

**Licensing Act 2003  
Application for a Review of a Premises Licence under Section 53A  
(Premise associated with serious crime or disorder)**

**'Gadgets'  
39 South Street, Tarring, Worthing BN14 7LG**

**Report by the Director of Communities**

**1. Recommendation**

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

**Sussex Police**

for a 'Review' under section 53A of the Licensing Act 2003 (the 2003 Act) of Premises Licence No. LN/201400433 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 Expedited Review of the above Premises Licence held by

**Mr Fakher El Samad**

on the internet café, grocery store & off licence known as 'Gadgets' has been received from Chief Inspector Jo Banks on behalf of the Chief Officer of Sussex Police - a Responsible Authority as defined in the 2003 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 Fakher El Samad is the current holder of the above premises licence and the Designated Premises Supervisor (DPS). He has held both posts since March 2014 when the store was first granted a premises licence. Mr Fakher El Samad holds a personal licence issued by Worthing Borough Council.

- 3.2 Mr Fakher El Samad is also the licence holder and DPS of the 'Bargain Booze' store which is situated in the same road approx. 100metres away. Prior to Mr Fakher El Samad his brother, Mr Hassan El Samad, held the licence and was named as DPS from Feb 2009 until Feb 2014 at the 'Bargain Booze' store when it was known as 'Premier Supermarket Express'.

3.3 Attached to this report are copies of :

- A plan of the area. (Appendix A)
- A plan of the store. (Appendix B)
- The application for a review of the licence under section 53A (Appendix C)
- The certificate issued under Section 53A (1)(b) (Appendix D)
- Witness Statements from Police & Trading Standards Officers that attended the premise on 14 May 2014 (Appendices E1-3)
- The current Premises Licence which allows the sale of alcohol between:  
08.00hrs and 23.00 Monday to Sunday incl. (Appendix F)
- A representation received from West Sussex Trading Standards Service (Appendix G)

#### **4. The Application**

- 4.1 Sussex Police made application for the Review of the Premises Licences held by Mr Fakher El Samad at his two stores known as 'Bargain Booze' and 'Gadgets' on 27 May 2014. The applications were made on the prevention of crime & disorder grounds under section 53a to c of the 2003 Act.
- 4.2 The Application for Review is attached and accompanied by the certificate issued under Section 53A(1)(b) by Superintendent Lawrence Hobbs, Sussex Police West Downs Division (Appendices C & D).
- 4.3 The application is made on behalf of Sussex Police, a responsible authority as defined in Section 13 of the 2003 Act, and includes detailed information supporting their case that the licence holder is undermining the Licensing Objective:
- Prevention of Crime & Disorder
- 4.4 This application gives details of a search made by Police of this premise and Mr El Samad's other store 'Bargain Booze' situated at 4 South Street Tarring, executed under a warrant under Section 26 of the Theft Act 1968, on 14 May 2014.
- 4.5 During the search of 'Gadgets' a variety of electronic equipment, mobile telephones and computers were seized that have been identified as stolen. As a result Mr Fakher El Samad and his brother, Mr Hassan El Samad, are facing charges relating to the handling of stolen goods contrary to Section 22 of the Theft Act.
- 4.6 The application also refers to the seizure of alcohol from the store by the Police because of concerns regarding its authenticity and this matter is being investigated by Her Majesty's Revenue & Customs (HMRC). Trading Standards also attended the store and seized a quantity of mobile phone accessories which are believed to be counterfeit. Investigations are ongoing.

- 4.7 In addition the police request members consider an incident involving a serious violent assault committed on 4 April 2014 at Mr El Samad's other store Bargain Booze, for which Mr Fakher El Samad & Mr Hassan El Samad were subsequently arrested for the offence of Grievous Bodily Harm. This incident is currently under investigation
- 4.8 This application and its accompanying certificate sought initially the suspension of this licence as an interim step prior to a full hearing. Members considered this matter on 28 May 2014. The Committee agreed that the crimes detailed in the Police application amounted to serious crime as set out in paragraph 2.3 of the home office guidance ('Section 53A Licensing Act 2003, Summary Review Guidance).
- 4.9 The Committee investigated the use of other forms of interim measure including the suspension of the premises' DPS but it was decided that the other interim measures available were not suitable, especially considering the previous history attributed to the current and previous DPS to the premises. Members resolved:
- that the premises licence for Bargain Booze, 4-6 South Street, Worthing be suspended pending a full review hearing.
  - that the premises licence for Gadgets, 39 South Street, Worthing be suspended pending a full review hearing.
  - that both suspensions commence at 12.00pm on Thursday 29 May 2014

The Committee members agreed that the crimes attributed to the two premises constituted serious crime and the suspension of the premises licences had been instituted to promote the licensing objectives. The Committee felt that suspension of the licence was the only appropriate course of action that had been identified.

