

Committee ref:

LP/01/21



Notice of Meeting

Committee : Licensing Panel (432)

Date : Wednesday, 13 January 2021

Time : 10.00 am

Place : Virtual Meeting Via *Skype

Councillors : M. Hussain
Pedersen
Taylor

Quorum : 3 Members

Contact Officer : Matthew Hussey (01582 546032)

Email : Matthew.Hussey@luton.gov.uk

[Join Skype Meeting](#)

Information for the Public

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

***Skype:** During the Covid 19 emergency period, this meeting will take place virtually, via Skype. To access the meeting, please click on the link to the meeting above.

Agenda

Agenda Item	Subject	Page No.
1.	Election of Chair	
2.	Minutes 1. 14 December 2020 (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.	

Agenda Item	Subject	Page No.
	Report	
5.	Application for the review of premises licence – Acasa Food Ltd, 34 Dallow Road, Luton (Report of the Licensing and Compliance Manager)	12 - 48

6. 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 following documents are attached to this Agenda Page:

- **Licensing Panel Procedure for Remote Hearings** 4 - 8
- **Procedure for conducting Remote Hearings via Skype for Business** 9 - 11



LUTON BOROUGH COUNCIL

LICENSING PANEL PROCEDURE

FOR REMOTE HEARINGS

LICENSING ACT 2003 APPLICATIONS

PROCEDURE FOR REMOTE HEARINGS

1. 10 clear Days before the Hearing is due to take place the Council will produce a hearing report outlining the issues to be addressed and if they would like any party to specifically address or clarify them at the hearing.
2. If in light of the Council's list of issues any party wishes to produce any further documentary evidence, they should submit this to the Council 7 clear days before the hearing.
3. Any documentary evidence that is not submitted to the Council 7 clear days before the hearing will not be admitted without the agreement of all parties. If it is essential to a party's case that the material be admitted, then the Licensing Panel will consider adjourning the hearing to allow all parties a fair opportunity to consider it.
4. Should any party wish to rely on any points of law, specific references in the s.182 Guidance, specific references in the Council's Policy or any other external resources, these should be set down in an electronic document and submitted to the Council 7 clear days before the hearing.

ORDER OF PROCEEDINGS AT THE HEARING

Licensing Panel

The procedure outlined in this booklet and which was enclosed with the notice of hearing sent to each party will be followed.

Each party will have the same amount of time in which to address the Panel. A time limit has not been set, however, in circumstances where there is pressure on the Panel to hear numerous applications in a short period of time, or for any other valid reason, the Panel may impose a time limit on presentations.

Any person behaving in a disruptive manner will be asked to leave the hearing. However, if this occurs, that person will be entitled to submit in writing any information they would have been entitled to give orally.

The Authority will provide a written record of the hearing in the form of minutes and which will be retained for 7 years from the date of determination or disposal of any Appeal. Public minutes of the hearing will be published on the Council's website.

1. CHAIR'S INTRODUCTION AND OPENING COMMENTS

- 1.1. The Chair will welcome those present, introduce those in attendance at the hearing and outline the rules to be observed for conducting skype meetings.
- 1.2 The Chair will call upon the Clerk to the Panel to outline the procedure for skype oral hearings to be followed.

2. LICENSING OFFICER/ MANAGER

- 2.1 The Licensing Officer/ Manager will outline the application and answer any questions from the Panel and the Applicant and those making representations.

3. THE APPLICATION

- 3.1 The Applicant and/or their representative will address the Panel, present information in support of the application, and to call any witnesses in support of the application, one witness at a time.
- 3.2 The Applicant and each of their witnesses may be questioned by: -
 - Members of the Panel
 - The Clerk to the Panel (legal adviser)

4. THE REPRESENTATIONS

- 4.1 Any Party making representations and/or their representative will address the Panel, providing any information in support of their representation, which had previously been served on all parties and/or agreed to be admitted by the Panel, and to call any witnesses in support of their representation.
- 4.2 These representations will be taken in the following order: -
 - Police Representation
 - Fire Service Representation
 - Environmental Health Representation
 - Social Services Representation
 - Public Representation
 - Other interested parties

4.3 The party and any of their witnesses may be questioned by: -

- Members of the Panel
- The Clerk to the Panel (legal adviser)

This will be repeated for each person making representations.

