

Appendix B

Application for the review of a premises licence 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 **Chief Supt Justin BURTENSHAW, Brighton & Hove Divisional Commander, Sussex Police on behalf of Sussex Police Chief Constable Jo SHINER**.....

Apply for the review of a premises licence under Section 51 of the Licensing Act 2003 for the premises described in Part 1 below.

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
Happy Shopper, 4-8 Upper Bevendean Avenue	
Post town	Post code (if known)
Brighton	BN2 4FF

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

Number of premises licence or club premises certificate (if known)
1445/3/2021/04335/LAPREV

Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
 - a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises
 - d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

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

Please tick

Mr Mrs Miss Ms Other title (for example, Rev)

Surname

First names

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Please tick yes

I am 18 years old or over

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Sussex Police, Licensing, John Street, Brighton, East Sussex, BN2 0LA.
Telephone number (if any) 01273 404 535 - Ext 550809
E-mail address (optional) brighton.licensing@sussex.police.uk

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

Please tick one or more boxes

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

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

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

A review is being sought by Sussex Police due to the ongoing breaches and failings to adhere to Challenge 25.

This premises was visited on the 30th of January 2023, where a test purchase operation was conducted, and the member of staff sold to a 17 year old male. This is the second time the premises has sold to a minor, with the first occasion the 10th of October 2019.

Since this date Police licensing have tried to work with the DPS to ensure the licence is being adhered too, however the DPS has been issued with 5 breaches in this time.

Sussex Police would there contend that the licensing objective of the protection of Children from harm has been undermined.

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

Happy Shopper is an off licence situated in Upper Beverdean.

In August 2019, Police licensing received information that this premises was not asking for Identification when selling alcohol and allowing sales of age restricted items to underage persons.

On the 10th of October 2019, the premises was visited as part of a test purchasing operation. The member of staff working sold a bottle of Old Mout Cider, which is an alcoholic beverage to a 16 year old police volunteer.

The member of staff did not engage with the volunteer, and the sale was witnessed by a plain clothes officer.

Upon Uniformed officers entering the premises, it soon became clear that the member of staff did not speak any English and could not inform police of his name. Welfare concerns were raised for the member of staff. The PLH/DPS' arrived and advised that the seller was a friend of her sister and Brother-in-Law and the member of staff had only been in the store half an hour. No one was able to inform us off an address and the member of staff did not have identification. Immigration checks were carried out and confirmed the name and date of birth first given was incorrect. Eventually after speaking to Immigration his details were found, with a photo to confirm his identify and that he had an application for asylum. He did not have permission to work.

A translator was contacted to ask him questions. A PND was issued and the PLH/DPS said they would pay.

Immigration advised that the staff member would have to leave the premises immediately. Police ensure the staff member had a place to stay for the night and he was safe.

Premises licence had up-to-date conditions, but many were breached.

A breach letter was issued on the 16th of November 2019.

Please find Breach letter attached as Appendix A.

A meeting was arranged for the DPS to meet with police licensing and Donna Lynsdale (Local authority licensing), which was held on the 13th of December 2019.

The DPS was issued with a formal letter and actions were discussed to ensure no further sales to underage persons could happen again.

Police licensing asked the DPS to inform us of the events that happened on the 10th October.

She informed us her daughter was ill so her husband called a friend and this friend arranged the "boy" to come and work for them.

DPS had no idea who he was, but met him in the morning and trained him until 5pm where he was then left on his own.

She gave him verbal training however there was no written documentation to prove this.

Further discussions were had around the member of staff.

Police Licensing then discussed the breach letter with the DPS, who informed us that all breaches had been rectified – however we had to provide clarity around the refusals/ incident book and the training documentation (BHCC produced booklets) which Ms Lynsdale offered to post to the premises.

The DPS left the meeting fully aware of the seriousness of adhering to the premises licence conditions.

Police licensing conducted a visit on the 3rd of January 2020 at 11:30 – three males were working in the premises. The DPS was not present.

Breaches were found, please see Appendix B for breach letter sent on the 3rd of January 2020.

Police licensing stated we would return in a couple of weeks to ensure the breaches had been rectified.

Police licensing visited on the 30th of January 2020 at 12:50. Again the DPS was not present.

During our visit, a male entered the premises, who we believed to be slightly intoxicated. He was very loud, using inappropriate language and smelt of alcohol. He was able to purchase 8-pint sized cans of Stella Artois.

Unfortunately, breaches were found again.

Please see Appendix C – a further breach letter was issued on the 31st of January 2020.

