

WBC Licensing and Control Committee 'B'

Date: 31 October 2013

Time: 6.00 pm

Venue: Gordon Room, Town Hall, Chapel Road, Worthing

Councillors John Rogers (Chair), Vicky Vauhan (Vice-Chair), Noel Atkins, Roy Barraclough, Keith Bickers, Christine Brown, David Chapman, Norah Fisher, Paul Howard, Diane Jones, Roger Oakley, David Potter, Val Turner, Nicky Waight, Vic Walker

Agenda

Part A

1. Declarations of Interest

Members and Officers are invited to make any declarations of disclosable pecuniary interests that they may have in relation to any items on this Agenda. The declaration should refer both to the nature of the interest as well as its existence.

Members and Officers may seek advice upon any relevant interest from a Legal Officer prior to the meeting.

2. Minutes

To approve the minutes of the meeting of the WBC Licensing and Control Committee 'B' held on the 26 March 2013 and the WBC Licensing and Control Sub-Committees held on 1 May 2013, 10 July 2013, 31 July 2013, 14 August 2013 and the 28 August 2013

3. Public Question Time

To receive any questions from Members of the public in accordance with Standing Order 3.12.

(**Note:** Public Question Time will last for a maximum of 15 minutes)

4. Items Raised Under Urgency Provisions

To consider any items the Chairman of the meeting considers to be urgent.

5. Application for a Review of a Premises Licence of South Farm Food and wine, 145 South Farm Road

To consider a report by the Executive Head of Housing, Health and Community Safety, copy attached as item 5

Part B - Not for Publication – Exempt Information Reports

None

For Democratic Services enquiries relating to this meeting please contact:

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**Licensing Act 2003
Application for a Review of a Premises Licence under Section 51**

**'South Farm Food & Wine'
145 South Farm Road, Worthing BN14 7AX**

Report by the Executive Head of Housing, Health & Community Safety

1. Recommendation

- 1.1 That the full Licensing & Control Committee "B" consider and determine the application from:

West Sussex County Council Trading Standards Service
for a 'Review' of Premises Licence No. LN/000001768 which authorises the sale of alcohol, for consumption off the premises, at the above store.

2. Reasons for the Hearing

- 2.1 An application for the Review of the above Premises Licence held by
Mr Gopalan Ketheeswaran
on the grocery store & off licence known as 'South Farm Food & Wine', has been received from Philip Lipscomb, Operation Manager, on behalf of West Sussex County Council Trading Standards Service - a Responsible Authority as defined in the Act.
- 2.2 Worthing Borough Council is the Licensing Authority that granted the above licence and it therefore falls to members to determine this application.

3. Background

- 3.1 Mr Lipscomb made application to Worthing Borough Council on 10 September 2013 for a review of the premises licence at the above store. This licence authorises the sale of alcohol for consumption off the premises. It has been held by Mr Ketheeswaran since July 2007.
- 3.2 Mr Ketheeswaran is also the current Designated Premises Supervisor (DPS). He holds a Personal Licence issued by the London Borough of Harrow Council.
- 3.3 A plan of the area is attached. (Appendix A)

- 3.4 A plan of the store is attached. (Appendix B)
- 3.5 The application is for a review of the licence due to representations made regarding the following licensing objective:
- Protection of Children from Harm (Appendix C)
- 3.6 The current Premises Licence allows:
- a) Sale of alcohol between:
06.00hrs and 00.00hrs (midnight) Monday to Sunday incl.
- b) Hours the premise can open to the public:
06.00hrs and 00.00hrs (midnight) Monday to Sunday incl.
(Appendix D)
- 3.7 A copy of the mediated agreement reached between applicant and licence holder is attached. (Appendix E)

4. The Application

- 4.1 The Application for Review is attached at **Appendix C**.
- 4.2 The application is made on behalf of West Sussex Trading Standards Service, a responsible authority as defined in Section 13 of the Act, and includes detailed information supporting their case that the licence holder is undermining the Licensing Objectives:
- The Protection of Children from Harm by selling alcohol to a person under 18 years of age in contravention of Section 146 of the Licensing Act 2003
- 4.3 The application requests members consider:
- Suspension of the licence and/or
 - Imposition of a number of specific conditions to the premises licence.

5. Promotion of the Licensing Objectives

- 5.1 The Licensing Act 2003 and its regulations require that the Council, as local licensing authority, carries out its functions with a view to promoting the four licensing objectives:
- the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance;
 - the protection of children from harm.

According to the Home Office Guidance each objective is of equal importance. It is important to note that there are no other licensing objectives, so that these four objectives are paramount considerations at all times.

- 5.2 In carrying out its licensing functions, the licensing authority must also have regard to the aforementioned Guidance issued by the Home Secretary and its own Statement of Licensing Policy. Members are advised that the following sections of

the Worthing Borough Council's Policy may be particularly relevant to consideration of this matter, though of course the Policy in its entirety must be considered. Sections indicated relate to paragraph numbers in the Policy itself:

Prevention of crime and disorder

- 4.2 *The Council places huge importance on the prevention of crime and disorder. A high standard of control is, therefore, expected to be exercised over licensed premises.*
- 4.3 *In accordance with Section 17 of the Crime and Disorder Act 1998 the Council is under a duty to exercise its functions with due regard to the likely effect on, and the need to do all it reasonably can to prevent, crime and disorder in its areas. The possible crime and disorder implications are clearly relevant factors in the consideration of all applications and this is re-emphasised by the Licensing Act 2003 itself, the Guidance issued under section 182 to the Act and this policy. The Council will give "due regard" to all possible implications and its Licensing & Control Committee will always consider all the information available and relevant representations made, including those from interested parties and the responsible authorities, particularly the Police.*

