

#### 4. REPORT

##### Background

A premises licence was originally granted in June 2008. Mr Patel transferred the licence in 2015 after being found to be trading at the premises and supplying alcohol under the previous owners details as he had failed to transfer the licence. Mr Patel admits that he was responsible at the premises when the illicit alcohol and cigarettes were found.

##### Licensable activities authorised by the Licence:

##### The times the Licence authorises the carrying out of licensable activities:

##### Supply of Alcohol

<b>Monday to Saturday</b>	<b>0800 to 2300</b>
<b>Sunday</b>	<b>1000 to 2230</b>
<b>Good Friday</b>	<b>0800 to 2230</b>
<b>Christmas Day</b>	<b>1200 to 1500 &amp; 1900 to 2230</b>
<b>New Years Eve</b>	<b>from the start of permitted hours on 31 December until the start of permitted hours on 1 January</b>

The designated premises supervisor is: Mr Anit Patel

##### 4.2.1 Details of the Application for Review and Supporting Documentation. Appendix 1

The application for the review has been made on the following grounds:

The operation of the premises has failed to uphold the Licensing Objectives of The Prevention of Crime and Disorder and Public Safety.

The premises were found to be stocking and selling non duty paid tobacco and alcohol from the premises.

Mr Patel was also found to be selling beers and larger cheaper than permitted by the mandatory condition requiring that alcohol is sold at cost plus VAT. The premises was doing so in an irresponsible fashion and placed income above retailing alcohol responsibly in the area. This mandatory condition was imposed to stop the sale of cheap alcohol that that make people drink in excess which has a detrimental effect on health and also on the community as a whole.

#### 5.0 RELEVANT REPRESENTATIONS (CONSULTATION)

##### Responsible authorities:

##### 5.1 Comments of Metropolitan Police

No representation made.

##### 5.2 Comments of Enforcement Services:

No representation made

### **5.3 Comments of The London Fire and Emergency Planning Authority**

No representation made.

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## **6.0 Comments of Interested Parties**

No comments made.

## **7.0 POLICY CONSIDERATIONS**

### **7.1 The following provisions of the Licensing Act 2003 apply to this application: Section 51-53 (review of premises licenses)**

In determining the application the Licensing Sub Committee can take such steps as it considers necessary for the promotion of the licensing objectives, which are:

1. Take no further action
2. modify the conditions of the license
3. exclude a licensable activity from the scope of the license
4. remove the designated premises supervisor
5. suspend the license for a period not exceeding three months
6. revoke the license.

Where the Licensing Sub Committee takes steps mentioned in 3 or 4 it may provide that the modification or exclusion is to have effect for one such period (not exceeding three months) as it may specify. The Licensing Sub Committee is asked to give full reasons for its decision.

The Licensing Sub Committee must make its decision within 5 working days of the end of the hearing. Any decision of the Licensing Sub Committee is stayed from coming into effect for 21 days from the date of the decision, pending any appeal that might be made and the determination of that appeal. Any party to the proceedings may appeal against the decision of the Licensing Sub Committee.

### **8.0 The following provisions of the Secretary of State's guidance apply to this application: Paras 11.24-11.28 These provisions are attached at Appendix 2.**

### **8.1 The following paragraphs of the licensing authority's Statement Of Licensing Policy apply to this application; Section 78, these provisions are attached at Appendix 3.**

### **8.2 The Licensing Sub Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property which may include licences in existence, and the protection of private and family life.**

## PREMISES LICENCE

Receipt: AG870335

Premises Licence Number: LN/000006431

*This Premises Licence has been issued by:*

**The Licensing Authority, London Borough of Haringey,  
6<sup>th</sup> Floor Alexandra House, 10 Station Road,  
Wood Green, London, N22 7TR**

Signature: .....

