

COMMITTEE REF:

LP/09/19



NOTICE OF MEETING

COMMITTEE : LICENSING PANEL (430)

DATE : MONDAY, 2 SEPTEMBER 2019

TIME : 10.00 AM

PLACE : COMMITTEE ROOM 4, TOWN HALL, LUTON

COUNCILLORS: M. HUSSAIN
PEDERSEN
RIVERS


QUORUM : 3 MEMBERS

CONTACT OFFICER: Eunice Lewis **Direct Line:** 01582 547149

INFORMATION FOR THE PUBLIC


PURPOSE: To exercise the Council's functions under the Licensing Act 2003.

For further information, or to see the papers, please contact us at the Town Hall:

 **IN PERSON**, 9am to 5pm, Monday to Friday, or

 **CALL** Democratic Services on 01582 547149

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at agendas.luton.gov.uk/cmwebpublic/

An induction loop  facility is available for meetings held in Committee Room 3.

Arrangements can be made for access to meetings for  disabled people.

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With the agreement of the Chair of the Licensing Panel, members of the public may take photographs, film, audio-record and report on the meeting. They must however respect any privacy conditions imposed by the Chair to protect certain individuals and may not act in any way considered to be disruptive, as they may be asked to leave. Notice will be given verbally at the meeting.

AGENDA

*Agenda
Item*

Subject

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No.*

EMERGENCY EVACUATION PROCEDURE

Committee Rooms 1, 2, 4 & Council Chamber:

Turn left, follow the green emergency exit signs to the main town hall entrance and proceed to the assembly point at St George's Square.

Committee Room 3:

Proceed straight ahead through the double doors, follow the green emergency exit signs to the main Town Hall entrance and proceed to the assembly point at St George's Square.

1. ELECTION OF CHAIR

2. MINUTES

1. Minutes – 22 August 2019

“To Follow”

3. DISCLOSURES OF INTERESTS

Members are reminded that they must disclose both the existence and the nature of any personal interest that they have in any matter to be considered at this meeting.

A Member with a personal interest in any matter to be considered at this meeting will also have a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest.

A Member who has a prejudicial interest must withdraw from the meeting room unless (s)he has obtained a dispensation from the Council's Standards Committee.

4. URGENT BUSINESS

The Chair to report on any business which is considered to be urgent and which should be discussed at the meeting in accordance with Section 100B(4)(b) of the Local Government Act 1972 and to determine when, during the meeting, any such business should be discussed.

REPORT

- | | | |
|-----------|--|----------------|
| 5. | APPLICATION FOR REVIEW OF PREMISES LICENCE,
HATTERS NEWSAGENTS, 22 CHAPEL STREET, LU1 2SE
LUTON
(Report of the Strategic Regulatory Manager) | 1 - 28 |
| 6. | APPLICATION FOR REVIEW OF PREMISES LICENCE,
PAGA SUPERSTORE 3 NEW BEDFORD ROAD, L1 1SA, LUTON
(Report of the Strategic Regulatory Manager) | 29 - 65 |
| 7. | APPLICATION FOR REVIEW OF PREMISES LICENCE,
WEBBS NEWS, 9 NEW BEDFORD ROAD, LU1 1SA LUTON
(Report of the Strategic Regulatory Manager) | 66 - 93 |
| 8. | LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 | |

To consider whether the Panel should exclude the public from all or part of the hearing during consideration of any item listed above if the Panel believe that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public, in accordance with regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005.

Note:

The procedure for oral hearings is attached to this Agenda Page

BOROUGH OF LUTON

PROCEDURE AT ORAL HEARINGS BEFORE THE

COUNCIL'S LICENSING PANEL

1. The Panel will be assisted on matters of law and procedure by its Clerk who will be one of the Council's Solicitors.
2. The Clerk will give a brief outline of the application and introduce the Members of the Panel, the Licensing Officer, the Applicant and those who have made representations. He/she will ensure that those present understand the procedure to be followed.
3. The hearing will normally be in public. However, the Panel may decide to exclude the public from any part of the meeting, not only the Panel's deliberations (including the Applicant and those making representations) where it considers that the public interest in doing so outweighs the public interest in the hearing taking place in public.
4. The Licensing Officer will present the report outlining the application and relevant representations.
5. The Panel may question the Licensing Officer.
6. The Applicant may question the Licensing Officer.
7. Those making representations may question the Licensing Officer.
8. The Applicant or his/her representative will present his/her case and call their witnesses.
9. The Panel may question the Applicant
10. Those making representations may question the Applicant
11. Those making representations or their representative will present their case.
12. The Panel may question those making representations.
11. The Applicant may question those making representations.
12. The Applicant will sum up his/her case.
13. Those making representations will then sum up their case (s).
14. The Clerk will then raise any points that need to be raised before the Application is determined.

15. The Applicant and those making representations will be asked whether there is anything further they wish to say.
16. Members will consider whether the public interest of holding their deliberations in private outweighs the public interest in holding their deliberations in public. Where Members consider that they should deliberate in private all persons other than the Members, the Clerk and any person present solely for the purpose of taking notes, shall withdraw from the room. Any advice given by the Clerk to the Panel in private will be repeated to all the parties before the Panel announces their decision.
17. Where the decision must be made at the conclusion of the hearing the Chair will inform the Applicant, the Licensing Officer, and those making representations of its decision and the reasons for it. The decision will be confirmed in writing to all parties within 5 working days.
18. Where the decision is not required to be made at the conclusion of the hearing the panel will inform the parties in writing of its decision and the reasons for it within 5 working days.

AGENDA ITEM**5****COMMITTEE: LICENSING PANEL****DATE: 2ND SEPTEMBER 2019****SUBJECT: APPLICATION FOR REVIEW OF PREMISES LICENCE HATTERS
NEWSAGENTS, 22 CHAPEL STREET, LUTON LU1 2SE****REPORT BY: LICENSING AND COMPLIANCE MANAGER****CONTACT OFFICER: AARON WILTSHIRE****TEL: 546040****IMPLICATIONS:****LEGAL ☐****COMMUNITY SAFETY ☐****EQUALITIES ☐****ENVIRONMENT ☐****FINANCIAL ☐****OTHER ☐****STAFFING ☐****WARDS AFFECTED: SOUTH**

PURPOSE

1. The purpose of this report is to enable the Licensing Panel to consider the application received from Bill Masini on behalf of Trading Standards, Luton Borough Council for the review of the Premises Licence Hatters Newsagents, 22 Chapel Street, Luton LU1 2SE.

RECOMMENDATION

2. That the Licensing Panel determine the application of Bill Masini for the review of a Premises Licence in respect of Hatters Newsagents, 22 Chapel Street, Luton LU1 2SE.

BACKGROUND

3. An application for review of the premises licence was received on 16 July 2019 with regard to Hatters Newsagents, 22 Chapel Street, Luton LU1 2SE. The current licence allows late night refreshment outdoors Monday to Sunday 00.00 to 24.00 and supply of alcohol for consumption off the premises Monday to Sunday 00.00 to 24.00 to take place. A copy of the licence is attached at Appendix A.
4. The Applicant states that they are a responsible authority under the Licensing Act 2003.

5. The application for review relates to the following licensing objectives:

THE PREVENTION OF CRIME AND DISORDER

- Sale of “super strength” beers below the “minimum price” and in breach of mandatory premises licence condition – S136 Licensing Act 2003
- Stating or otherwise creating the impression alcohol could legally be sold when it could not – Consumer Protection from Unfair Trading Regulations 2008
- Breach of Premises Licence condition in respect of the CCTV by failing to keep recordings for 28 days – S136 Licensing Act
- Failure to produce traceable invoices for purchase of super strength beer – Food Safety and Hygiene (England) Regulations 2013
- Failure to pay the National Minimum Wage – The National Minimum Wage Act 1998

PUBLIC SAFETY

- The Breach of Premises Licence conditions in respect of CCTV

PREVENTION OF PUBLIC NUISANCE

- Sale of illegally cheap super strength beers resulting in anti social behaviour in public places

THE PROTECTION OF CHILDREN FROM HARM

None

A copy of the review application and supporting information is attached at Appendix B.

6. The applicant has not made an application for review relating to this premise before.

RESPONSIBLE AUTHORITIES

7. Representations have been received from responsible authorities and are detailed as follows:

Police

Bedfordshire Police have submitted a representation on the grounds of prevention of crime and disorder, the prevention of public nuisance and Public Safety. A copy of the representation is attached at Appendix C.

Fire and Rescue Services

None

Environmental Health or Health and Safety Executive

None

Planning

None

Public Health

Public Health have submitted a representation on the grounds of prevention of crime and disorder, public safety and the prevention of public nuisance A copy of the representation is attached at Appendix C.

Child Protection

None

INTERESTED PARTIES

10. **None**

POLICY CONSIDERATIONS

11. The following provisions of the Licensing Act 2003 apply to this application:

Section 51	Application for review of premises licence
Section 52	Determination of application for review
Section 53	Supplementary provision about review

OBSERVATIONS

12. In determining this application, the Licensing Panel must, having regard to the representations received, and take such of the following steps as it considers appropriate for the promotion of the licensing objectives. The steps are:

- (a) Decide that no action is appropriate to promote the licensing objectives
- (b) Modify or add conditions to the licence
- (c) Exclude a licensable activity from the licence
- (d) Remove the designated premises supervisor
- (e) Suspend the licence for a period (not exceeding 3 months)
- (f) Revoke the licence

13. The licensing objectives are:

- The Prevention of Crime and Disorder
- The Prevention of Public Nuisance
- The Protection of Children from Harm
- Public Safety

All the representations received in respect of this application relate to these licensing objectives.

14. The following paragraphs of the licensing authority's statement of licensing policy applies to this application

Section 11 Reviews and Expedited Reviews
Section 12 Licensing Objectives
Section 13 Delegation of Licensing Functions
Section 16 Representations

APPENDICES

The following Appendices are attached to this report:-

Appendix A: Premises Licence/Club Premises Certificate.

Appendix B: Review Application and supporting information.

Appendix C: Representations from Responsible Authorities.

LEGAL COMMENTS

Report cleared by Brenden Delaney, Solicitor, on 16 August 2019

LIST OF BACKGROUND PAPERS **LICENSING ACT 2003**

Guidance issued under s182 of the Licensing Act 2003
Luton Borough Council's Statement of Licensing Policy

Premises Licence Register

Luton

Premises Licence Number

087487

This revision (reference number):

087487

Effective from:

10/11/2009

Part 1 - Premises details**Postal address of premises, or if none, ordnance survey map reference or description**

Hatters News
22 Chapel Street

Post town

Luton,

Post code

LU1 2SE

Telephone number:

01582 510897

Where the licence is time limited the dates

Start Date

10/11/2009

End Date

Licensable activities authorised by the licence

Late Night Refreshment (Outdoors)
Supply of Alcohol for consumption off the Premises

The times the licence authorises the carrying out of licensable activitiesLate Night Refreshment

Monday to Sunday

00:00 to 24:00

Supply of Alcohol

Monday to Sunday

00:00 to 24:00

The opening hours of the premises

Monday	00:00 to 24:00
Tuesday	00:00 to 24:00
Wednesday	00:00 to 24:00
Thursday	00:00 to 24:00
Friday	00:00 to 24:00
Saturday	00:00 to 24:00
Sunday	00:00 to 24:00

Seasonal Variations	None
Non-Standard timings	None

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

Supply of alcohol for consumption off the premises

Part 2

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

Kuruparan Suppiah
130a Bishopscote Road
Luton
LU3 1PE

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

Not Applicable

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

Kuruparan Suppiah

Annex 1 - Mandatory conditions

1. Where a premises licence authorises the supply of alcohol:
 - a) No supply of alcohol may be made under the premises licence-
 - i. at a time when there is no designated premises supervisor in respect of the premises licence, or
 - ii. at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
 - b) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Annex 2 - Conditions consistent with the Operating Schedule

1. Digital CCTV System to be installed and maintained with images being kept for 28 days.
2. All areas open to customers are clear from obstruction.
3. Front of premises to be kept clear from litter.
4. Challenge 25 policy to be operated.
5. All staff to request photo style driving licence, passport or Government approved I.D, if customer appears to be under the age of 25.
6. Refusals book to be kept.
7. Health and safety checks to be undertaken on a regular basis for the inside and outside of the premises.
8. Adequate lighting to be installed inside the premises.

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

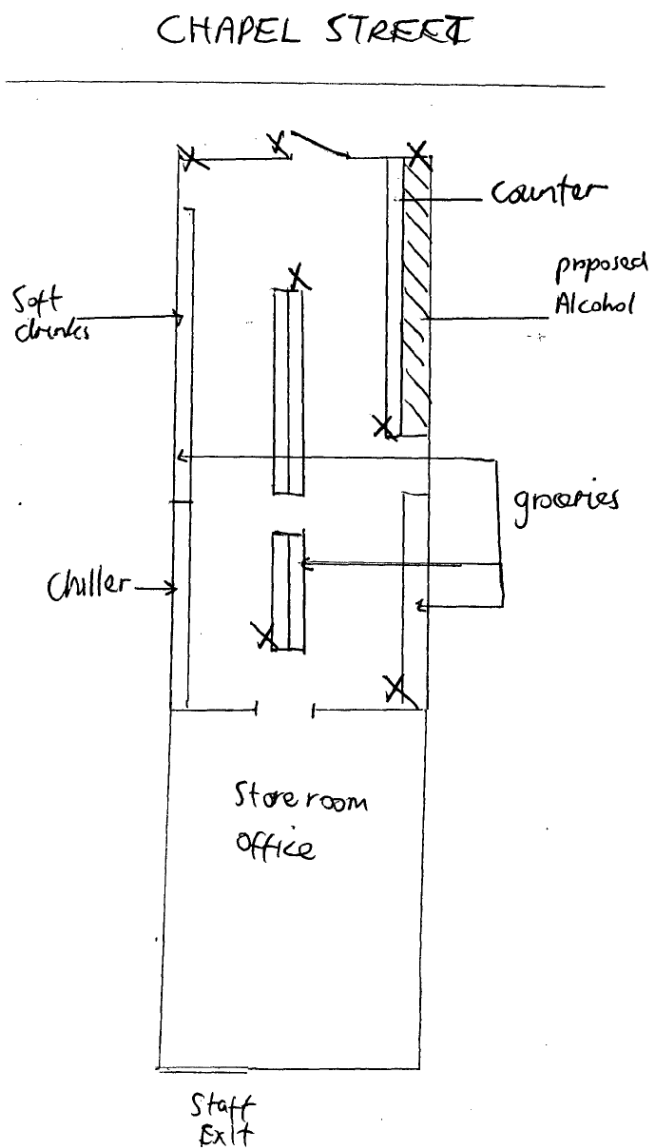
Not Applicable

Annex 4 - Plans

Note: Plans may not be shown to any scale that may be specified in the drawing.

Plan for Hatters News
22 Chapel Street, Luton LU1 2SE

Scale is
1:100
1cm:1m.