- 4.10 The suspension notices were duly served on 29 May 2014 and for information both premises have remained closed since. The licence holder has not appealed to this authority against the imposition of the interim steps (the suspension).
- 4.11 The application now requires a full hearing and the application requests members consider:
- Revocation of 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.*

#### ***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 Section 53a to c of the Act, in respect of which representations have been received from the following:

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

The applicant, licence holder and those making relevant representation have been notified of the hearing and of their right to attend and address members.

6.2 The consultation period on this application had yet to close when this report was drafted. If further relevant representations are received before consultation closes they will be forwarded to all parties and members as soon as practicable.

## **7. Relevant Representations**

7.1 West Sussex Trading Standards Service made a representation in support of Sussex Police's review application. Their representation is reproduced in full at appendix G.

## **8. Mediation**

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

8.2 At the time of writing no details of mediation had been received but if there are any developments these will be fully reported at the hearing though considering the nature of the application such mediation seems unlikely.

## **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 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, the testimony of the parties

- 9.3 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.
- 9.4 This particular review has been applied for under Section 53A of the Licensing Act 2003. Section 53A was inserted into the 2003 Act by section 21 of the Violent Crime Reduction Act 2006. It allows a quick process for attaching interim conditions to a licence and a fast track licence review when the police consider that the premises concerned is associated with serious crime or serious disorder (or both).
- 9.5 The powers set out in sections 53A to 53C of the 2003 Act apply only where a premises licence authorises the sale of alcohol. The purpose of these powers is to complement existing procedures in the 2003 Act for tackling crime and disorder associated with licensed premises. Existing powers in Part 8 of the 2003 Act provide for the instant closure of premises by the police in some circumstances (in essence, disorder or nuisance) and the consequent review of premises licences by the licensing authority. The powers under sections 53A to 53C, which are in Part 3 of the 2003 Act, are aimed at tackling serious crime and serious disorder, in particular (but not exclusively) the use of guns and knives.
- 9.6 The powers allow the police to trigger a fast track process to review a premises licence where the police consider that the premises are associated with serious crime or serious disorder and allows the licensing authority to respond by taking interim steps quickly, where appropriate, pending a full review.
- 9.7 The process requires the chief officer of police for the area in which the premise is situated to apply to the licensing authority for an expedited review of a premises licence where a senior police officer has issued a certificate stating that in his/her opinion the premises are associated with serious crime or serious disorder (or both).
- 9.8 On receipt of the application and the certificate, the licensing authority must within 48 hours of the time of its receipt consider whether it is necessary to take interim steps pending determination of the full review of the premises licence – the authority must in any event undertake a full review within 28 days after the day of receipt of the application.
- 9.9 The licensing authority at the interim steps stage may:
- Modify the conditions of the premises licence;
  - Exclude the sale of alcohol by retail from the scope of the licence;
  - remove the designated premises supervisor from the licence
  - suspend the licence for a period not exceeding 3 months;
- 9.10 Following the full licence review, the licensing authority may do any of the above or may revoke the licence.

9.11 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 2014) 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*

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

*11.23 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 or money laundering by criminal gangs or the sale of contraband or stolen goods there or the sale of firearms. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts of law. The role of the licensing authority when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted. Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. 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 behind any finding of the courts, which should be treated as a matter of undisputed evidence before them.*

*11.24 Where the licensing authority is conducting a review on the ground 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 licensee 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 necessary 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 holder of the premises licence.*

*11.25 As explained above, it is not the role of a licensing authority to determine the guilt or innocence of individuals charged with licensing or other offences*



*committed on licensed premises. 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. As stated above, at the conclusion of a review, it will be for the licensing authority to determine on the basis of the application for the review and any relevant representations made, what action needs to be taken for the promotion of the licensing objectives in respect of the licence in question, regardless of any subsequent judgment in the courts about the behaviour of individuals.*

11.26 *There is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously. These are the use of the licensed premises:*

- *for the sale and distribution of Class A drugs 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 the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;*
- *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 unlawful gaming and gambling; and*
- *for the sale of smuggled tobacco and alcohol.*

11.27 *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. We would also encourage liaison with the local Crime and Disorder Reduction Partnership.*

9.12 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 Sussex Police for a Review of the Premises Licence, held by Mr Fakher El Samad at his store, 'Gadgets' situated in South Street Tarring, Worthing. Members are requested to give reasons for their determination.