4.4 Where there are groups of individuals with a common interest, for example Local Residents, presentation through an appointed spokesperson is preferred but not mandated.

5. CROSS EXAMINATION

5.1 Cross-examination of another party is not normally permitted. However, the Panel will consider any application for permission to cross examine another party should any party wish to make such an application.

6. SUMMARISATION

Those making representations will be given two minutes to summarise their representation.

The Applicant will be given two minutes to summarise their application.

The Clerk to the Panel will carry out a briefing for members of the Panel and raise any points of law as appropriate.

7. DETERMINATION

The Panel will consider and decide whether to make their decision in public or withdraw to consider and make their decision in private. If in private, Members will withdraw, along with the Clerk to the Panel and the Panel Administrator. The Panel Administrator will arrange the move other parties to another virtual room (the lobby), to wait for the Panel decision. These parties may wish to leave the hearing and wait for the written decision.

When back in public, the Chair of the Panel will announce the determination of the application and the reasons for that determination, which will then be confirmed in writing within 5 working days of the hearing.

NOTES

Members are advised that they are making decisions in a quasi-judicial manner. As such, they have a duty to view all evidence presented before them impartially. The Licensing Panel is not bound by the formal rules of evidence. Nevertheless, Members must carry out their duty placing what weight they feel is appropriate given the nature of the evidence and the manner in which it was obtained, and communicated.



PROCEDURE FOR CONDUCTING REMOTE HEARINGS

VIA SKYPE FOR BUSINESS

1. PRIOR TO THE HEARING

1.1 Accessing Skype meetings:

- Skype is free to download and use
- The Licensing officer will send you a Test' skype link prior to the meeting to ensure you can connect and access the hearing on the day
- Follow the instructions prompted when you click on the link, to download the skype application to your device
- When you connect to the meeting select 'join meeting as a guest'
- This will allow you to attend Skype hearings

1.2 Please ensure that you are in a private, quiet space where you will not be disturbed. You should attend the meeting alone, unless you are sat together with another attendee

- Choose a room that has good Wi-Fi/internet connection
- Choose a room that has good lighting

1.3 Check your camera and microphone are working

- To test your camera – open the Skype application, go to settings (the cog symbol usually the right hand corner) go to tools and video device settings, check the camera works and the picture is clear
- To test your microphone follow the above instruction however click audio device settings to test the speaker and microphone

1.4 The Host will turn off the Skype Chat Function

- Instead of a private conversation (such as between the applicant and **representative)** if required it is recommended that this is done **via Text/What's App** over the phone
- This is less disruptive and runs no risk of private messages being broadcasted to the rest of the hearing

1.5 The Host of the Hearing will take precautions to protect the hearing from unauthorised /disruptive participants

- The hearing will be password protected
- If the hearing is in public –
 - The number of people who can share their screen will be limited – this is to prevent any disruption
 - The hearing will be “locked” once it has started – preventing anyone new from joining
 - In the event that any unintended persons join they will be removed from the connection

2. DURING THE HEARING

2.1 When you are not speaking please mute the audio, a failure to do so may disrupt the hearing

- To mute/unmute click on the microphone symbol in the bottom once you click it, it will automatically mute your microphone to unmute simply click the microphone.

2.2 Please ensure you keep the camera on at all times, even if you are not speaking

2.3 All participants should have the relevant documents for the hearing in front of them physically or on their computer

- Skype will continue to run in the background (with microphone and video on) even if the participant is looking at the document on a different window

2.4 We advise that participants have independent access to the documents. However, the Host will be able to show relevant documents throughout the hearing through the ‘screen share function’

- This allows for the video feed of the host to instead show what is on their computer screen. A document can be therefore loaded onto a computer and showed to the participants of the hearing.
- This is done by the Host selecting the ‘screen’ symbol that says present at the bottom of their screen
- The Host will be the only person during the hearing to have power to the screen share function, so it can be used to direct the attention of the hearing to a particular document – which itself can be annotated.
- If a document is submitted ‘late’ on the day of the hearing, it should be emailed to the relevant Officer to be displayed in the Hearing Screen Share if it cannot be distributed earlier, subject to the Sub-Committees approval

