



LICENSING AUTHORITY

Mid Sussex District Council, Oaklands, Oaklands Road, Haywards Heath RH16 1SS

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 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/We ...**West Susses County Council Trading Standards** .. (Insert name(s) of applicant) **apply for the review of a Premises Licence under Section 51/apply for the review of a Club Premises Certificate under Section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)**

Part 1 – Premises or club premises details

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

Yowu Ltd t/a

London Road Food & Wine

65 London Road

East Grinstead

West Sussex

Post town, East Grinstead

Post code RH19 1EQ

Name of Premises Licence holder or Club holding Club Premises Certificate (if known)

Mr Ibrahim Kahraman

(DPS is Mehmet Kahraman)

Number of Premises Licence or Club Premises Certificate (if known)

PWA0487

Part 2 – Applicant details

I am

Please tick ✓ yes

1) An individual, body or business which is not a Responsible Authority (please read guidance note 1, and complete (A) or (B) below)

2) A Responsible Authority (please complete (C) below)

3) A member of the Club to which this application relates (please complete (A) below)

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

Mr Mrs

Miss

Ms

Other title
(For example, Rev)

Surname

First names

Please tick ✓ yes

I am over 18 years old or over

Current postal
address if different
from premises
address

Post town

Postcode

Daytime contact telephone number

Email 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

West Sussex County Council Trading Standards Service
Parkside
Chart Way
Horsham
RH12

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 2)

West Sussex County Council Trading Standards Service (the 'responsible authority') contends the following licensing objectives have been undermined by the carrying on of licensable activities at these premises:

- the prevention of crime and disorder and
- public safety

Full particulars in support of the application are to be found in the next section, but in summary:

Prevention of Crime and Disorder

On 4th January 2024, during an unannounced inspection visit Trading Standards Enforcement Officers recovered a quantity of what was believed to be illicit or unpaid duty tobacco in the way of packaged cigarettes without the standard packaging and health warnings that are required in law. The recovered packs appeared to be of standard packaging but not labelled in English.

This is contrary to 11 (4) (a) of Tobacco and Related Products Regulations 2016.

It is also a criminal offence under Section 170 (1) (a) of the Customs and Excise Management Act 1979 to knowingly acquire possession of duty chargeable goods (e.g. cigarettes) upon which duty has not been paid.

Section 144 of the Licensing Act 2003 also references the keeping of smuggled goods, namely tobacco, on licence premises.

Public safety

All forms of tobacco products are harmful whether purchased from an illicit seller or a legal source, due to the low prices which make it harder for smokers to quit, easier for non-smokers to start and ex-smokers to relapse. The trade in illegal tobacco harms local communities, affects honest businesses operating within the law and undermines local and national efforts that have been made to reduce smoking and improve health. The availability and typically lower price of illicit tobacco products also encourages young people to start smoking.

The protection of children from harm

On 31st January 2024 The Responsible Authority received a report from a member of the public alleging that a vape had been sold to a minor at London Road Food and Wine at 7.40 am on the 30th January 2024.

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

On Wednesday the 4th of January 2024 officers from West Sussex County Council Trading Standards department carried out unannounced visits in the East Grinstead town centre after receiving reports of some business selling oversized vapes and vaping products to children under the age of 18 years.

At 2pm that day Officers entered the premises of Yowu Ltd t/a London Road Food & Wine at 65 London Road, East Grinstead, West Sussex, RH19 1EQ for the purpose of an unannounced inspection. On introducing themselves they also completed and served notice of powers under the Consumer Rights Act 2015 to Mr Ibrahim Kahraman.

As the officers were explaining the reason for the visit and completing paperwork the business owner Mr Ibrahim Kahraman had a conversation with a female staff member, handing her a large black bin bag which was then removed by her to the rear of the shop and placed out of view. On completion and serving of the powers notice Enforcement Officer Paul Rogers immediately went to the rear of the shop and carried out an inspection of the rear area and stockroom.

Upon his return he had taken possession of the bin bag and returned it to the front where Enforcement Officer John Redpath was standing and going through the requirements regarding various aspects of age restricted sales with Mr Kahraman.

Enforcement Officer Paul Rogers then directed his colleague's attention to the contents of the bag, this was found to be a substantial quantity of what would be described as Standard packed cigarettes. Upon closer examination the cigarettes were found to have non-English language print on them in respect of health warning and other information. The brand names were found to be Marlboro Touch and Parliament Blue.

Due to the packaging and print not being in English both branded items contravened the Tobacco Related Products Regs 2016, section 11, (4), (a), in that any health wording on tobacco products should be clearly displayed in English within the UK, resulting in these items being non-compliant.

At this time the officers noted the store was busy with customers, with a constant uninterrupted stream of people through the shop and till point as the officers dealt with the find and paperwork. As such it was not possible to question Mr Kahraman, regarding both the cigarettes and the reason for their presence on the premises.

In total there were:

4700 sticks' (235 packets of 20 per pack) of Parliament cigarettes and 2080 sticks (104 packs of 20 per pack) Marlboro cigarettes within the bag.

All packets (Marlboro and Parliament) were found to have non-English labelling and as a result were in contravention of the previously mentioned Tobacco Related Products Regs 2016, section 11, (4), (a).