**John Mitchell**  
**Director of Communities**

### Principal Author and Contact Officer:

Simon Jones, Senior Licensing Officer  
Telephone: 01273 263191  
Email: [simon.jones@adur-worthing.gov.uk](mailto:simon.jones@adur-worthing.gov.uk)

### Background Papers:

- Licensing Act 2003
- Guidance issued under section 182 of the Licensing Act 2003 (June 2014)  
<https://www.gov.uk/government/publications/revised-guidance-issued-under-section-182-of-the-licensing-act-2003>
- Summary review Guidance for section 53A of the Licensing Act 2003  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/98118/s53a-licensing-act.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/98118/s53a-licensing-act.pdf)
- Worthing Borough Council's Statement of Licensing Policy  
<http://www.adur-worthing.gov.uk/media/media,98561,en.pdf>  
<http://www.worthing.gov.uk/worthings-services/environmentalhealth/licensing/licensingact2003/wbcstatementoflicensingpolicy/>

### Appendices:

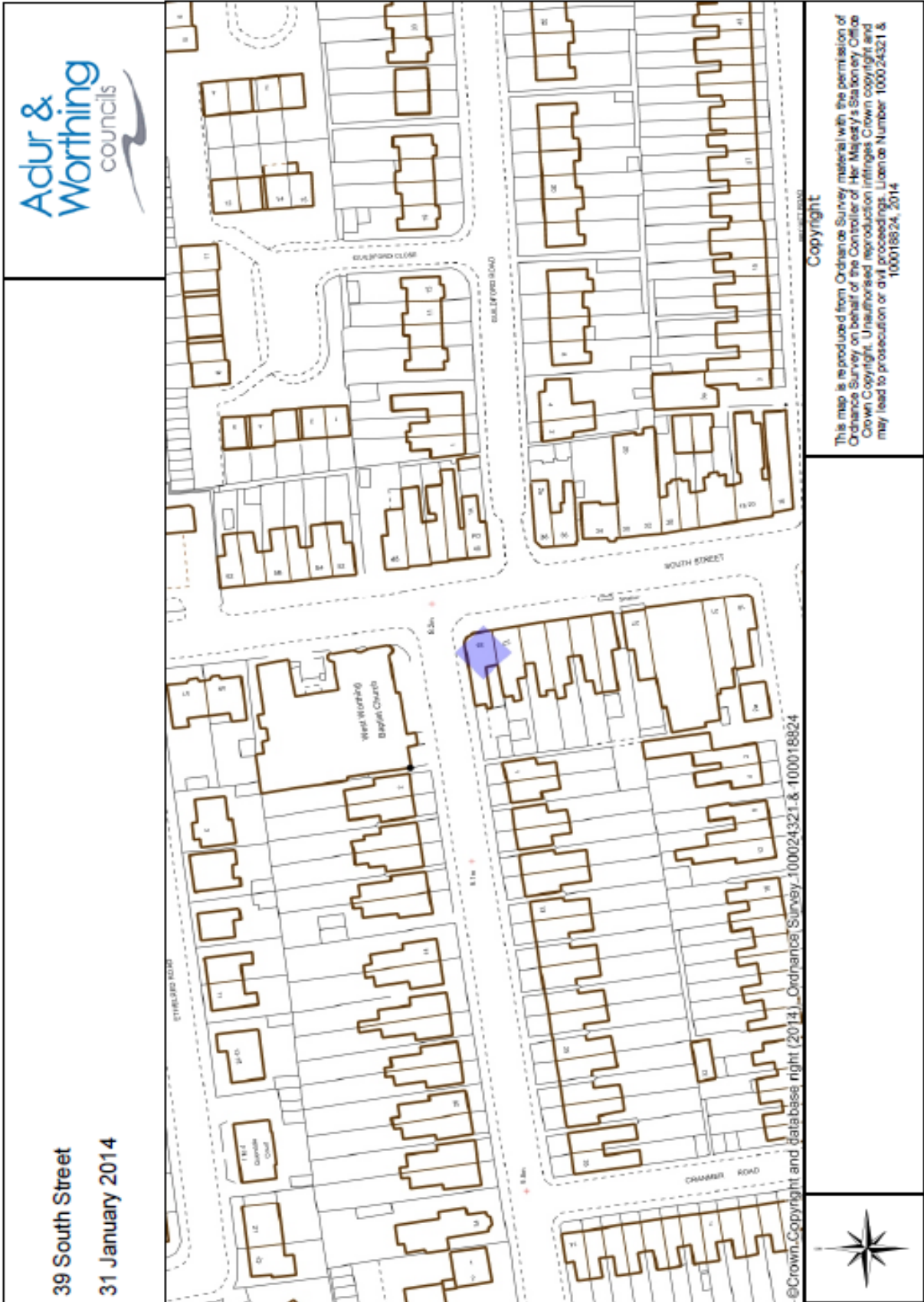
- Appendix A - Plan of the area.
- Appendix B - Plan of the store.
- Appendix C - Review Application.
- Appendix D - Certificate issued under Section 53A
- Appendices D1-3 – Witness Statements
- Appendix E - Bargain Booze's current Premises Licence.
- Appendix F – Representation made by West Sussex Trading Standards

The Licensing Unit, Commerce Way, Lancing

Ref: SJ/Lic.U/LA03/Review – Gadgets.

Date: 10 June 2014.

