

Licensing Panel (Licensing Act 2003 Functions)

Agenda Item 56

Brighton & Hove City Council

Subject:	Review of a Premises Licence under the Licensing Act 2003		
Premises:	Dharni Stores 165-167 Hangleton Way Hove East Sussex BN3 8EY		
Licence Holder:	Food & Beverage 4U Ltd		
Date of Meeting:	11 August 2011		
Report of:	Head of Planning and Public Protection		
Contact Officer:	Name:	Sarah Cornell	Tel: 295801
	E-mail:	Sarah.Cornell@brighton-hove.gov.uk	
Wards Affected:	Hangleton And Knoll		

FOR GENERAL RELEASE

1. Purpose of the report

- 1.1 To review a Premises Licence for Dharni Stores under the Licensing Act 2003

2. Summary of review process

- 2.1 Existing licence attached at Appendix A
- 2.2 Brighton & Hove City Council is both the relevant licensing authority and a responsible authority in respect of any premises, and may in its capacity apply under Section 51 of the Licensing Act 2003 for a review of any premises licence in respect of the premises.
- 2.3 An application was received by the Licensing Authority from Trading Standards, to review the licence granted to the premises known as Dharni Stores, 165-167 Hangleton Way, Hove, East Sussex, BN3 8EY
- 2.4 The grounds for the review relates to the following Licensing objectives:

- Prevention of Crime and Disorder
- Protection of Children from Harm

Full details of the grounds for the review and a copy of the supporting evidence are attached in Appendix B.

2.5 At this hearing the licensing authority must:

- Consider the application made in accordance with Section 51
- Consider any relevant representations
- Take such steps (if any) as are considered necessary for the promotion of the Licensing objectives. These steps are
 - to modify the conditions of the licence
 - to exclude a licensable activity
 - to remove the designated premises supervisor from the licence
 - to suspend the licence for a period not exceeding 3 months, or
 - to revoke the licence.

And for this purpose the conditions of a premises licence are modified if any of them is altered or omitted or any new condition is added. It may provide that the modification or exclusion have effect for a specified period not exceeding 3 months. The determination, if not completed at the hearing, shall be within 5 working days of the hearing. Such determinations do not have effect until after the appeal period or, if an appeal is lodged, until after the appeal is disposed of.

3 Representations received

- 3.1 Details of the representations made are notified to applicants on receipt by the Licensing Authority using a pro-forma. A summary appears below:
- 3.2 One representation has been received from Police on the grounds of the Prevention of Crime and Disorder supporting the application submitted by Trading Standards seeking the revocation of the licence.
- 3.3 Full details of the representations are attached at Appendix C. A map detailing the location of the premises is attached at Appendix D.

4. Commentary on licensing policy

- 4.1 The following extracts from Brighton & Hove Licensing Policy are considered relevant to this application and numbered as they appear in the policy:

General

- 1.2 The licensing objectives are:-
- (a) Prevention of crime and disorder;
 - (b) Public safety;
 - (c) Prevention of public nuisance;
 - (d) Protection of children from harm.
- 1.3 Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events. Any conditions attached to various authorisations will be focussed on matters which are in the control of individual licensees and others with relevant authorisations, i.e. the premises and its vicinity.
- 1.5 Each application will be given individual consideration on its merit. Nothing in this policy shall undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits. Similarly, nothing in this policy shall override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act

In respect of the prevention of crime and disorder

- 2.1 The licensing authority acknowledges that training and good management play a key part in preventing alcohol and drug related crime. The authority recommends that all licensees of on-licensed premises attend training programmes which will raise their awareness of the issues relating to drugs and violence in licensed premises, and that suitable training be extended to all bar staff and door staff so that drug dealers and users will be deterred from using licensed premises for illegal purposes and that incidents of violence in licensed premises will be reduced. Licensees are also encouraged to attend training programmes to help identify children at risk and issues of basic child protection.
- 2.2 It is expected that the designated premises supervisor (DPS) will spend a significant amount of time on the premises. When not on the premises it will be essential that the DPS is contactable, particularly should problems arise with the premises.
- 2.7.1 Diversity of premises

This attempts to ensure that there is a mix of the different types of licensed premises, particularly in areas where there is a high density of such premises. It will provide resilience against changing trends and attract a more diverse range of customers from different age groups, different communities of interest and with different attitudes to alcohol consumption. It gives potential for positively changing the ambience of the city or an area of it. This in turn may have a positive effect in reducing people's fear of crime and in increasing the number of evening visitors to the city centre. The Community Safety Strategy recognises that too many single uses in a confined area and patrons turning out onto the streets at the same time, may create opportunities for violent crime and public disorder and therefore encourages mixed use venues, varying hours of business and a wider age balance.