CCTV
X - camera

Luton Borough Council, Licensing Service, Town Hall, Luton LU1 2BQ

**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 Bill Masini (On behalf of Trading Standards)

(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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Hatters News 22 Chapel Street	
Post town Luton	Post code (if known) LU1 2SE
Name of premises licence holder or club holding club premises certificate (if known) 	
Number of premises licence or club premises certificate (if known) 087487	

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 | <input type="checkbox"/> |
| b) a body representing persons living in the vicinity of the premises | <input type="checkbox"/> |
| c) a person involved in business in the vicinity of the premises | <input type="checkbox"/> |
| d) a body representing persons involved in business in the vicinity of the premises | <input type="checkbox"/> |

- 2) a responsible authority (please complete (C) below) ☒
- 3) a member of the club to which this application relates (please complete (A) below) ☐

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

Please tick

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

Surname

First names

I am 18 years old or over

Please tick yes

☐

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

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

<p>Name and address</p> <p>Luton Borough Council – Trading Standards</p> <p>Bill Masini Trading Standards Officer 1st Floor Annexe Town Hall Manchester Street Luton LU2 0BW</p>
<p>Telephone number (if any)</p> <p>01582 546406</p>
<p>E-mail address (optional)</p> <p>bill.masini@luton.gov.uk</p>

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 checked="" type="checkbox"/> |
| 2) public safety | <input checked="" type="checkbox"/> |
| 3) the prevention of public nuisance | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 1)**Prevention of Crime and disorder –**

- Sale of “super strength” beers below the “minimum price” and in breach of mandatory premises licence condition – S136 Licensing Act 2003
- Stating or otherwise creating the impression alcohol could legally be sold when it could not – Consumer Protection from Unfair Trading Regulations 2008
- Breach of Premises Licence condition in respect of the CCTV by failing to keep recordings for 28 days – S136 Licensing Act
- Failure to produce traceable invoices for purchase of super strength beer – Food Safety and Hygiene (England) Regulations 2013
- Failure to pay the National Minimum Wage – The National Minimum Wage Act 1998

Public Safety –

- Breach of Premises Licence conditions in respect of CCTV

The Prevention of Public Nuisance –

- Sale of illegally cheap super strength beers resulting in anti social behaviour in public places

Luton Borough Council is seriously concerned about the high level of anti-social behaviour and public nuisance caused by people drinking (usually very strong) alcohol in public places throughout the Borough, though in particular the Town Centre and areas in close walking distance thereof. Those drinking such alcohol are invariably alcoholics who live chaotic lifestyles and suffer from poor health both physically and mentally. The easy availability of illegal cheap, very strong alcohol does not help these vulnerable people break this powerful addiction and makes the task of alcohol rehabilitation services and dedicated charities all the more difficult in their efforts to help them. An inevitable consequence of this drinking is begging and other anti-social behaviour such as unwarranted aggression and urination in public places and can make homelessness all the more likely. Aside from the often desperate personal issues these people constantly face, it also discourages people from visiting the town and can be damaging to the local economy. Luton Borough Council introduced a Public Space Protection Order in 2018 under The Anti- Social Behaviour, Crime and Policing Act 2014 to help address some of these matters because it was satisfied on reasonable grounds that these were having a detrimental effect on the life of those in the town centre. This premise is inside this defined zone and has a "24/7" licence.

Since April 2017 retailers of alcohol have been required by law to purchase alcohol from businesses that are registered by Her Majesty's Revenue and Customs (HMRC) under their Alcohol Wholesalers Registration Scheme (AWRS). AWRS wholesalers have a Unique Reference Number and this must be recorded on all invoices to retailers. Retailers are easily able to verify if a wholesaler is operating on this widely publicised scheme within the Licensed trade. This scheme was established because of widespread duty evasion which also undermined HM Government's public health strategy to control alcohol consumption where price is a key influence on consumption, similar to that of tobacco. It is an offence if retailers fail to comply with the AWRS.

For beer there is a "General Beer" Duty that applies to beers with all alcoholic strength above 2.8%. However, where any beer has an alcohol by volume strength (ABV) of more than 7.5% there is a "High Strength Beer" duty in addition to the General Beer duty. This uses a price escalator and is intended to deter consumption of such drinks where the level of harm is greater than more regular strength beers. Beers such as "Karpackie" have a 9% ABV and thus one 500ml can alone contains

4.5 units of alcohol which is above the recommended daily amount of alcohol. This drink is almost exclusively drunk by alcoholics and these people are very sensitive to price; they want to pay the lowest price for the highest amount of alcohol.

On Friday 22nd February 2019 Trading Standards visited the shop (unannounced) to see what beers were for sale and the selling prices. Cans of Karpackie together with a large number of other super strength beers and ciders were offered for sale in the fridge at the back of this shop. There was a price label in front of the Karpackie stating, "KARPACKIE £1.30 16/12/17". A can of Karpackie was taken to the till. The male cashier, later known to be Mr Reaminha Vellaisamy, said the price was £1.30 and a sale was made. There was no one else working in the shop. This was below the "minimum permitted price" and in breach of the mandatory condition on the licence that is on all Premises Licence where the sale of alcohol is an authorised licensable activity. The price per unit of alcohol was therefore a mere 28 pence; this being slightly more than half the legal minimum price per unit of alcohol currently charged in Scotland.

On Wednesday 6th March at 11.02am, Trading Standards carried out an inspection at the premise. Mr Vellaisamy was working behind the counter again and on his own. When asked if Kuruparan Suppiah was available to speak to or coming to the shop, the officer was told he wasn't available at the moment. He was asked how long he had worked there and what hours he did. He was evasive but said he worked part time usually between 9am and 2 pm. He was asked if he had any identification on him to prove he was who he said he was and if he was permitted to work. He said he did not and was unable to recall where he lived. He made a telephone call and then gave an address nearby but was unable to say which way he would walk there from the shop. Trading Standards were not in a position to pursue this.

This Premises Licence has very few conditions attached to it in Annexe 2 and those conditions are brief and not particularly helpful for the purposes of enforcement. For example, "Adequate lighting to be installed inside the premises", "Front of premises to be kept clear from litter", "All areas open to customers are clear from obstruction"

Trading Standards therefore concentrated on the sale of the illegally cheap super strength beer.

In the fridge where the Karpackie had been when the test purchase had been made twelve days earlier, there was an empty space though the price label for this drink

referred to above was still displayed in front of this on the "shelf edge". Mr Vellaisamy said they did not sell Karpackie and hadn't done so for months. An inspection of the store room at the back of the shop found 5 trays of Karpackie each containing 24 x 500ml cans. Mr Vellaisamy then said he had been told by the boss to put the drink out the back of the shop because he had been made aware the Council had seized a lot of Karpackie earlier in the week at other shops in the Town but was still selling it and that was the reason for keeping the price sticker displayed in the shop.

Trading Standards asked if there were any purchase invoices for the Karpackie and Mr Vellaisamy said he did not know. Also asked about the cans of Kestrel Super and Tennents Super (both having an alcohol by volume of 8%) and displayed in the same fridge as the Karpackie had been, he repeated his answer. Both these drinks were priced at £1.50; this being little above the minimum permitted price and well below the "normal" retail price.

As well as being a breach of the Licence condition, the Trading Standards Officer was satisfied an offence was committed under The Consumer Protection from Unfair Trading Regulations 2008 in that it is a prohibited unfair commercial practice to state or otherwise create the impression that a 500ml can of Karpackie with an ABV of 9% could be legally sold for £1.30 when it could not. Further that the Tennents Extra and Kestrel Super could not be legally sold because they were subject to some form of duty evasion or theft. A decision was taken to seize the three drinks using the officer's powers contained in The Consumer Rights Act 2015. A total of 146 cans were seized – 120 cans of Karpackie, 17 cans of Kestrel Super and 9 cans of Tennents Super.

A notice was left for "Suppiah" for him to produce purchase invoices in the next 7 days for the Karpackie, Tennents Extra and Kestrel Super.

In relation to a condition about the CCTV, the condition 1 of Annexe 2 states, "Digital CCTV System to be installed and maintained with images being kept for 28 days". Mr Vellaisamy said he did not know how to operate it and that it was password protected and thus Trading Standards was unable to check it on this visit.

Trading Standards returned to the shop at 12.50pm on Friday 15 March. In the shop was the Premises Licence Holder, Kuruparan Suppiah, who showed the officer the CCTV. The video footage started from 16.00 hours on Monday 4th March indicating it recorded for only 10 days, 20 hours and about 50 minutes and thus significantly in breach of that condition. The test purchase carried out on 22 February should still have been capable of viewing at the time of this visit.

The Premises Licence Holder and Designated Premises Supervisor, Kuruparan Suppiah was interviewed under caution on 25 March.

He explained the Karpackie had been delivered to the shop. A polish man had turned up to the shop about 4 weeks earlier. This was one evening. Mr Suppiah did not see the man because he was not in the shop. He then said a member of staff working in the shop rang him to tell him a man had 10 trays of Karpackie for sale and the price was £360. Mr Suppiah said it was ok to purchase this alcohol but claims he said he wanted an invoice for the Karpackie. The seller apparently said he did not have any and would return with one. Mr Suppiah says he said he would withhold £60 and authorised the sales assistant to give the man £300 cash from the till. Mr Suppiah knew he had to buy alcohol from an HMRC Registered Wholesaler. He has many years in the trade. He has held a Personal Licence issued by The London Borough of Redbridge for nearly 14 years and been at Hatters News for nearly 9 years and has another similar shop called Moons at Manor Road, nearby. He was challenged that if he paid £30 per tray that made a purchase price of £1.25 per can and was selling it for a mark-up of 5p a can (4%). He had said that his typical mark up on beers was 15-20%. It is noted that if Mr Suppiah had later paid the £60 to which he referred, (i.e the seller had returned with an invoice) his purchase price would have been £1.50 per can, thereby resulting in him making a loss of 20 pence per can. Trading Standards do not accept Mr Suppiah's explanation. Recent Trading Standards' experience with this situation throughout Luton suggests the more realistic purchase price was around £18-24 a tray (75p – 1.00 per can) and question what price was actually paid for these beers. Mr Kuruparan was invited to re think his explanation. With regard to the Kestrel Super and Tennents Extra, Mr Suppiah was asked where it had been purchased from. He said, "Cash and Carry". He said he had invoices for these but went quiet when he was reminded that these invoices had been requested at the time of the visit and had not been produced. He said he could get them but has never produced them despite later calls to remind him of this.

Mr Kuruparan was unable to produce any invoices for the three drinks or to state where these products were purchased from; in breach of The Food Safety and Hygiene (England) Regulations 2013.

On 15 July Trading Standards visited the shop with the intention of speaking to Kuruparan Suppiah. However he was not there and the sole worker was spoken to. She said she was an overseas student studying at The University of Bedfordshire

and showed her Residence permit, numbered RHX209926. She was permitted to work a maximum of 20 hours per week until 2020 though said she worked 14-16 hours a week often at Mr Suppiah's other shop, Moons in nearby Manor Road . She gave her date of birth as 19.03.88 (i.e. 31 years old) and said she was paid £6.00/hour. The National Minimum Wage as required by The National Minimum Wage Act 1998, from April 2019 is £8.21 per hour. It is a criminal offence under that Act for an employer of a worker who qualifies for the National Minimum Wage, not to pay this minimum hourly rate.

The following day Kuruparan Suppiah accepted simple cautions for nine offences (selling Karpackie below permitted minimum price [2 offence dates], CCTV not in accordance with licence, a failure to identify a person from whom the three drinks had been bought from (i.e no traceable invoices) [Food Safety and Hygiene (England) Regulation 2013 – 3 offences] and engaging in a prohibited unfair commercial practice under The Consumer Protection from Unfair Trading Regulations 2008 (two in relation to the sale/offer for sale of Karpackie below the minimum legal price (2 offence dates). One offence was with regard to his failure to notify Luton Borough Council of his change of address (section 33 Licensing Act).

Trading Standards say Karuparan Suppiah has acted in a dishonest manner with regard to the illegal alcohol. He claimed the Karpackie arose through a one off purchase of 10 trays in mid February but Trading Standards draws attention to the fact that the price label indicates a date of 16 December 2017 and says this almost certainly is the date the price label was printed before it was placed on the shelf edge; some 15 months before the seizure. Trading Standards say this illegal practice has probably taken place for at least this length of time; in December 2017 it would still have been illegal to sell a 9% beer such as Karpackie for £1.30.

Mr Suppiah accepts a significant number of customers have severe alcohol dependency problems in the immediate area and that some regularly sit outside the shop begging in order to buy alcohol and drink outside. In interview the following extract was said:-

Officer: Do you accept that parts of Luton and including near to your shop there are problems of street drinking?

KS: Yeah

Officer: And begging?

KS: Yeah

Officer: And that people who are often begging are people who already have serious alcohol dependency problems?

KS: Yeah I know

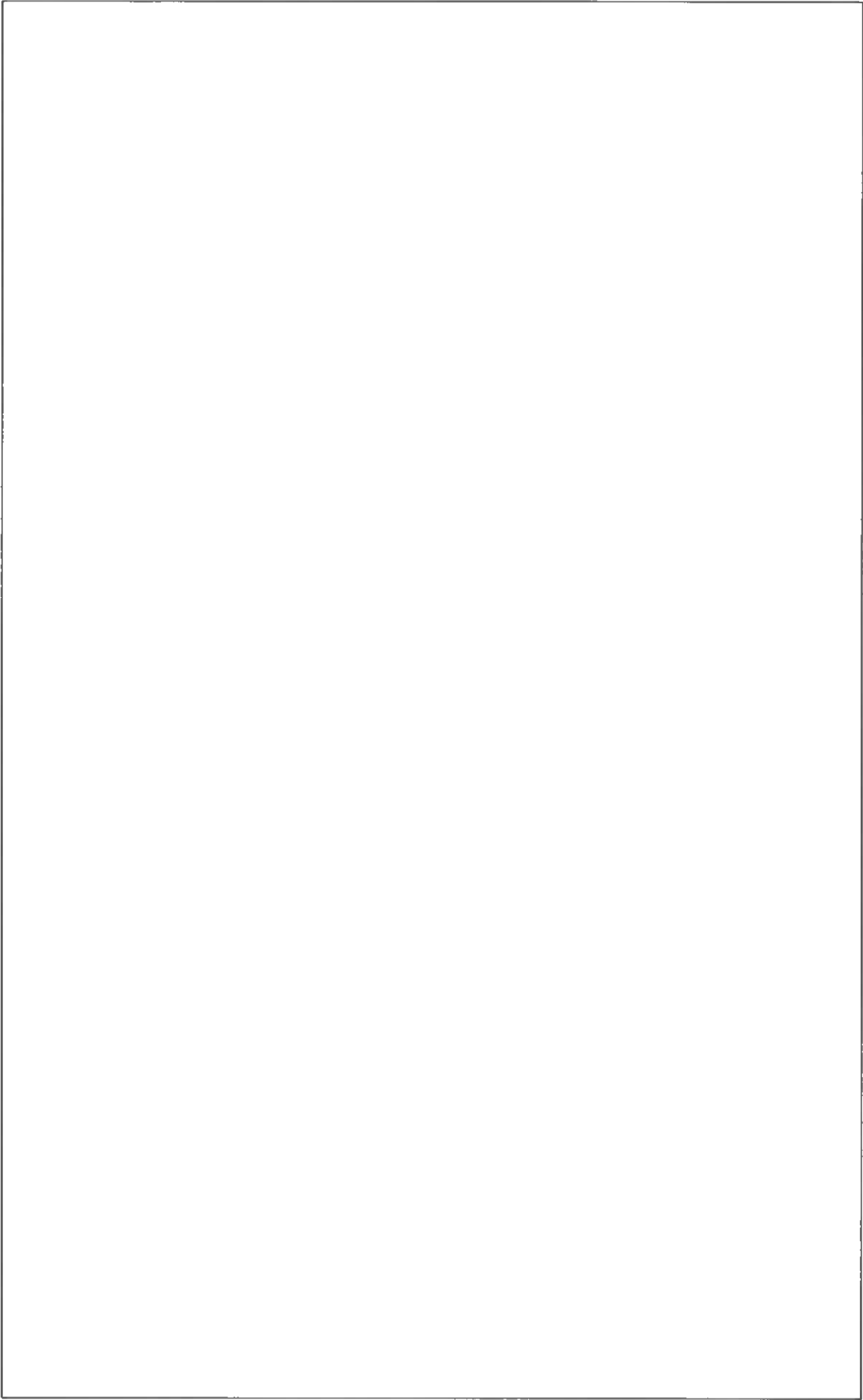
Despite this Mr Suppiah appears to have put personal profit before his obligations to promote the licensing objectives and has knowingly bought illegally cheap very strong beer from an unknown itinerant trader in breach of the Alcohol Wholesaler's Retail Scheme and in doing so has then sold it in breach of the Mandatory Premise Licence condition of selling below the Minimum Permitted Price or where not, barely above it. As well as defrauding Her Majesty's Government of taxes and gaining an illegal and thus unfair commercial advantage over his legally trading competitors, he has continued to fuel this cycle of alcohol abuse and all the serious consequences that go with it, both in terms of the vulnerable individuals involved and the wider general public quietly going about their day to day lives.