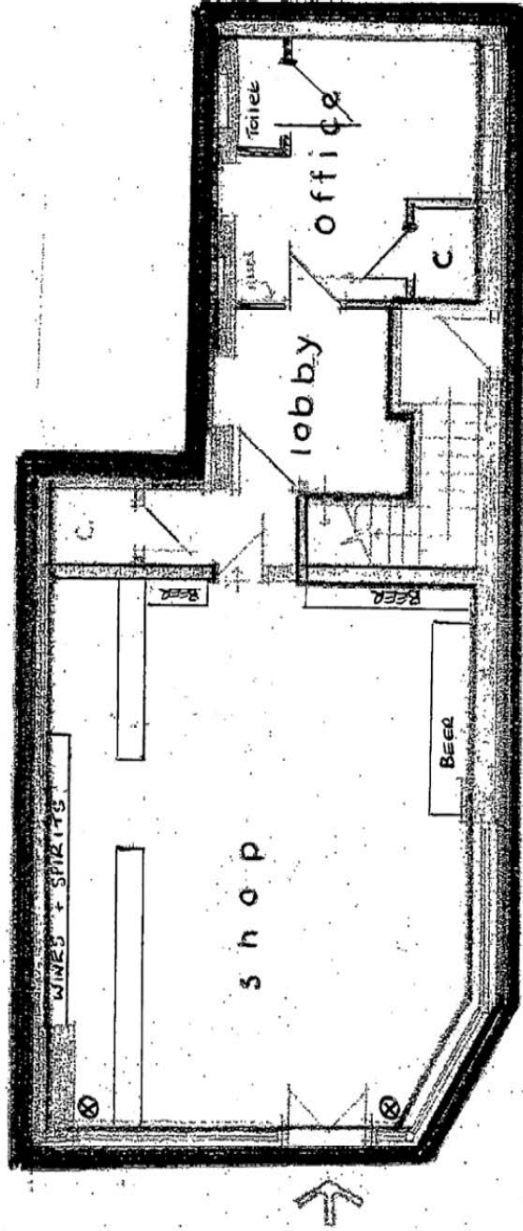
Appendix A - Plan of Area



Appendix B - Plan of Premises

Gadgets  
39 South Street, Tarring, Worthing  
BN14 7LG

Licensing Act 2003 - Premises Licence LN/201400433 Plan



X Fire Equipment

**Appendix C - Review Application**

FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

**Adur District Councils & Worthing Borough Council, The Licensing Unit, 9  
Commerce Way, Lancing, BN15 8TA**

**Application for the review of a premises licence under section 53A of the  
Licensing Act 2003 (premises associated with serious crime or disorder)**

**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 the 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.**

I, Chief Inspector Banks on behalf of the Chief Officer of Police for Sussex apply for the review of a premises licence under section 53A of the Licensing Act 2003.

**1. Premises details:**

Postal address of premises, or if none or not known, ordnance survey map reference or description:

**Gadgets  
39 South Street  
Worthing  
West Sussex  
BN14 7LG**

**2. Premises licence details:**

Name of premises licence holders (if known):

**Fakher EL SAMAD**

Number of premises licence holder (if known): **LN/201400433**

**3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read guidance note 1]:**

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.  
*(Please tick the box to confirm)*



**4. Details of association of the above premises with serious crime, serious disorder or both:**

[Please read guidance note 2]

A Summary Review is sought by Sussex Police following the arrest of Fakher EL SAMAD the Premises Licence Holder (PLH) and Designated Premises Supervisor (DPS) of Gadgets 39 South Street Worthing, on suspicion of handling stolen goods.

Mr Fakher EL SAMAD is also the Premises Licence Holder and DPS for Bargain Booze, 4 South Street Worthing. This premises was subject to a simultaneous Warrant under the Theft Act 1968. Mr Hassan EL SAMAD, Fakhar's brother was present at Bargain Booze and was arrested on suspicion of handling stolen goods. The address of the premises licence holder, above Bargain Booze, was also subject to search under a further Warrant.

Therefore this summary review application is sought in conjunction with that for Bargain Booze, premises Licence number **LN/100001461**.

At 11:00 hours on 14<sup>th</sup> May 2014 a Warrant under Section 26 of the Theft Act 1968 was executed at Gadgets, 39 South Street Tarring Worthing. Within the main area of the premises display cabinets containing second hand mobile telephones and laptops were located alongside other electronic equipment in need of repair. Confectionery and alcohol were also on display for sale.

Multiple laptops, Netbooks and mobile telephones were seized by Sussex police officers. Interrogation of police databases revealed that a number these devices were identified as having been stolen from a recent burglary in Sussex. A quantity of alcohol on the premises raised further concerns regarding its authenticity and was seized. Her Majesty's Revenue & Customs (HMRC) are currently undertaking investigations in relation to non-payment of duty on these goods.

Officers from West Sussex Trading Standards also attended the premises and seized a number of mobile telephone accessories, which are believed to be counterfeit goods.