2.7.6 Care, control and supervision of premises

The effective management and supervision of a venue is a key factor in reducing crime and disorder, both within it and outside. The Police will consider the applicants, objecting to the application where appropriate. The Police will suggest crime prevention measures in relation to, for example, the internal layout of the premises, close circuit television, help points, lighting and security staff. The Police may ask for conditions which support such measures to be imposed when planning or licensing applications are granted, e.g. type of licence, capacity, opening time restrictions.

2.7.7 The effective management and supervision of a venue is a key factor in reducing crime and disorder, both within it and outside. The police will consider the applicants, objecting to the application where appropriate. The police may suggest crime prevention measures in relation to, for example, the internal layout of the premises, closed-circuit television, help points, lighting and security staff. The police may ask for conditions which support such measures to be imposed when licensing applications are granted, e.g. type of licence, capacity, operating hours restrictions.

2.7.12 Enforcement will be achieved by the enforcement policy.

In respect of the protection of children from harm

5.1 Licensees should note the concern of the authority that drink related disorder frequently involves under 18's. To prevent illegal purchases of alcohol by such persons, the committee recommend that all licensees should work with a suitable 'proof of age' scheme and ensure that appropriate identification is requested prior to entry and when requesting alcohol, where appropriate. Appropriate forms of identification are currently considered to be those recommended by

police, trading standards officers and their partners in the licensing strategy group.

- 5.2 It is the licensing authority's expectation that all staff responsible for the sale of intoxicating liquor receive information and advice on the licensing laws relating to children and young persons in licensed premises. Licensed premises staff are required to take reasonable steps to prevent under age sales. The licensing authority will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them.
- 5.3 To reduce alcohol-induced problematic behaviour by under 18 year olds, to enforce underage purchase and drinking laws and to assist in the protection of children from harm, the licensing authority supports the following measures:-
- (a) Police should exercise powers (Confiscation of Alcohol (Young Persons) Act 1997) to remove alcohol from young people on the street
 - (b) Police and trading standards should implement test purchasing to reduce sales to under 18s in on and off sales licensed premises
 - (c) Further take-up of proof of age schemes will be promoted
 - (d) In-house, mystery shopper type schemes operated by local businesses will be supported
 - (e) Providers of events specifically catering for unaccompanied children should consider whether all staff at such events need to be CRB checked.
- 5.4 The licensing authority will not seek to require that access to any premises is given to children at all times – under normal circumstances this will be left to the discretion of the licensee. The following areas give rise to concern in respect of children, who will normally be excluded from premises:-
- where there have been convictions for serving alcohol to minors or with a reputation for underage drinking;
 - with a known association with drug taking or dealing;
 - where there is a strong element of gambling on the premises;
 - where entertainment of an adult or sexual nature is commonly provided.
 - where premises are used primarily or exclusively for the sale and consumption of alcohol and there is little or no seating for patrons

Options may include:-

- limitations on the hours when children may be present;
- age limitations (below 18);
- limitations or exclusions when certain activities are taking place;
- requirements for an accompanying adult;
- full exclusion of people under 18.

5.7 Children and Young Persons Overview and Scrutiny Council reported on Reducing Alcohol Related Harm to Children and Young People to Licensing Committee who agreed:

5.7.1 Trading standards and the police undertake ongoing enforcement operations around under-age sales and test purchasing. Sussex Police, BCRP and RUOK undertake work concerning proxy purchases and counterfeit ID as part of the partnership support work with Community Safety and Trading standards.

5.7.2 Trading standards have a programme of business support including training for local businesses to avoid under-age sales.

5.7.3 In determining applications and reviews, applications can only be dealt with on their individual merit. Use of schemes like Think 21 and Challenge 25 are appropriate on a case by case basis. Normally a Challenge 25 condition will be appropriate.

5.7.4 A clear causal link between price discounting and disorder will normally lead to the imposition of conditions prohibiting irresponsible promotions. This is now reflected in the new mandatory conditions which can be found on the licensing pages of the council's website.

5.8 Best Practice to protect children from harm

The Council passed a Notice of Motion that licensing committee recommend best practice for both on and off premises to take on board on a voluntary basis, in order to promote responsible licensing.

