determined to suspend the premises licence for a period of 12 weeks in order to promote the licensing objectives. An informative was given to the licence holder in the decision notice that should there be further breaches of the Licensing Act 2003, serious consideration would be given to the revocation of the premises licence.

3. On the 24 February 2015, Trading Standards found a large quantity of tobacco that did not have UK duties paid hidden in a light fitting in the premises and also outside in a vehicle belonging to the licence holders. In April 2015 The Licensing Sub-Committee determined to revoke the Premises Licence, which was not appealed.
4. An application for a Premises Licence was received in December 2015, which was granted without representation in January 2016. The licence was transferred in February 2020 and then again in October 2021 to Mr Soran Ghaderi
5. On the 10th August 2022 I visited the premises with officers from Trading Standards. Mr Soran Ghaderi was on the premises at the time of this enforcement visit. During a search of the premises we discovered a hidden compartment above a fridge, in which illegal tobacco was found.
6. Licence compliance checks found offences under section 57 of The Act, a failure to display a Licence Summary or to have the full Licence available to authorised officers upon request. Offences under section 136 of the Act were noted, including the apparent failure to retain records of refusals since 2019, no training records for staff available on request and the last record for the incident book was July 2021. Mr Soran Ghaderi was later found to have not informed the authority of his change of address which is an offence under section s.33 of the Act.
7. At this time Mr Soran Ghaderi stated that the owner of the business was Mr Salam, who was later identified as Mr Diako Mohammad Salam from London. Upon request a conversation was held with Mr Salam on Mr Ghaderi's mobile. He was advised that alcohol sales could not legally take place due to non-compliance with the premises licence conditions. He agreed to cease alcohol sales and made an appointment to meet with Licensing Officers the following day at the premises.
8. The following day I visited the premises with the Licensing Manager, Kerry Porter. Mr Salam was not on the premises and when contacted stated that he would not be attending. Mr Ghaderi was on the premises with a person later identified as Mr Pshtewah Abullah. Mr Ghaderi confirmed that he did not know how to operate the CCTV system (contrary to a licence condition which required him to be able to do so). He confirmed that alcohol sales had continued under the instruction of Mr Salam, at which point he was formally cautioned in accordance with The Police and Criminal Evidence Act 1984 (PACE). He was asked if he was going to continue selling alcohol and he responded that if his boss told him not to sell, then he would not sell. Mr Ghaderi stated that he did not want to be involved in the business anymore and that he was moving to Manchester.

9. Mr Salam attended a meeting at the council offices on the 15th August that included Mr Andy Dean, Police Licensing Officer, and Dr Umit Avci of EuroSafety International (Licensing Agent). Mr Salam stated that he bought the business on 27 December 2021 and was now the leaseholder (This is not evidenced by a Land Registry search which shows a different owner).
10. Mr Salam stated he did not transfer the licence in December 2021 as he was waiting for Lambeth Council to issue his personal licence. He stated that even so he visited the premises once or twice per week. Mr Salam confirmed he had seen the licence paperwork when he bought the premises, but was unable to offer an explanation for the licence condition breaches witnessed the previous week, as he assumed that the previous licence holder Mr Ghaderi had matters under control. Mr Salam stated that he did not instruct Mr Ghaderi to keep selling alcohol even when advised by officers that an offence was being committed if they continued to do so. He could not explain why under caution Mr Ghaderi had misunderstood this instruction.
11. Dr Umit Avci stated that Mr Ghaderi was leaving the business and that it was intended for Mr Pshetwah Abullah to become the new DPS and to work at the premises full time. It was confirmed that Mr Abullah had already been working at the premises for an unspecified period of time.
12. Mr Dean stated that Mr Abullah was part of the workforce when illegal tobacco was found and questioned why he would want such a person managing the premises. Mr Salam stated that "He is more aware of what is going on." Mr Dean expressed concerns as he did not trust Mr Abullah and stated that it would be better to have new staff working at the premises. Mr Salam stated that he would be visiting the premises more to ensure it was operating lawfully.
13. Mr Salam was advised that he needed to comply with all conditions. He was put on notice that he would commit an offence if he did not comply with the requirements of the licence. He was advised that he could make a minor variation application if he wanted to amend or remove existing conditions.
14. As a condition of agreeing to the transfer and DPS application into Mr Salam's name, Mr Dean requested additional conditions be added to the premises licence. Accordingly the licensing agent submitted a Minor Variation application on the 24th August, which was granted.
15. On the 14th October the police and licensing authority conducted an underage test purchase operation within the Council area. The test purchase at the premises failed in that a sale of alcohol was made to a person who was 16 years old. Mr Ali Azad Rasoul was on the premises at the time of this offence and contrary to the licence condition