The sub-committee is invited to consider all options open to it including revocation. In the event the licence is not revoked, Trading Standards would like to see all the conditions in Annex 2 removed. In their place Trading Standards would like to see the licensable hours significantly reduced and the following conditions to be added to the licence:

1. No beers or lagers in cans, bottles or any other container constructed of any material with an ABV of more than 5.5% are to be displayed, sold or offered for sale from or stored on the premises
2. No ciders in cans or bottles or any other container constructed from any material with an ABV of more than 4.9% are to be displayed, sold or offered for sale from or stored on the premises
3. No beers, lagers or ciders are to be displayed, sold or offered for sale from or stored on the premises in individual containers that have a capacity exceeding 1 litre (or imperial equivalent)
4. A minimum of 4 cans of beer, lager or cider shall be sold in any one transaction. A combination of these drinks is permitted to achieve this minimum quantity.
5. No spirits in any container (constructed of any material) where the quantity is 100ml or less, are to be displayed, sold or offered for sale from or stored on the premises.

6. Alcohol shall not be sold in an open container or be consumed in the licensed premises.
7. There shall be a personal licence holder on the premises at all times alcohol is available for supply, for the purpose of supervising such sales.
8. That a challenge 25 scheme shall be maintained at the premises requiring that staff selling alcohol request that any customer who looks under 25 years old, and who is attempting to purchase alcohol, provides valid photographic identification proving that the customer is at least 18 years old. Valid photographic identification is composed of a driving licence, passport, UK armed services ID card and any Proof of Age Standards Scheme (PASS) accredited card such as the Proof of Age London (PAL) card.
9. That all staff involved in the sale of alcohol shall be trained in the prevention of sales of alcohol to underage persons, and the challenge 25 scheme in operation at the premises. A record of such training shall be kept / be accessible at the premises at all times and be made immediately available for inspection at the premises to Council or Police Officers on request. The training record shall include the trainee's name (in block capitals), the trainer's name (in block capitals), the signature of the trainee, the signature of the trainer, the date(s) of training and a declaration that the training has been received.
10. That clearly legible signs shall be prominently displayed where they can easily be seen and read by customers stating to the effect that a challenge 25 policy is in operation at the premises, that customers may be asked to provide proof of age and stating what the acceptable forms of proof of age are. Such signage shall be displayed at all entrances, points of sale and in all areas where alcohol is displayed for sale. The signage shall be kept free from obstructions at all times.
11. That a register of refused sales of alcohol shall be maintained in order to demonstrate effective operation of the challenge 25 policy. The register shall be clearly and legibly marked on the front cover as a register of refused sales, with the address of the premises and with the name and address of the licence holder. The register shall be kept / be accessible at the premises at all times. On a monthly basis, the Designated Premises Supervisor (DPS) shall check the register to ensure it is being properly completed. The DPS shall sign and date the register to that effect and where appropriate take corrective action in a timely manner if the register is not being completed correctly. The register shall be made immediately available for inspection at the premises to Council or Police Officers on request.

12. That an electronic point of sale (EPOS) system be installed at all tills on the premises and it shall be configured to prompt the operator to check proof of age when an alcoholic product (any other product where the age for purchase is restricted by law) is scanned. The prompt should require the operator to confirm that the purchaser is over 18 (or any other age required by the relevant law for other products) before the next item can be scanned or the transaction completed.
13. Clear and prominent notices shall be displayed informing people who enter the shop that CCTV is in operation and images are being recorded.
14. A CCTV system shall be installed at the premises that records clear images of to cover all areas within the premises including the outside to the front in all lighting conditions both the interior and exterior of the premises. It must be positioned to capture a clear facial image of every person who enters the premise and to also capture the sale of alcohol and tobacco products.
15. The CCTV system shall have a 31 day recording facility and be maintained in full working order at all times
16. All CCTV footage shall be kept for a period of thirty one (31) days and shall, upon request, be made immediately available to The Police and/or Authorised Officers from Luton Borough Council
17. All staff working at the premise shall be trained and be fully conversant in the correct operation of the CCTV and be able to demonstrate its operation and download images to a removable device on immediate request by Police and/or Authorised Officers from Luton Borough Council
18. That all staff are trained in their responsibilities under the Licensing Act 2003 and training records to be kept and updated every 6 months and shall, upon request, be made immediately available to Police Officers and Authorised Officers from Luton Borough Council



Please tick yesHave you made an application for review relating to this premises before ☐

If yes please state the date of that application

Day Month Year

1		1	1	1
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If you have made representations before relating to this premises please state what they were and when you made them

Please tick yes

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

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

Part 3 – Signatures (please read guidance note 3)

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

Signature 

Date 16 July 2019

Capacity Trading Standards Officer acting on behalf of Luton Borough Council

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

Post town

Post Code

Telephone number (if any)

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

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.



Licensing Department
Luton Borough Council

PC 5900 Leanne Kirsop
Licensing Officer
Luton Police Station
Buxton Road
Luton
LU1 1SD

T01582394269
LicensingLuton@bedfordshire.pnn.police.uk

09/08/2019

Dear Sir or Madam,

RE: Hatters News, Chapel Street Luton.

On behalf of the Chief Officer of Bedfordshire Police, I wish to support the review application made by Trading standards in relation to Hatters News, Chapel Street, Luton.

It is the opinion of Bedfordshire Police that the premise has undermined the licensing objectives of prevention of crime and disorder, the prevention of public nuisance and the promotion of public safety.

The premises licence for the location has a condition listed in Annexe 2 and it states, "Digital CTV system to be installed and maintained with images being kept for 28 days". On 6th March 2019 Trading Standards made an unannounced visit to the premises and carried out an inspection. During that visit, staff at the location were unable to operate the CCTV. The following week, on 15th March 2019, Trading Standards officers returned to the shop and this time were able to view the CCTV, however the premises were only able to provide playback from the past 10 days, not the 28 as required by their licence.

Bedfordshire Police rely heavily on CCTV to deter and detect crimes. CCTV is often the only source of evidence to many crimes and is invaluable in helping identify offenders and bring them to justice. There are often occasions when crimes are reported several days after they are committed which means that officer would need that 'buffer' of 28 days playback to be able to secure that evidence. The breach of this condition undermines both the prevention of crime & disorder and the promotion of public safety licensing objectives.

Further to this, Trading Standards have highlighted their concerns around the sale of high strength alcohol, which in turn exacerbates the issue of anti-social behaviour and begging within the town centre. Bedfordshire Police support this assertion and can produce evidence from a member of the Town Centre Community Policing Team, that begging and 'street drinking' are

still a huge concern from visitors, business owners and residents alike. The fact that the premises have been selling high strength alcohol below the minimum permitted price goes to show that the licence holder has no regard for some of the issues the town faces and will put financial gain ahead of this. This practice undermines the prevention of crime and disorder licensing objective.

The location has a licence to sell alcohol for a 24 hour period 7 days a week. This often causes large groups to congregate outside the premises, in particular at around 5am, at weekends when other establishments in the town stop serving alcohol. It is often the case that customers attend to 'top-up', having already been out all evening and persons are regularly seen standing outside drinking alcohol. This has meant that Bedfordshire Police have had to ensure the location is patrolled during these hours and this is highlighted on the forces 'Night Time Economy Briefing' most weeks. This has meant that there is often an undermining of the licensing objective of prevention of public nuisance.

There are numerous options available for the sub-committee to consider, including revocation or a reduction in licensable hours. Should the licence not be revoked then Bedfordshire Police would like to see a reduction in licensable hours to fall more in line with other premises in and around the area. Bedfordshire Police also support the recommended conditions made Trading Standards.

Yours Sincerely,

Leanne KIRSOP

Licensing Officer

BEDFORDSHIRE POLICE

Dear Sir / Madam,

Ref – Hatters Newsagents, 22 Chapel Street, Luton LU1 2SE

As a Responsible Authority under the 2003 Licensing Act, Luton Borough Council's Public Health Team makes the following representation in relation to the above licence application. This representation relates to the three licencing objectives which are the prevention of crime and disorder, public safety and the prevention of public nuisance.

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Public Health at Luton Borough Council have screened this application via the alcohol licencing matrix tool which analyses the postcode area against a series of indicators relating to alcohol harm. The indicators of alcohol harm used within the matrix tool include:

- Alcohol related recorded crime
- Alcohol related ASB
- Looked after children
- Off licence density
- Pub/bar/club density
- Unemployment
- Index of Multiple Deprivation
- Alcohol referral data from alcohol treatment services

The licencing tool draws upon data from a range of sources across Bedfordshire such as the police, schools and hospitals. In using the alcohol matrix tool, the indicators showed that this postcode is located in an area of high alcohol related harm so therefore Public Health supports the application to review the licence based on the two licensing objectives stated. The tool evidences that this premise, with its current breaches would pose significant risk to the community. This premise is located in the town centre which is prominent with the visible and devastating impact of rough sleeping and street drinking which usually affects those with complex needs.

There are many underlying and complex reasons why an individual will engage in anti-social street culture, with irresponsible licenses selling high strength illegally cheap alcohol being one of the reasons. This licence has made sales of Karpackie, with one can containing more than the daily recommended limit for intake of alcohol which was sold under the legal price. The law was put in place for good reason, alcohol at this strength is known to be consumed among those with alcohol dependencies rather than those who drink to socialise. Having easy access to this dangerous quantity of alcohol at a known site (as other retailers do not stock high strength alcohol at a low illegal price) prolongs street drinking and anti-social behaviour in that area. Those with alcohol dependencies find it far more difficult to seek support when they have access to cheap high strength alcohol and the consequences will have an effect not only on each of the indicators within the matrix tool, but on members of the community who wish to enjoy their public spaces.

Our outreach teams who work tirelessly to support vulnerable people on the street are faced with more difficulties when businesses break the law which exasperates the issues that face those with complex needs on the streets and makes it harder for individuals to get in to support systems and away from the criminal justice route. Street drinking is linked to premature death, homelessness, fighting and accidents. Local businesses have a responsibility as a member of the community to understand and carry out their licencing

objectives in order to safeguard children, vulnerable adults and all members of the community.

AGENDA ITEM**6****COMMITTEE: LICENSING PANEL****DATE: 2ND SEPTEMBER 2019****SUBJECT: APPLICATION FOR REVIEW OF PREMISES LICENCE PAGA
SUPERSTORE 3 NEW BEDFORD ROAD LUTON LU1 1SA****REPORT BY: LICENSING AND COMPLIANCE MANAGER****CONTACT OFFICER: AARON WILTSHIRE****TEL: 546040****IMPLICATIONS:****LEGAL ☐****COMMUNITY SAFETY ☐****EQUALITIES ☐****ENVIRONMENT ☐****FINANCIAL ☐****OTHER ☐****STAFFING ☐****WARDS AFFECTED: SOUTH**

PURPOSE

1. The purpose of this report is to enable the Licensing Panel to consider the application received from Bill Masini on behalf of Luton Borough Council Trading Standards for the review of the Premises Licence in respect of Paga Superstore, 3 New Bedford Road, Luton LU1 1SA.

RECOMMENDATION

2. That the Licensing Panel determine the application of Bill Masini for the review of a Premises Licence in respect of Paga Superstore, 3 New Bedford Road, Luton LU1 1SA.

BACKGROUND

3. An application for review of the premises licence was received on 16 July 2019 with regard to Paga Superstore, 3 New Bedford Road, Luton. The current licence allows supply of alcohol for consumption off the premises Monday to Sunday 07.00 to 01.00 the following day, to take place. A copy of the licence is attached at Appendix A.
4. The Applicant states that they are, a responsible authority under the Licensing Act 2003.

5. The application for review relates to the following licensing objectives:

The prevention of crime and disorder

- Sale of “super strength” beers below the “minimum price” and in breach of mandatory premises licence condition – S136 Licensing Act 2003
- Stating or otherwise creating the impression alcohol could legally be sold when it could not – Consumer Protection from Unfair Trading Regulations 2008
- Failure to produce traceable invoices for purchase of super strength beer – Food Safety and Hygiene (England) Regulations 2013
- Failure to mark goods with the selling price – The Price Marking Order 2004
- Failure to pay the National Minimum Wage – The National Minimum Wage Act 1998

Public safety

None

The prevention of public nuisance

- Sale of illegally cheap super strength beers resulting in anti social behaviour in public places

The protection of children from harm

None

A copy of the review application and supporting information is attached at Appendix B.

6. The applicant has not made an application for review relating to this premise before.

RESPONSIBLE AUTHORITIES

7. Representations have been received from responsible authorities and are detailed as follows:

Police

None

Home Office

The Home Office has submitted a representation on the grounds of the prevention of crime and disorder. A copy of the representation is attached at Appendix C.

Fire and Rescue Services

None

Environmental Health or Health and Safety Executive

None

Planning

None

Trading Standards

None

Public Health

Public Health has submitted a representation on the grounds of prevention of crime and disorder and the prevention of public nuisance. A copy of the representation is attached at Appendix C.

Child Protection

None

INTERESTED PARTIES

None

POLICY CONSIDERATIONS

12. The following provisions of the Licensing Act 2003 apply to this application:

Section 51	Application for review of premises licence
Section 52	Determination of application for review
Section 53	Supplementary provision about review

OBSERVATIONS

13. In determining this application, the Licensing Panel must, having regard to the representations received, and take such of the following steps as it considers appropriate for the promotion of the licensing objectives. The steps are:

- (a) Decide that no action is appropriate to promote the licensing objectives
- (b) Modify or add conditions to the licence
- (c) Exclude a licensable activity from the licence
- (d) Remove the designated premises supervisor
- (e) Suspend the licence for a period (not exceeding 3 months)
- (f) Revoke the licence

14. The licensing objectives are:

- The Prevention of Crime and Disorder
- The Prevention of Public Nuisance
- The Protection of Children from Harm
- Public Safety

All the representations received in respect of this application relate to these licensing objectives.

15. The following paragraphs of the licensing authority's statement of licensing policy applies to this application

Section 11 Reviews and Expedited Reviews

Section 12 Licensing Objectives
Section 13 Delegation of Licensing Functions
Section 16 Representations

APPENDICES

The following Appendices are attached to this report:-

Appendix A: Premises Licence

Appendix B: Review Application and supporting information.

Appendix C: Representations from Responsible Authorities.

LEGAL COMMENTS

Report cleared by Brenden Delaney, Solicitor, on 16 August 2019

LIST OF BACKGROUND PAPERS **LICENSING ACT 2003**

Guidance issued under s182 of the Licensing Act 2003
Luton Borough Council's Statement of Licensing Policy

Premises Licence Register



Premises Licence Number

051899

This revision (reference number):

141284

Effective from:

26/02/2015

Appendix A

Part 1 - Premises details

Postal address of premises, or if none, ordnance survey map reference or description	
Paga Superstore 3 New Bedford Road	
Post town Luton	Post code LU1 1SA
Telephone number: 01582 486614	

Where the licence is time limited the dates		
Start Date	24/11/2005	End Date

Licensable activities authorised by the licence
Supply of Alcohol for consumption off the premises

The times the licence authorises the carrying out of licensable activities
<u>Supply of Alcohol</u> Monday to Sunday 07.00 to 01.00 (the following day)

The opening hours of the premises	
Monday	07.00 to 01.00 (the following day)
Tuesday	07.00 to 01.00 (the following day)
Wednesday	07.00 to 01.00 (the following day)
Thursday	07.00 to 01.00 (the following day)
Friday	07.00 to 01.00 (the following day)
Saturday	07.00 to 01.00 (the following day)
Sunday	07.00 to 01.00 (the following day)
Seasonal Variations	None
Non-Standard timings	None

Where the licence authorises supplies of alcohol whether these are on and/or off supplies	
Alcohol - Off Premises	Monday to Sunday 07.00 to 01.00 (the following day)

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

Kalaimagal Selvaratnam
22 Villa Road
Luton
Bedfordshire
LU2 7NT

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

Not applicable

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

Kalaimagal Selvaratnam

1. Where a premises licence authorises the supply of alcohol:
 - a) No supply of alcohol may be made under the premises licence-
 - i. at a time when there is no designated premises supervisor in respect of the premises licence, or
 - ii. at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
 - b) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

With effect from 28th May 2014

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1—
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);
 - (b) “permitted price” is the price found by applying the formula—

$$P = D + (D \times V)$$

where—

- (i) P is the permitted price,
- (ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
 - (i) The holder of the premises licence,
 - (ii) The designated premises supervisor (if any) in respect of such a licence, or
 - (iii) The personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) “valued added tax” means value added tax charged in accordance with the Value Added Tax Act 1994(7).