- Staff must be aware of the risk of the problem of proxy sales and offer assistance to responsible authorities to deter offences
- Signage on premises should set out legal duties
- Voluntary restriction of high strength alcohol – operating schedules may be used to limit high ABV beers and ciders
- Staff training – in addition to personal licence holders training, staff must be adequately trained for duties

- Challenge 25 would be the norm, particularly in the off licence trade
- Signage – proxy sale – deterrence

The council will support accreditation schemes, such as Best Bar None and Purple Flag, where appropriate and subject to resources.

5.9 Health Impact Assessment

The licensing authority's response to this public consultation process is as follows:

- Enforcement decisions of under-age sales from licensed premises will be taken with regard to enforcement policy appended
- Sage Space and refuges for potentially vulnerable people is supported
- The council will make a telephone number available for reporting licensing offences and concerns.

Strategic Integration

6.5 Specific conditions may be attached to premises licences to reflect local crime prevention strategies. Such conditions may include the use of closed circuit television cameras, use of the NightSafe radio system or accredited scheme, the provision and use of shatterproof drinking receptacles, drugs and weapons search policy, the use of registered door supervisors, specialised lighting requirements, hours of opening.

6.7 This policy avoids duplication with other regulatory regimes wherever possible.

6.8 Enforcement – the enforcement of licensing law and inspection of licensed premises is detailed in the Protocol between Sussex Police, the East Sussex Fire & Rescue Service and Brighton & Hove City Council. This protocol reflects the need for more efficient deployment of Police and Local Authority staff commonly engaged in licensing enforcement and can be found at appendix H. In addition the Licensing Authority will have regard to its publishing Licensing Enforcement Policy in making enforcement decisions.

In order to better target enforcement resources, inspections will be undertaken outside of normal office hours and the sharing of information between all enforcement agencies will be encouraged through joint meetings or similar arrangements. Joint Intelligence Meetings are organised and include officers from responsible authorities.

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications:

The Licensing Act 2003 provides for fees to be payable to the licensing authority in respect of the discharge of their functions. The fee levels are set centrally at a level to allow licensing authorities to fully recover the costs of administration, inspection and enforcement of the new regime

Finance Officer Consulted: Karen Brookshaw Date: 22.07.2011

5.2 Legal Implications:

The licensing authority must act to promote the four licensing objectives which are:

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

The licensing authority must have regard to its statement of licensing policy and the guidance issued by the Secretary of State in carrying out its functions.

Lawyer Consulted: Rebecca Sidell

Date: 22.07.2011

5.3 Equalities Implications:

Diversity is valued and strong, safe communities are vital to future prosperity. Licensing policy aims to protect children from harm including sale and supply of alcohol to children.

5.4 Sustainability Implications:

Licensing policy aims to prevent public nuisance and develop culture of live music, dancing and theatre.

5.5 Crime & Disorder Implications:

Licensing policy aims to prevent crime and disorder and protect public safety.

5.6 Risk and Opportunity Management Implications:

Licensing is a crucial business and employment opportunity and unnecessary regulation might lead to legal challenge.

5.7 Corporate / Citywide Implications:

The success of the city's tourism strategy requires a safe, attractive city centre to improve competitiveness. The Act may significantly change night time economy

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix A – Part A of Premises Licence
2. Appendix B – Review Application
3. Appendix C – Representation
4. Appendix D – Map of area
5. Appendix E – Supplementary Documentation – to follow

Documents in Members' Rooms

1. Environmental Health & Licensing Service, Brighton & Hove City Council (2008): The Licensing Act 2003 – Brighton & Hove City Council: Statement of Licensing Policy

Background Documents

1. Environmental Health & Licensing Service, Brighton & Hove City Council (2008): The Licensing Act 2003 – Brighton & Hove City Council Statement on Licensing Policy.

APPENDIX A

Schedule 12

Part A

Regulation 33, 34

**Premises Licence
Brighton and Hove City Council**

Premises Licence Number

1445/3/2011/01344/LAPRET

Part 1 – Premises Details

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

Dharni Stores (pka Alldays)
165-167 Hangleton Way
Hove
East Sussex
BN3 8EY

Telephone number 01273 414951

Where the licence is time limited the dates

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

Monday - Saturday	08:00 - 23:00
Sunday	10:00 - 22:30
Christmas Day	12:00 - 15:00

Christmas Day	19:00 - 22:30
Good Friday	08:00 - 22:30

The opening hours of the premises

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

Alcohol is supplied for consumption off the Premises.