stated that he could not operate the CCTV system for officers to identify the person who made the sale. All other employees on the premises at this time stated they could not operate the CCTV system.

16. I visited the premises on the 17th October with Mr Dean. Mr Ghaderi was on the premises and had apparently not moved to Manchester as he had previously stated at interview.
17. A formal warning was issued to Mr Salam as a result of the CCTV licence breach. In addition, officers found the following breaches on the 17th October; No operational daily log report; The staff shall receive adequate training to Responsible Alcohol Retailing standards or equivalent and these records to be made available; Only three staff members have gone through this training, which does not include staff witnessed on Friday 14th October.
18. CCTV recordings of the underage sale from the 14th October were made available to the licensing unit upon request, which were reviewed. On the 23 November I invited Mr Salam to attend the council officers to review screen shots from those recordings.
19. Mr Salam was asked to identify a male in a grey hoodie and jeans who was seen standing near the point of sales counter before the underage sale. Seconds before licensing officers enter the premises following the underage sale this man is seen walking with urgency out of camera shot and then exiting with car keys in his left hand. I consider this was unusual behaviour however, Mr Salam stated he had “never seen this man before”.
20. I left the premises at approx. 18:38 hours on the day of the test purchase and the CCTV footage showed Mr Soran Ghaderi, the previous licence holder, arriving at the premises approximately 3 minutes later. He is seen looking at his mobile phone and reviewing the CCTV system.
21. Within 10 minutes of officers leaving the premises a person identified as a Mr Pshtewah Abullah enters the premises. Mr Salam stated he is a friend and encouraged him to take over Grosik as a business in the first place. Mr Salam thinks he lives in Reading.
22. Mr Salam stated Mr Abulla used to work at Grosik until a few months ago, which is contrary to the statement given on 15th August. It is Mr Pshtewah Abullah son’s ‘friend’, who made the alcohol sale to a 16 year old. A Mr Ali Mohammed Ai- Husein, who allegedly lives in Cardiff and a friend of his employee Mr Ali Rasoul. Mr Salam states he does not know Mr Ai-Husein and was unable to explain why he was working on the premises at the time of the underage sale. I have been unable to contact Mr Ai-Husein who has not returned messages requesting him to contact the licensing team.

23. From viewing the CCTV it is my opinion that Mr Abullah was in charge at the premises at the time of the test purchase. Confirmed by Mr Salam, who also states that Mr Soran Ghaderi is a manager of the business also.
24. Another male enters after approx. 8 minutes after I leave the premises wearing a white hoodie with facial hair. He joins others in viewing the CCTV screen with others on the premises. At no point is he seen shopping and therefore the impression given is that he is known to Mr Abullah and Mr Ghaderi. Mr Salam states he does not know who this person is and that he has “never seen him before”. In a later email he states, “He is a Romanian regular customer”.
25. Approx. 15 minutes after I leave the premises two further males enter the premises. Mr Salam states he has never seen them before. They engage in a conversation with Mr Abullah, who then steps outside and is seen in conversation with the man wearing the white hoodie, Mr Ghaderi and the two new unidentified males.
26. Within the premises at this time a staff employee, Mr Ali Rasoul is seen emptying the till of paper notes and counting them out. I estimate 53 x £20 and 14 x £10 = £1200 estimated value. In response to an email sent to Mr Salam at 11:36 hours on the 22 November he responded, “That money is £800 to the guy who fixed the fridge and the premises freezer..... I will provide all his details and invoice “This you can see on the attached”.
27. When questioned as to the discrepancy of the invoice amount and the money seen changing hands, Mr Salam stated, “That's correct it's £1200. But the £500 is we paid him for the fridge motor we don't have receipts or invoice because it was second hand, the new one was £2000”
28. It was put to Mr Salam that I was of the opinion looking at the CCTV recordings that a number of these individuals had some association with the premises. Mr Salam was unable to identify a number of these individuals that could be seen entering the premises once I had left on the 14th October. Mr Salam has agreed he doesn't know what's going on at his premises.