Date: 17<sup>th</sup> June 2008

Trans & Vary DPS: 20<sup>th</sup> October 2015

### Part 1 – PREMISES DETAILS

**Postal Address of Premises or, if none, Ordnance Survey map reference or description:**

**COSTCUTTER TOTTENHAM POST OFFICE  
824-828 HIGH ROAD  
TOTTENHAM  
LONDON  
N17 0EZ**

Telephone: 020 8808 4104

**Where the Licence is time limited, the dates:**

Not applicable

**Licensable activities authorised by the Licence:**

Supply of Alcohol

**The times the Licence authorises the carrying out of licensable activities:**

Supply of Alcohol

Monday to Sunday      0700 to 0000 hours

**The opening hours of the premises:**

Monday to Sunday      0700 to 0000 hours

**Where the Licence authorises supplies of alcohol whether these are on and/or off supplies:**

Supply of alcohol for consumption **OFF** the premises only

**Part 2**

**Name, (registered) address, telephone number and e-mail (where relevant) of holder of Premises Licence:**

Anit Patel  
824-828 High Road  
Tottenham  
London  
N17 0EZ

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

Not applicable

**Name, address and telephone number of designated premises supervisor where the Premises Licence authorises the supply of alcohol:**

Anit Patel  
1 Shenleybury Cottages  
Shenley  
Radlett  
WD7 9DJ

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

Licence number:	DAC021067
Issued by:	Decorum Borough Council

## **Annex 1 –Mandatory Conditions**

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

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

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

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. 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.

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.

## **Annex 2 – Conditions consistent with the Operating Schedule**

There will be training of all staff on the premises to ensure that they understand and adhere to the law relating to the sale of alcohol.

### **THE PREVENTION OF CRIME AND DISORDER**

CCTV will be installed and maintained so that it is fully operational at all times, and tapes to be kept in accordance with police guidelines.

Recordings to be kept for a minimum of 30 days and made available to Police and Council officers upon request

Alarm system will be in place.

Shutters will be fitted at front windows.

### **PUBLIC SAFETY**

All staff trained to deal with any outbreak of fire at the premises.

Fire extinguishers will be installed and regularly serviced in accordance with fire authority guidelines.

Fire risk assessment and emergency plan will be completed.

### **THE PREVENTION OF PUBLIC NUISANCE**

Anyone who is drunk or appears to be buying alcohol for someone who is drunk will be refused the sale of alcohol.

### **THE PROTECTION OF CHILDREN**

Scheme 21 to be operated at all times, and all staff will be trained to accept only a proof of age (pass scheme). Card, passport, or photo driving licence as acceptable forms of ID when selling alcohol to young people.

Signs will be displayed at point of sale stating "No Proof of Age, No Sale".

A refusal book will be kept at the premises and maintained at all times.