Part 2

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

Food And Beverage 4U Ltd
165 Hangleton Way
Hove
BN3 8EY

Registered number of holder, for example company number, charity number (where applicable)

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Bhupendra Patel

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

Party reference: 2005/00854/LAPER
Council

Issuing Authority: Brighton & Hove City

Annex 1 – Mandatory conditions

S 19; mandatory conditions where licence authorises supply of alcohol

- no supply of alcohol may be made under the premises licence
 - (a) at a time when there is no designated premises supervisor in respect of the premises, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended
- every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence

4.—(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

Embedded Restrictions

1. Permitted Hours

Alcohol shall not be sold or supplied except during permitted hours.

In this condition, permitted hours means:

- a) On weekdays, other than Christmas Day, 8 a.m. to 11 p.m.
- b) On Sundays, other than Christmas Day, 10 a.m. to 10.30 p.m.
- c) On Christmas Day, noon to 3 p.m. and 7 p.m. to 10.30 p.m.
- d) On Good Friday, 8 a.m. to 10.30 p.m.

Restrictions

The above restrictions do not prohibit:

- a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;
- b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- c) the sale of alcohol to a trader or club for the purposes of the trade or club;
- d) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;

Source Section 60,63,86 Licensing Act 1964

2. Alcohol shall not be sold in an open container or be consumed on the licensed

premises.

Source Section 164 Licensing Act 1964

3. Recorded Music

Premises licensed for the sale and supply of alcohol may provide, at any time, regulated entertainment by the reproduction of wireless, including television broadcast and of public entertainment by way of music and singing only which is provided solely by the reproduction of recorded sound.

Source Section 182 Licensing Act 1964

Annex 2 – Conditions consistent with the Operating Schedule

None

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

N/A

Annex 4 – Plans

APPENDIX B

R-20.6.11
C-18.7.11

2011/01258/LAREV

SC

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

Valid
CD
PCH

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 John Peerless, Head of Service, Trading Standards, Brighton & Hove City Council

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 Best One/Dharni Stores 165 Hangleton Way,	
Post town Hove	Post code (if known) BN3 8EY.

Brighton & Hove City Council
20 JUN 2011
Health, Safety & Licensing

Name of premises licence holder or club holding club premises certificate (if known) Mr Subodh Dharni

Number of premises licence or club premises certificate (if known)

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

I am 18 years old or over

Please tick yes

☐

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address John Peerless Head of Service Trading Standards Brighton & Hove City Council Bartholomew House Bartholomew Square Brighton BN1 1JP
Telephone number (if any) 01273 292497
E-mail address (optional) Catriona.macbeth@brighton-hove.gov.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

✓

☐

✓

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

On 25 February 2011 the premises sold alcohol to a 16 year old child assisting with a test purchase operation.

Counterfeit alcohol has been seized from the premises.

Non-duty paid cigarettes that also infringe safety regulations have been seized from the premises.

Alcohol has been detained on the premises due to concerns about the authenticity of the duty marks and that therefore the stock is non duty paid/smuggled.

Invoices provided do not relate to all of the alcohol seized/detained.

Trading Standards state that the following licensing objectives have not been met:

- 1) the prevention of crime and disorder.
- 2) the protection of children from harm.

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

Best One/Dharni Stores at 165 Hangleton Way, Hove, BN3 8EY is a convenience store and off licence. The Premises Licence Holder and Designated Premises Supervisor (DPS) is Mr Subodh Dharni. The licence was granted to Mr Dharni in June 2006.

Trading Standards and Sussex Police work in partnership to deal with combating the sale of alcohol to children. This involves the sharing of intelligence, Joint Test Purchase Operations and in respect of Trading Standards, offering businesses support and training to assist them with complying with the law relating to age restricted products and to meet the Licensing Objective of protecting children from harm.

Joint Police and Trading Standards Test Purchase Operations take place on an ongoing basis, targeting premises as a result of either intelligence that children are able to buy alcohol from the premises or as a result of alcohol related youth disorder in the vicinity.

Trading Standards have identified a problem in Brighton & Hove with premises selling illegal alcohol. Illegal alcohol includes counterfeit alcohol, non duty paid (smuggled and diverted) alcohol, incorrectly described alcohol, incorrectly labelled alcohol and alcohol which has incomplete or no traceability. As a result Trading Standards have been working in partnership with HMRC and Sussex Police to tackle the problem and have seen a progression in the tactics being used in order to introduce illegal alcohol into the market.