3. HEARING DISCUSSIONS

- The Sub-Committee may wish to go into private to make their decision on the application.
- Those participants that will move into private will usually include three members, any Counsel, the Clerk to the panel and the Host (panel administrator).
- All other attendees will be removed from the skype meeting for that period and will be invited to re-enter the meeting by the Licensing Officer once the decision has been made.
- In any event, the decision of the hearing will be given in writing within 5 working days so there is no requirement for the applicant to wait for the decision to be made on the day if they do not wish to do so.

4. EMERGENCY PROCEDURE DURING THE HEARING

- Prior to the hearing you will be given the Host email address, if you are experiencing a technical difficulty during the meeting and need to get the attention of the Host email them directly with the subject *REMOTE HEARING TECHNICAL DIFFICULTY* the Host will review your email and may possibly defer the Hearing until the issue is resolved

5. RECORDING THE HEARING

- The Authority will provide a record of the hearing in a permanent and intelligible form and keep it for 7 years from the date of determination or disposal of any Appeal.
- The Hearing will be recorded and the recording placed on the Council's website.

Committee:	Licensing Panel			
Date of Meeting:	13 January 2021			
Subject:	Application for review of premises licence – Acasa Food Ltd, 34 Dallow Road, Luton			
Report Author:	Licensing and Compliance Manager			
Contact Officer:	Aaron Wiltshire – Tel: 01582 546040			
Implications:	Legal	<input type="checkbox"/>	Community Safety	<input type="checkbox"/>
	Equalities	<input type="checkbox"/>	Environment	<input type="checkbox"/>
	Financial	<input type="checkbox"/>	Consultations	<input type="checkbox"/>
	Staffing	<input type="checkbox"/>	Other	<input type="checkbox"/>
Wards Affected:	Dallow			

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 for the review of the Premises Licence Certificate in respect of Acasa Food Ltd, 34 Dallow Road, Luton.

Recommendation

2. **That the Licensing Panel determine the application of Bill Masini on behalf of Trading Standards for the review of a Premises Licence in respect of Acasa Food Ltd, 34 Dallow Road, Luton.**

Background

3. An application for review of the premises licence was received on 17 November 2020 with regard to Acasa Food Ltd. The current licence allows supply of alcohol for consumption off the premises only, Monday to Sunday between the hours of 08:00 and 22:00. A copy of the licence is attached at Appendix A.
4. The Applicant states that they are a responsible authority.
5. The application for review relates to the following licensing objectives:

The prevention of crime and disorder

- Smuggled tobacco – Knowingly kept on the licenced premises, goods which had been imported without payment of duty or had been otherwise unlawfully imported – S144 Licensing Act 2003
- Supplying cheap illegal cigarettes in breach of Standardised Packaging of Tobacco Products Regulations 2015
- Supplying cheap illegal cigarettes in breach of Tobacco and Related Products Regulations 2016

Public safety

None

The prevention of public nuisance

None

The protection of children from harm

- Failure to adopt Challenge 25 Policy

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

6. Information to support the application is as follows:

- Two photographs have been provided by Bill Masini to support his application

A copy of the supporting information is attached at Appendix C.

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

Responsible Authorities

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

Police

PC138 Darren Welch on behalf of Bedfordshire Police has submitted a representation on the grounds prevention of crime and disorder. A copy of the representation is attached at Appendix D.

Fire and Rescue Services

None

Environmental Health or Health and Safety Executive

None

Planning

None

Child Protection

None

Interested Parties

9. A Representation has also been received from the following interested parties, their representation is attached at Appendix E and made available to the applicant.