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

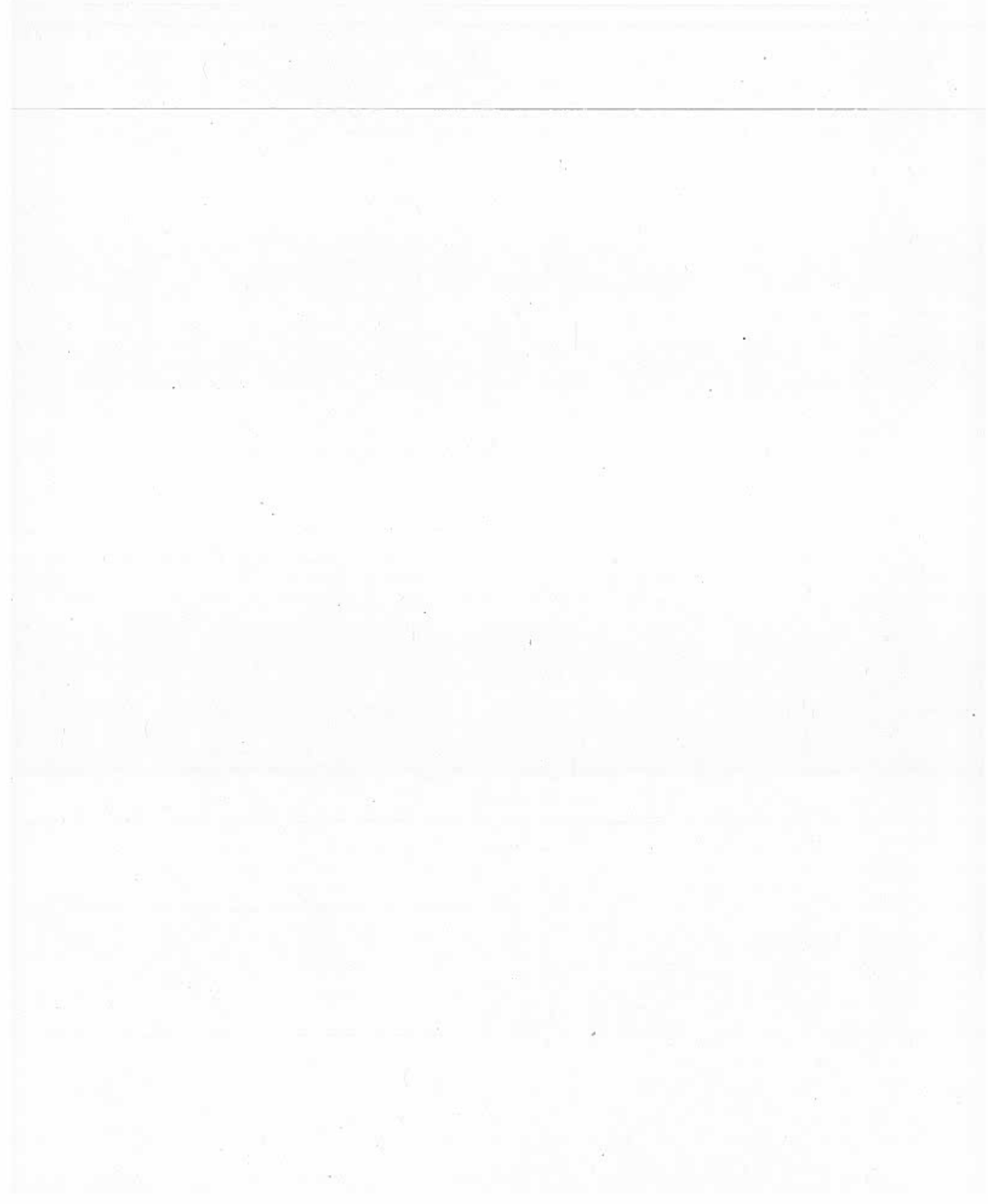
Not applicable

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**Annex 4 – Plans**

**LODGED WITH LICENSING AUTHORITY**



## APPENDIX 1 – APPLICATION FORM

# **PUBLIC NOTICE**

## **Notice of Application for the review of a Premises Licence.**

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Notice is given that application has been made to the Licensing Authority for a review of the premises license under s.51 and 87 of the Licensing Act 2003 in respect of the following premises:

**COSTCUTTER  
824-828 HIGH ROAD  
TOTTENHAM  
LONDON N17 0EY**

The application for review has been made on the following grounds:

### **THE OPERATION OF THE PREMISES HAS FAILED TO UPHOLD THE LICENSING CONDITIONS AND THE OBJECTIVE OF:**

- **THE PREVENTION OF CRIME & DISORDER**
- **PUBLIC SAFETY**

**Failing to uphold and promote the prevention of crime and disorder and public safety objective by selling non duty paid goods on the premises namely cigarettes and alcohol over a period of time.**

Interested parties or responsible authorities wishing to make representations must give notice in writing to:

**Lead Officer – Licensing, Haringey Council, Alexandra House, Level 6,  
10 Station Road, Wood Green, London N22 7TR.**

**By: 1<sup>st</sup> SEPTEMBER 2016**

The grounds for review and Haringey Councils Licensing register may be viewed by appointment Monday to Friday (except Bank Holidays) at the Licensing Team, Alexandra House, Level 6, 10 Station Road, Wood Green, London, N22 7TR between the hours of 10.00am and 4.00pm.

**IT IS AN OFFENCE LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE (£5000), UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

[Insert name and address of relevant licensing authority and its reference number (optional)]

**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 Rebecca Whitehouse/Felicia Ekemezuma Responsible Authority for Trading Standards**

(Insert name of applicant)

**apply for the review of a premises licence under section 51 / apply for the review of a club  
premises certificate under section 87 of the Licensing Act 2003 for the premises described in  
Part 1 below (delete as applicable)**

**Part 1 – Premises or club premises details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> Costcutter /Tottenham Post office 824-828 high Road London N17		HARINGEY COUNCIL LICENSING RECEIVED  - 5 AUG 2016
<b>Post town</b> Tottenham	<b>Post code (if known)</b> N17 0EY	
<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Anit PATEL		
<b>Number of premises licence or club premises certificate (if known)</b> LN000006431		

**Part 2 - Applicant details**

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible  
authority (please read guidance note 1, and complete (A)  
or (B) below)

☐

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 ✓ yes

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)**

During the inspection of the shop officers discovered foreign cigarettes behind the counter of the shop premises and in larger quantities in a store room. The cigarettes found had not had their UK Duty paid as required by the Customs and Excise Management Act.