The amount of excise and VAT due on alcohol is dependent on the quantity and ABV (alcohol by volume). The excise duty and VAT on a 70cl bottle of 37.5% ABV spirit pre 4 January 2011 is £6.83 and in respect of a one litre bottle of 37.5% ABV spirit pre 4 January 2011 is £9.76.

Non payment of duty and VAT has an impact on both the local and national economy. Businesses willing to stock illegal alcohol receive an unfair trading advantage over other businesses. There is also a risk of counterfeit products entering the market with the inherent risks to the public's health as a result of the use of industrial alcohol and other chemicals not intended for human consumption, poor production methods and quality control and no traceability of the products.

These premises first came to the attention of Trading Standards in early 2007, when intelligence was received that children were buying alcohol from the premises. A test purchase was therefore conducted at the premises on 12 May 2007 when alcohol was sold to the child assisting with the test purchase operation.

On 27 November 2008 cigarettes were sold to a child assisting with a test purchase operation. On this occasion the member of staff who sold to the child stated that if the child had attempted to buy alcohol that they would have asked the child for ID. The legal age to buy cigarettes was increased to 18 years on 1 October 2007.

On 6 August 2009 Miss Macbeth, Fair Trading Officer, attended the premises to undertake a business support visit. At this time she spoke to Mr Dharni the Premises Licence Holder and DPS about illegal alcohol including non duty paid/smuggled goods and the risks involved in buying alcohol with no invoices (traceability). She also provided him with some Challenge 21 posters and noted that the premises did not have a written refusals register but that the till system had a till prompt and a system for recording challenges and creating reports to monitor challenges but that

Mr Dharni did not know how to use the system to create reports. It was pointed out to Mr Dharni that it was his responsibility to check these records and that he needed to ensure that he could create these reports. During the course of this visit Miss Macbeth also undertook a check of the spirits and discovered nothing of concern.

These premises again came to the attention of Trading Standards in early 2011 when intelligence was received that children were regularly buying alcohol from the shop; the premises were therefore identified as suitable for test purchase.

On 25 February 2011 a Joint Test Purchase Operation with Sussex Police was conducted at the premises resulting in alcohol being sold to the 16 year old child assisting with the Test Purchase Operation. Mrs Nicola Humble, Fair Trading Officer, was assisting with the Test Purchase Operation and entered the premises shortly after the sale had taken place. She noted, other than a No ID No Sale notice on the entrance door that there was no other signs or posters displayed in the shop to indicate that an age policy for checking ID was in force. She was told by Mr Dharni the Premises Licence Holder and DPS that there was a prompt on the till, and that whilst there was no written refusals register, there was a reporting system on the till operating system for challenges, ID checks and refusals but that Mr Dharni did not know how to run the report. It is clear that Mr Dharni as Premises Licence Holder and DPS had not been monitoring the refusals system since at least August 2009 when Miss Macbeth visited and she was told that he could not create a report of the refusals recorded on the till system. Mr Dharni also disclosed to Mrs Humble that there was no documented record of any training provided to his staff and that any instructions were only given verbally.

Prior to the Test Purchase Operation on 25 February 2011, Trading Standards had received intelligence about counterfeit Jacobs Creek Wine being offered for sale in London and had subsequently discovered bottles for sale within Brighton & Hove. As a result Mrs Humble checked the Jacobs Creek Wine on sale and identified some labelling irregularities which led her to believe that the bottles of wine were counterfeit.

On 28 February 2011 Mr Steven Lings and Miss Catriona Macbeth visited the premises and undertook a check of the Jacobs Creek Wine and the spirits on sale. Mr Lings seized 8 bottles of wine bearing Jacobs Creek labels that he believed to be counterfeit. Ms Macbeth integrity sealed and detained on site the following items which she considered to be non-duty paid/smuggled due to irregularities with the labelling.

- 10 x 20cl bottles of White Russian Vodka
- 12 x 70cl bottles of Glens Vodka
- 12 x 70cl bottles of High Commissioner Whisky
- 1 x 70cl bottle of Kirowa Vodka
- 5 x 1L bottles of Soviet Vodka
- 7 x 70cl Aros Vodka

With regards the bottles of Glens Vodka and the High Commissioner Whisky, Miss Macbeth identified a number of irregularities with the rear label of the bottles which indicate that the labels and therefore the duty stamps incorporated within the label are false and that the UK duty has not therefore been paid.