Ref. letter	Name	Address	Relevance to which licensing objective
<u>Local resident(s)</u>			
A	Sally Grant	36 Dallow Road, Luton LU1 1LY	Public Safety Prevention of Public Nuisance Protection of Children from Harm

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

14. The following Appendices are attached to this report:

- Appendix A: Premises Licence
- Appendix B: Review Application
- Appendix C: Supporting Information
- Appendix D: Representations from Responsible Authorities
- Appendix E: Representations from Interested Parties

Legal Comments

Report cleared by Samantha McKeeman, Senior Solicitor - 18.12.20

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

161930

This revision (reference number):

161930

Effective from:

27/11/2018

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

Acasa Food Ltd
34 Dallow Road

Post town

Luton

Post code

LU1 1LY

Telephone number:**Where the licence is time limited the dates**

Start Date

27/11/2018

End Date

Licensable activities authorised by the licence

Supply of Alcohol (for consumption off the premises only)

The times the licence authorises the carrying out of licensable activities

Supply of Alcohol

Monday to Sunday

08:00 to 22:00

The opening hours of the premises

Monday	08:00 to 22:00
Tuesday	08:00 to 22:00
Wednesday	08:00 to 22:00
Thursday	08:00 to 22:00
Friday	08:00 to 22:00
Saturday	08:00 to 22:00
Sunday	08:00 to 22:00

Seasonal Variations

None

Non-Standard timings

None

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

The supply of alcohol for consumption off the premises only

Part 2

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

Acasa Food Ltd
34 Dallow Road
Luton
LU1 1LY

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

10871990

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

Haralambie Patarlageanu

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.

Premises Licences and Club Premises Certificates authorising the supply of alcohol for consumption off the Premises

FURTHER MANDATORY LICENSING CONDITIONS

With effect from 1 October 2014

3. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.

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;
 - (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—

Premises Licence

Number:

- (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.

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.

Annex 2 - Conditions consistent with the Operating Schedule

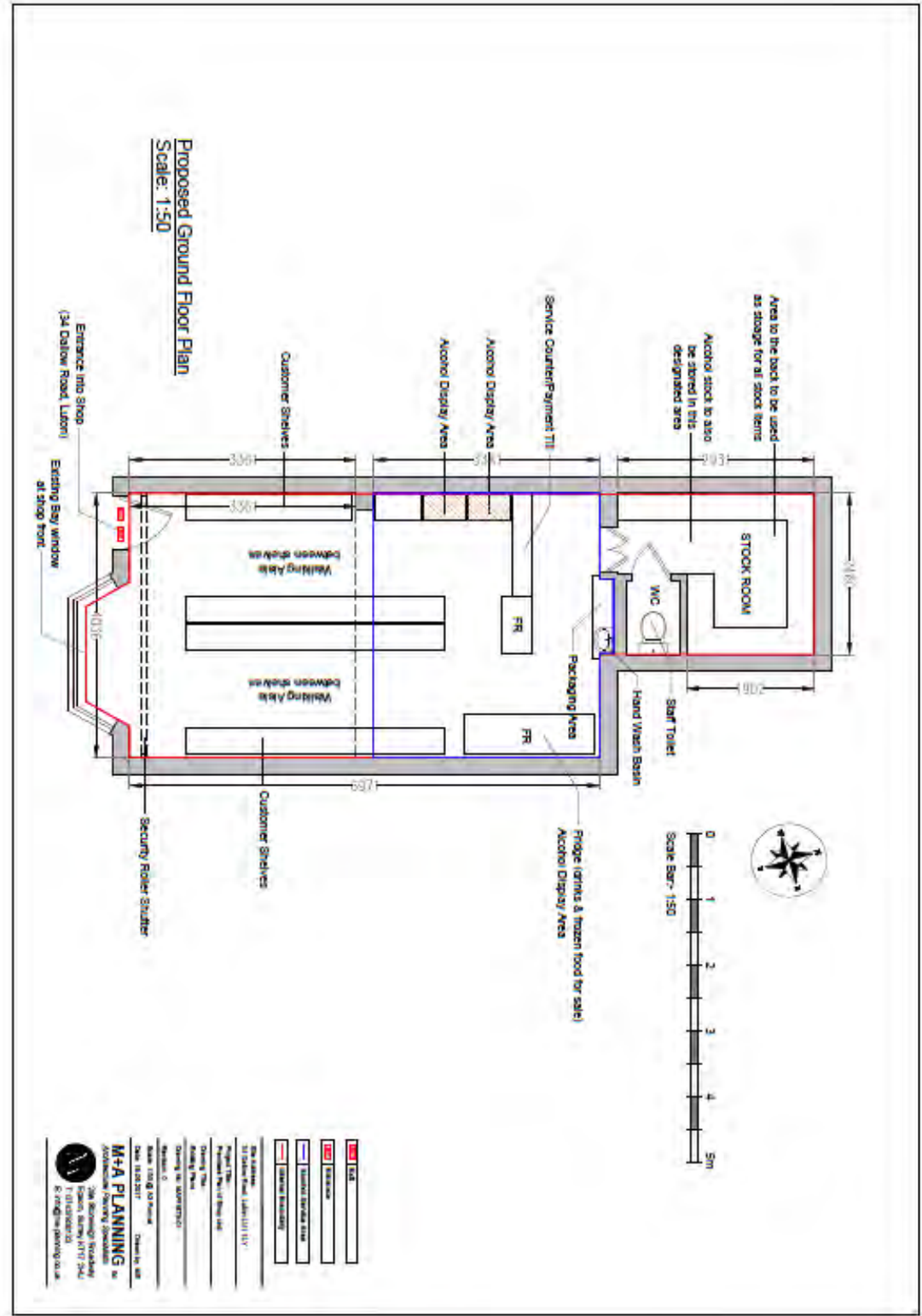
1. The premises to adopt a Challenge 25 Policy whereby persons purchasing alcoholic drinks or who are having such drinks purchased for them who appear to be under the age of 25 will be asked to prove that they are over the age of 18. The only acceptable forms of identification will be a bona fide passport, a photo-style driving licence or an ID card displaying the PASS hologram logo. Clear signs are to be displayed promoting Challenge 25.
2. Alcohol must not be displayed at a reachable area for children