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. 1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
 - (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

1. CCTV system to be operated within premises.
2. Roller shutters to be installed on shop front.
3. Fire exit and Fire extinguishers to be provided and maintained.
4. Age verification scheme to be utilized e.g. 'Prove it' Scheme, PASS Scheme.
5. Current public liability insurance to be held.
6. Rubbish bins to be sited at rear of premises.

Embedded Restrictions applied on conversion of Justices Off-licences

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

In this condition, permitted hours means:

- a. On weekdays, other than Christmas Day, 8 a.m. to 11 p.m.
- b. On Sundays, other than Christmas Day, 10 a.m. to 10.30 p.m.
- c. On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.
- d. On Good Friday, 8 a.m. to 10.30 p.m.

The above restrictions do not prohibit:

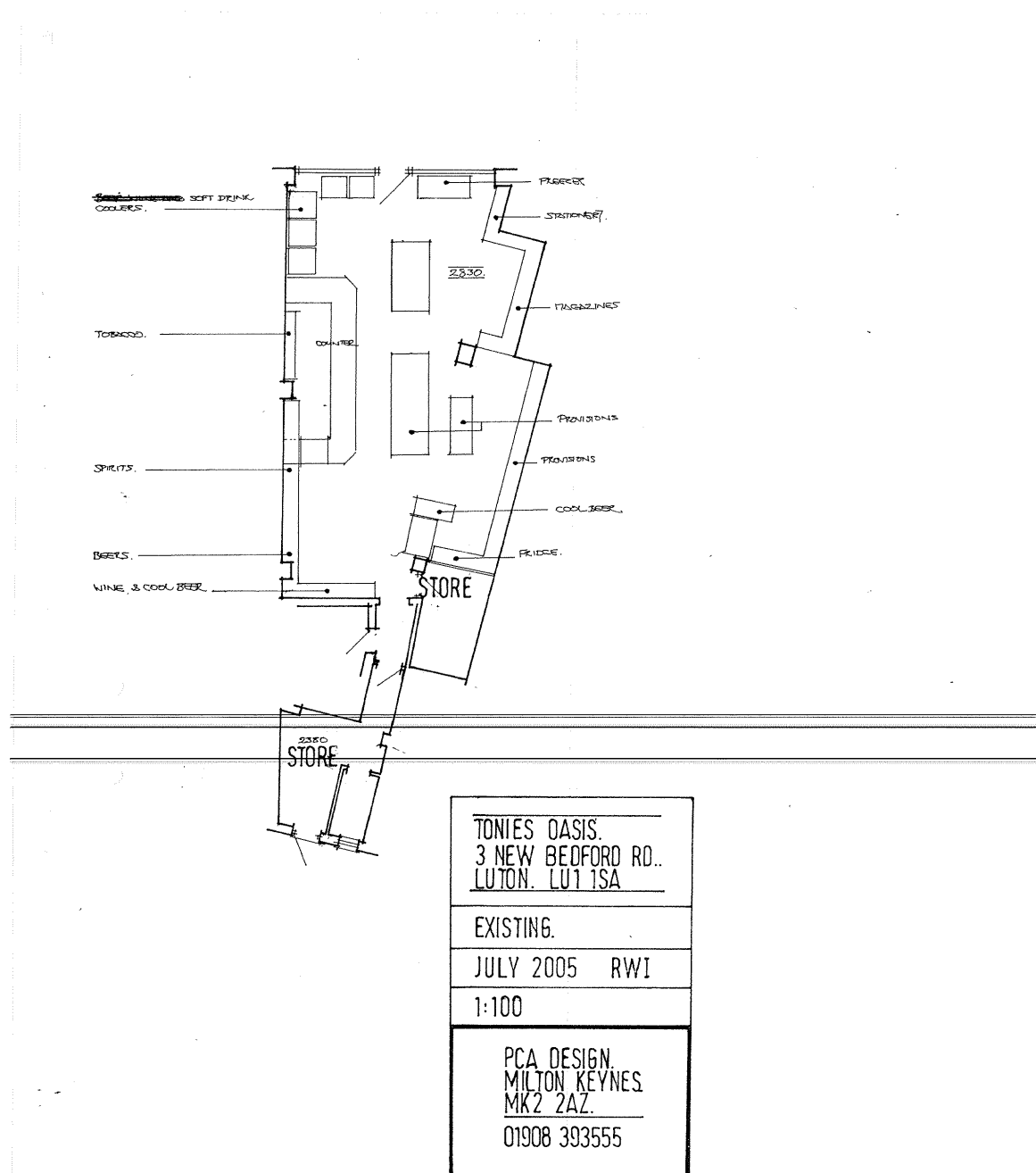
- a. during the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;
- b. the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- c. the sale of alcohol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

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

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

Not Applicable.

Note: Plans may not be shown to any scale that may be specified in the drawing.



Luton Borough Council, Licensing Service, Town Hall, Luton LU1 2BQ

**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 Bill Masini (On behalf of Trading Standards)

(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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Paga Superstore 3 New Bedford Road	
Post town Luton	Post code (if known) LU1 1SA

Name of premises licence holder or club holding club premises certificate (if known) Kalaimagal Selvaratnam

Number of premises licence or club premises certificate (if known) 051899 (revision ref 141284)

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 | <input type="checkbox"/> |
| b) a body representing persons living in the vicinity of the premises | <input type="checkbox"/> |
| c) a person involved in business in the vicinity of the premises | <input type="checkbox"/> |

- d) a body representing persons involved in business in the vicinity of the premises ☐
- 2) a responsible authority (please complete (C) below) ☒
- 3) a member of the club to which this application relates (please complete (A) below) ☐

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

Please tick

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

Surname

First names

I am 18 years old or over

Please tick yes

☐

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

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Luton Borough Council – Trading Standards Bill Masini Trading Standards Officer 1st Floor Annexe Town Hall Manchester Street Luton LU2 0BW
Telephone number (if any) 01582 546406
E-mail address (optional) bill.masini@luton.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 checked="" type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 1)**Prevention of Crime and disorder –**

- Sale of “super strength” beers below the “minimum price” and in breach of mandatory premises licence condition – S136 Licensing Act 2003
- Stating or otherwise creating the impression alcohol could legally be sold when it could not – Consumer Protection from Unfair Trading Regulations 2008
- Failure to produce traceable invoices for purchase of super strength beer – Food Safety and Hygiene (England) Regulations 2013
- Failure to mark goods with the selling price – The Price Marking Order 2004
- Failure to pay the National Minimum Wage – The National Minimum Wage Act 1998

The Prevention of Public Nuisance –

- Sale of illegally cheap super strength beers resulting in anti social behaviour in public places

Luton Borough Council is seriously concerned about the high level of anti-social behaviour and public nuisance caused by people drinking (usually very strong) alcohol in public places throughout the Borough, though in particular the Town Centre and areas in close walking distance thereof. Those drinking such alcohol are invariably alcoholics who live chaotic lifestyles and suffer from poor health both physically and mentally. The easy availability of illegal cheap, very strong alcohol does not help these vulnerable people break this powerful addiction and makes the task of alcohol rehabilitation services and dedicated charities all the more difficult in their efforts to help them. An inevitable consequence of this drinking is begging and other anti-social behaviour such as unwarranted aggression and urination in public places and can make homelessness all the more likely. Aside from the often desperate personal issues these people constantly face, it also discourages people from visiting the town and can be damaging to the local economy. Luton Borough Council introduced a Public Space Protection Order in 2018 under The Anti- Social Behaviour, Crime and Policing Act 2014 to help address some of these matters because it was satisfied on reasonable grounds that these were having a detrimental effect on the life of those in the town centre. This premise is inside this defined zone.

Since April 2017 retailers of alcohol have been required by law to purchase alcohol from businesses that are registered by Her Majesty's Revenue and Customs (HMRC) under their Alcohol Wholesalers Registration Scheme (AWRS). AWRS wholesalers have a Unique Reference Number and this must be recorded on all invoices to retailers. Retailers are easily able to verify if a wholesaler is operating on this widely publicised scheme within the Licensed trade. This scheme was established because of widespread duty evasion which also undermined HM Government's public health strategy to control alcohol consumption where price is a key influence on consumption, similar to that of tobacco. It is an offence if retailers fail to comply with the AWRS.

For beer there is a "General Beer" Duty that applies to beers with all alcoholic strength above 2.8%. However, where any beer has an alcohol by volume strength (ABV) of more than 7.5% there is a "High Strength Beer" duty in addition to the General Beer duty. This uses a price escalator and is intended to deter consumption of such drinks where the level of harm is greater than more regular strength beers. Beers such as "Karpackie" have a 9% ABV and thus one 500ml can alone contains 4.5 units of alcohol which is above the recommended daily amount of alcohol. This

drink is almost exclusively drunk by alcoholics and these people are very sensitive to price; they want to pay the lowest price for the highest amount of alcohol.

On Friday 22nd February 2019 Trading Standards visited the shop (unannounced) to see what beers were for sale and the selling prices. Cans of Karpackie together with a large number of other super strength beers and ciders were offered for sale in the fridge at the back of this slightly larger than average sized independent convenience shop though no price was stated. Towards the back of the shop and immediately in front of a soft drinks fridge was a huge pile of 14 unopened trays of Karpackie. A "tray" consists of 24 individual 500ml cans. i.e. 336 cans. A can of Karpackie was taken from the fridge to the till. The male cashier said the price was £1.30 and a sale was made. There was no one else working in the shop. This was below the "minimum permitted price" and in breach of the mandatory condition on the licence that is on all Premises Licences where the sale of alcohol is an authorised licensable activity. The price per unit of alcohol was therefore a mere 28 pence; this being slightly more than half the legal minimum price per unit of alcohol currently charged in Scotland.

On Tuesday 5th March at 2.25pm, Trading Standards carried out an inspection at the premise. Mr Mohan Gajjiganti was working behind the counter. Asked if the Premises Licence Holder was present, he said he was working alone. Asked who was that person, he said he knew the boss to be a man called "Peter" who was about 40 years old. He was shown a copy of the Premise licence showing the Premises Licence Holder and Designated Premises Supervisor [a female – Kalaimagal Selvaratnam] and he said he did not know that person. He showed documentation to confirm his name, date of birth (30.10.91), [27 years old] that he was Indian, was on a student visa and permitted to work 16 hours. He said he was a student at The University of Bedfordshire studying for an MSc in Science and Biology, worked 16 hours a week, was paid £7.50 per hour and had been working there for about two months. When the shop was visited again on 15 July Mr Gajjiganti once again said he was paid £7.50 an hour. In March 2019, The National Minimum Wage Act 1998 required a minimum hourly rate of pay to be £7.83 for someone of his age. This increased to £8.21 an hour from April 2019. It is a criminal offence to for an employer of a worker who qualifies for the National Minimum Wage, to fail to do so.

When asked if he had a Personal Licence ,Mr Gajjiganti said he did not.

This Premises Licence has very few conditions attached to it in Annexe 2 and those in conditions are brief and not particularly helpful for the purposes of enforcement.

For example in relation to CCTV, the condition merely states, "CCTV to be operated within premises". It was clear to the officer CCTV was in place with images shown on a monitor. Mr Gajiganti did not know how to operate it or whether it recorded any images.

Trading Standards therefore concentrated on the sale of the illegally cheap super strength beer. This was not priced and Trading Standards asked Mr Gajiganti how much he sold the Karpackie for. He said £1.00 a can. When asked if he knew where it had come from or if he knew if there were any invoices for it, he said he did not know. Karpackie was still for sale in the fridge and it was still not priced contrary to the requirement to display the selling price in The Price Marking Order 2004. As well as being a breach of the Licence condition, the Trading Standards Officer was satisfied an offence was committed under The Consumer Protection from Unfair Trading Regulations 2008 in that it is a prohibited unfair commercial practice to state or otherwise create the impression that a 500ml can of Karpackie with an ABV of 9% could be legally sold for that price when it could not. A decision was taken to seize the Karpackie using the officer's powers contained in The Consumer Rights Act 2015. 18 cans were removed from the fridge.

There was also a now reduced quantity of five unopened trays of Karpackie (120 cans) piled up in front of the soft drinks fridge; the same place as the larger pile had been eleven days earlier. This meant in all probability at least nine trays (216 cans) had been sold or removed in the eleven days. These were also seized making a total seizure of 138 cans.

Webbs is quite a small shop and very close to the other business, Paga Store at 3 New Bedford Road owned by Piranavan Suppiah. It was clear from a previous and earlier visits to Paga, because of the extra space in that significantly bigger shop, that goods to be sold at Webbs are sometimes stored at Paga. This would explain why a small quantity of this drink was found in Webbs.

The Premises Licence Holder and Designated Premises Supervisor, Kalaimagal Selvaratnam ("KS") and the owner of the business, Suppiah Piranavan ("SP") were interviewed under caution on 25 March.

It became immediately clear that Kalaimagal Selvaratnam had no real control over how the conditions on the Premises Licence and licensing objectives were complied with. Her brother, Suppiah Piranavan, did everything. She was not familiar with the conditions that were on the licence and visited the shop on a limited

basis. She lived/s in Ilford, Essex and apart from a few months in 2011, has never lived at the address on the Premises Licence, this being the home of "SP". She did not appoint shop staff or train them; this being something SP did. When she comes to the shop (which may be a couple of times a week) it will probably be between 10/11 in the morning and will leave by 4pm so she can be home for her children. She has no idea who is working at any one time (or whether they hold a Personal Licence). KS was totally unfamiliar with Karpackie beer and said she had never seen it until shown it by the Trading Standards Officer during the interview. Trading Standards question the validity of this explanation when this shop had a huge quantity of Karpackie piled up in the shop in February. No one coming into the shop and approaching the till could avoid seeing it. As the Premises Licence Holder and Designated Premises Supervisor, Trading Standards say she saw it and ignored it or had not visited the shop for some time and took no steps to check what alcohol was being bought and sold. She said she had no idea about its high alcoholic strength or any idea about prices though she did some buying at Cash and Carry's. In short, Kalamaigal Selveratnam, is and has been for a considerable period of time, in effect a DPS and Premises Licence holder in name only and this was the main reason why Trading Standards then interviewed Suppiah Piranavan. KS had failed to notify Luton Borough Council's Licensing Team that her address changed in 2011 from 22 Villa Road Luton to her Ilford address.

Mr Piranavan was unable to produce any invoices for the Karpackie or to state where this product was purchased from; in breach of The Food Safety and Hygiene (England) Regulations 2013.

KS later accepted simple cautions for two offences under Licensing Act in respect of this particular premise for selling Karpackie below permitted minimum price and failing to notify Luton Borough Council of her change of address.

SP later accepted simple cautions for five offences arising from Trading Standards' dealings with this particular shop (it being his business); engaging in a prohibited unfair commercial practice under The Consumer Protection from Unfair Trading Regulations 2008 (two in relation to the sale/offer for sale of Karpackie below the minimum legal price (2 offence dates), a failure to identify a person from whom the Karpackie had been bought from (i.e. no traceable invoices) [Food Safety and Hygiene (England) Regulation 2013 and a failure to price alcohol for sale under The Prices Act 1974 [two offence dates]

Trading Standards say Kalamaigal Selvaratnam has acted in a negligent manner with regard to her licence and with scant regard to what alcohol is sold from the premise. In doing so she has failed to promote the licensing objectives of Preventing crime and disorder and The Prevention of Public Nuisance.