These were seized by Enforcement Officer Redpath and sealed into evidence bags in Mr Kahraman's presence. The items were also listed on a record which also acted as a disclaimer to the property which Enforcement Officer Redpath explained to Mr Kahraman. He also explained that the items would be subject to submission to the brand holder for examination and authentication and that after this there would be further action in relation to his possession, also at some point a formal interview under PACE conditions may be required. At no time did Mr Kahraman make any significant statement or denial regarding the items or their possession by him.

No further items were identified by the officers during their inspection which was completed by 3pm. Actions and a Trading Standards record of seized exhibits was also completed and explained to Mr Kahraman.

An option of disclaiming rights of ownership in relation to noncompliant items was also explained to him and that these would be destroyed. At this point he agreed to disclaim rights of ownership and signed them over to Trading Standards.

A person found guilty of an offence under the Tobacco Product Regulations 2016 may be liable, on summary conviction to imprisonment for a term not exceeding three months, or a fine or both, or on conviction on indictment to imprisonment for a term not exceeding 2 years, or a fine, or both.

On the 3rd of January 2024 as part of the investigation process in relation to the seized cigarettes two samples were obtained from the seizure, these were 2 x packs of Marlboro Touch from BS/JR/001/1 and 2 packs of Parliament night Blue from BS/JR/001/2. These items were then submitted to the brand holder Phillip Morris for examination and authentication.

On the 6th of March 2024 Phillip Morris (brand holder representative) responded to the request and were able to confirm the following in relation to the items submitted; both the items submitted were genuine Phillip Morris products produced in Turkey between October and November 2023.

Having been produced there they were for sale only in the domestic Turkish Market and should not have been within the United Kingdom. This would also mean that the Duty and taxes would not have been paid on the products recovered from the shop on the day.

We as the Responsible Authority would also highlight the following, Section 144 of the Licensing Act 2003 regarding the keeping of smuggled goods namely tobacco on licence premises:

Keeping of smuggled goods, this section states:

- (1) A person to whom subsection (2) applies commits an offence if he knowingly keeps or allows to be kept, on any relevant premises, any goods which have been imported without payment of duty or which have otherwise been unlawfully imported.
- (2) This subsection applies
 - (a) to any person who works at the premises in a capacity, whether paid or unpaid, which gives him authority to prevent the keeping of the goods on the premises,
 - (b) in the case of licensed premises, to
 - (i) the holder of a premises licence in respect of the premises, and
 - (ii) the designated premises supervisor (if any) under such a licence

Additionally, we also consider and bring to the committee's attention the following additional offence under the Customs and Excise Management act 1972 Section 170, 2, (a)

This section states:

- (2) Without prejudice to any other provision of the Customs and Excise Acts 1979, if any person is, in relation to any goods, in any way knowingly concerned in any fraudulent evasion or attempt at evasion.
 - (a) of any duty chargeable on the goods, (*in this case duty has been avoided on cigarettes recovered*)

Also Section 11.27 of The Home Office document '[Revised Guidance issued under section 182 of the Licensing Act 2003](#)' last revision December 2023 states...

'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 or storage of smuggled tobacco and alcohol.'

Section 11.28 of that Home Office document goes on to say, '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 selling of illicit tobacco products fails to prevent further crime and disorder by funding those who illegally import and produce such products. Not to mention the profit made by the seller in respect of avoidance of duty and relevant taxes. In relation to the tobacco products listed above.

All forms of tobacco products are harmful whether purchased from an illicit seller or a legal source, due to the low prices which make it harder for smokers to quit, easier for non-smokers to start and ex-smokers to relapse.

The trade in illegal tobacco harms local communities, affects honest businesses operating within the law and undermines local and national efforts that have been made to reduce smoking and improve health. The availability and typically lower price of illicit tobacco products also encourages young people to take up smoking.

No meaningful conditions can be put on a premises licence to deal with smuggled goods. Therefore, the Responsible Authority seek a revocation of the licence. This would send a clear message that the licensing authority will not tolerate the sale or storage of smuggled tobacco within any licensed premises in Mid Sussex.

Further on 31st January 2024 the Responsible Authority received a report from a member of the public alleging that a vape had been sold to a minor at London Road Food and Wine at 7.40 am on the 30th January 2024.

Please tick ✓ yes

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

If yes please state the date of that application

Day		Month		Year			
2	1	0	9	2	0	2	3

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

On the 27th of June 2023 as part of an underage sales operation the Responsible Authority were carrying out that day a 16-year-old volunteer under the instruction and supervision of the Responsible Authority entered Yowu Limited t/a London Road Food and Wine, 65 London Road, East Grinstead, West Sussex, RH19 1EQ. The child volunteer selected one WKD Blue bottle of alcohol and took it to the till. A female working behind the till area sold the WKD Blue bottle of alcohol to the child volunteer, without asking them for any identification.

This was evidenced, and uncontested and a six-week licence suspension was issued by the Mid Sussex Licensing Committee.

Please tick yes

- I have sent copies of this form and enclosures to the Responsible Authorities and the Premises Licence holder or Club holding the Club Premises Certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

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

Part 3 – Signatures (please read guidance note 4)

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

Signature



Date 5th April 2023

Capacity Trading Standards Team Manager

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

Post town

Post code

Telephone number (if any)

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

Notes for Guidance

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