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 Acasa Food 34 Dallow Road	
Post town Luton	Post code (if known) LU1 1LY

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

Number of premises licence or club premises certificate (if known) 161930

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

Name and address

Luton Borough Council – Trading Standards

Bill Masini
 Trading Standards Officer
 1st Floor Annexe
 Town Hall
 Manchester Street
 Luton LU2 0BW

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

Please tick one or more boxes

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

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

- Smuggled tobacco - knowingly kept on the licensed premise goods which had been imported without payment of duty or had been otherwise unlawfully imported - S144 Licensing Act 2003
- Supplying cheap illegal cigarettes in breach of Standardised Packaging of Tobacco Products Regulations 2015
- Supplying cheap illegal cigarettes in breach of Tobacco and Related Products Regulations 2016

The Protection of Children from Harm –

- Failure to adopt Challenge 25 Policy

1. The premise, known as "Acasa Food" or "Alimentara", is located immediately opposite Brantwood Park, towards to town centre end of Dallow Road. It is a small shop in row of terraced residential homes; houses adjoin it both sides.
2. The Premises Licence is held by a Body Corporate, Acasa Food limited. The sole director of this company is Haralambie Patarlageanu. He is also the Designated Premises Supervisor.

3. **Illegal Tobacco**

3.1 Luton also has a considerable problem with cheap illegal tobacco. A significant number of irresponsible retailers will buy cigarettes and or hand rolling tobacco from "itinerant traders" in the full knowledge they are illegal, be it smuggled, stolen or counterfeit. In doing so they have no regard to the ultimate consumer's health, the lost duty or distortion of the market place and the unfair commercial advantage gained over their legitimate competitors. The profit margin from illegal cigarettes is considerably higher than from the sale of legitimately sourced cigarettes. The ready availability of cheap tobacco is recognised as a major factor preventing the further reduction in the number of smokers and H.M Government has sought to use price as a significant factor in reducing the consumption of tobacco. Everyone now knows tobacco is a dangerous product unnecessarily killing around 80,000 in the UK every year but of course tobacco is a legal product and is regulated in terms of its content and quality control. However, counterfeit tobacco products, as the words imply, are wholly unregulated in terms of the quality control and substances (and quantities thereof) meaning the health risks are greatly increased. People who seek cheap tobacco are usually people with a lower disposable income and therefore this practice also fuels social inequalities; cheap tobacco means smokers are less likely to quit.

