



**Brighton & Hove
City Council**

Regulatory Services

Trading Standards
Bartholomew House
Bartholomew Square
Brighton BN1 1JP

Fig Tree Trading Limited
Wrenthall
Shipleigh Bridge Lane
Shipleigh Bridge
Horley
Surrey
RH6 9TL

Date: 5 May 2017
Our Ref: 2017/02729/LICPRM/EH
Phone: 01273 292494

e-mail: donna.lynsdale@brighton-hove.gcsx.gov.uk

Dear Sirs

Licensing Act 2003 - BREACH OF CONDITIONS

Re: Apple Cart, 192-193 Lewes Road, Brighton BN2 3LA

I am writing to you in your capacity as the Premises Licence Holder for the above premises regarding a referral received by this Authority from Sussex Police Licensing Unit and further to my previous letter to you of 18 April 2017, copy attached for information.

It is my understanding that officer PC Bernascone visited Apple Cart at 14.00 hours on Tuesday 25 April 2017 to conduct a routine licensing inspection following a complaint received alleging you were selling alcohol outside your licensing hours. During his visit he spoke to Ali Ali who introduced himself at the Designated Premises Supervisor (DPS).

There was only one page of Part A on site. He was advised that the rest was in Mr Ali's car. It is a requirement under the above legislation that Part A must be able to be produced when requested.

At the time of their visit my colleagues noted the following premises licence conditions were not being complied with;

Annex 2 of the Premises licence reference 1445/3/2016/01914/LAPREN, Prevention of Crime and Disorder, Condition one which states:

- 1. Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover all public areas, including the entrance to the premises. The system shall be on and recording at all times the premises licence is in operation.**

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- **The CCTV cameras and recording equipment must be of sufficient quality to work in**
- **all lighting levels inside the premises at all times.**
- **CCTV footage will be stored for a minimum of 31 days**
- **The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime. A member of staff must be present at all times who can operate the system and supply copies of these images on request to either Police, Council or other authorised Officer.**
- **The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.**
- **Subject to Data Protection guidance and legislation, the management of the premises will ensure that key staff are fully trained in the operation of the CCTV, and will be able to download selected footage onto a disk for the police without difficulty or delay and without charge to Sussex Police.**
- **Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable.**

Mr Ali did not know how to operate the CCTV system and advised that he has to get the installer to do anything if needed. Also the time on the CCTV was 1 hour out. Mr Ali advised that it had not been changed when the clocks changed. PC Bernascone informed him that as part of his license he, or any staff on duty would need to know how to operate the system. Mr Ali also informed him that it recorded for 30 days and again he was advised that it had to record for 31 days. Mr Ali was also informed that he had to tell Police if CCTV broke down, which was something he didn't appear to be aware of.

4. No beers, lagers or cider with an ABV content exceeding 6% will be sold other than premium speciality bottled beer, lager or cider.

The premises had on sale Frosty Jack Cider in 2L and 1L bottles at 7.5%. This was pointed out to Mr Ali who argued that this only related to cans, but when shown the licence he agreed and removed from display.

5. The area given over to the display of alcohol will be no more than 15% of the sales area.

In PC Bernascone opinion the display area of alcohol was double the 15% stated in the licence.

7. No single cans of 440ml or less of beer, lager or cider will be sold; only multipacks of 4 or more cans will be sold.

Cans were seen split from packages and single cans on display. Mr Ali stated that he only sold cans in 2's, 4's or 6's and never sold single cans. He advised that all cans on display were 500ml.

10. If a scheme is in operation the premises licence holder will ensure the premises will become a member of the Business Crime Reduction Partnership (BCRP) whilst this scheme is in existence and if not, any similar body. The premises will sign up and pay for membership of the BCRP before alcohol is sold.

When asked about BCRP Mr Ali said that a man did come to the shop, but when he found out he wanted £40 per week he refused to pay as couldn't afford it. When advised that it was part of his license he repeated that he couldn't pay what they wanted. Mr Ali gave no impression that he was going to change this and get BCRP.

11. There will be no displays of alcohol within 3 meters of the entrance of the store or, with the exception of spirits behind the counter if the counter is situated at the front of the store.

Wine was on display near to the entrance.

14. A documented security risk assessment must be written by the Designated Premises Supervisor and agreed by Sussex Police, which identifies the activities undertaken at the premises and the controls necessary to promote the licensing objectives. It will include a written assessment demonstrating what considerations have been made for both normal day to day activities and any special events or functions which may arise during the year. This document shall be immediately available for inspection by the Police and the Licensing Authority, upon request. SIA trained and licensed security staff shall be employed on occasions when a requirement is identified by the licence holder's risk assessment or requested by Sussex Police.

When asked about what risk assessment was carried out, Mr Ali responded with a shrug.

For the Protection of Children from Harm,

19. The Premises Licence Holder shall ensure that all staff members engaged or to be engaged, in selling alcohol at the premises shall receive the following induction training. This training will take place prior to the selling of such products:

- The lawful selling of age restricted products;
- Refusing the sale of alcohol to a person who is drunk.

20. Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed eight weeks, with the date and time of the verbal reinforcement/refresher training documented.

21. All such training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police, officers of the local authority and Brighton & Hove Weights & Measures Officers upon request.

No training records could be produced at the time of visit. Mr Ali stated that it was only him and his wife work in premises.

24. The premises shall at all times maintain and operate refusals recording system (either in book or electronic form) which shall be reviewed by the Designated Premises Supervisor at intervals of no less than 4 weeks and feedback given to staff as relevant. This refusals book shall be available upon

request to police staff, local authority staff and Weights and Measures officers.

Mr Ali stated that the Council were supposed to give him a book but hadn't so they were not recording anything. I visited the premises on 9 November 2016 and at the time of my visit left I left a refusal register. If this had been mislaid, to date I have not received a request to send a replacement one.

Non-compliance with conditions constitutes a breach of the Premises Licence issued under the above legislation. Please ensure that all conditions on the licence are adhered to. It is an offence under the Licensing Act 2003, S136(1) and (4) to carry on unauthorised licensable activities. The legislations states that:-

(1) A Person commits an offence if –

he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation, or he knowingly allows a licensable activity to be carried on.

(4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to an unlimited fine, or to both.

Irrespective of the permission's and restrictions attached to any premises licence all licensed premises are required to operate with regard to the 4 licensing objectives, which are;

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

At any stage following the grant of a premises licence, a responsible authority, such as the Environmental Health, Police or persons such as a business or a resident living in the vicinity of the premises, may ask the Licensing Authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.

It is therefore my intention to conduct a joint licensing inspection to the premises with colleagues from Sussex Police Licensing to ensure these matters have been rectified and all licensing conditions are being complied with. If further non compliance is witnessed formal enforcement action may be taken.

Yours faithfully

Donna Lynsdale
Fair Trading Officer
Trading Standards and Licensing

Enc. Copy of warning letter sent 17 April 2017.
c.c. The Manager, Apple Cart, 192 - 193 Lewes Road, Brighton, BN2 3LA

*If requested by a third party under the provisions of the **Freedom of Information Act 2000** the contents of this letter may be disclosed by Brighton & Hove City Council. For further advice please contact (01273) 291207 or search our website on www.brighton-hove.gov.uk/foi*