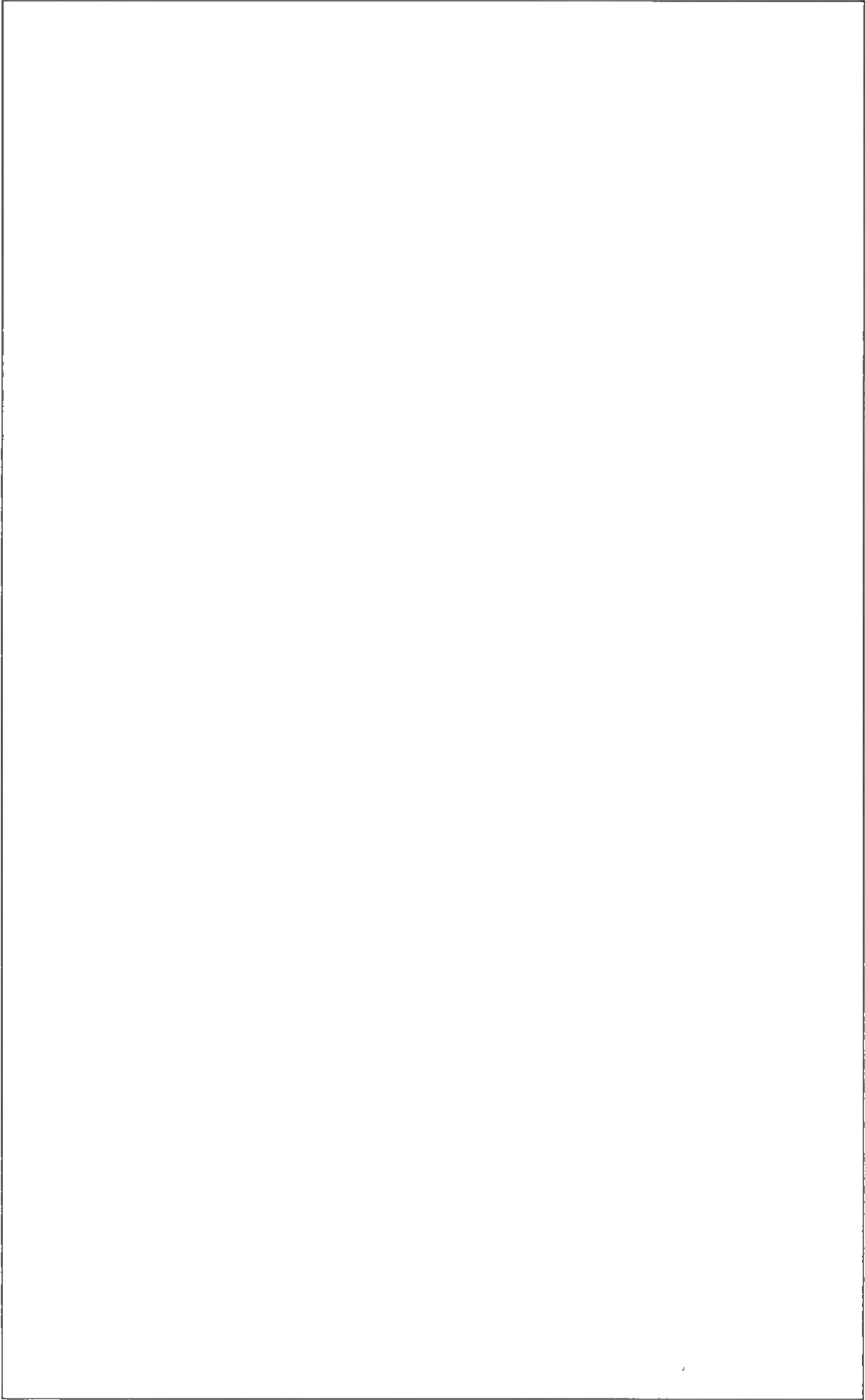
The sub-committee is invited to consider all options open to it including revocation. In the event the licence is not revoked, Trading Standards would like to see all the conditions in Annex 2 removed. In their place Trading Standards would like the following conditions to be added to the licence:

1. No beers or lagers in cans, bottles or any other container constructed of any material with an ABV of more than 5.5% are to be displayed, sold or offered for sale from or stored on the premises
2. No ciders in cans or bottles or any other container constructed from any material with an ABV of more than 4.9% are to be displayed, sold or offered for sale from or stored on the premises
3. No beers, lagers or ciders are to be displayed, sold or offered for sale from or stored on the premises in individual containers that have a capacity exceeding 1 litre (or imperial equivalent)
4. A minimum of 4 cans of beer, lager or cider shall be sold in any one transaction. A combination of these drinks is permitted to achieve this minimum quantity.
5. No spirits in any container (constructed of any material) where the quantity is 100ml or less, are to be displayed, sold or offered for sale from or stored on the premises.
6. Alcohol shall not be sold in an open container or be consumed in the licensed premises.
7. There shall be a personal licence holder on the premises at all times alcohol is available for supply, for the purpose of supervising such sales.
8. That a challenge 25 scheme shall be maintained at the premises requiring that staff selling alcohol request that any customer who looks under 25 years old, and who is attempting to purchase alcohol, provides valid photographic identification proving that the customer is at least 18 years old. Valid photographic identification is composed of a driving licence, passport, UK armed services ID card and any Proof of Age

Standards Scheme (PASS) accredited card such as the Proof of Age London (PAL) card.

9. That all staff involved in the sale of alcohol shall be trained in the prevention of sales of alcohol to underage persons, and the challenge 25 scheme in operation at the premises. A record of such training shall be kept / be accessible at the premises at all times and be made immediately available for inspection at the premises to Council or Police Officers on request. The training record shall include the trainee's name (in block capitals), the trainer's name (in block capitals), the signature of the trainee, the signature of the trainer, the date(s) of training and a declaration that the training has been received.
10. That clearly legible signs shall be prominently displayed where they can easily be seen and read by customers stating to the effect that a challenge 25 policy is in operation at the premises, that customers may be asked to provide proof of age and stating what the acceptable forms of proof of age are. Such signage shall be displayed at all entrances, points of sale and in all areas where alcohol is displayed for sale. The signage shall be kept free from obstructions at all times.
11. That a register of refused sales of alcohol shall be maintained in order to demonstrate effective operation of the challenge 25 policy. The register shall be clearly and legibly marked on the front cover as a register of refused sales, with the address of the premises and with the name and address of the licence holder. The register shall be kept / be accessible at the premises at all times. On a monthly basis, the Designated Premises Supervisor (DPS) shall check the register to ensure it is being properly completed. The DPS shall sign and date the register to that effect and where appropriate take corrective action in a timely manner if the register is not being completed correctly. The register shall be made immediately available for inspection at the premises to Council or Police Officers on request.
12. That an electronic point of sale (EPOS) system be installed at all tills on the premises and it shall be configured to prompt the operator to check proof of age when an alcoholic product (any other product where the age for purchase is restricted by law) is scanned. The prompt should require the operator to confirm that the purchaser is over 18 (or any other age required by the relevant law for other products) before the next item can be scanned or the transaction completed.
13. Clear and prominent notices shall be displayed informing people who enter the shop that CCTV is in operation and images are being recorded.

14. A CCTV system shall be installed at the premises that records clear images of to cover all areas within the premises including the outside to the front in all lighting conditions both the interior and exterior of the premises. It must be positioned to capture a clear facial image of every person who enters the premise and to also capture the sale of alcohol and tobacco products.
15. The CCTV system shall have a 31 day recording facility and be maintained in full working order at all times
16. All CCTV footage shall be kept for a period of thirty one (31) days and shall, upon request, be made immediately available to The Police and/or Authorised Officers from Luton Borough Council
17. All staff working at the premise shall be trained and be fully conversant in the correct operation of the CCTV and be able to demonstrate its operation and download images to a removable device on immediate request by Police and/or Authorised Officers from Luton Borough Council
18. That all staff are trained in their responsibilities under the Licensing Act 2003 and training records to be kept and updated every 6 months and shall, upon request, be made immediately available to Police Officers and Authorised Officers from Luton Borough Council



Please tick yesHave you made an application for review relating to this premises before ☐

If yes please state the date of that application

Day		Month		Year	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

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

Please tick yes

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

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

Part 3 – Signatures (please read guidance note 3)

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

Signature 

Date 16 July 2019

Capacity Trading Standards Officer acting on behalf of Luton Borough Council

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

Long, Saffron

From: McFaul Derek <[REDACTED]>
Sent: 13 August 2019 13:54
To: [REDACTED]
Cc: [REDACTED]
Subject: 20190813-ENFORCEMENT-VISIT-TO-PAGA-SUPERSTORES-LU11SA-16082017
Attachments: 20170817--ENFORCEMENT-VISIT-PAGA-LU11SA.docx; RE 20170817-ROVOKATION-OF-ALCOHOL-LICENCE.htm

Follow Up Flag: Follow up
Flag Status: Flagged

To whom it may concern:

The Home Office is in receipt of an application to review the premises Licence for Paga Superstores at 3 New Bedford Road LUTON, LU11SA.

As a Responsible Authority under The Licensing Act 2003, The Home Office wishes to make the following representation in support of Luton Trading Standards' application and does so under The Prevention of Crime and Disorder objective.

The Immigration Service at the Home Office has had reason to visit this premise on 16082017 and as one of the Officer In Charge of the visit my findings were as follows:

Intelligence was received to state that Paga Superstores in LUTON were employing an illegal worker on site, 6 – 7 days a week, form 1700 – 0000 hrs. The offender was named and a warrant was issued to enter the store to look for the offender in order to arrest and remove him from the UK as an overstayer to his visa conditions.

I executed the warrant on the subject of the visit and he was arrested for immigration offences along with one other immigration offender.

I sent the following email to the council and have attached the original email chain:

I was OIC for a visit to PAGA Superstores, 3 New Bedford Road, LUTON, LU1 1SA, on 16/08/17. I had a warrant to enter the premises to search for a known Immigration Offender. [REDACTED] was on site and arrested by immigration Officers and subsequently questioned. He admitted to working illegally on the premises for £5 per hour cash in hand and gave me details of the license holder, a Suppiah PIRANAVAN, Unique no of: 051697, linked to [REDACTED]. He claimed that the license holder employed him without any documentation checks and [REDACTED] was the current key holder for the premises. He was employed for 6 days a week, from 1700 – 0001 hrs.

A second male was found on site, [REDACTED] who also admitted to working illegally and he confirmed the same details above for his employer.

Whilst searching the premises, in excess of 7 ID cards, driving licences and bank cards were found, consistent with possibilities of running shop tabs from the site. This has been reported to the Police, with the case being No Further Actioned. On the evening, I attempted to speak to Mr PIRANAVAN, who would

not speak to me, and [REDACTED] claims that he has access to the CCTV cameras. As contact was not made, I served an illegal worker notice for 2 persons found on site, with a fine of a maximum limit of £40000.

I secured the premises on the evening and keys were placed in [REDACTED] possessions in custody. Immigration have not closed the premises, as this is a first offence, but given that the director of the shop is employing illegal immigrants, I thought that the council should be aware of this.

Should you need further information or statements, please let me know.

I also wrote an MG11 statement for illegal working which is also attached for reference. This resulted in Civil Penalties issuing a fine of £30000 on the business on 24/12/2017, I am in the process of confirming the payment of the fine as this will confirm liability of the store in the employment of illegal workers. [REDACTED] was arrested (criminal) and questioned in regards to the possession of ID cards, but BEDFORDSHIRE Police No Further Actioned this case.

I should also be able to attend the hearing if required.

Yours sincerely.

Derek MCFAUL.

Derek MCFAUL

Immigration Intelligence East of England OIU

This email and any files transmitted with it are private and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please return it to the address it came from telling them it is not for you and then delete it from your system. This email message has been swept for computer viruses.

WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

TS	31	GPR	1015
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Statement of: Derek McFAUL

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

Occupation: Immigration Officer

This statement (consisting of 2 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: 17/08/2017

I am an Immigration Officer, (IO) Warrant Number 15429, based at the Immigration Enforcement Office in Bedfordshire, Franklin Court, Bedford, MK44 3JZ.

On Wednesday 16 AUGUST 2017, I was an Officer in Charge (OIC) at an Enforcement Visit to PAGA Supermarket, 3 NEW BEDFORD ROAD, LUTON LU1 1SA. I was in full arrest uniform, wearing issued Personal Protective Equipment (PPE) and other officers present were: IO TAYLOR, IO TUTTLE-PROWSE, IO GRAY, IO VALENTINE, IO THOMPSON and IO MEHMI.

A search warrant under Paragraph 17 (2) Schedule 2 of the Immigration Act 1971, as amended, had been obtained from SOUTH EAST MAGISTRATES COURT on 14 August 2017 to enter the premises.

At 1744 hrs the team deployed at my request ; I entered the premises served the warrant on a male who identified himself as the target of the warrant, a

was subsequently arrested under 17 (1) Schedule 2 of the Immigration Act 1971 (AA) and the premises was searched under a Schedule 2 Para 25 A search in order to see if his passport could be recovered to aid removal. Whilst this search was being conducted, I found 2 x UK driving licences, 1 x ROU ID card, 1 x IND driving licence and two bank cards, none which belonged to the male who was detained.

Signature:

Signature witnessed by:

A spin off target, [REDACTED] was also encountered and subsequently arrested under the same Immigration powers and officers conducted illegal working questions on site on both parties.

The owner of PAGA supermarket is: Mr Suppiah PIRANAVAN, [REDACTED]
[REDACTED] I made several attempts to contact Mr PIRANAVAN, but he did not return my calls.

An Illegal Working Civil Penalties Referral Notice WAS SERVED on site and left with the warrant executed and rights and entitlements. I secured the premises and rolled the electric shutters down over the shop front and placed the keys, once secured into [REDACTED] evidence bag, which was then secured and both were conveyed to LUTON Police Station, where they were booked in by officers.

This statement is made from my recollection of events and I include a copy of my Pocket Notebook, 005082, pages 38 – 43 as exhibit DSM/01

Signature: [REDACTED]

Signature witnessed by:

Witness contact details

Name of witness: Derek McFaul Home address: Bedford ICE, Unit 2 Franklin Court, Bedford Postcode: MK44 3JZ

Home telephone No:

Work telephone No:

Mobile:

E-mail address:

Preferred means of contact (specify details): email

Best time to contact (specify details):

Gender: Male

Date and place of birth: Glasgow 24/10/1969

Former name:

Ethnicity Code (16 + 1):

DATES OF WITNESS NON-AVAILABILITY:**Witness care**

- a) Is the witness willing to attend court? YES If 'No', include reason(s) on form **MG6**.
- b) What can be done to ensure attendance?
- c) Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness? (*youth under 18; witness with mental disorder, learning or physical disability; or witness in fear of giving evidence or witness is the complainant in a sexual offence case*) NO If 'Yes' submit **MG2** with file in anticipated not guilty, contested or indictable only cases.
- d) Does the witness have any particular needs? NO If 'Yes' what are they? (*Disability, healthcare, childcare, transport, disability, language difficulties, visually impaired, restricted mobility or other concerns?*).

Witness Consent (for witness completion)

- a) The Victim Personal Statement scheme (victims only) has been explained to me Yes ☐ No ☐
- b) I have been given the Victim Personal Statement leaflet Yes ☐ No ☐
- c) I have been given the leaflet "Giving a witness statement to the Home Office..." Yes ☐ No ☐
- d) I consent to Home Office Immigration Enforcement having access to my medical record(s) in relation to this matter (*obtained in accordance with local practice*) Yes ☐ No ☐ N/A ☐
- e) I consent to my medical record in relation to this matter being disclosed to the defence Yes ☐ No ☐ N/A ☐
- f) I consent to the statement being disclosed for the purposes of civil, or other proceedings if applicable, e.g. child care proceedings, CICA Yes ☐ No ☐ N/A ☐
- g) **Child witness cases only.** I have had the provision regarding reporting restrictions explained to me. Yes ☐ No ☐ N/A ☐

I would like CPS to apply for reporting restrictions on my behalf. Yes ☐ No ☐ N/A ☐

'I understand that the information recorded above will be passed on to the Witness Service, which offers help and support to witnesses pre-trial and at court'.

Signature of witness:

PRINT NAME:

Signature of parent/guardian/appropriate adult:

PRINT NAME:

Address and telephone number (of parent etc.), if different from above:

Statement taken by:

Office / station:

Time and place statement taken:

Government Security Classification Official
Sensitive **Approved for Immigration Enforcement use –**
April 2014

MG11T

This tear off section to be completed and handed to the witness

The Home Office (Immigration Enforcement) – Contact Details

The officer dealing with your case/taking this statement is:

Officer: _____ Rank & Number: _____

Office: _____

Telephone: _____

Contact E-Mail: _____

Reference No: _____

The officer dealing with your case can help but may not always be available.

2014

Government Security Classification
Official Sensitive

Giving a witness statement to the Home Office– what happens next?