Mr Fakher EL SAMAD and his brother are complicit in handling stolen goods and have been offering them for sale from the licensed premises. They have engaged in this criminal activity in contravention of both the Theft Act 1968 and the Licensing Act 2003. This constitutes serious crime, as referred to within Section 53a of the Licensing Act 2003, and Sussex Police contend there is no alternative than to take the necessary step of submitting an application for a 53a Summary Review.

There has also been an incident of serious violent crime relating to the management of the premises, committed on 4<sup>th</sup> April 2014. Sussex Police were called by a member of the public who witnessed an assault on a male on the floor in the street outside Bargain Booze. The victim suffered a fractured eye socket and a broken toe. Hassan and Fakher EL SAMAD were subsequently arrested for the offence of Grievous Bodily Harm. The offence is currently under investigation.

Sussex Police contend that a suspension of the Premises Licence is appropriate and request that the Licensing Committee seriously consider taking this course of action as an interim step. Sussex Police will make submissions to request the revocation of the premises licence at the full hearing and reserve the right to serve additional details in due course.

Fakher and Hassan EL SAMAD have each shown a disregard for the Licensing Act 2003 and have undermined the Licensing Objectives particularly that of Crime & Disorder; seeking to make profit through significant criminal enterprise to the detriment of the local community.

Gadgets, alongside Bargain Booze, have become a focal point of crime in the Worthing District. Sussex Police contend that the Premises Licence Holder & his brother have been complicit in this criminal activity and will continue to do so unless the premises licence is suspended for the interim period.



**Signature of applicant:**

**27<sup>th</sup> May 2014**

**Chief Inspector Banks,  
for and on behalf of the Chief Constable of Sussex Police**

**Contact details for matters concerning this application:**

**Jean Irving  
Force Licensing Manager  
07909 893682**

**Tony Jarred  
West Sussex Division Licensing Sergeant  
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West Sussex  
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01273 404030**

**Email:**

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**tony.jarred@sussex.pnn.police.uk**



**Appendix D - Certificate issued under Section 53A (1)(b)**

Sussex Police  
West Sussex Division  
Neighbourhood Licensing Team  
Centenary House  
Durrington Lane  
Worthing  
West Sussex  
BN13 2PQ

**CERTIFICATE UNDER SECTION 53A (1)(b) OF THE LICENSING ACT 2003**

I hereby certify that in my opinion the premises described below are associated with **serious crime**.

*Premises:*

Gadgets  
39 South Street  
Worthing  
West Sussex  
BN14 7LG

Premises licence number : **LN/201400433**

Name of premises supervisor : **Fakher EL SAMAD**

I am a Superintendent in Sussex Police.

I am issuing this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case.

On Wednesday 14<sup>th</sup> May 2014 Sussex Police executed a search Warrant under Section 26 of the Theft Act 1968, at Gadgets, 39 South Street, Worthing, during which a variety of electronic equipment, mobile telephones & bicycles were seized. The joint Premises Licence Holder and Designated Premises Supervisor, along with his brother were arrested for Handling Stolen Goods, contrary to Section 22 of the Theft Act 1968, which on indictment is a maximum penalty of 14 years imprisonment.

Serial numbers from the seized property have been checked against police records, leading to many items being identified as stolen and relating to a number of thefts and burglaries previously reported across Sussex.

This licensed premises is known within the community to be linked with criminality relating to stolen goods. The quantity of goods seized and the involvement of the Premises Licence Holder in this serious criminal offence is significant.

Due to the degree of seriousness of the criminal activity relating to the premises, which meets the serious crime criteria, a summary review is considered to be the only appropriate measure. Sussex Police will request the premises licence is suspended at the interim steps pending the full hearing.

Superintendent Lawrence Hobbs  
West Division  
Sussex Police

.....  
(Signed)



Supt. L. Hobbs

.....  
(Date)

23<sup>rd</sup> May 2014

**Appendices E1 – A. Hother Witness Statement**

**WITNESS STATEMENT**

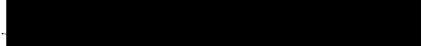
(CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B: Criminal Procedure Rules 2005, Rule 27.1

URN 

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Statement of: Andrew John Hother

Age if under 18: 15 (if over 18 insert 'over 18')

Occupation: 

This statement (consisting of \_\_\_\_\_ page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false or do not believe to be true.


Signature: 

Date 22 May 2014

Tick if witness evidence is visually recorded  (supply witness details on rear)

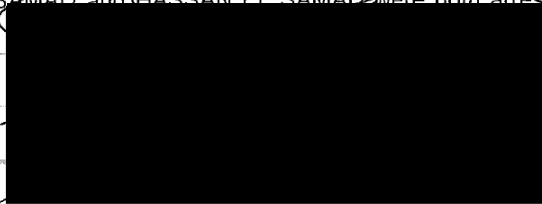
At approximately 1100hrs on Wednesday 14<sup>th</sup> May 2014, officers from Sussex Police carried out a Section 26 Warrant at GADGETS SHOP 39 SOUTH STREET TARRING WORTHING and BARGAIN BOOZE 4-6 SOUTH STREET TARRING, as well as the flat associated with BARGAIN BOOZE.