Protection of Children from Harm

- 4.28 *It is an offence to sell alcohol to an individual aged under 18. Licence holders are required to consider carefully ways to ensure that the sale of alcohol is restricted to those over the age of 18. Popular schemes include the 'Challenge 25 scheme' whereby if the individual looks under 25; they are required to prove that they are over the age of 18 when buying alcohol or tobacco. Acceptable forms of proof are: a photo card driver's licence, passport or PASS. PASS is the national guarantee scheme for proof-of-age, which is fully supported by the Home Office. Applicants are encouraged to introduce such schemes and detail them in operating schedules. The council may impose conditions requiring such schemes if relevant representation is received. Special care should be exercised and the licensed trade should be alert to counterfeit IDs and their fraudulent use.*

Off sales of alcohol – Stores & Supermarkets

- 7.1 *The Home Office Guidance to the Act recommends that shops, stores and supermarkets selling alcohol should generally be permitted to match the hours during which they may sell alcohol with their normal trading hours, unless there are exceptional reasons related to the licensing objectives, in particular 'the prevention of crime and disorder' and 'the prevention of public nuisance'.*
- 7.4 *Selling alcohol to a person who is drunk or to a person who is under the age of 18 are both offences under the Licensing Act. The council recognises that the vast majority of licensees are very aware of their responsibilities and the duty of care they have selling alcohol to the public. However, the council takes both these issues extremely seriously.*
- 7.5 *The Council considers it vital that licence holders provide formal and effective training to all staff involved in the sale of alcohol to recognise members of the public who are drunk or underage and give their staff the ability and confidence to refuse service. The council will expect operating schedules to demonstrate that the licence holder has considered such matters and addressed them as far as possible and that*

formal training records are kept on the premise and are to be made available for inspection by Police and/or Licensing Unit officers on request.

- 7.6 *Over recent years problems associated with street drinking have been experienced across the borough but particularly in the town centre, on the promenade, the beach and Worthing's public parks & gardens. While there are some areas with recurring problems with regard to street drinking groups they also crop up in different areas at different times. These individuals and the shops that supply them can be a focus of antisocial behaviour, disorder and disturbance. The supply of alcohol to individuals involved in the day-long consumption of alcohol on the street and in open spaces can directly lead to these groups of drinkers causing various types of crime, public nuisance and anti-social behaviour.*
- 7.11 *When requested by the police, or other authorities, the Licensing Authority may impose on new applications, or on existing licences at review, conditions requiring:*
- *No sales of alcoholic beverages over a specified limit of alcohol by volume or of specified quantities (e.g. of beers, lagers and ciders over 6.0% alcoholic content by volume).*
 - *No sales of single cans or bottles of beer, lager and cider in containers containing less than 500ml.*
 - *No sales of miniature bottles of wine or spirit in units of less than 35cl.*
 - *Other conditions may be imposed directed at reducing problematic street drinking.*
 - *Conditions stopping irresponsible drink promotions that do not follow best practice, that would appeal to underage drinkers or street drinkers or encourage excessive consumption.*
 - *Conditions relating to the positioning of alcohol within the shop and the types of displays of alcohol within the store. Particularly those displays that might appeal to younger consumers.*
- 7.12 *From October 2010 it became a mandatory condition that all licence holders selling alcohol put in place an age verification policy for the premises. In some circumstances the Council will impose, where necessary to promote the licensing objectives, implicit conditions on the checking of the age of those who appear under 21 or 25 to ensure that alcohol is not sold to those under 18 years of age.*
- 7.13 *Licence holders need to have sufficient day to day control of operations at their premise. They will be held responsible for breaches of the licence and ensuring there is adequate staffing and training. The authorities will continue to use young people for the 'test purchasing' of alcohol and CCTV evidence, which has proved its usefulness in prosecutions for unlawful sales of alcohol. The likely consequences of a review of licence for underage sales include the imposition of additional conditions such as the attendance of a personal licence holder, licence suspensions and in some cases revocation to act as deterrence.*

Enforcement

- 9.1 *Once licensed, it is essential premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the 2003 Act and the Council will make arrangements to monitor premises.*

Reviews

- 10.9 *The 2003 Act provides a clear focus on the promotion of the four statutory licensing objectives which must be addressed when licensing functions are undertaken. The*

Act provides tough powers, in the form of the review procedure, to enable licensing authorities to bring the minority of badly managed premises, which are failing to promote the licensing objectives, into line with the best.

10.11 *When considering an application for a Review the priority of the Licensing Authority will be to establish the cause or causes of the concerns and failures and to take necessary and proportionate remedial action.*

10.12 *However, when considering applications for Review arising in connection with crime (this includes underage alcohol sales) deterrence is an appropriate objective. Whilst punishment may not strictly be a valid tool on an application for Review in cases where there has been activity in connection with crime, deterrence can be. The Licensing Authority will not confine its decision simply to considerations of remedying. To simply re-emphasise conditions which clearly have not been adhered to in the past will not in most cases prevent further breaches of the law in the future and consequently would not promote the Licensing Objectives.*

6. Consultation

6.1 The application has been subject to the statutory consultation and statutory public advertisement arrangements in accordance with the provisions of the Act, in respect of which representations have been received from the following:

- Members of the public – None
- Responsible Authorities – None

7. Relevant Representations

7.3 As a result of consultation the application received no further representations to add to the Trading Standard Service's application.

8. Mediation

8.1 As part of the review process the Licensing Act encourages, where possible, mediation.

8.2 Mediation between West Sussex Trading Standards Service and the licence holder, Mr Ketheeswaran, has been successful and an agreement reached.

8.3 They propose that the following conditions would be appropriate measures to promote the licensing objectives and invite members to impose these as enforceable conditions of licence:

- All staff members engaged, or to be engaged, in selling alcohol or other restricted products on the premise shall receive full training pertinent to the Licensing Act and other appropriate legislation, specifically in regard age-restricted sales, and the refusal of sales to persons believed to be under the influence of alcohol or drugs.
- Induction training must be completed, and fully documented, prior to the sale of alcohol and other age restricted products by the staff member and refresher training thereafter at intervals of no less than six months. Written records of all restricted sales training and refresher training undertaken by staff members shall be fully documented and recorded. All training records

shall be made available to the Sussex Police, Licensing Authority and Trading Standards officers upon request.