Trading Standards took a sample of the White Russian Vodka and this has been analysed. Whilst the vodka is not hazardous, enquiries made by Trading Standards have failed to establish that this is a genuine brand. Due to the size of the bottles, there is no requirement for a duty stamp to be attached, however due to irregularities with the labelling of the bottles and the box containing them and the lack of invoices it

is suspected that these bottles are non UK duty paid (smuggled)

The bottles of Kirowa Vodka, Soviet Vodka and Aros Vodka are also of concern as there are labelling irregularities and there have also been instances of the brands being non UK duty paid and there being no invoices available (traceability)

Miss Macbeth seized 2,000 cigarettes that were stored under the counter on the premises, knowing that they breached product safety legislation due to incorrect labelling and that the duty had not been paid (smuggled) and suspecting that they may have been counterfeit. Mr Dharni admitted that he was aware that the cigarettes were on the premises albeit that they belonged to a male helping him out. It should be noted that Mr Dharni has failed to provide any details about this male.

Trading Standards have received confirmation from the Brand Holder for Jacobs Creek that the 8 bottles of wine seized from the premises are counterfeit and further the Public Analyst has confirmed that the contents of a sample bottle are not genuine. Trading Standards have also received confirmation from the Brand Holder for the cigarettes that these are genuine but were produced for the Indonesian market and were not for sale in the UK. These cigarettes were therefore non UK duty paid and had been smuggled into the UK.

In April 2011 Mr Dharni booked two members of staff on Trading Standards "Preventing Underage Sales" training course to be held on 3 May 2011. Nobody from the premises attended the course on either 3 May 2011 or any subsequent dates.

Mrs Humble visited the premises again on 4 May 2011 and spoke to Mr Dharni, advising him on best practice with regards the prevention of underage sales.

On 12 May 2011 Mr Lings and Mrs Humble interviewed Mr Dharni in connection with the 8 bottles of counterfeit Jacobs Creek wine and the potential offences under Trading Standards enforced legislation. Whilst Mr Dharni has produced 2 invoices which he states relates to the counterfeit wine, they do not show the particular varieties seized. Mr Dharni has failed to produce invoices for all of the other alcohol detained in situ despite there being a legal requirement for him to do so when requested. Indeed he has admitted that most of the alcohol was purchased by his staff around Christmas 2010 and that invoices were not provided.

Mr Dharni has made a voluntary surrender of the counterfeit Jacobs Creek wine and the cigarettes that were seized.

It is accepted that there have been occasions when these premises have passed Test Purchase Operations, the latest being on 19 April 2011. However there have been times when whilst the staff at the premises have refused to sell to the children assisting with the operation, they have either asked for the child's age or have asked for ID and when the child has responded that they do not have any ID they have then been asked their age; it is Trading Standards view that this is not appropriate for preventing the sale of alcohol to children.

Guidance issued under section 182 of the Licensing Act 2003 lists certain criminal activity which may arise in connection with licensed premises which the Secretary of State considers should be treated particularly seriously. This list includes the use of the licensed premises for the sale of smuggled alcohol and tobacco. The guidance states that even in the first instance revocation of the premises licence is appropriate where the premises have been used for the sale of smuggled alcohol and tobacco.

At all relevant times Mr Dharni has been the Premises Licence Holder and DPS of these licensed premises. Trading Standards request that the Committee give serious

consideration to the revocation of the premises licence.

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	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

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

Please tick yes

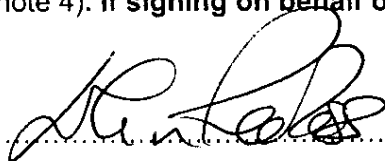
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

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

Signature



Date 16 June 2011

Capacity Head of Trading Standards

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

Post town

Post Code

Telephone number (if any)

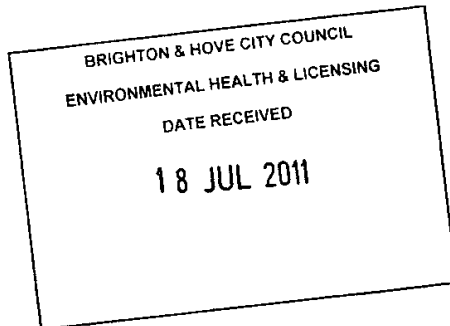
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

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.

APPENDIX C

(A)



Sussex Police
Serving Sussex

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Valid ✓ CD

Brighton & Hove Licensing Unit
Police Station
Holland Road
HOVE
BN3 1JY

Tel: 01273 66 59 43
Fax: 01273 66 55 24

Email: david.bateup@sussex.pnn.police.uk

14th July 2011

The Licensing Technical Support Officers
Environmental Health
Brighton & Hove City Council
Bartholomew House
Bartholomew Square
BRIGHTON
BN1 1JP

Dear Sirs,

Re: Representation in support of the review of the premises licence for Best One/Dharni Stores, 165 Hangleton Way, Hove, BN3 8EY, under the Licensing Act 2003, by Brighton & Hove City Council Trading Standards.