Thank you for coming forward. We value your help and we will do everything we can to help you.

The criminal justice system cannot work without witnesses. They are the most important element in bringing offenders to justice. Now you have made a statement, you may be asked to give evidence in court.

Is there anything else I can do?

Yes. It is important to tell the Home Office:

- if you have left anything out of your statement or if it is incorrect
- if your address or phone number changes (trials collapse every day because witnesses cannot be contacted in time)
- dates when you may not be able to go to court. Please contact the officer dealing with your case to update this information as soon as it changes. It is needed when the trial date is set.

Will the suspect (the defendant) or the defence lawyer be given my address?

No, your address is recorded on the reverse of your witness statement and the defendant or their solicitor only receives a copy of the front. Also, witnesses are not usually asked to give their address out loud in court. The defendant or their solicitor is normally told the names of any witnesses.

What will happen to my statement?

If a suspect is charged over this incident, your statement and all the other evidence will be passed to the Crown Prosecution Service (CPS). CPS is responsible for prosecuting people who have been charged with a criminal offence in England and Wales. Although they work closely together, the Home Office, the police and CPS are separate organisations.

Who will read my statement?

Everyone involved with the case will read your statement (e.g. Home Office, the police, CPS, defence and the magistrate or judge).

What if someone tries to intimidate me?

It is a criminal offence to intimidate (frighten) a witness or anyone else helping the Home Office in an investigation. If you are harassed or threatened in any way before, during or after the trial, you should tell the police immediately and inform the Home Office officer dealing with your case.

Will I be told what is happening in the case?

The Home Office and CPS are improving procedures to keep victims and witnesses up to date with what is happening but it is not always possible to do this in every case. Remember, you can contact the Home Office at any time if you have questions or concerns.

You will be contacted if you are needed to go to court (but it may be some time after you gave your statement, as cases take time to prepare). Victims of crime are usually told:

- if a suspect is charged
- about bail and what happens at court
- if the case does not proceed for any reason.

Witnesses who are not victims of the crime may not be contacted again if:

- the suspect admits the offence and is cautioned or pleads guilty at court
- there is not enough evidence to prosecute the suspect
- no suspect is identified

Will I have to go to court?

You will only have to go to court if the defendant either:

- denies the charge and pleads 'not guilty' or
- pleads guilty but denies an important part of the offence which might affect the type of sentence they receive.

If you are asked to go to court, the prosecution and defence lawyers will ask you questions about your evidence. You will be able to read your statement to refresh your memory first. If you have given a statement and are then asked to go to court to give evidence, you must do so.

You will be sent

- a letter telling you when and where to go
- an explanatory leaflet.

What will happen if I don't go to court?

If you have any problems or concerns about going to court, you must inform the officer dealing with your case as soon as possible. If you have to go to court but there is reason to believe that you will not go voluntarily, the court may issue a witness summons against you. If you still fail to attend without good reason you may be found 'in contempt of court' and arrested.

Where will the case be heard?

Most cases are heard in the magistrates' court. More serious crimes are heard in the crown court before a jury.

Who can help?

Every court has a free and confidential Witness Service and you can contact them before the trial. Their trained volunteers offer:

- information on what happens in court
- emotional support and someone to talk to in confidence
- someone to be with you in court when you give evidence
- a visit to the court before the trial, including where possible, a look around a court room so you know what to expect.

The officer dealing with your case will be able to provide you with contact details.

The Witness Service does not discuss evidence or give legal advice.

Extra Help is available to support vulnerable or intimidated witnesses. If the CPS lawyer thinks that a witness qualifies for this help, known as 'Special Measures', he/she will ask the court for permission to use them. The Witness Service, police or Home Office will tell you what is available and the police or CPS will be able to discuss your needs.

Government Security Classification Official
Sensitive **Approved for Immigration Enforcement use –**
April 2014

MG11T

Victim Support and Witness Service

The Victim Support scheme operates from a number of locations across the UK, and their volunteers are specially trained to provide free and confidential information, support and advice.

All victim and witnesses will be offered support from Victim Support's Witness Service, which is **independent**, confidential and free. This support will include someone to talk to, a quiet place in which to wait and a chance to see the court before the day of the trial. Although the Witness Service volunteers will explain the court process to you, they cannot discuss the specific details of the case.

Victim Support Helpline
0845 30 30 900

2014

The Witness Charter
Government Security Classification
Official Sensitive

The Home Office Immigration Enforcement is not a signatory of the Witness Charter but adheres to the spirit of charter which sets out the standards of service that witnesses can expect to receive at every stage of the Criminal Justice process from:

- The Home Office, if you are a witness to a crime or incident
- Other Criminal Justice agencies and lawyers, if you are asked to give evidence for the prosecution or defence in a criminal court

The standards apply to all witnesses, regardless of whether you are also the victim. If you are a victim of a crime, you have rights that are set out in the Code of Practice for Victims of Crime.

Unlike the Victims Code of Practice, the Witness Charter is not set out in law, and there may be constraints which affect the ability of the Criminal Justice agencies to provide the service to all witnesses in all cases.

Being kept updated on progress during the investigation:

After you have given a statement, if the offence is of a **very serious nature** and the Home Office have told you that you are likely to be called to give evidence in court, the Home Office will seek to update you:

- at least once a month on the progress of the case until the point of closure of the investigation or
- at the point at which someone is charged, summoned, or dealt with out of court.

Being kept updated on progress after charge:

If you are a prosecution witness to any offence, the Home Office will seek to inform you:

- when the defendant has been charged
- whether the defendant has been released on bail to attend court, or held in custody until the first court appearance
- what relevant bail conditions apply.

Further information about being a witness can be downloaded from the Crown Prosecution Service website at www.cps.gov.uk/victims_witnesses

From: McFaul Derek
Sent: 17 August 2017 16:24
To: Wright, Lisa (GCSx)
Subject: RE: 20170817-ROVOKATION-OF-ALCOHOL-LICENCE

Lisa,

Thanks for the quick reply. I was OIC for a visit to PAGA Superstores, 3 New Bedford Road, LUTON, LU1 1SA, on 16/08/17. I had a warrant to enter the premises to search for a known Immigration Offender. [REDACTED] was on site and arrested by immigration Officers and subsequently questioned. He admitted to working illegally on the premises for £5 per hour cash in hand and gave me details of the license holder, a Suppiah PIRANAVAN, Unique no of: 051697, linked to [REDACTED]. He claimed that the license holder employed him without any documentation checks and [REDACTED] was the current key holder for the premises. He was employed for 6 days a week, from 1700 – 0001 hrs.

A second male was found on site, [REDACTED] who also admitted to working illegally and he confirmed the same details above for his employer.

Whilst searching the premises, in excess of 7 ID cards, driving licences and bank cards were found, consistent with possibilities of running shop tabs from the site. This has been reported to the Police, with the case being No Further Actioned. On the evening, I attempted to speak to Mr PIRANAVAN, who would not speak to me, and [REDACTED] claims that he has access to the CCTV cameras. As contact was not made, I served an illegal worker notice for 2 persons found on site, with a fine of a maximum limit of £40000.

I secured the premises on the evening and keys were placed in [REDACTED] possessions in custody. Immigration have not closed the premises, as this is a first offence, but given that the director of the shop is employing illegal immigrants, I thought that the council should be aware of this.

Should you need further information or statements, please let me know.

Kind regards.

Derek.

Derek McFaul

[REDACTED]

[REDACTED]

From: Wright, Lisa (GCSx) [REDACTED]
Sent: 17 August 2017 16:09

To: McFaul Derek
Subject: RE: 20170817-ROVOKATION-OF-ALCOHOL-LICENCE

Good Afternoon Derek

Thank you for your email. Please can you send all relevant information to myself by just replying to this email.

Kind Regards

Lisa Wright
Senior Licensing Officer

From: Wright, Lisa (GCSx)
Sent: 17 August 2017 16:07
To: Wright, Lisa (GCSx)
Subject: FW: 20170817-ROVOKATION-OF-ALCOHOL-LICENCE

From: McFaul Derek [REDACTED]
Sent: 17 August 2017 12:57
To: LBC ER Licensing
Subject: 20170817-ROVOKATION-OF-ALCOHOL-LICENCE

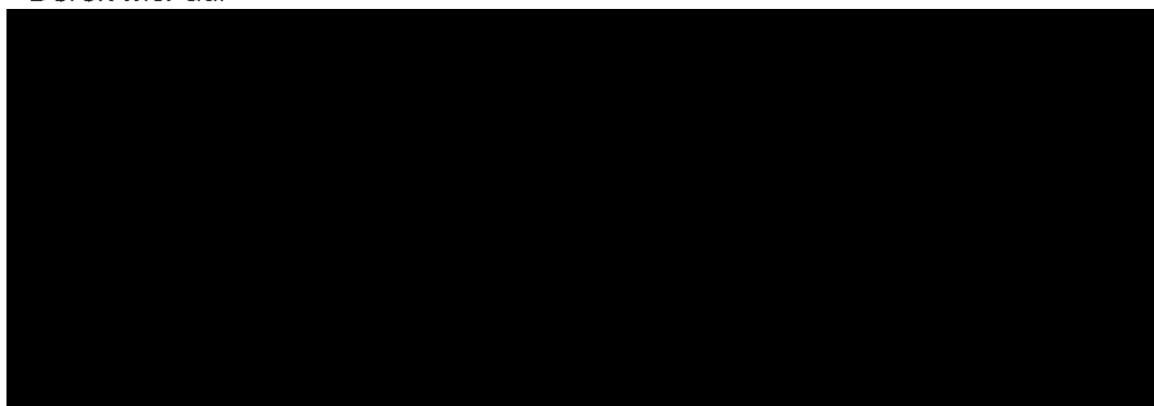
Good afternoon,

I am an Immigration Officer who executed a warrant on a licensed premises yesterday and would like to get the supermarket license revoked. Do you have an email address where I can send the relevant information to?

Kind regards.

Derek.

Derek McFaul



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Dear Sir / Madam,

Ref – Paga superstore LU1 1SE

As a Responsible Authority under the 2003 Licensing Act, Luton Borough Council's Public Health Team makes the following representation in relation to the above licence application. This representation relates to two of the licencing objectives which are the prevention of crime and disorder and the prevention of public nuisance.

Public Health at Luton Borough Council have screened this application via the alcohol licencing matrix tool which analyses the postcode area against a series of indicators relating to alcohol harm. The indicators of alcohol harm used within the matrix tool include:

- Alcohol related recorded crime
- Alcohol related ASB
- Looked after children
- Off licence density
- Pub/bar/club density
- Unemployment
- Index of Multiple Deprivation
- Alcohol referral data from alcohol treatment services

The licencing tool draws upon data from a range of sources across Bedfordshire such as the police, schools and hospitals. In using the alcohol matrix tool, the indicators showed that this postcode is located in an area of high alcohol related harm so therefore Public Health supports the application to review the licence based on the two licensing objectives stated. The tool evidences that this premise, with its current breaches would pose significant risk to the community. This premise is located in the town centre which is prominent with the visible and devastating impact of rough sleeping and street drinking which usually affects those with complex needs.

There are many underlying and complex reasons why an individual will engage in anti-social street culture, with irresponsible licenses selling high strength illegally cheap alcohol being one of the reasons. This licence has made sales of Karpackie, with one can containing more than the daily recommended limit for intake of alcohol which was sold under the legal price. The law was put in place for good reason, alcohol at this strength is known to be consumed among those with alcohol dependencies rather than those who drink to socialise. Having easy access to this dangerous quantity of alcohol at a known site (as other retailers do not stock high strength alcohol at a low illegal price) prolongs street drinking and anti-social behaviour in that area. Those with alcohol dependencies find it far more difficult to seek support when they have access to cheap high strength alcohol and the consequences will have an effect not only on each of the indicators within the matrix tool, but on members of the community who wish to enjoy their public spaces.

Our outreach teams who work tirelessly to support vulnerable people on the street are faced with more difficulties when businesses break the law which exasperates the issues that face those with complex needs on the streets, making it harder for individuals to get in to support systems and away from the criminal justice route. Street drinking is linked to premature death, homelessness, fighting and accidents. Local businesses have a responsibility as a member of the community to understand and carry out their licencing objectives in order to safeguard children, vulnerable adults and all members of the community.

AGENDA ITEM**7****COMMITTEE: LICENSING PANEL****DATE: 2ND SEPTEMBER 2019****SUBJECT: APPLICATION FOR REVIEW OF PREMISES LICENCE WEBBS
NEWS, 9 NEW BEDFORD ROAD, LUTON LU1 1SA****REPORT BY: LICENSING AND COMPLIANCE MANAGER****CONTACT OFFICER: AARON WILTSHIRE****TEL: 546040****IMPLICATIONS:****LEGAL** ☐**COMMUNITY SAFETY** ☐**EQUALITIES** ☐**ENVIRONMENT** ☐**FINANCIAL** ☐**OTHER** ☐**STAFFING** ☐**WARDS AFFECTED: SOUTH**

PURPOSE

1. The purpose of this report is to enable the Licensing Panel to consider the application received from Bill Masini on behalf of Trading Standard Luton Borough Council for the review of the Premises Licence in respect of Webbs News, 9 New Bedford Road, Luton LU1 1SA.

RECOMMENDATION

2. That the Licensing Panel determine the application of Bill Masini for the review of a Premises Licence in respect of Webbs News, 9 New Bedford Road, Luton LU1 1SA.

BACKGROUND

3. An application for review of the premises licence was received on 16 July 2019 with regard to Webbs News, 9 New Bedford Road, Luton LU1 1SA. The current licence allows supply of alcohol for consumption off the premises Monday to Sunday 00.00 to 24.00 to take place. A copy of the licence is attached at Appendix A.
4. The Applicant states that they are a responsible authority under the Licensing Act 2003.

5. The application for review relates to the following licensing objectives:

The prevention of crime and disorder

- Sale of “super strength” beers below the “minimum price” and in breach of mandatory premises licence condition – S136 Licensing Act 2003
- Stating or otherwise creating the impression alcohol could legally be sold when it could not – Consumer Protection from Unfair Trading Regulations 2008
- Breach of Premises Licence condition – failure to maintain a refusals book – S136 Licensing Act
- Breach of Premises Licence condition with regard to training records for staff involved in the supply of alcohol – S136 Licensing Act
- Breach of Premises Licence condition with regard to a personal licence holder being on the premises when alcohol is sold – a number of occasions – S136 Licensing Act
- Breach of Premises Licence condition in respect of the CCTV by failing to keep recordings for a minimum of 31 days – S136 Licensing Act
- Breach of Premises Licence condition in respect of the CCTV by failing to have an accurate time on the recording – S136 Licensing Act
- Breach of Premises Licence condition in respect of a failure to individually label all alcoholic drinks with the premises name – S136 Licensing Act
- Breach of Premises Licence condition in respect of a failure to have one SAI door supervisor on duty from 22:00 hours to 06:00 the following day daily (or until the time when licensable activities stop if before 06:00) – S136 Licensing Act
- Failure to produce traceable invoices for purchase of super strength beer – Food Safety and Hygiene (England) Regulations 2013
- Failure to mark goods with the selling price – The Price Marking Order 2004

Public safety

- Breach of Premises Licence conditions in respect of CCTV
- Breach of Premises Licence condition in respect of SIA door staff

The prevention of public nuisance

- Sale of illegally cheap super strength beers resulting in anti social behaviour in public places

The protection of children from harm

- Breach of Premises Licence condition – failure to maintain a refusals book
- Breach of Premises Licence condition with regard to training records for staff involved in the supply of alcohol

A copy of the review application and supporting information is attached at Appendix B.

6. The applicant has not made an application for review relating to this premise before.

RESPONSIBLE AUTHORITIES

9. Representations have been received from responsible authorities and are detailed as follows:

Police

None

Fire and Rescue Services

None

Environmental Health or Health and Safety Executive

None

Planning

None

Public Health

Public Health has submitted a representation on the grounds of prevention of crime and disorder and the prevention of public nuisance. A copy of the representation is attached at Appendix C.