- The store shall at all times maintain and operate a sales refusals book and an incident log which may be electronically recorded, and shall be kept on the premise to record all refusals and incidents of crime or disorder. These records will be made available to Sussex Police, Licensing Authority and Trading Standards officers upon request.
- A “Challenge 25” policy will be introduced and operated at the store whereby any person attempting to buy alcohol or other age restricted products who appears to be under 25 will be asked for photographic ID to prove their age. The only form of ID that will be accepted are passports, driving licences with a photograph or Portman Group, Citizen card or validate proof of age cards bearing the “PASS” mark hologram. Suitable and sufficient signage advertising the “Challenge 25” policy will be displayed in prominent locations in the premise.
- A suitable till prompt is introduced when available to remind staff to check and confirm that the customer is over 18 before selling alcohol or any other age restricted product. In the absence of this facility a sticker on the front of the till reminding all staff that ID must be asked for if customers are buying age related products.
- The serving counter is to be kept so that members of staff have a clear view of the shop and customers.

9. Consideration

9.1 The legislation provides a clear focus on the promotion of four statutory objectives, listed at 5.1 above, which must be addressed when licensing functions are undertaken. Each objective is of equal importance and it is important to note that there are no other licensing objectives, so that these four objectives are paramount considerations at all times.

9.2 But members should note that the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:

- *Necessary protection of local residents, whose lives can be blighted by disturbance and anti-social behaviour associated with the behaviour of some people visiting licensed premises of entertainment;*
- *Introduction of better and more proportionate regulation to give business greater freedom and flexibility to meet customers’ expectations;*
- *Greater choice for consumers, including tourists, about where, when and how they spend their leisure time;*
- *Encouragement of more family friendly premises where younger children can be free to go with the family;*
- *Further development within communities of our rich culture of live music, dancing and theatre, both in rural areas and in our towns and cities;*
- *Regeneration of areas that need the increased investment and employment opportunities that a thriving and safe night-time economy can bring.*

- 9.3 When determining this application members need to carefully consider the following:
- The four statutory licensing objectives
 - Worthing Borough Council's 'Statement of Licensing Policy'
 - 'Guidance issued under Section 182' by the Home Secretary
 - The application, relevant representations and the testimony of the parties.
- 9.4 These are the only matters to be addressed by the authority when considering this review application. The statutory licensing objectives are the only grounds on which representations can be made, and the only grounds on which an authority will be able to refuse an application, suspend or revoke a licence or impose conditions.
- 9.5 When considering an application for a review, pursuant to s51 of the Act, the following options are available to the Committee to ensure promotion of the Licensing Objectives:
- Take no action.
 - Issue an informal warning to the licence holder and/or recommend improvement within a particular period of time.
 - Modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition).
 - Exclude a licensable activity from the scope of the licence.
 - Remove the designated premises supervisor because they consider the problems are the result of poor management.
 - Suspend the licence for a period not exceeding three months
 - Revoke the licence.
- 9.6 In this case particularly consideration should be given to the agreement arrived at between the applicant and licence holder (see paragraph 8.3). Members should satisfy themselves that if the conditions proposed by the parties were imposed on the licence they would allow the Licensing Objectives to be met and act as a suitable deterrent.
- 9.7 If members are satisfied then it is recommended that the conditions are noted and imposed on this Premises Licence. If , however, members are not satisfied and of a mind to impose a different decision then the importance of paragraph 9.10 of this report must be emphasised in that the committee must give clear and precise reasons for their decision so that it can be defended in a court of law if necessary.
- 9.8 In determining an application for a review the following sections of the Home Secretary's **Guidance issued under section 182 of the Licensing Act 2003** (Amended – June 2013) should be taken into account,

Powers of a licensing authority on the determination of a review

11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence

holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

- 11.18 *However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.*
- 11.19 *Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:*
- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;*
 - exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);*
 - remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;*
 - suspend the licence for a period not exceeding three months;*
 - revoke the licence.*
- 11.20 *In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response.*
- 11.21 *For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.*
- 11.22 *Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.*
- 11.23 *Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems*

at the premises and, where other measures are deemed insufficient, to revoke the licence

Review of a premises licence following persistent sales of alcohol to children

11.30 *Where persistent sales of alcohol to children have occurred at premises, responsible authorities should consider applying for a review of the licence, whether there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this outcome is appropriate. Responsible authorities should consider taking steps to ensure that a review of the licence is routine in these circumstances.*

9.9 Members should also have regard to relevant case law - Crown (Bassetlaw District Council) v Worksop Magistrates' Court – 2008

The judgment by Mrs Justice Slade in the High Court in a Judicial Review applied for by Bassetlaw District Council regarding a judgement of a District Judge sitting at Worksop Magistrates' Court in respect of a Licensing Act Appeal for Select & Save has established a number of principles.

1. *The general approach of Licensing Authorities on a Review is to establish the cause or causes of the concerns and to take remedial action which is necessary and proportionate.*
2. *However, when considering Reviews arising in connection with crime (and underage sales are included) deterrence is an appropriate objective and one contemplated by the Secretary of State in the Guidance.*
3. *Whilst punishment may strictly not be a valid tool on a Review, in Reviews where there has been activity in connection with crime, deterrence could be.*
4. *The Licensing Authority and courts should not confine their decision simply to considerations of remedying. Deterrence should be considered.*
5. *To simply re-emphasis conditions which clearly haven't been adhered to in the past is not going to prevent further underage sales in the future, and therefore will not promote the Licensing Objectives.*

9.10 In all cases members are required to give reasons for their decision.

10. Legal Implications

10.1 Under Section 181 and Schedule 5 of the Act, rights of appeal to the Magistrates' Court in respect of applications for review of an existing licence include:

- (1) The applicant or licence holder may appeal against any decision to modify the conditions of the licence, suspend or revoke a licence.
- (2) The applicant may appeal against a rejection in whole or part of an application to review.
- (3) Those that have made relevant representations may appeal against a review being granted, rejected, or against the modification or lack of modification of any conditions.