3.2. From 2017 all packets of cigarettes have to comply with the Standardised Packaging of Tobacco Products Regulations (SPoT Regs) and also the Tobacco Products and Related Products Regulations 2015 (TRP Regs). SPoT Regs control the packaging in terms of how cigarettes how they can be presented and introduced "plain packaging". The TRP regulations, amongst other matters, prescribe the wording of health warnings and the maximum emissions on cigarettes – tar, nicotine and carbon monoxide.

4. Trading Standards' inspections

4.1 Following a complaint from a member of the public that the shop was selling illegal cigarettes, on 16 September 2020 Trading Standards visited the premise. The business did not have any cigarettes on offer for sale. However the following illegal cigarettes were found:

- Behind under the counter in a black bag – 30 packs of Kent Blue
- Behind under the counter in a black bag – 10 packs of Kent White
- Behind under the counter in a black bag – 10 packs of Sobranie
- In box behind the counter – 6 packs of Dunhill
- In box behind the counter – 12 packs of Kent large
- In box behind the counter- 7 packs of Kent small
- In box behind the counter – 9 packs of Pall Mall
- In box behind the counter – 4 packs of Kent white
- In box behind the counter – 7 packs of Vogue La Cigarette
- In box behind the counter – 2 packs of Sobranie
- Back of shop in store area in an orange Sainsburys bag – 2 sleeves (20 packs of Dunhill
- In box at back of shop in store area – 10 packs of Dunhill large
- In box at back of shop in store area – 10 packs of Dunhill small
- In box at back of shop in store area – 8 packs of Sobranie
- In box at back of shop in store area – 10 packs of Vogue La Cigarette
- In box at back of shop in store area – 10 packs of Kent

A total of 165 packs (3300 cigarettes) were seized. All failed to comply with the tobacco legislation referred to in paragraph 3.2. As well as those requirements, the Sobranie and Vogue La Cigarettes are "slim" cigarettes and are banned anyway in the UK. This is because research indicated such cigarettes to glamorise smoking and to be particularly attractive to young women.

4.2 A follow up visit made two weeks later on 30 September and, as had been expected, further illegal cigarettes were found in the premise though in smaller quantities. A total of 15 packs were found; 8 packs of Pall Mall, 3 packs of Vogue, 3 packs of Dunhill and 2 packs of Sobranie. These were identical to the packs found on the first visit but had been hidden throughout the store. For example four packs of Pall Mall were found under the counter

between some plastic bags. See photograph 1 attached with this application. The other 4 packs of Pall Mall were also found under the counter in another box containing plastic bags. See photograph 2 also attached. NB in order to see the cigarettes, the officer had to pull back the cardboard top of that box of plastic bags.

Whilst carrying out this visit, judging by the conduct of one customer it was obvious that "under the counter cigarettes" were being sold from this shop. Whilst Trading Standards were seizing these cigarettes a male customer not wearing any face covering came into the shop. He saw officers putting cigarettes into a seizure bag and completing paperwork and so went to the fridge and slowly picked up a total 5 bottles of beer whilst continuing to watch the officers. He eventually put them on the counter. He paused and waited, still observing the officers but still said nothing or made any attempt to tender any money for these drinks. Staff in the shop said nothing to him but they made eye contact with each other. This bizarre "stand-off" lasted for several minutes until Trading Standards said to him that, bearing in mind he was standing close to officers (not socially distancing) and not wearing a face covering, he should either pay for his beer and leave or simply leave because there no cigarettes available for sale at that time. He left without saying or buying anything.

5. Interview with Mr Patarlageanu

On 5th October Mr Patarlageanu was interviewed under caution in his capacity as director of Acasa Food Limited and the Designated Premises Supervisor. He had a Romanian Interpreter present.