Officers executed the warrant at BARGAIN BOOZE and the FLAT above where they seized laptops, phones and bicycles. Officers simultaneously executed a warrant at GADGETS SHOP where a number of laptops, netbooks and mobile phones were seized.

Some of the serial numbers for the items were checked on police computers while officers were at the addresses, where it was confirmed a 27" Apple I Mac serial no C02LG2DBF8J5 had been stolen from a burglary 

When officers returned to the station further items which had been seized were checked and confirmed stolen, these items were another 27" Apple I Mac and a Sony Vaio, A pinarello road bike had also been confirmed as stolen.

Trading Standards also attended the Gadget Shop and raised concerns over some Vodka (12x Metropous Vodka, 2x Lithuanan Vodka and 1x Bobiesk Premium Vodka) as being counterfeit. They also went through the mobile phone accessories and have seized numerous mobile phone cases.

FAKHER EL SAMAD and HASSAN EL SAMAD were both arrested at the shops on suspicion of handling stolen goods. 

Signature: \_\_\_\_\_

Signature witnessed by: \_\_\_\_\_

Appendices E2 – D. Whitcombe Witness Statement

WITNESS STATEMENT

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

URN [ ] [ ] [ ] [ ]

Statement of: David WHITCOMBE

Age if under 18: Over 18 (if over 18 insert 'over 18') Occupation: Police Officer AW403

This statement (consisting of 1 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Signature: [Redacted] Date 22 May 2014

Tick if witness evidence is visually recorded [ ] (supply witness details on rear)

I am a Uniformed Sussex Police Officer, based at Centenary House, Durrington, where I perform the role of Licensing Officer within the Neighbourhood Licensing Team for West Sussex Division in accordance with the Licensing Act 2003.

At about 11am on Thursday 22nd May 2014, I attended the premises of Bargain Booze, South Street, Tarring, West Sussex. I was together with other members of the Neighbourhood Licensing Team, the local Crime and Ops Team and Customer and Excise Officers. On arrival at the shop, the premises were found to be open and trading with Mr Hassan El Samad in charge. The reason for the visit was explained to Mr El Samad.

The purpose of the visit was to enable the Customs and Excise Officers to conduct an inspection visit in relation to non UK Duty paid alcohol being sold on the premises. As a consequence of the inspection, a total of five 70cl bottles of Sambuca, bearing a brand name 909, and with an alcohol ABV of 40%, were seized and removed from the premises. The labels on these bottles had irregularities which caused the Customers and Excise Officers to suspect that UK Duty on them had not been paid despite them carrying a UK Duty Paid stamp. These irregularities included the fact that the manufacturer name was not mentioned on the label which is a requirement in the UK. Neither did the label contain any information in English.

Mr Hassan El Samad stated that the Sambuca was old stock, dating back to before the premises had had a refit and commenced trading as Bargain Booze. He admitted he had purchased the drinks for sale in the shop but stated that he could not remember where he had obtained them and admitted having discarded the invoice for them following the renaming of the shop from Premier Supermarket Express to Bargain Booze. He further stated that Bargain Booze were happy for him to sell this stock, even though he had not purchased it from them as his supplier, for the sole reason that it was old stock that he had already purchased prior to the refit.

Hassan El Samad was issued with a Warning of Liability to Prosecution from HMRC in relation to these bottles. I exhibit a template of this Warning of Liability to Prosecution which I reference as DW/1 ( ).

In a separate conversation during the course of the inspection visit, Hassan El Samad stated to both myself and Mrs Pauling Giddings of the Neighbourhood Licensing Team that the CCTV system that was currently in use in the Bargain Booze premises had recently been removed from his other premises, Gadgets, which is also situation in South Street, Tarring. He admitted that Gadgets did not have a CCTV operating in the premises even though the premises had opened and operated for up to two weeks with alcohol on sale.

This statement was completed at 1310hrs on 22/5/14 following my return to Centenary House [Redacted]

Signature: [Redacted] Signature witnessed by: [Redacted] MG11 5/2007

**Appendices E3 – N. Jillett Witness Statement**

**STATEMENT OF WITNESS**

*(Criminal Procedure Rules 2013, r 27.1);  
Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980, s.5B)*

STATEMENT OF: Natalie Jillett

Age of Witness: Over 18

Occupation of Witness: Trading Standards Officer

This statement (consisting of 2 pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the            day of            , 20

Signed .....