10.2 The Act allows for the local licensing authority to undertake a review following the grant of a premises licence, when requested to do so by a responsible authority, such as the police or the fire authority, or an interested party, such as a resident living in the vicinity of the premises. The government's guidance states:

“The proceedings set out in the 2003 Act for reviewing premises licences represent a key protection for the community where problems associated with licensing objectives are occurring after the grant or variation of a premises licence”.

“At any stage, following the grant of a premises licence, a responsible authority, or an interested party, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives”.

- 10.3 In determining this application, the principles of the Human Rights Act 1998 must be taken into consideration and the convention rights of both individuals and businesses will be given due weight.
- 10.4 Members must consider each application on its own merits, and in accordance with the principles of natural justice as well as the provisions of the Licensing Act 2003. All relevant factors must be taken into account, and all irrelevant factors must be disregarded.
- 10.5 All applications before Committee must be considered against the backdrop of anti-discriminatory legislation, such as the Equality Act 2010 and also in accordance with the Council's stated policy on Equal Opportunities.
- 10.6 In accordance with Section 17 of the Crime and Disorder Act 1998 the Council is under a duty to exercise its functions with due regard to the likely effect on, and the need to do all it reasonably can to prevent, crime and disorder in its areas. The possible crime and disorder implications are clearly relevant factors in the consideration of all applications and this is re- emphasised by the Licensing Act 2003 itself. In giving "due regard" to these possible implications members will consider and weigh up all the information available and representations made, including those from the public and the responsible authorities particularly the Police.

11. Other Implications

- 11.1 Any decision taken will have regard for the local environment and, in particular, any conditions attached for the purposes of preventing public nuisance will take this principle into account. There are no significant direct race relations or equal opportunity implications that have been identified.

12. Recommendation

- 12.1 **Members are requested to determine the application by West Sussex County Council Trading Standards Service for a Review of the Premises Licence, held by Mr Gopalan Ketheeswaran at his store, ‘South Farm Food & Wine’ situated in South Farm Road, Worthing. Members are requested to give reasons for their determination.**

**Paul Spedding
Executive Head of Housing, Health and Community Safety**

Principal Author and Contact Officer:

Simon Jones, Senior Licensing Officer
Telephone 01273 263191.

Background Papers:

- Licensing Act 2003
- Guidance issued under section 182 of the Licensing Act 2003 (October 2010)
<http://webarchive.nationalarchives.gov.uk/http://www.homeoffice.gov.uk/publications/alcohol/guidance-section-182-licensing?view=Binary>
- Worthing Borough Council's Statement of Licensing Policy
<http://www.worthing.gov.uk/worthings-services/environmentalhealth/licensing/licensingact2003/wbcstatementoflicensingpolicy/>

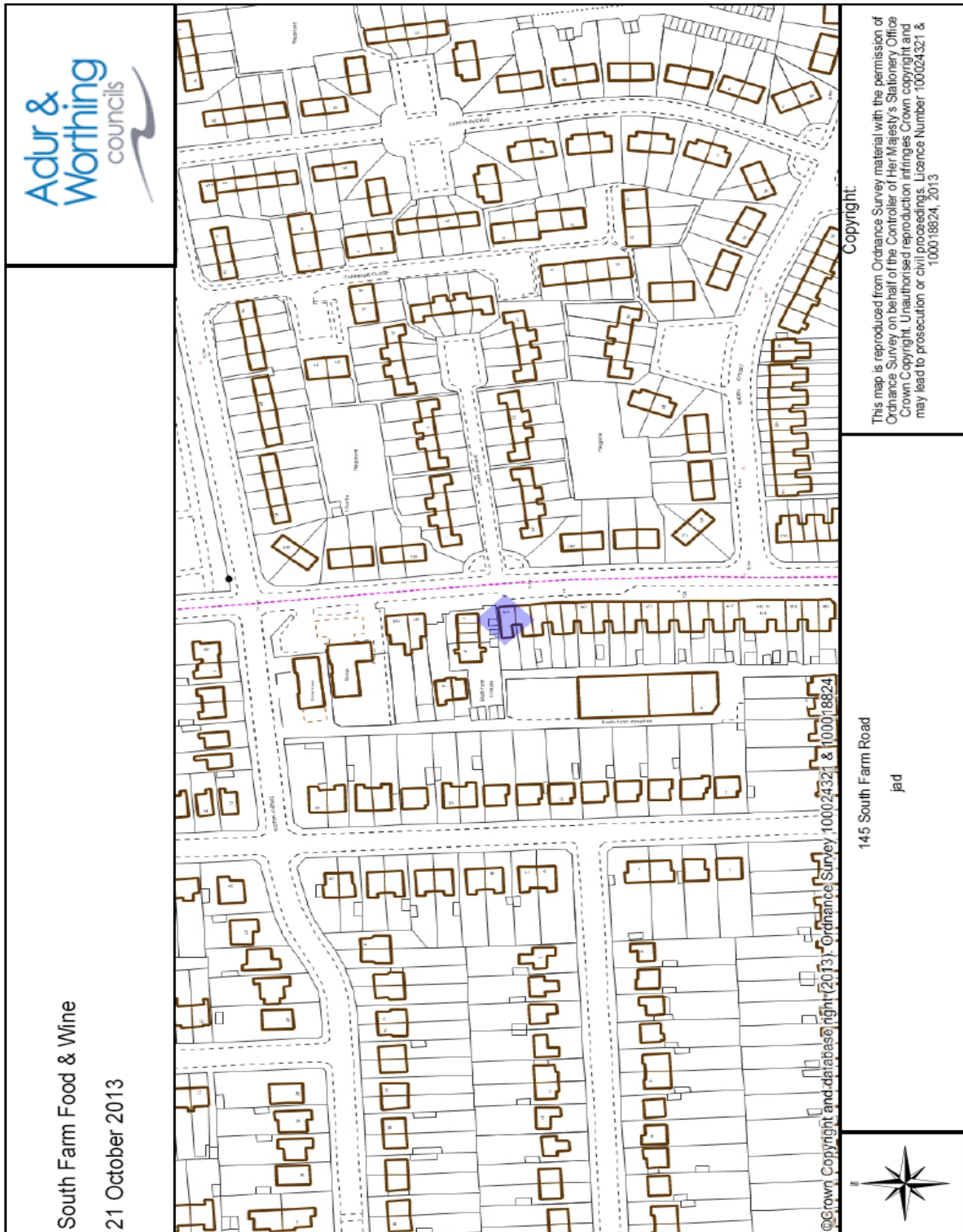
Appendices:

- Appendix A - A plan of the area.
- Appendix B - A plan of the store.
- Appendix C - A copy of the Review Application.
- Appendix D - A copy of the store's current Premises Licence.
- Appendix E - Copies of the mediation correspondents

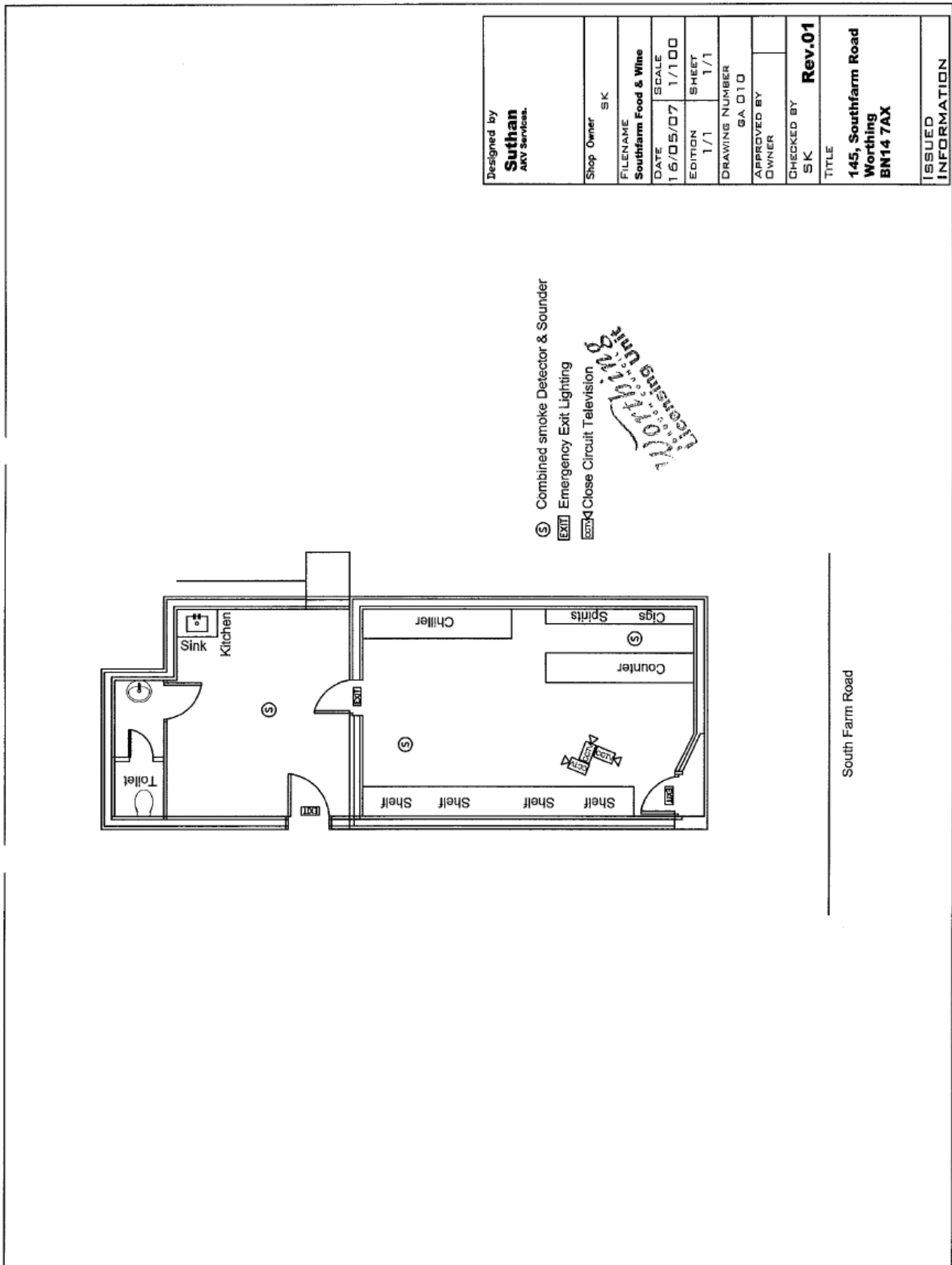
The Licensing Unit, Civic Centre, Shoreham-by-Sea

Ref: SJ/Lic.U/LA03/Review – South Farm Food & Wine.
Date: 21 October 2013.

Plan of Area



Plan of Premises



Review Application

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 PHILIP LIPSCOMB, TRADING STANDARDS OPERATIONS MANAGER, WEST SUSSEX COUNTY COUNCIL TRADING STANDARDS SERVICE

(Insert name of applicant)

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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Southfarm Food and Wine 145 South Farm Road, Broadwater, Worthing, West Sussex	
Post town Worthing	Post code (if known) BN14 7AX

Name of premises licence holder or club holding club premises certificate (if known) Mr Gopalan Ketheeswaran
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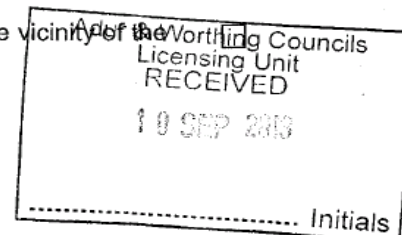
Number of premises licence or club premises certificate (if known) [REDACTED]

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)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Mr Peter Aston Trading Standards Team Manager West Sussex County Council County Hall North Chart Way Horsham West Sussex RH12 1XH FOR & ON BEHALF OF THE APPLICANT.
Telephone number (if any) 0330 222 7661
E-mail address (optional) peter.aston@westsussex.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 | <input type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

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

West Sussex County Council Trading Standards Service contends that the above licensing objective, the protection of children from harm has been undermined by the carrying on of licensable activities at these premises. Full particulars in support of the application are to be found in the next section, but in summary:

Sale of Alcohol to a persons under 18- Non-compliant with the Section 146(1) Licensing Act 2003 (as amended).