Interview re tobacco

- He explained he was the sole director of Acasa Food Limited and could speak on behalf of the company.
- He gave a home address which was different to that previously given to Luton Borough Council for the Personal Licence and Premises Licence, this breaching The Licensing Act
- He said he had another business which was a building company called Building Express and he was the sole director of that business.
- He was asked if he spent most of his time on that business and he said "**All the time**" and he then added "7 o'clock morning 10 o'clock night". He said he worked wherever including saying he was "really busy"

- Asked how often he came to the shop he said, "**Just Sunday. Just to restock the shop**" though he later said he locked up the shop each night at 10pm
- He said two people worked at the shop, his wife and another lady though he did not know the lady's full name. Neither had a personal licence.
- He said the shop was open seven days a week between 8am and 10pm.
- He was asked about his personal licence (he being the DPS). He did not appear to understand the difference between a Personal Licence and a Premises Licence.
- He did accept that in order to get his Personal Licence he went on a course where he learnt what he could and couldn't do in terms of the law.
- When asked why over 3000 illegal cigarettes were in the shop at the time of the first visit he then said he hadn't realised that he needed a licence to sell tobacco. The law was explained to him including that he did NOT need a licence to sell tobacco. He repeated that he thought he needed a licence to sell English tobacco, saying "**I do believe I needed the licence to sell the English cigarettes**" and despite living in the UK for more than four years and he being a big smoker that he thought it was legal to sell Romanian cigarettes in the UK. This was despite him accepting that he was taught on the Personal Licence course that he must not sell illegal products such as illegal alcohol and cigarettes.
- In answer to questions he said the cigarettes came from Romania and someone came to the shop. Initially he said he sold them for the same price as he bought them – about £6.50 though said they were for personal use, him, his wife and the other lady who worked in the shop. He later said they were being sold to the public.
- He said the cigarettes were hidden because his wife was frightened.
- He said he had only sold them to the public for 1 day, this being the day before Trading Standards visit and when challenged that Trading Standards visited his shop because he had been reported for selling illegal cigarettes his response was, "**I'm sorry. It's first time, I close**"
- He said the cigarettes came from a Romanian friend who he was not prepared to identify.

Interview dealing with Premises Licence

- When asked Mr Patarlageanu was unable to identify any of the four licensing objectives.

- He said, **"I cannot sell under, to people under 18"** but was unable to explain how his staff ensured that happened.
- He was not aware what "Challenge 25" was and could not explain it.
- He did not know what conditions were on the licence – [There are only two conditions on the licence in Annex 2, one of which is about Challenge 25].
- Despite him being The Designated Premises Supervisor he did not know what one was.
- Asked who was named on the licence, he thought it was his wife and she and his accountant dealt with the business. When it was put to him that he didn't have anything to do with the business apart from locking up at night because his wife didn't drive he replied, **"Exactly"**
He was asked what training he had given to his wife and the other lady who worked in the shop he said, **"I tell them how is the legislation and I consulting my accountant when I have to do something"**
- It was put to him, **"You don't have time to do the running of the shop?"**. and he replied, **"Yes"**

To summarise,

- He had virtually no involvement in the running of the shop, concentrating on his building business, just going to the shop to lock or on a Sunday to take stock
- He did not know what a DPS is or what their responsibilities are
- He did not know he was named on the Premises Licence and thought it was his wife
- He did not know any of the four licensing objectives
- He did not know what conditions were on the Premises Licence
- He did not know what "Challenge 25"
- He had not given his wife or other employee any training other than not to sell to anyone under 18.
- He had thought it was ok to sell Romanian cigarettes in the shop and had thought he needed a licence to sell UK cigarettes.

Cautions

- Both Mr Patarlageanu and his company Acasa Food Limited later accepted Simple Cautions for a variety of offences including under s144 Licensing Act -

knowingly keeping smuggled goods at the licensed premises, The Standardised Packaging of Tobacco Products Regulations 2015, The Tobacco and Related Products Regulations 2016, failure to notify the relevant licensing authority of changes of address under s33 Licensing Act. A total of 20 offences for the company and 21 offences for Mr Patarlageanu in his capacity as director of that company and Designated Premises Supervisor.