Sussex Police wish to make representations in respect of this review application on the grounds of the prevention of crime and disorder.

Dharni Stores has had a history of failed test purchases when alcohol and cigarettes has been sold to children. Trading Standards received intelligence that alcohol was being sold by this premises to children, and therefore a test purchase operation was conducted. The premises failed a test purchase on the 12th May 2007 when alcohol was sold to a child.

Two further test purchases were conducted on the 25th March 2010 and 1st April 2010, both of which were passed.

A licensing visit was conducted at the premises on the 17th January 2011 by uniformed police officers. They spoke to the duty manager and to Mr Dharni via the telephone. Mr Dharni was both the Premises Licence Holder (PLH) and Designated Premises Supervisor (DPS). The officers asked to see a refusals book, but the duty manager was unable to find it. Therefore the officers

instructed the duty manager to ensure this was rectified with the refusals register retrieved, kept in a safe place and updated as appropriate.

Further intelligence suggested alcohol was being sold to children, and on the 25th February 2011 the premises failed a second test purchase by selling four cans of lager to a child. Mr Dharni was present at the time, but was unable to provide a copy of either part A or part B of the premises licence, as the paperwork had allegedly been sent to the Council to have the premises name changed. The CCTV system had four poor quality cameras, and the monitor did not work. The premises did not display any proof of age posters, either challenge 21 or challenge 25. This is despite the Home Office mandatory code of licensing conditions which requires licensed premises to have a proof of age system in place. Staff when questioned showed little knowledge of challenging for ID. Super strength beers and ciders were on display along with a buy one, get one free offer for wine. A number of suspected counterfeit spirits on display were identified. Officers commented at the time that premises staff were hostile to police.

Mr Dharni subsequently had a meeting with Inspector Harris on the 4th March 2011 to discuss the failure. Mr Dharni was told about the possibility of review proceedings.

Inspector Harris discussed the premises issues with Mr Dharni, and gave him words of advice re CCTV, challenge 25 and staff training. Inspector Harris noted at the time that "Mr Dharni did not seem very aware of the requirements under the Licensing Act 2003 in terms of licensing objectives". Mr Dharni was also advised to seek advice in respect of his apparent lack of knowledge of licensing. Mr Dharni stated when asked about training that he had received training two years previously, but had arranged further training the following week.

A warning letter was issued to Mr Dharni together with recommended actions to prevent further underage sales on the 11th May 2011, a copy of which is attached.

A licensing visit was conducted by licensing police officers on the 6th April 2011. Mr Dharni was unable to provide either part A or part B of the premises licence upon request, stating that the documents had been sent off to the Council for amendment. Mr Dharni had stated on the 25th February at the time of the failed test purchase that part A and B of the licence had been sent to the Council for amendment. Mr Dharni also stated that he had not arranged staff training as he was awaiting contact from Trading Standards. These claims were investigated by Police Licensing and both found to be untrue. Subsequently Inspector Harris sent a letter to Mr Dharni on the 12th April 2011, a copy of which is attached. Police Licensing did not receive any formal response to this letter from Mr Dharni, despite a specific request that he make contact with Mr Bateup.

During the visit of the 6th April the CCTV was checked. Only four cameras were working and the images were of poor quality. The DPS stated that he had no idea how to operate the CCTV system. A new CCTV system had been acquired but had not been installed.

Mr Dharni was then asked about his refusals register, and he showed the officers a till based refusals system. However when Mr Dharni was asked by the officers to produce a print out or other output to show the refusals in the system, he admitted that he had no idea how to use it, in contravention of what he was asked to do on the 17th January 2011.

Police licensing officers conducted a visit at the premises on the 24th June 2011. They met Mr Tierri Gobeil, who introduced himself as the new manager of the premises and advised that the premises was under new management, and Mr Dharni was no longer contactable or the DPS of the premises. Mr Gobeil stated that he was attending a DPS training course on the 27th June and had applied for an alcohol licence. Alcohol was clearly on display inside the shop, which is a breach of the mandatory condition under S.19 (d) (a) of the Licensing Act 2003. In the circumstances Mr Gobeil was instructed to immediately remove all alcohol from display as there was no DPS. Mr Gobeil complied with this request.