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

On the 22nd February 2013, at approximately 1.45pm, two 15 year old children, under instruction and supervision by this Service visited the store Southfarm Food and Wine, 145 South Farm Road, Broadwater, Worthing, West Sussex, BN14 7AX.

During that visit a bottle of wine was sold by an employee at the store, Mr Abdirezae Mohamed Ahmed, to one of the children. A Trading Standards Officer witnessed the sale.

Child A and Child B entered the premises and chose a bottle of wine which they then took to the counter, where they were served by the shop assistant, Mr Abdirezae Mohamed Ahmed. Mr Ahmed did not ask either Child A or Child B their age nor did he ask for identification.

The sale of alcohol to a person under 18 years of age is an offence under Section 146 Licensing Act 2003.

An Officer within this service, Miss Laura Sanders, has formally interviewed both the owner & licence holder of the store, Mr Gopalan Ketheeswaran, who is also the Designated Premise Supervisor and Mr Ahmed who sold the alcohol in relation to this incident. Both Mr Ketheeswaran and Mr Ahmed accept that alcohol has been sold to a person under the age of 18.

During the interview, Miss Sanders showed both Mr Ketheeswaran and Mr Ahmed photographs of both Child A and Child B and asked them to confirm how old they thought the Children were. Mr Ketheeswaran, the owner, agreed that his employee Mr Ahmed should have asked for identification. The Seller, Mr Ahmed thought Child B, who actually bought and paid for the alcohol did look about 18 but Mr Ahmed agreed that Child A, who accompanied her did look under 18. Mr Ahmed has further claimed that he was distracted by the Trading Standards Officer, Miss Dawn Dowling, who was present in the store as she was at the counter asking for the prices for a variety of different products. However, Mr Ahmed agrees on reflection that he should have asked them for identification and that in future if he has any doubts he will ask. Mr Ahmed has also mentioned at interview, that he sometimes finds it difficult to see the faces of the customers because the counter is so cluttered with stock.

Mr Ketheeswaran does provide training on Age Restricted Sales to his staff and at the interview; he was able to provide Miss Sanders with written signed copies of the training provided. Mr Ketheeswaran also claims that he provides refresher training every six months. Mr Ketheeswaran does not however keep any written records confirming that this does take place. At the Interview, he was recommended at the conclusion of the interview to keep written records of the refresher training he provides to help prove that this takes place. Mr Ketheeswaran also keeps a refusal log and he provided these books to Miss Sanders at the interview and regular entries have been made where people have been refused sales.

Mr Ahmed had been working at the store for only three weeks prior to this incident and that it was only his third shift when he sold the alcohol to the underage volunteer. Since this incident, Mr Ketheeswaran has provided Mr Ahmed further training on restricted sales and that they have gone through the CCTV footage of the incident. Mr Ketheeswaran has also arranged for Mr Ahmed to complete his Personal Licence and at the interview, Mr Ahmed showed Miss Sanders his Personal Licence card confirming that he has now obtained his Personal Licence with Arun District Council.

Both Mr Ketheeswaran and Mr Ahmed have been sent a Warning Letter detailing the

legislation in relation to the selling alcohol to a person under the age of 18. The letter states that if they are found to be in breach of similar legislation in the future then more formal action may be taken against them by our service.

Miss Sanders has spoken with the Sussex Police Licensing team and spoke with PC David Whitcombe who has advised that they have completed a underage volunteer test purchase at the premises since this incident and that the premise did not sell any age restricted products to the volunteer.

The store does not have any prompts on the till nor do they have a notice by the till to prompt staff to ask for identification when an age restricted product is being bought.

It is contended that the sale of alcohol to the Child that was under age breached the licensing objective 'the protection of children from harm' and that the licensee has failed in his responsibilities in promoting said licensing objective.

In view of the above, West Sussex County Council Trading Standards Service deem it both proportionate and necessary to invite the licensing authority to review the Premise Licence of 'Southfarm Food and Wine' and determine if it is appropriate to suspend and/or impose specific conditions to the current licence. Specific conditions could include:

All staff members engaged, or to be engaged, in selling alcohol or other restricted products on the premises shall receive full training pertinent to the Licensing Act and other appropriate legislation, specifically in regard to age restricted sales, and the refusal of sales to persons believed to be under the influence of alcohol or drugs.

Induction training must be completed, and fully documented, prior to the sale of alcohol by the staff member and refresher training thereafter at intervals of no less than six months. Written records of all training including the refresher training must be kept and made available to police, PCSO, Licensing and Trading Standards Officers.

That a refusals recording mechanism and incident log book or computer is maintained at the premises and this record is made available for inspection by police, PCSOs and Licensing and Trading Standards Officers.

A suitable till prompt is introduced to remind staff to check and confirm that the customer is over 18 before selling alcohol or any other age restricted product.

The only form of ID that will be accepted are passports, driving licences with a photograph or Portman Group, Citizen Card, or Validate Proof of Age cards bearing the PASS mark hologram.

Challenge 25 to operate in store.

The premises will operate a Challenge 25 policy whereby any person attempting to buy alcohol who appears to be under 25 will be asked for photographic I.D. to prove their age.

Suitable and sufficient signage advertising the Challenge 25 policy will be displayed in prominent locations in the premises.