I am employed by West Sussex County Council as a Trading Standards Officer. On the 14<sup>th</sup> May 2014 at approximately 1300 hours I attended The Gadget Shop, 39 South Street, West Tarring, Worthing, West Sussex, BN14 7LG accompanied by my colleague, Laura Derby, who is also a Trading Standards Officer for West Sussex County Council. When we arrived there were police officers from Sussex Police carrying out a search warrant. On display behind the shop counter on the very far left hand side beside the shop window were a number of mobile phone cases for sale for £6 each. Several of these mobile phone cases had brands and logos on them which we then seized, placed in evidence bags and sealed with tags. I gave 14 Apple mobile phone cases sample number 16884C and sealed with tag number TSP44424. I gave 8 Liverpool phone cases sample number 16882C and sealed with tag number TSP44430. I gave a Jack Daniels mobile phone case sample number 16882B and sealed with tag number TSP44403. I gave 2 Manchester United mobile phone cases sample number 16882A and sealed with tag number TSP44421. I gave 3 Manchester United mobile phone cases sample number 16884B and sealed with tag number TSP44425. I gave 6 Angry Bird phone cases sample number 16883B and sealed with tag number TSP44428. I gave 5 Smurf mobile phone cases sample number 16884A and sealed with tag number TSP44428. I gave 6 Ferrari mobile phone cases sample number 16883C and sealed with tag number TSP44426. I

**STATEMENT OF: NATALIE JILLETT**

gave 3 Game Boy phone cases sample number 16883A and sealed with tag number TSP44429. In total we seized 48 mobile phone cases which were being offered for sale with a sign or trademark which has not been authorised by the trade mark holder contrary to section 92(1)(b) of the Trade Marks Act 1994. Laura and I then left the premise at approximately 1445 hours.



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

Housing, Health & Community Safety  
9 Commerce Way  
Lancing  
BN15 8TA

## Premises Licence Number - LN/201400433

### Part 1 – Premises Details

<b>Postal address of premises or, if none, ordnance survey map reference or description</b>	
Gadgets 39 South Street Worthing West Sussex BN14 7LG	
<b>Telephone number</b>	01903 531414

<b>Licensable activities authorised by the licence</b>
See attached Schedule

<b>The times the licence authorises the carrying out of the licensable activities</b>
See attached Schedule

<b>Opening hours of the premises</b>		
<b>Location :</b>	Off - Licence	
<b>Day</b>	<b>Start</b>	<b>Finish</b>
<b>Sunday</b>	08:00	23:00
<b>Monday</b>	08:00	23:00
<b>Tuesday</b>	08:00	23:00
<b>Wednesday</b>	08:00	23:00
<b>Thursday</b>	08:00	23:00
<b>Friday</b>	08:00	23:00
<b>Saturday</b>	08:00	23:00
<b>Non Standard Timings &amp; Seasonal Variations</b>		

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

**Part 2 – Premises Licence Holder Details**

**Name**

Mr Fakher El Samad

**Registered Address**

[Redacted Address]

Telephone Numbers :

E-mail :

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

N/A

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

**Name**

Mr Fakher El Samad

**Registered Address**

[Redacted Address]

[Redacted 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 :** LN/201300116

**Licensing Authority :** Worthing Borough Council

**Schedule 1 – Licensable Activities authorised by this Licence**

**Times the licence authorises the carrying out of the licensable activities**

<b>Location :</b>	Off Licence	
<b>Activities :</b>	Alcohol OFF Sales/Supply (M)	
<b>Day</b>	<b>Start</b>	<b>Finish</b>
<b>Sunday</b>	08:00	23:00
<b>Monday</b>	08:00	23:00
<b>Tuesday</b>	08:00	23:00
<b>Wednesday</b>	08:00	23:00
<b>Thursday</b>	08:00	23:00
<b>Friday</b>	08:00	23:00
<b>Saturday</b>	08:00	23:00
<b>Non Standard Timings &amp; Seasonal Variations</b>		

**Signed on behalf of the issuing licensing authority**

**Senior Licensing Officer**

**Date : 26 March 2014**

## Gadgets

### **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**

When employed each such individual must be licensed by the Security Industry Authority.

#### **C. Mandatory conditions: Age Verification**

An age verification policy for the premises must be produced, implemented and details made available to authorised officers upon request.

#### **D. Permitted Hours**

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

#### **E. Sales**

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

### **Annexe 2 : Conditions consistent with the Operating Schedule**

1. The premises will operate an age verification policy set at a minimum of 25 years, whereby any person attempting to buy alcohol who appears to be under 25 (or the age set by the policy) 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 Citizen card or validated proof of age cards bearing the "PASS" mark hologram. The list of approved ID may be amended or revised subject to prior written agreement with Sussex Police. Signage advertising the "Challenge" policy will be displayed in prominent locations in the premises and shall include the point of sale and the area where the alcohol is displayed, as a minimum.
2. All staff members engaged, or to be engaged, in selling alcohol on the premises shall receive full training pertinent to the Licensing Act, 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 and signed by the employee and the DPS, prior to the sale of alcohol by the staff member and refresher training thereafter at intervals of no less than six (6) months. All restricted sales training undertaken by staff members shall be fully documented and signed by the employee and the DPS. All training records shall be made available upon request to the Local Authority Licensing Officers and Sussex Police Licensing Officers. A written record of those authorised to make



sales of alcohol shall be kept. This shall be endorsed by the DPS with the date such authorisation commences. This shall be made available upon request to the Local Authority Licensing Officers and Sussex Police Licensing Officers.