In addition to the 620 cigarettes found behind the counter which are detailed in Officer HOANG's statement a further 1,800 Marlboro Gold Cigarettes, 1,400 Winston Cigarettes and 400 Minsk Cigarettes. were found in a carrier bag in a storeroom.

As well as being not UK Duty paid the cigarettes also did not have the correct statutory health warnings which are legally required for the UK market. Having these cigarettes in possession for supply on a shop premises is a breach of Regulation 14 (1) of the Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002 as they do not bear the required warning "smoking kills" or "Smoking seriously harms you and others around you" and on the other most visible surface a prescribed picture warning . This can be a criminal offence under Section 12(1) of the Consumer Protection Act 1987.

An examination of the alcoholic spirit in the shop and storeroom revealed a total of 385.03 litres of spirits which were not Duty Paid. These spirits included Glens Vodka which had fake rear labels and a fake Duty Stamp. Although the product itself was genuine the rear label was fake. The fake Duty Stamp could give the impression to Consumers that the goods were legal to sell when they are not which can be an offence under the Consumer Protection From Unfair Trading Regulations 2008.

It can be an offence under Section 144 of the Licensing Act 2003 for the Designated premises

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address L.B.Haringey Trading Standards Service 6 <sup>th</sup> Floor, Alexandra House, 10 Station Road, London N22 7TR
Telephone number (if any) <b>020 8489-5158</b>
E-mail address (optional) Rebecca.whitehouse@haringey.gov.uk

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

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

**Please tick one or more boxes ✓**

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

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

**This application to review relates to the objectives to prevent crime and disorder and public Safety**

On 14<sup>th</sup> October 2015 at approximately 10:25 AM Officers of the Trading Standards Service and Her Majesty's Revenue and Customs (HMRC) carried out inspection of the licensed premises. Anit Patel was initially not present but arrived very shortly after the commencement of the visit.

During the visit Anit PATEL informed Trading Standards that he was the Premises Licence Holder.

An inspection was carried out by officers and an examination was made of the area behind the counter and a further inspection was carried out of the store rooms.

Supervisor and Premises Licence holder to knowingly keep or allow goods to be kept on the premises which have been imported without payment of duty.

In total goods 4,220 cigarettes were seized together 385.03 litres spirits - which represents a Duty Loss of £5422.35 .

After the visit the Licence of the premises was examined and it became apparent the Mr Anit PATEL was not the Premises Licence Holder as he had stated and the matter was referred by Trading Standards to the Licensing Team.

On 20<sup>th</sup> October 2015 after an intervention by Licensing officers the Premises Licence was transferred to Anit PATEL. The explanation given by Anit PATEL at the time was that the Premises Licence was still in the name of the company which managed the business previously and that the "Head Office" had through an oversight not initiated the transfer when the shop had been taken over.

In our submission therefore, at the time of the visit on 14<sup>th</sup> October therefore Anit PATEL was to all intents and purposes in control of the sale of alcohol at the premises and acting in the capacity of the Premises Licence Holder and Designated Premises Supervisor.

On 3<sup>rd</sup> December 2015 Anit PATEL under Caution in accordance with the Police and Criminal Evidence Act 1984. He confirmed the stock was his and that he ran the shop side of the business while his wife ran the Post office.

He stated that the cigarettes were his and that he was using them as a promotional tool giving



them away to customers.

Trading Standards are concerned at the possession for supply of illicit tobacco and alcohol for the following reasons:

- The willingness to intentionally or recklessly break one law indicates the business is less likely to be compliant with other laws.
- The sale by retailers of illicit goods gives them an unfair advantage over law abiding businesses.
- Illicit goods are often smuggled into the country and / or produced by organised crime. It is believed that the profits are frequently used to fund other types of serious organised crime.
- The trade in illicit alcohol and tobacco causes huge losses to the UK's tax revenues.
- The trade in illicit alcohol and tobacco facilitates teen drinking and smoking
- The trade in illicit alcohol and tobacco makes it harder to beat addiction
- The trade in illicit cigarettes poses a risk to public safety through increased risk of fire from non fire retardant cigarettes.
- Illicit goods may be harmful as they do not come from legitimate, legal and/or traceable suppliers. There is no guarantee that they are safe and comply with other legislation.
- Supplying tobacco products with incorrect health warnings undermines the effectiveness of public health messages designed to discourage smoking.