The serving counter is kept clear and left free of all products so allowing staff a clear view of the shop and customers.

Please tick yes

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

If yes please state the date of that application

Day Month Year

--	--	--	--	--	--	--	--	--

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

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

.....

Date

5th September 2013

Capacity Trading Standards Team Manager

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

Laura Sanders
Trading Standards Officer
County Hall North
Chart Way
Horsham

Post town
Horsham

Post Code
RH20 3DL

Telephone number (if any) 03302 227655

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) laura.a.sanders@westsussex.gov.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.

Premises Licence



Health & Housing Services
 Portland House
 Richmond Road
 WORTHING
 West Sussex. BN11 1HS

Licensing Act 2003 – Sections 16 and 18
 Premises Licence – Part A

Premises Licence Number - LN/000001768

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description	
South Farm Food & Wine 145 South Farm Road Worthing West Sussex	
Telephone number	01903 230935

Licensable activities authorised by the licence
See attached Schedule


The times the licence authorises the carrying out of the licensable activities
See attached Schedule

Opening hours of the premises			
Location : Convenience Store			
Day	Start	Finish	
Sunday	06:00	00:00	
Monday	06:00	00:00	
Tuesday	06:00	00:00	
Wednesday	06:00	00:00	
Thursday	06:00	00:00	
Friday	06:00	00:00	
Saturday	06:00	00:00	
Non Standard Timings & Seasonal Variations			

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

Part 2 – Premises Licence Holder Details

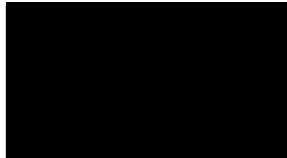
Name
Mr Gopalan <u>Ketheeswaran</u>

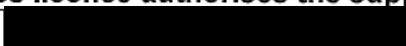
Registered Address


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

Designated Premises Supervisor Details (Where the premises licence authorises for the supply of alcohol)

Name
Mr Gopalan <u>Ketheeswaran</u>


Registered Address

Telephone Numbers :

Personal licence number and issuing authority of personal licence held by Designated Premises Supervisor where the premises licence authorises the supply of alcohol	
Personal Licence Number :	
Licensing Authority :	London Borough of Harrow Council

Schedule 1 – Licensable Activities authorised by this Licence

Times the licence authorises the carrying out of the licensable activities

Location :	Convenience Store		
Activities :	Alcoholic Sales		
	Day	Start	Finish
	Sunday	06:00	00:00
	Monday	06:00	00:00
	Tuesday	06:00	00:00
	Wednesday	06:00	00:00
	Thursday	06:00	00:00
	Friday	06:00	00:00
	Saturday	06:00	00:00
Non Standard Timings & Seasonal Variations			

Signed : ...  Date : 4th February 2010

Environmental Health Manager (on behalf of the Licensing Authority)

Annexe 1 : Mandatory Conditions

A. Mandatory conditions where licence authorises supply of alcohol

1. 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
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

B. Mandatory conditions: door supervision

Each such individual must be licensed by the Security Industry Authority.

C. Permitted Hours

Alcohol shall not be sold or supplied except during the premise's permitted hours.

Annexe 2 : Conditions consistent with the operating schedule

1. A CCTV system to be installed to the satisfaction of Sussex Police which has cameras covering the alcohol displays, the counter and the entrance. With image storage for at least 28 days.
2. That a refusals recording mechanism and incident log book or computer is maintained at the premises and this record is made available for inspection by police, pcso's and licensing officers.
3. That all staff are subjected to training and regular re training regarding the prevention of sales to or on behalf of under age persons and to drunk persons. That these training inputs are recorded and signed for by the trainee and records made available to police, pcso's and licensing officers.
4. Management & staff trained in the details of the Licensing Act 2003 and particularly the Licensing Objectives.
5. Full compliance with Health & Safety & Fire regulations.
6. Refuse collection shall be by a Council approved service.
7. A recognised 'Proof of Age' policy will be enforced. Persons that appear to be under 21 will be required to provide proof that they are over 18 to obtain alcohol.

Annexe 3 : Conditions attached after hearing by the Licensing Authority

None.

Annexe 4 : Plans

See attached

Mediation Correspondents

From: Simon Jones
Sent: 22 October 2013 14:49
To: 'Licensing Services Agency'; Peter Aston
Subject: Licensing Act 2003 Review Hearing - South Farm Food & Wine

Dear Ms Silvester & Mr Aston
Re: Licensing Act 2003 Review Hearing - South Farm Food & Wine
Mediated Agreement

I can confirm receiving your instructions regarding the agreement between West Sussex Trading Standards and Mr Ketheeswaran that has been reached. On your behalf I will invite the Licensing & Control Committee to consider imposing the following conditions to the premises licence as, in the opinion of the parties, appropriate measures to promote the licensing objectives:-

- All staff members engaged, or to be engaged, in selling alcohol or other restricted products on the premise shall receive full training pertinent to the Licensing Act and other appropriate legislation, specifically in regard age-restricted sales, and the refusal of sales to persons believed to be under the influence of alcohol or drugs.
- Induction training must be completed, and fully documented, prior to the sale of alcohol and other age restricted products by the staff member and refresher training thereafter at intervals of no less than six months. Written records of all restricted sales training and refresher training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to the Sussex Police, Licensing Authority and Trading Standards officers upon request.
- The store shall at all times maintain and operate a sales refusals book and an incident log which may be electronically recorded, and shall be kept on the premise to record all refusals and incidents of crime or disorder. These records will be made available to Sussex Police, Licensing Authority and Trading Standards officers upon request.
- A "Challenge 25" policy will be introduced and operated at the store whereby any person attempting to buy alcohol or other age restricted products who appears to be under 25 will be asked for photographic ID to prove their age. The only form of ID that will be accepted are passports, driving licences with a photograph or Portman Group, Citizen card or validate proof of age cards bearing the "PASS" mark hologram. Suitable and sufficient signage advertising the "Challenge 25" policy will be displayed in prominent locations in the premise.
- A suitable till prompt is introduced when available to remind staff to check and confirm that the customer is over 18 before selling alcohol or any other age restricted product. In the absence of this facility a sticker on the front of the till reminding all staff that ID must be asked for if customers are buying age related products.
- The serving counter is to be kept so that staff have a clear view of the shop and customers.