Child Protection

None

INTERESTED PARTIES

None

POLICY CONSIDERATIONS

10. The following provisions of the Licensing Act 2003 apply to this application:

Section 51	Application for review of premises licence
Section 52	Determination of application for review
Section 53	Supplementary provision about review

OBSERVATIONS

11. In determining this application, the Licensing Panel must, having regard to the representations received, and take such of the following steps as it considers appropriate for the promotion of the licensing objectives. The steps are:
- (a) Decide that no action is appropriate to promote the licensing objectives
 - (b) Modify or add conditions to the licence
 - (c) Exclude a licensable activity from the licence

- (d) Remove the designated premises supervisor
- (e) Suspend the licence for a period (not exceeding 3 months)
- (f) Revoke the licence

12. The licensing objectives are:

- The Prevention of Crime and Disorder
- The Prevention of Public Nuisance
- The Protection of Children from Harm
- Public Safety

All the representations received in respect of this application relate to these licensing objectives.

13. The following paragraphs of the licensing authority's statement of licensing policy applies to this application

Section 11 Reviews and Expedited Reviews
Section 12 Licensing Objectives
Section 13 Delegation of Licensing Functions
Section 16 Representations

APPENDICES

The following Appendices are attached to this report:-

Appendix A: Premises Licence

Appendix B: Review Application and supporting information

Appendix C: Representations from Responsible Authorities

LEGAL COMMENTS

Report cleared by Brenden Delaney, Solicitor, on 16 August 2019

LIST OF BACKGROUND PAPERS **LICENSING ACT 2003**

Guidance issued under s182 of the Licensing Act 2003
Luton Borough Council's Statement of Licensing Policy

Premises Licence Register



Premises Licence Number

118147

This revision (reference number):

118147

Effective from:

01/03/2012

Part 1 - Premises details

Postal address of premises, or if none, ordnance survey map reference or description

Webbs News
9 New Bedford Road

Post town

Luton

Post code

LU1 1SA

Telephone number:

01582 720320

Where the licence is time limited the dates

Start Date

01/03/2012

End Date

Licensable activities authorised by the licence

Supply of alcohol for consumption off the premises.

The times the licence authorises the carrying out of licensable activities

Supply of Alcohol

Monday to Sunday 00.00 to 24.00

The opening hours of the premises

Monday	00.00 to 24.00
Tuesday	00.00 to 24.00
Wednesday	00.00 to 24.00
Thursday	00.00 to 24.00
Friday	00.00 to 24.00
Saturday	00.00 to 24.00
Sunday	00.00 to 24.00

Seasonal Variation None

Non standard timings None

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

Supply of alcohol for consumption off the premises

Part 2

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

Kalaimagal Selvaratnam
22 Villa Road
Luton
LU2 7NT

Tel: 01582 720320

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

Not Applicable

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

Kalaimagal Selvaratnam

Annex 1 - Mandatory conditions

1. Where a premises licence authorises the supply of alcohol:
 - a) No supply of alcohol may be made under the premises licence-
 - i. at a time when there is no designated premises supervisor in respect of the premises licence, or
 - ii. at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
 - b) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Annex 2 - Conditions consistent with the Operating Schedule

1. CCTV to be capable of producing pictures of evidential quality and to be fitted with sufficient cameras to cover all internal public areas and capable to cope with normal operating illumination.
2. The camera at the shop frontage to be capable of providing good quality head and shoulder images of persons entering the premises.
3. CCTV to have constant and accurate time and date generation.
4. CCTV signage to be displayed notifying customers CCTV has been installed and to be kept in accordance with the Data Protection Act and the Data Commissioner's office to be updated.
5. CCTV recordings to be kept for a minimum of 31 days and made available upon request for the Police or Local Authority.
6. All staff to be trained to a minimum standard with regards to the sale of alcohol and records of such training to be kept and produced to the Police or responsible authorities on demand.
7. A Personal Licence Holder to be on the premises at all times if alcohol is to be sold.
8. One SIA door supervisor to be on duty from 22:00 hours to 06:00 the following day daily.
9. The Premises Licence holder, DPS or a nominated person to attend at least 10 Luton Safe off licence meetings a year.
10. Night Net radio to be used at the premises when alcohol is sold.
11. Alcohol to be sold in sealed containers and not to be consumed in the vicinity of the premises.
12. A challenge 25 Policy to be in force and maintained, only photographic identification such as passport, photo driving licence or PASS approved cards to be accepted as acceptable identification.
13. A refusals book to be kept and maintained.

Condition agreed below by applicant and Police Licensing Officer in order to disperse with panel hearing.

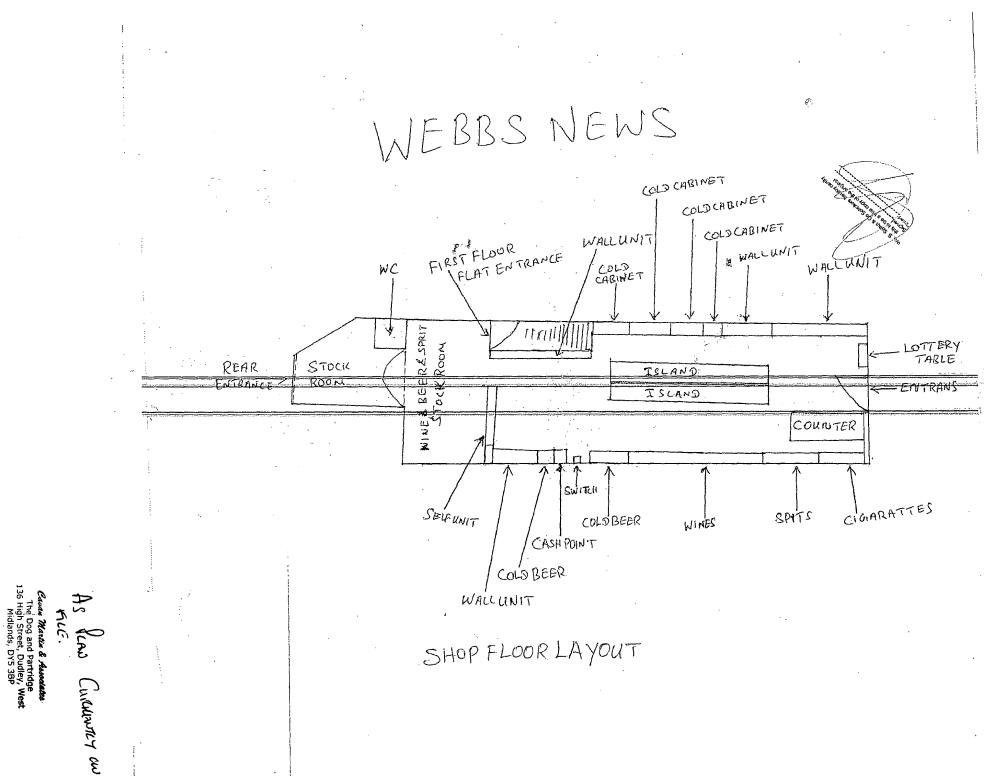
1. All alcoholic drinks to be individually labelled with the premises name.

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

Not applicable

Annex 4 - Plans

Note: Plans may not be shown to any scale that may be specified in the drawing.



Luton Borough Council, Licensing Service, Town Hall, Luton LU1 2BQ

**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 Bill Masini (On behalf of Trading Standards)

(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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Webbs News 9 New Bedford Road	
Post town Luton	Post code (if known) LU1 1SA

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

Number of premises licence or club premises certificate (if known) 118147

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 | <input type="checkbox"/> |
| b) a body representing persons living in the vicinity of the premises | <input type="checkbox"/> |
| c) a person involved in business in the vicinity of the premises | <input type="checkbox"/> |
| d) a body representing persons involved in business in the vicinity of the premises | <input type="checkbox"/> |

- 2) a responsible authority (please complete (C) below) ☒
- 3) a member of the club to which this application relates (please complete (A) below) ☐

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)**Please tick**

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

Surname

First names

I am 18 years old or over
Please tick yes
☐
**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT**Name and address**

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

<p>Name and address</p> <p>Luton Borough Council – Trading Standards</p> <p>Bill Masini Trading Standards Officer 1st Floor Annexe Town Hall Manchester Street Luton LU2 0BW</p>
<p>Telephone number (if any)</p> <p>01582 546406</p>
<p>E-mail address (optional)</p> <p>bill.masini@luton.gov.uk</p>

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 checked="" type="checkbox"/> |
| 2) public safety | <input checked="" type="checkbox"/> |
| 3) the prevention of public nuisance | <input checked="" 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)**Prevention of Crime and disorder –**

- Sale of “super strength” beers below the “minimum price” and in breach of mandatory premises licence condition – S136 Licensing Act 2003
- Stating or otherwise creating the impression alcohol could legally be sold when it could not – Consumer Protection from Unfair Trading Regulations 2008
- Breach of Premises Licence condition – failure to maintain a refusals book – S136 Licensing Act
- Breach of Premises Licence condition with regard to training records for staff involved in the supply of alcohol – S136 Licensing Act
- Breach of Premises Licence condition with regard to a personal licence holder being on the premises when alcohol is sold – a number of occasions – S136 Licensing Act
- Breach of Premises Licence condition in respect of the CCTV by failing to keep recordings for a minimum of 31 days – S136 Licensing Act
- Breach of Premises Licence condition in respect of the CCTV by failing to have an accurate time on the recording – S136 Licensing Act

- Breach of Premises Licence condition in respect of a failure to individually label all alcoholic drinks with the premises name – S136 Licensing Act
- Breach of Premises Licence condition in respect of a failure to have one SAI door supervisor on duty from 22:00 hours to 06:00 the following day daily (or until the time when licensable activities stop if before 06:00) – S136 Licensing Act
- Failure to produce traceable invoices for purchase of super strength beer – Food Safety and Hygiene (England) Regulations 2013
- Failure to mark goods with the selling price – The Price Marking Order 2004

Public Safety –

- Breach of Premises Licence conditions in respect of CCTV
- Breach of Premises Licence condition in respect of SIA door staff

The Prevention of Public Nuisance –

- Sale of illegally cheap super strength beers resulting in anti social behaviour in public places

Protection of children from harm –

- Breach of Premises Licence condition – failure to maintain a refusals book
- Breach of Premises Licence condition with regard to training records for staff involved in the supply of alcohol

Luton Borough Council is seriously concerned about the high level of anti-social behaviour and public nuisance caused by people drinking (usually very strong) alcohol in public places throughout the Borough, though in particular the Town Centre and areas in close walking distance thereof. Those drinking such alcohol are invariably alcoholics who live chaotic lifestyles and suffer from poor health both physically and mentally. The easy availability of illegal cheap, very strong alcohol does not help these vulnerable people break this powerful addiction and makes the task of alcohol rehabilitation services and dedicated charities all the more difficult in their efforts to help them. An inevitable consequence of this drinking is begging and other anti-social behaviour such as unwarranted aggression and urination in public places and can make homelessness all the more likely. Aside from the often desperate personal issues these people constantly face, it also discourages people from visiting the town and can be damaging to the local economy. Luton Borough Council introduced a Public Space Protection Order in 2018 under The Anti- Social Behaviour, Crime and Policing Act 2014 to help address some of these matters because it was satisfied on reasonable grounds that these were having a detrimental effect on the life of those in the town centre. This premise is inside this defined zone.

Since April 2017 retailers of alcohol have been required by law to purchase alcohol from businesses that are registered by Her Majesty's Revenue and Customs (HMRC) under their Alcohol Wholesalers Registration Scheme (AWRS). AWRS wholesalers have a Unique Reference Number and this must be recorded on all invoices to retailers. Retailers are easily able to verify if a wholesaler is operating on this widely publicised scheme within the Licensed trade. This scheme was established because of widespread duty evasion which also undermined HM Government's public health strategy to control alcohol consumption where price is a key influence on consumption, similar to that of tobacco. It is an offence if retailers fail to comply with the AWRS.

For beer there is a "General Beer" Duty that applies to beers with all alcoholic strength above 2.8%. However, where any beer has an alcohol by volume strength (ABV) of more than 7.5% there is a "High Strength Beer" duty in addition to the General Beer duty. This uses a price escalator and is intended to deter consumption of such drinks where the level of harm is greater than more regular strength beers. Beers such as "Karpackie" have a 9% ABV and thus one 500ml can alone contains 4.5 units of alcohol which is above the recommended daily amount of alcohol. This drink is almost exclusively drunk by alcoholics and these people are very sensitive to

price; they want to pay the lowest price for the highest amount of alcohol.

On Friday 22nd February 2019 Trading Standards visited the shop (unannounced) to see what beers were for sale and the selling prices. Cans of Karpackie together with a large number of other super strength beers and ciders were offered for sale in the fridge at the back of this small shop though no price was stated. A can of Karpackie was taken to the till. The male cashier, later known to be Mr Quinston Gunanayagam, said the price was £1.25 and a sale was made. There was no one else working in the shop. This was significantly below the "minimum permitted price" and in breach of the mandatory condition on the licence that is on all Premises Licence where the sale of alcohol is an authorised licensable activity. The price per unit of alcohol was therefore a mere 27 pence; this being slightly more than half the legal minimum price per unit of alcohol currently charged in Scotland.

On Tuesday 5th March at 3.15pm, Trading Standards carried out an inspection at the premise. Mr Gunanayagam was working behind the counter again and on his own. When asked if he had a Personal Licence, after some explaining what one was, he said he did not. He was advised that since he was on his own and did not hold such a licence, alcohol could not be sold until a Personal Licence Holder was present on the premise. He was shown the conditions on the licence. A notice detailing this and other matters were left at the shop and he signed that paperwork. It later came to light that he ignored this and continued to sell alcohol; this will be referred to later in this application. The Premises Licence at Annexe 2, condition 7 requires a Personal Licence Holder to be on the premises at all times if alcohol is to be sold.

Mr Gunanayagam was asked if a book was used to record details about refused sales. He said he did not know of any such book and had never used one. He said he had worked at the shop on a part time basis for about 12 months. On the Premises Licence at Annexe 2, condition 13 requires a refusals book to be kept and maintained.

Mr Gunanayagam was asked to explain Challenge 25 which is the age verification policy on the licence and also what forms of ID were acceptable. He was unable to do this. In Annexe 2, condition 12 states, "A challenge 25 Policy to be in force and maintained, only photographic identification such as passport, photo driving licence or PASS approved cards to be accepted as acceptable identification".

He said he was unaware of any records about training and so was unable to produce any to the Officer. In Annexe 2, condition 6 requires "all staff to be trained to a

minimum standard with regards to the sale of alcohol and records of such training to be kept and produced to the Police or responsible authorities on demand". It is not clear to this applicant what the "*minimum standard*" means but Trading Standards say this condition was breached because no records could be produced!

In Annexe 2 of the Premises Licence there is a heading stating:

Condition agreed below by applicant and Police Licensing Officer in order to disperse with hearing

1. All alcoholic drinks to be individually labelled with the premises name

On inspection, not one of the drinks containing alcohol was found to be labelled with the Premise's name. This was the same when the test purchase was made in February and all subsequent visits. The applicant is not aware why this condition was put on the licence and requests that Bedfordshire Police explain the reason at the Hearing following this application.

It was not possible to check the operation of the CCTV at the time of this visit because according to Mr Gunanayagan, it was password protected and only the boss, Piranavan, knew that password.

It immediately evident was Karpackie was still for sale in the fridge and it was still not priced contrary to the requirement to display the selling price in The Price Marking Order 2004. Mr Gunanayagan said the price was £1.25; the same as when the test purchase was made. As well as being a breach of the Licence condition, the Trading Standards Officer was satisfied an offence was committed under The Consumer Protection from Unfair Trading Regulations 2008 in that it is a prohibited unfair commercial practice to state or otherwise create the impression that a 500ml can of Karpackie with an ABV of 9% could be legally sold for £1.25 when it could not. A decision was taken to seize the Karpackie using the officer's powers contained in The Consumer Rights Act 2015. A total of 21 cans were seized.

Webbs is quite a small shop and very close to the other business, Paga Superstore at 3 New Bedford Road owned by Piranavan Suppiah. It was clear from a previous and earlier visits to Paga Superstore, because of the extra space in that significantly bigger shop, that goods to be sold at Webbs are sometimes stored at Paga. This

would explain why a small quantity of this drink was found in Webbs.

Mr Gunanayagan was asked if there were any invoices for the Karpackie or whether he knew where it had been purchased. He was said he didn't know anything about the Karpackie and so a notice was left for the business to produce invoices for the seized Karpackie.