Section 13(4) of Licensing Act 2003 and Regulation 7 of The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 makes a local weights and measures authority a responsible authority for the purposes of the legislation. The London Borough of Haringey is a local weights and measures authority and that function is carried out by the Trading Standards team.

Here is a summary of events supporting this application:-

Date	Event	Description
9 <sup>th</sup> August 2014 –	Provided information on responsible retailer scheme	Information package to assist businesses in trading responsibly. Business invited to sign up to the scheme
6 <sup>th</sup> August 2015 20 <sup>th</sup> August 2015	Provided further information on responsible retailer scheme	Information package to assist businesses in trading responsibly. Business invited to sign up to the scheme
14 <sup>th</sup> October 2015	Inspection of Shop carried out by Trading Standards and HMRC	In total goods 4,220 cigarettes were seized together 385.03 litres spirits - which represents a Duty Loss of £5422.35 . Mr Anit Patel identifies to be the licence holder.
14 <sup>th</sup> October 2015	Mr Anit Patel found to be operating without a licence	Discussion with licencing team. Mr Anit PATEL not the licence holder. Premises Licence was still in the name of the company which

		managed the business previously and that the "Head Office" had through an oversight not initiated the transfer when the shop had been taken over. Although Mr A PATEL was in charge and acting as the licence holder
20 <sup>th</sup> October 2015	Anit PATEL applies for and obtains a transfer of the premises Licence	Anit PATEL becomes the Premise Licence Holder and the Designated Premises Supervisor
3 <sup>rd</sup> December 2015	PACE Interview	Anit PATEL interviewed under Caution by Trading Standards
1 <sup>st</sup> July 2016	Inspection of shop minimum pricing	1 line of Polish Beer found to be provided below minimum pricing level
27 <sup>th</sup> July 2016	Responsible Retailer Scheme	Signed up to scheme
18 <sup>th</sup> August 2016	Hearing scheduled	Consumer Protection from Unfair trading Regs – possession of illicit alcohol

### Recommendations:

This Licensee has clearly demonstrated that there is a breakdown in due diligence in respect to the sourcing of legitimate products to be sold by the business and a failure to pay substantial amounts of Duty to HMRC.

Cigarettes were being sold by the Licensee by his own admission at prices considerably below the Duty rates payable to HMRC.

There is evidence that the Designated Premises Supervisor and Premises Licence Holder Anit PATEL has been involved in serious breaches of the law and has disregarded legal requirements. This gives me severely reduced confidence in his willingness to fulfil his responsibility to promote the licensing objectives or to exhibit the highest standards of management.

The business has received a number of support visits to engage them in responsible trading and encourage them to sign up to the Council's responsible Retailer Scheme. Despite this, illicit goods were found on the premises. Now that the business is facing legal action Mr A Patel has signed up to the scheme.

I would submit that the Committee consider adding the following conditions to the Licence

1. The Premises Licence Holder and Designated Premises Licence Holder shall ensure alcohol is only purchased from an authorised wholesaler and shall produce receipts for the same upon request for inspection. (An authorised wholesaler means an established warehouse or trade outlet with a fixed address and not a van or street trader, even if they claim they are part of, or acting on behalf of, an authorised wholesaler who provides full itemised VAT receipts).
2. The Premises Licence Holder and Designated Premises Supervisor shall ensure persons responsible for purchasing alcohol do not take part in any stock swaps or lend or borrow any alcohol goods from any other source unless the source is another venue owned and operated by the same company who also purchase their stock from an authorised wholesaler.
3. The Premises Licence Holder shall ensure all receipts for alcohol goods purchased include the following details:
  - I. Seller's name and address
  - II. Seller's company details, if applicable
  - III. Seller's VAT details, if applicable
  - IV. Vehicle registration detail, if applicable
4. Legible copies of the documents referred to in Condition 3 above shall be retained on the premises and made available for inspection by Police and authorised Council Officers on request.
5. Copies of the documents referred to in Condition 3 above shall be retained on the premises for period of not less than twelve months.
6. An ultra violet light shall be purchased and used at the store to check the authenticity of all stock purchased which bears a UK Duty Paid stamp.