Police Licensing conducted a further visit on the 16th of July 2020 at 15:39, where the DPS was not present.

The licensing inspection highlighted all conditions were being adhered too, however the storeroom door was wedged open.

Police Licensing conducted a licensing visit on the 26th of January 2021 at 14:00, there was 1 male working who called the DPS however the DPS never arrived.

Breaches of the licence were highlighted, and a breach letter was sent to the DPS. Please see Appendix D for breach letter dates 26th of January 2021.

On the 24th February 2021, Police licensing conducted a licensing check with Ms Lynsdale.

DPS was briefly present but went to the post office so we were left with her husband

Overall during the visit there seemed to be no apparent breaches of the licence although there was a query with the refusal book, very recently PC Bernascone (Police Licensing) had signed it during his visit and queried why there was so little entries, he signed the last box on 1 page during his visit.

Overleaf from this page there was multiple entries which appear to have been back dated and added after the previous visit.

On the 17th of June 2021, the premises was visited as part of a test purchase operation and the member of staff passed as they asked our underage volunteer for Identification (ID)

On the 9th of July 2021 at 16:03 Police Licensing visited the premises to inform them of the test purchase pass, again the DPS was not present.

Officers spoke to the DPS' husband and informed him of the pass, we checked the refusal log which had the failed alcohol purchase listed correctly.

We congratulated him on passing the test purchase and advised to keep up the adhering to the licence conditions and documents provided by BHCC.

A licensing inspection was conducted on the 20th of October 2022 at 15:00 under Op Apprentice.

Breaches were found once again and the DPS was not present.

Please see Appendix E for breach letter sent on the 22nd of October 2022

On the 23rd of December Police Licensing were briefed by a Neighbourhood Response Officer about an underage vulnerable male who had been able to purchase alcohol in this location and named this premises in her intelligence as a place where this vulnerable male visited.

On the 30th of January 2023 at 17:18 Police licensing conducted a test purchase operation at this premises. The member of staff behind the till sold a bottle of Doombar to a 17-year-old police volunteer.

DPS was not present, however we were able to speak to her husband who was present and witnessed the sale take place.

While a Community Resolution was issued to the member of staff who made the sale, a licence check was conducted.

The following breaches were found.

Condition 8 – the incident log was seen but being signed off monthly not weekly.

Condition 14 and 15 – there was no refresher training documented.

Condition 16 – challenge 25 breached following the sale to an underage person.

Condition 18 – refusals log was seen but had not been signed by the DPS.

Sussex Police have worked with this premises since 2019. We have offered advice and guidance with each visit, along with the breach letters.

Now the premises has failed a second underage test purchase and the continued breaches, there is serious concern the licensing objective of the protection of children from harm and further action should be considered.

Sussex Police would like to propose the following.

- Suspension of the licence for a period not less than eight weeks.
 - Removal of the Designated Premises Supervisor.
 - Consideration for conditions to be added.
1. Any person participating in selling alcohol must be a personal licence holder.
 2. All spirits must be stored behind the counter.
 3. When alcohol is not for sale or no personal licence holder is at the premises, alcohol must be covered or locked in the cold room, so inaccessible to customers.

Sussex police consider a suspension of this length to be appropriate; allowing the premises to benefit from a 'reset' and the PLH sufficient time to achieve the following

- To instate a new DPS,
- To ensure that the new DPS and all the staff (including any new staff), involved in licensable activity are fully and thoroughly trained (retrained) so they are not reliant on the till prompts when selling age related items and conversant with the conditions attached to the premises licence. (including any new conditions should they be attached by the licensing committee)
- To give the new DPS time to familiarise themselves with the premises, with the concerns held by Sussex Police and to review current management practices.
- To allow the PLH time to ensure all policy documents are up to date and fit for purpose.

Please tick yes

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

If yes please state the date of that application: N/A

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

N/A

Please tick yes

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

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

Part 3 – Signatures (please read guidance note 3)

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

Signature (on behalf of the applicant)

REDACTED

A/Insp Mark Redbourn

Date 10th February 2023

Capacity: Operations, Planning and Licensing Inspector.
Force Licensing & Public Safety Manager on behalf of Chief Superintendent,
Divisional Commander, Brighton & Hove Division

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)	
Insp M. Redbourn Sussex Police Licensing John Street	
Post town Brighton	Post Code BN2 0LA
Telephone number (if any) 01273 404 535 Ext 550809	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) brighton.licensing@sussex.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.