Conclusions & Recommendations

Trading Standards have brought this review for four reasons:-

1. Smuggled/illegal tobacco seized on more than one occasion
2. A lack of management and understanding of the responsibilities that come from having a Premises Licence.
3. Following on from 2 above, effectively there is no Designated Premises Supervisor to ensure the conditions on the Licence and the Licensing Objectives as outlined in The Licensing Act are upheld.
4. A failure to have in place an age verification procedure in accordance with the Premises Licence, that is to say Challenge 25

In view of the matters outlined in this application and considering the overall interest of the local community, the professional opinion of Trading Standards is that the Premises Licence should be revoked. In making this recommendation, Trading Standards has had regard to Luton's Statement of Licensing Policy and also The Home Office Guidance issued under Section 182 of the Licensing Act 2003. At paragraph 11.27 states:

"There is certain criminal activity that may arise in connection with licensed premises which should be taken particularly seriously. These are the use of the licensed premises:

.....[list of a number activities/crimes including]

- 4. For the sale or storage of smuggled tobacco and alcohol**

At paragraph 11.28 it states:

"It is envisaged that licensing authorities, the police and other law enforcement

agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance- should be seriously considered”

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

--	--	--	--	--

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

17 November 2020.

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.

7





Licensing Department
Luton Borough Council

PC 138 Darren WELCH
Licensing Officer
Luton Police Station
Buxton Road
Luton
LU1 1SD

23/11/2020

Dear Sir or Madam,

RE: Acasa Food, 34 Dallow Road, Luton LU1 1LY

On behalf of the Chief Officer of Bedfordshire Police, I wish to support the review application made by Trading standards in relation to Acasa Food, 34 Dallow Road, Luton.

It is the opinion of Bedfordshire Police that the premises have undermined the licensing objectives of prevention of crime and disorder.

The premises are located right opposite Brantwood Park, an area currently subject to Op Steed / Op Sparkler, an initiative to tackle a significant rise in serious and organised crime in the area.

The review submitted by Trading Standards details two visits to the premises by their officers. On both of these visits a quantity of duty free and illicit cigarette packets were found and seized from under the counter and others from the store room in the rear of the shop. There were certainly more packets than what could be considered as an amount for personal use and it is more than reasonable to form the opinion that they were being sold to customers from 'under the counter'. Trading Standards have explained in their evidence the dangers that selling these cigarettes to customers pose, as well as being a crime. This activity was admitted by the licence holder, Mr Patarlageanu, in his interview with Trading Standards. Also of concern was the lack of knowledge that the licence holder had in respect of the Licensing Act 2003. Despite being a personal licence holder and DPS, his lack of understanding was really quite alarming.

Bedfordshire Police are concerned that this premises are not being run in a manner that upholds or promotes the licensing objectives and when this happens in an area that already has a problem with crime and disorder it only aggravates the work being carried out by Bedfordshire Police and their partners and compounds the problems for the residents in the area.

Home Office Guidance issued under S182 of the Licensing Act 2003 (revised April 2018) states the following under paragraph 11.27, the salient points within this paragraph have been highlighted:

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

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for employing a person who is disqualified from that work by reason of their immigration status in the UK;
- for unlawful gambling; and
- **for the sale or storage of smuggled tobacco and alcohol.**

Paragraph 11.28 states:

It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. **Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.**


The sub-committee have various options open to them, however due to the serious nature by which the licensing objectives are being undermined it is the submission of Bedfordshire Police that in this instance, revocation of the premises license is proportionate and should be seriously considered.

Yours Sincerely,

Darren WELCH

Licensing Officer

BEDFORDSHIRE POLICE



From: sally grant
Sent: 21 November 2020 19:15
To: LBC ER Licensing
Subject: Fw: Acasa Food Ltd LA03/MAU 174262

Sent from Yahoo Mail for iPhone

Begin forwarded message:

On Saturday, November 21, 2020, 6:40 pm, sally grant

Dear Sir or Madam

I'm completely against Acasa Food Ltd having there lincense renewed, due to on going problems I have had over the last 2 years I have had noise, excessive smoking outside my house with there customers and friends sitting on my property and there customers and friends congregating outside drinking alcohol, shouting, and arguing, this is worse in the summer.

We are in the middle of a pandemic and there's all these people outside huddled together with know masks on and me and my children are at time's intimidated, I've lived here 18 years but this situation is just making my family unhappy.

Im attaching evidence of















Kind regards
Sally Grant