Under the terms of the act the review hearing must still go ahead even though agreement between the parties has been reached. As I have stated both parties will need to attend as members may have questions and will need to satisfy themselves that in the circumstances that if the agreed conditions are imposed on the licence they will allow the Licensing Objectives to be met at this store.

If you have any queries on this matter please do not hesitate to contact me.

Regards

Simon Jones - Senior Licensing Officer

Adur District & Worthing Borough Councils

Location: The Licensing Unit, 9 Commerce Way, Lancing, BN15 8TA

Phone: 01273 263191 (Internal: 63191) E-mail: simon.jones@adur-worthing.gov.uk Website: www.adur-worthing.gov.uk/licensing-and-permits

From: Licensing Services Agency [licensing@ntlworld.com]
Sent: 22 October 2013 12:24
To: 'Peter Aston'
Cc: Simon Jones
Subject: RE: Review application, South Farm Food & Wine, 145 South Farm Road Worthing

Thank you Peter. I have copied this email to Simon Jones so that he can advise the Committee at the hearing that all of the conditions below have been agreed to and that you are willing to accept these as appropriate measures to promote the licensing objectives.
No doubt we shall meet at the hearing next week.
Kind regards

Debra Silvester

-----Original Message-----

From: Peter Aston [mailto:peter.aston@westsussex.gov.uk]
Sent: 22 October 2013 12:04
To: Licensing Services Agency
Subject: RE: Review application, South Farm Food & Wine, 145 South Farm Road Worthing

Dear Debra,

Further to our discussions and your email below these are the additional conditions that we would be willing to accept. As you will see I want to future proof this in regards to the till prompt.

All staff members engaged, or to be engaged, in selling alcohol or other restricted products on the premises shall receive full training pertinent to the Licensing Act and other appropriate legislation, specifically in regard to age restricted sales, and the refusal of sales to persons believed to be under the influence of alcohol or drugs.

Induction training must be completed, and fully documented, prior to the sale of alcohol by the staff member and refresher training thereafter at intervals of no less than six months. Written records of all training including the refresher training must be kept and made available to police, PCSO, Licensing and Trading Standards Officers.

That a refusals recording mechanism and incident log book or computer is maintained at the premises and this record is made available for inspection by police, PCSOs and Licensing and Trading Standards Officers.

A suitable till prompt is introduced when available to remind staff to check and confirm that the customer is over 18 before selling alcohol or any other age restricted product. In the absence of this facility a sticker on the front of the till reminding all staff that ID must be asked for if customers are buying age related products. The only form of ID that will be accepted are passports, driving licences with a photograph or Portman Group, Citizen Card, or Validate Proof of Age cards bearing the PASS mark hologram.

Challenge 25 to operate in store. The premises will operate a Challenge 25 policy whereby any person attempting to buy alcohol who appears to be under 25 will be asked for photographic I.D. to prove their age. Suitable and sufficient signage advertising the Challenge 25 policy will be displayed in prominent locations in the premises.

The serving counter is left so that staff have a clear view of the shop and customers.

Regards

Peter

[Peter Aston](#) Team Manager, Trading Standards Service, [West Sussex County Council](#)
Location: County Hall North, Chart Way, Horsham, West Sussex RH12 1XH
Internal: 27661 External: 033022 27661 E-mail: peter.aston@westsussex.gov.uk

From: Licensing Services Agency [<mailto:licensingervicesagency@ntlworld.com>]
Sent: 22 October 2013 10:48
To: Peter Aston
Cc: 'Simon Jones'
Subject: FW: Review application, South Farm Food & Wine, 145 South Farm Road Worthing

Peter

Further to our telephone conversation this morning please see below the email I sent you on 16th September. Perhaps you would confirm that you are happy to accept the slightly amended conditions below to me and Simon Jones.

Thank you

Kind regards

Debra Silvester

-----Original Message-----

From: Licensing Services Agency [<mailto:licensingervicesagency@ntlworld.com>]
Sent: 16 September 2013 11:49
To: 'Peter.aston@westsussex.gov.uk'
Cc: 'Simon Jones'
Subject: Review application, South Farm Food & Wine, 145 South Farm Road Worthing

Further to our telephone conversation last week regarding the review application you have made in respect of the above premises, I have since spoken to Mr Ketheeswaran and discussed the conditions you would like to see imposed on the premises when the matter goes to hearing. He is willing to have all of the conditions added to his licence with the following comments:

With regard to having a till prompt there is currently no facility to have an automatic till prompt on the till, but Mr Ketheeswaran is willing to put a sticker on the front of the till reminding all staff that ID must be asked for if customers are buying age related products.

As discussed on the phone, we would like the last condition "the serving counter is kept clear and left free of all products so allowing staff a clear view of the shop and customers" to be amended to "the serving counter is left so that staff have a clear view of the shop and customers". As we discussed it is virtually impossible for a shop such as this to have a completely clear counter but Mr Ketheeswaran understands that it needs to be kept clear enough for staff members to have a good view of the customers wishing to buy tobacco and alcohol products so that they can clearly ascertain their age.

As you are aware, Mr Ketheeswaran has done all he can to ensure that there are no further sales of alcohol made to anyone under 18, and has already trained the employee who made the sale, who now has a personal licence, and will be keeping training records of all initial and refresher training of staff members from now on.

I will be attending the hearing with Mr Ketheeswaran so I would be grateful to be copied in on any correspondence with regard to the upcoming hearing, so if a hearing date has been finalised I would appreciate confirmation of the date.

Thank you.
Kind regards

Debra Silvester
Licensing Services Agency

Tel: 01992 584959 / 07931 484635