The Premises Licence Holder and Designated Premises Supervisor, Kalaimagal Selvaratnam ("**KS**") and the owner of the business, Suppiah Piranavan ("**SP**") were interviewed under caution on 25 March.

It became immediately clear that Kalaimagal Selvaratnam had no real control over how the conditions on the Premises Licence and licensing objectives were complied with. Her brother, Suppiah Piranavan, did everything. She was not familiar with the conditions on the licence and visited the shop on a limited basis. She lived/s in Ilford, Essex and apart from a few months in 2011, has never lived at the address on the Premises Licence, this being the home of "SP". She did not appoint shop staff or train them; this being something SP did. When she comes to the shop (which may be a couple of times a week) it will probably be between 10/11 in the morning and will leave by 4pm so she can be home for her children. She has no idea who is working at any one time (or whether they hold a Personal Licence). She was unaware of the requirement for there to be a Personal Licence Holder on the premise at all times alcohol is for sale. She knew nothing about the SIA door supervisor requirement or what happened after she left the shop. KS was totally unfamiliar with Karpackie beer and said she had never seen it until shown it by the Trading Standards Officer during the interview, this being despite there having been a very large number of trays of Karpackie piled up in Paga Superstore a couple of doors away at 3 New Bedford Road, of which she is also the Premises Licence Holder and Designated Premises Supervisor. That pile was clear for all those entering that shop to see. She said she had no idea about its high alcoholic strength or any idea about prices though she did some buying at Cash and Carry's. She said she had no knowledge about the CCTV and was unable to work it or any knowledge of its capabilities in terms of recording and playback. She would therefore not be able to check any CCTV recordings. This was all done by SP. She was unfamiliar with the need to keep training records and make them available to officers on request or for a Refusals book to be maintained. In short, KS, is and has been for a considerable period of time, in effect a DPS and Premises Licence holder in name only and this was the main reason for then interviewing SP.

Mr Suppiah Piranavan was unable to produce any invoices for the Karpackie or to state where this product was purchased from; in breach of The Food Safety and Hygiene (England) Regulations 2013.

Later that day at 10.45pm Trading Standards visited the shop and purchased some alcohol. A man called Ramanan Suppiah was the seller and when told the purpose of the visit was able to show a Personal Licence. He said he was SP's brother There was one another man in the shop who was filling the shelves with food and drink. He clearly was not an SIA door supervisor and thus this was a further breach of the Premises Licence; condition 8 on the licence in Annexe 2 states, "One SIA door supervisor to be on duty from 22:00 hours to 06:00 the following day daily".

The following day, as arranged, Trading Standards met Suppiah Piranavan to view the CCTV. The CCTV showed a current time of 11.09am whereas the actual time was 11.38am. The CCTV recordings went back to 27 February with a start time shown as 19:00 hours meaning there was CCTV footage for 26 days, 16 hours and nine minutes. Condition 5 states, "CCTV recordings to be kept for a minimum of 31 days and made available upon request for the Police or Local Authority". Condition 3 states, "CCTV to have constant and accurate time and date generation". Conditions 3 and 5 were therefore breached. The officer checked back to 5 March when the original visit had been done to see whether Mr Gunanayagan had taken due notice and had complied with condition 7 about there always being a personal licence holder on the premises if alcohol was to be sold. CCTV showed him selling a can of Perla "Green" beer at a recorded time of 16:49 hours (meaning an actual time if the CCTV time setting had not been altered of 29 minutes later, i.e. 17:18 hours, not long after officers had left the shop. Suppiah Piranavan confirmed to the officer that he agreed a sale of alcohol had been shown on the CCTV footage for 5 March at this time and that it should not have happened.

On 30 April 2019 at about 12.10pm, Trading Standards visited the shop again for the purposes of providing free of charge a new Refusals Book for the business to use to record refused sales of age restricted products. Mr Gunanayagan was once again the only person working in the shop. When asked if he had sold alcohol whilst on his own that day, he eventually admitted he had and still did not have a Personal Licence. MR Gunaanayagan was once again warned not to sell alcohol whilst on his own. The time displayed on the CCTV monitor showed 11:47am when the time of checking was 12.17pm indicating nothing had been done since the CCTV was checked on 26 March to correct the incorrect time. Trading Standards was unable to

check how many days CCTV was stored for. Alcoholic drinks were still not marked with the premise name and prices not displayed.

KS later accepted simple cautions for seventeen offences under Licensing Act in respect of this particular premise for licence breaches [16 under s136] (selling Karpackie below permitted minimum price, CCTV not in accordance with licence [three offences, two dates], no refusals book, not operating age verification policy, no training records produced, no personal Licence Holder on premise when alcohol sold [3 offence dates], no SIA door supervisor on duty between 22:00 and 06:00 hours [2 offence dates], all alcoholic drinks not individually labelled with premises name [4 offence dates]. One offence was with regard to her failure to notify Luton Borough Council of her change of address (section 33 Licensing Act).

SP later accepted simple cautions for six offences arising from Trading Standards' dealings with this particular shop (it being his business); engaging in a prohibited unfair commercial practice under The Consumer Protection from Unfair Trading Regulations 2008 (two in relation to the sale/offer for sale of Karpackie below the minimum legal price (2 offence dates), a failure to identify a person from whom the Karpackie had been bought from (i.e no traceable invoices) [Food Safety and Hygiene (England) Regulation 2013 and a failure to price alcohol for sale under The Prices Act 1974 [three offence dates]

Trading Standards say Kalamaigal Selvaratnam has acted in a negligent manner with regard to her licence and with scant regard to knowing what alcohol is sold on the premise and to the conditions of the Premises Licence that should have been adhered to.

The sub-committee is invited to consider all options open to it including revocation. In the event the licence is not revoked, Trading Standards would like to see all the conditions in Annex 2 removed. In their place Trading Standards would like the following conditions to be added to the licence:

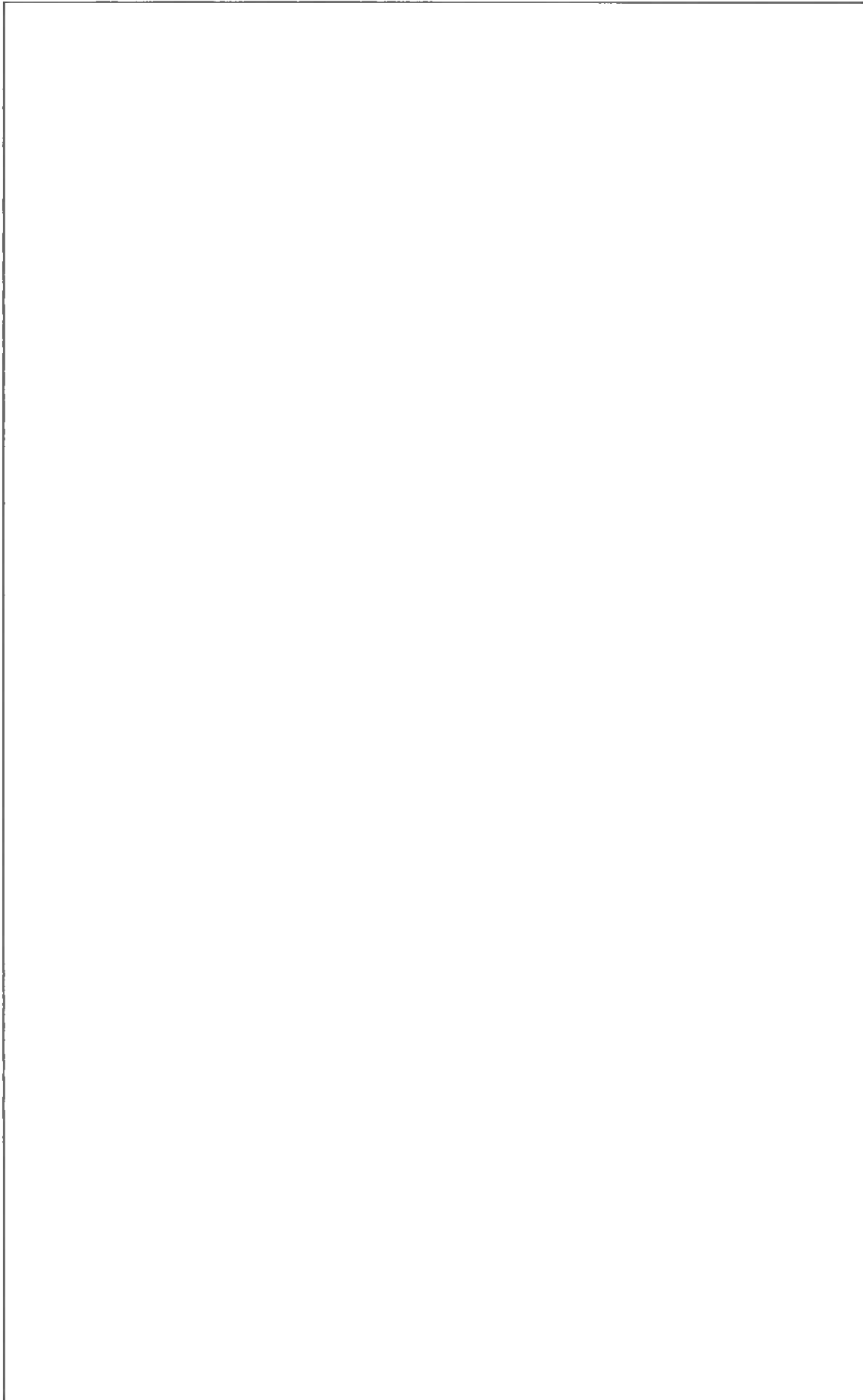
1. No beers or lagers in cans, bottles or any other container constructed of any material with an ABV of more than 5.5% are to be displayed, sold or offered for sale from or stored on the premises
2. No ciders in cans or bottles or any other container constructed from any material with an ABV of more than 4.9% are to be displayed, sold or offered for sale from or stored

on the premises

3. No beers, lagers or ciders are to be displayed, sold or offered for sale from or stored on the premises in individual containers that have a capacity exceeding 1 litre (or imperial equivalent)
4. A minimum of 4 cans of beer, lager or cider shall be sold in any one transaction. A combination of these drinks is permitted to achieve this minimum quantity.
5. No spirits in any container (constructed of any material) where the quantity is 100ml or less, are to be displayed, sold or offered for sale from or stored on the premises.
6. Alcohol shall not be sold in an open container or be consumed in the licensed premises.
7. There shall be a personal licence holder on the premises at all times alcohol is available for supply, for the purpose of supervising such sales.
8. That a challenge 25 scheme shall be maintained at the premises requiring that staff selling alcohol request that any customer who looks under 25 years old, and who is attempting to purchase alcohol, provides valid photographic identification proving that the customer is at least 18 years old. Valid photographic identification is composed of a driving licence, passport, UK armed services ID card and any Proof of Age Standards Scheme (PASS) accredited card such as the Proof of Age London (PAL) card.
9. That all staff involved in the sale of alcohol shall be trained in the prevention of sales of alcohol to underage persons, and the challenge 25 scheme in operation at the premises. A record of such training shall be kept / be accessible at the premises at all times and be made immediately available for inspection at the premises to Council or Police Officers on request. The training record shall include the trainee's name (in block capitals), the trainer's name (in block capitals), the signature of the trainee, the signature of the trainer, the date(s) of training and a declaration that the training has been received.
10. That clearly legible signs shall be prominently displayed where they can easily be seen and read by customers stating to the effect that a challenge 25 policy is in operation at the premises, that customers may be asked to provide proof of age and stating what the acceptable forms of proof of age are. Such signage shall be displayed at all entrances, points of sale and in all areas where alcohol is displayed for sale. The signage shall be kept free from obstructions at all times.

11. That a register of refused sales of alcohol shall be maintained in order to demonstrate effective operation of the challenge 25 policy. The register shall be clearly and legibly marked on the front cover as a register of refused sales, with the address of the premises and with the name and address of the licence holder. The register shall be kept / be accessible at the premises at all times. On a monthly basis, the Designated Premises Supervisor (DPS) shall check the register to ensure it is being properly completed. The DPS shall sign and date the register to that effect and where appropriate take corrective action in a timely manner if the register is not being completed correctly. The register shall be made immediately available for inspection at the premises to Council or Police Officers on request.
12. That an electronic point of sale (EPOS) system be installed at all tills on the premises and it shall be configured to prompt the operator to check proof of age when an alcoholic product (any other product where the age for purchase is restricted by law) is scanned. The prompt should require the operator to confirm that the purchaser is over 18 (or any other age required by the relevant law for other products) before the next item can be scanned or the transaction completed.
13. Clear and prominent notices shall be displayed informing people who enter the shop that CCTV is in operation and images are being recorded.
14. A CCTV system shall be installed at the premises that records clear images of to cover all areas within the premises including the outside to the front in all lighting conditions both the interior and exterior of the premises. It must be positioned to capture a clear facial image of every person who enters the premise and to also capture the sale of alcohol and tobacco products.
15. The CCTV system shall have a 31 day recording facility and be maintained in full working order at all times
16. All CCTV footage shall be kept for a period of thirty one (31) days and shall, upon request, be made immediately available to The Police and/or Authorised Officers from Luton Borough Council
17. All staff working at the premise shall be trained and be fully conversant in the correct operation of the CCTV and be able to demonstrate its operation and download images to a removable device on immediate request by Police and/or Authorised Officers from Luton Borough Council

18. That all staff are trained in their responsibilities under the Licensing Act 2003 and training records to be kept and updated every 6 months and shall, upon request, be made immediately available to Police Officers and Authorised Officers from Luton Borough Council



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

Please tick yes

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

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

Part 3 – Signatures (please read guidance note 3)

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

Signature



Date

16 July 2019

Capacity Trading Standards Officer acting on behalf of Luton Borough Council

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

Post town

Post Code

Telephone number (if any)

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

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

Dear Sir / Madam,

Ref – Webbs News LU1 1SE

As a Responsible Authority under the 2003 Licensing Act, Luton Borough Council's Public Health Team makes the following representation in relation to the above licence application. This representation relates to two of the licencing objectives which are the prevention of crime and disorder and the prevention of public nuisance.

Public Health at Luton Borough Council have screened this application via the alcohol licencing matrix tool which analyses the postcode area against a series of indicators relating to alcohol harm. The indicators of alcohol harm used within the matrix tool include:

- Alcohol related recorded crime
- Alcohol related ASB
- Looked after children
- Off licence density
- Pub/bar/club density
- Unemployment
- Index of Multiple Deprivation
- Alcohol referral data from alcohol treatment services

The licencing tool draws upon data from a range of sources across Bedfordshire such as the police, schools and hospitals. In using the alcohol matrix tool, the indicators showed that this postcode is located in an area of high alcohol related harm so therefore Public Health supports the application to review the licence based on the two licensing objectives stated. The tool evidences that this premise, with its current breaches would pose significant risk to the community. This premise is located in the town centre which is prominent with the visible and devastating impact of rough sleeping and street drinking which usually affects those with complex needs.

There are many underlying and complex reasons why an individual will engage in anti-social street culture, with irresponsible licenses selling high strength illegally cheap alcohol being one of the reasons. This licence has made sales of Karpackie, with one can containing more than the daily recommended limit for intake of alcohol which was sold under the legal price. The law was put in place for good reason, alcohol at this strength is known to be consumed among those with alcohol dependencies rather than those who drink to socialise. Having easy access to this dangerous quantity of alcohol at a known site (as other retailers do not stock high strength alcohol at a low illegal price) prolongs street drinking and anti-social behaviour in that area. Those with alcohol dependencies find it far more difficult to seek support when they have access to cheap high strength alcohol and the consequences will have an effect not only on each of the indicators within the matrix tool, but on members of the community who wish to enjoy their public spaces.

Our outreach teams who work tirelessly to support vulnerable people on the street are faced with more difficulties when businesses break the law which exasperates the issues that face those with complex needs on the streets and makes it harder for individuals to get in to support systems and away from the criminal justice route. Street drinking is linked to premature death, homelessness, fighting and accidents. Local businesses have a responsibility as a member of the community to understand and carry out their licencing

objectives in order to safeguard children, vulnerable adults and all members of the community.