Summary

The grounds for making this representation are as follows:

29. Mr Salam has ignored advice given by the police to change staff associated with the illegal tobacco discovered on the premises. In addition he has given conflicting information as to who has had management control of the premises. Mr Ghaderi stated

under caution that he was leaving the business, yet still is involved in the business, including when an underage sale was made.

30. Mr Salam has confirmed that he is the lease holder for the premises, which is not substantiated by Land Registry records.
31. Mr Salam has provided inconsistent information. Mr Abullah was found to be on the premises on the 11th August when officers visited the premises. On the 15th August, Mr Salam was questioned at the council offices in which he confirmed Mr Abullah had worked for the premises for some time, that he was being considered as DPS and was to work at the premises full time. This given Mr Abullah was part of the employees working for Mr Salam when illegal tobacco was found hidden on the premises. Mr Salam has not been able to provide a consistent statement as to how long Mr Abullah has worked at the premises. Mr Salah confirmed that at the time of the underage sale that Mr Abullah is in charge that evening and that Mr Soran Ghaderi is a manager of the business also.
32. Mr Abullah is described as a friend by Mr Salam who introduced him to the Grosik business. However, Mr Salam apparently does not know where his friend lives.
33. On the 15 August Mr Salam stated he would be visiting the premises more as a result of concerns raised by police and authority licensing officers. Mr Salam was made fully aware of the consequences for breaching his licence terms and conditions, which his licensing agent re-iterated. On the 17th October a number of licence breaches were witnessed by officers of the council and police which indicates an ongoing inability or unwillingness to comply with licence requirements.
34. Mr Salam's statements is that it was Mr Abullah son's 'friend' (Shop employee Mr Ali Rasoul), made the alcohol sale to a 16 year old, although I was told that Mr Ai- Husein lives in Cardiff. Mr Salam states he does not know Mr Ai-Husein and was unable to explain why he was working on the premises at the time of the underage sale which is a concern.
35. When reviewing CCTV footage of the underage sales Mr Salam was unable to identify persons that appear to be involved in his business. He either could not identify certain individuals or stated that they were not involved in the business.
36. Mr Salam was unable to provide a substantive reason for the exchange of cash witnessed on recordings. He was adamant that it was a £800 payment for freezer repairs, only when challenged on this statement to change his initial statement. No additional invoice has been provided for the 'additional' £500 payment.

37. By his own admission, Mr Salam has agreed he doesn't know what's going on at his premises. He blames the illegal tobacco on the previous owner of the business, even though Trading Standards have evidence that this tobacco was being sold from the premises.
38. It has been very apparent from my experience with dealing with the licence holder and other persons associated with the premises that responsibility is not being taken for ongoing issues of non-compliance and the commission of offences which appears to be ongoing. The licensing objectives are being constantly undermined as a result of poor management control.
39. Mr Salam has continued to demonstrate an unwillingness or inability to heed warnings, take advice and learn from previous failures to promote the licensing objectives.
40. There appears to be a historical pattern of this premises being used for the sale of illegal tobacco going back over a number of years which raises unanswered questions as to why the same offences keep repeating themselves?
41. Mr Salam does not have the confidence of the licensing authority to effectively manage the premises, to promote the licensing objectives, or to put in place the necessary management controls and changes. Nor has he demonstrated an ability to conduct the retail sale of alcohol in accordance with the authorisation issued to him. The authority would request that committee take account of the above and agree to revoke this Premise Licence.

21 December 2022



Brian Whittall
Licensing Officer

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