7. Where the trader becomes aware that any alcohol may be not duty paid they shall inform the The Council of this immediately.
8. All tobacco products which are not on the covered tobacco display cabinet shall be stored in a container clearly marked 'Tobacco Stock'. This container shall be kept within the store room or behind the sales counter.
9. Tobacco shall only be taken from the covered tobacco display cabinet behind the sales counter in order to make a sale.
10. only products available for retail sale can be stored at the licensed premises.

I also recommend that the Committee consider suspending the Licence for a period of one month.

No conditions have previously been attached by the Licensing Authority.

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

**Attached Documents**

1. Statement of HMRC Officer HOANG in relation to visit on 14<sup>th</sup> October 2015
2. Photographs of samples of Goods Seized on 14<sup>th</sup> October 2015
3. Transcript of PACE interview with Trading Standards on 3<sup>rd</sup> December 2015

Please tick ✓ yes

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

☐

If yes please state the date of that application

Day Month Year

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**If you have made representations before relating to the 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 4)

**Signature of applicant or applicant's solicitor or other duly authorised agent** (please read guidance note 5). If signing on behalf of the applicant please state in what capacity.

Signature

*John McAule*

Date

*5/8/16*

Capacity

*Manager CEH/FS*

**Contact name (where not previously given) and postal address for correspondence associated with this application** (please read guidance note 6)

**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. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.





## Appendix 2 – Section 182 Guidance

- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)<sup>10</sup>;
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

**11.20** In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

**11.21** For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

**11.22** Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

**11.23** Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

## **Reviews arising in connection with crime**

**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.

<sup>10</sup> See chapter 15 in relation to the licensing of live and recorded music.

- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.
- 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
  - for the sale and distribution of illegal firearms;
  - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
  - for prostitution or the sale of unlawful pornography;
  - by organised groups of paedophiles to groom children;
  - as the base for the organisation of criminal activity, particularly by gangs;
  - for the organisation of racist activity or the promotion of racist attacks;
  - for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
  - for unlawful gambling; and
  - for the sale or storage of smuggled tobacco and alcohol.
- 11.28 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

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## **Appendix 3 – Licensing Policy**

- The prohibition of the participation of customers in the performance
- The maintenance of a minimum distance of 1 metre between performer and customers during the performance
- The provision of CCTV and the maintenance of a library of recordings
- A code of conduct for dancers including appropriate disciplinary procedures for failure to comply with the code
- Rules of conduct for customers, including appropriate procedures for breach of these rules
- Procedures to ensure that all staff employed in the premises have pre-employment checks including suitable proof of identity, age and (where required) permission to work
- The provision of supervisors and security staff
- Other necessary steps to be taken, including in the recruitment or supply of performers, is free of the influence or organised criminal activity

**78 The sale and possession of smuggled, bootlegged or counterfeit Products and the handling of stolen goods**

The guidance to the Act indicates that offences can be committed by certain persons in licensed premises if they allow the sale or supply of smuggled, bootlegged or counterfeit goods on the premises. This is in particular relation to alcohol or tobacco products, but may also include the sale of other counterfeited products such as DVDs and CDs and the handling of stolen goods.

Smuggled – foreign brands illegally brought into the UK

Bootlegged (duty evaded) foreign products brought into the UK in illegal quantities and / or resold in the UK

Counterfeit – Fake goods and packaging. Cheap low quality and often dangerous products packaged to look like premium UK brands

Offences are for selling illicit products but also for employees permitting sales and for employees buying or selling. The Home Office guidance indicates that these offences are taken particularly seriously. To prevent these offences occurring, the licensee should consider taking certain precautions. Advice on this can be obtained from the council's trading standards service.

**79 Theft of personal property**

Recent analysis of crime statistics has given rise to increasing concern over levels of theft of personal property within licensed premises, especially within the developing northern-western riverside area of the borough. Licence applicants are asked to give consideration to appropriate control measures within their risk-assessments and operating schedules.

Important steps that can be taken to reduce the risk of theft of personal property include:

- Raise the level of awareness among customers of the risk of theft of personal property through crime prevention information. This is especially important within premises where there is a high level of transient, tourist trade
- Provide controlled cloakroom areas
- Provide Chelsea clips under tables
- Ensure all areas of the premises are well lit and able to be observed by staff. Direct staff to observe the customer areas and politely raise with customers when personal belongings are unattended
- Provide and publicise internal CCTV