3. The premise shall at all times maintain and operate a sales refusals log and an incident log which will be kept on the premises to record all refusals and incidents of crime or disorder. These shall be reviewed and signed by the Designated Premises Supervisor at intervals of no less than four (4) weeks. Feedback shall be given to staff to ensure these are used on each occasion that a refusal or incident occurs at the premises. These records shall be made available upon request to the Licensing Officers from the Local Authority and Sussex Police.
4. No beer, lager or cider with an a.b.v (alcohol by volume) of 6.5% or above may be sold or supplied in a single bottle or container with a capacity greater than 750ml.
5. Spirits will be stored and displayed behind the servery, or out of the reach of the public.
6. No more than 20% of the shop floor display area will be made available for the display of alcohol products. No alcohol products will be displayed within a 3 metre radius of the front entrance other than behind the servery out of reach of the public.
7. CCTV to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System. CCTV Images shall be retained for at least 28 days and except for mechanical breakdown beyond the control of the proprietor, shall be made available upon request to the police. Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable. It will be the responsibility of the DPS, or duty manager, to ensure that any request from the police for a recording to be made for evidential purposes, is carried out as soon as possible in compliance with data protection legislation

**Annexe 3 : Conditions imposed by the Licensing Authority**

None.

**Annexe 4 : Plans**

See attached plan certified & dated 26 March 2014.

## Appendix G – Representation received from West Sussex Trading Standards

**Richard Sargeant**  
**Trading Standards Service**  
033 022 27665(Direct)  
Richard.sargeant@westsussex.gov.uk  
[www.westsussex.gov.uk/tradingstandards](http://www.westsussex.gov.uk/tradingstandards)

**Trading Standards**  
County Hall North  
Chart Way  
Horsham  
West Sussex  
RH12 1XH  
(01243) 642124



Adur District & Worthing Borough Councils  
The Licensing Unit  
9 Commerce Way  
Lancing  
West Sussex  
BN15 8TA

6<sup>th</sup> June 2014

Dear Sir/Madam

**Re: Licensing Act 2003 – Consultation**  
**Premises Licence Review Applications under Section 53A**  
**Applicant: Sussex Police**  
**Premises: Bargain Booze, 4-6 South Street Tarring, Worthing**  
**& Gadgets, 39 South Street Tarring, Worthing**

On behalf of West Sussex Trading Standards Service and as a Responsible Authority under the Licensing Act 2003, I wish to support the above application made by Sussex Police.

On 10<sup>th</sup> February 2012, this Service applied to review the premise, Premier Supermarket Express on the grounds of the prevention of crime and disorder and Public Safety. The premise is now known as Bargain Booze. The review followed a visit to the premises when 8 bottle of unbranded vodka was found to be non-compliant with Food Labelling Regulations 1996 and the Food Safety Act 1990. The Premise Licence Holder at the time, Mr Hassan El Samad, failed to provide details of his supplier to this Service.

On 23<sup>rd</sup> April 2012, the premise had its licence suspended for a period of three months. Additionally, a condition was imposed on the licence requiring copies of invoices to be immediately available for inspection in the store for a period of six months from the date of purchase. Prior to the hearing, Mr Hassan El Samad has accepted a formal caution in relation to the breaches of Trading Standards legislation.

On 21<sup>st</sup> August 2012, Mr Hassan El Samad appealed the decision. The premise licence was suspended for a period of two months from 24<sup>th</sup> August 2012 until 24<sup>th</sup> October 2012.

On 10<sup>th</sup> September 2013, this Service applied to review the premise on the grounds of the prevention of crime and disorder and the protection of children from harm by allowing the sale of cigarettes, an age restricted product. The sale was to a person under the age of 18 contrary to the Children & Young Persons Act 1933 (as amended). The sale was made Mr Fakher El Samad, who is the current licence holder and DPS of Bargain Booze and Gadgets premises. Mr Hassan El Samad was still the premise licence holder at this time.

On 27<sup>th</sup> January 2014, following a withdrawn appeal, the premise licence was suspended until 16<sup>th</sup> February 2014.

On 14<sup>th</sup> May 2014, officers from this Service, visited Gadgets, 39 South Street, Tarring, West Sussex following the execution of a warrant by Sussex Police. On display behind the shop counter on the very far left hand side beside the shop window were a number of mobile phone cases for sale for £6 each. 48 of these mobile phone cases had brands and logos on them which were seized under Trade Marks Act 1994 which were being offered for sale with a sign or trademark which has not been authorised by the trade mark holder contrary to section 92(1) of the Trade Marks Act 1994. Investigations are pending.

Based on the above, this Service fully supports the application made by Sussex Police.

Yours faithfully

**Richard Sargeant**  
**Team Manager – Operations Team**