Police licensing officers conducted a further licensing visit on the 26th June 2011 following the events two days before. They spoke to Mr Tierri Gobeil, who stated that he was the new general manager of the shop and confirmed that Mr Dharni had now vacated the premises, and had no further involvement in the running of the store. Mr Gobeil stated that Mr Antonello Cavallaro had purchased the business from Mr Dharni, and that Mr Fahran Haousbani was the new DPS. Mr Gobeil stated that they had taken over the business on the 29th May, and that all the paperwork to change the Premises Licence Holder and DPS has already been sent to Council Licensing. There was no alcohol on display in the shop.

A further visit was conducted on the 27th June when police officers spoke to Tierri Gobeil again. They informed Mr Gobeil that Council Licensing had not received any change of PLH and DPS paperwork in respect of the premises, despite Mr Gobeil's previous insistence that this had been completed. Mr Gobeil was advised that no alcohol could be displayed or sold unless and until the paperwork had been received at the Council offices. No alcohol was on display at the time of the visit. Police Licensing subsequently received copies of the DPS and PLH forms (dated 28th June) on the 29th June. The Committee will be aware that Sussex Police have objected to Mr Salvatore Capuano being the new DPS.

There is a problem in the City with premises selling illegal alcohol, with issues concerning suspected counterfeit alcohol being first identified at these premises during the failed test purchase on the 25th February 2011. Illegal alcohol includes counterfeit alcohol, non duty paid (smuggled or diverted) alcohol, incorrectly described alcohol, incorrectly labelled alcohol and alcohol which has incomplete or no traceability. As a result Trading Standards have been working in partnership with H M Revenue & Customs and Sussex Police to tackle the problem and have seen a progression in the tactics being used in order to introduce illegal alcohol into the market.

Sussex Police support the review application by Trading Standards, and in view of the serious nature of the crime associated with this premises, support the request for revocation of the premises licence.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Graham Bartlett', written over a horizontal line.

Graham Bartlett
Chief Superintendent
Divisional Commander
Brighton & Hove Division

Encs



HOVE POLICE STATION

Brighton & Hove Licensing Unit
Police Station
Holland Road
HOVE
BN3 1JY

Tel: 01273 66 59 43
Fax: 01273 66 55 24

Email: Brighton.Licensing@sussex.pnn.police.uk

12th April 2011

Mr Subodh Dharni
Dharni Stores
165-167 Hangleton Way
Hove
BN3 8EY

Dear Mr Dharni,

LICENSING ACT 2003

As you are aware, your premises is currently being monitored by Trading Standards and Police Licensing as alcohol was sold to a child in February of this year, and visits to your shop by police officers have confirmed that conditions on your licence are not being adhered to.

A visit was conducted at your premises on the 6th April by PCs Gotting and Beaumont. When asked to produce your premises licence, you stated to the two officers that you could not produce the licence as it had been sent to Brighton & Hove City Council Licensing Department for the premises name to be amended. I see from our notes that during a licensing visit by our officers on the 25th February 2011 when asked to produce the licence, the same justification for not producing the licence was given then too.

My staff have made contact with the Licensing Department at the Council today, who confirm that they have not received any paperwork from you with reference to the above claims, and the last paperwork amendments they received in respect of the premises was in 2006.

You also stated to officers during the visit on the 6th April when asked about training for your staff, that you are still waiting for Trading Standards to make contact with you. We have checked with Ms MacBeth at Trading Standards what the position is. Ms MacBeth says that she has not received any contact from you, and that a Trading Standards training booking form was supplied in person to the premises on the night of the failed test purchase on the 25th February 2011. To date that form has still not been completed and returned back to Trading Standards.

Please can you make contact with Mr Bateup at this office on the above number to confirm your position in relation to the above points.

Yours sincerely,



Victoria Harris
Licensing Inspector
Brighton & Hove Division
Hove Police Station

cc: Trading Standards Brighton & Hove City Council
Brighton & Hove City Council Licensing Department

This letter is served upon you and acts as a **formal written warning** relating to this incident.

A record has been kept by the Brighton & Hove Police Licensing Unit and this matter may be brought to the attention of the Magistrates, Senior Police Officers or Brighton & Hove City Council at any time in the future. Should incidents of a similar nature re-occur, this may jeopardise your licence.

It is advised that you take every effort and train staff accordingly to ensure that such instances do not re-occur in the future.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'V Harris', written over a circular stamp or seal.

Victoria Harris
Licensing Inspector
Hove Police Station

APPENDIX D

