

## APPENDIX B

R-20.6.11  
C-18.7.11

2011/01258/LAREV

SC

### Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

Valid  
CD  
PCH

#### 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 John Peerless, Head of Service, Trading Standards, Brighton & Hove City Council

**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

<b>Postal address of premises or, if none, Ordnance Survey map reference or description</b> Best One/Dharni Stores 165 Hangleton Way,		Brighton & Hove City Council  20 JUN 2011  Health, Safety & Licensing Post code (if known) BN3 8EY
<b>Post town</b> Hove	<b>Post code (if known)</b> BN3 8EY	

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Mr Subodh Dharni
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<b>Number of premises licence or club premises certificate (if known)</b>
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#### 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 ☐
  - b) a body representing persons living in the vicinity of the premises ☐
  - c) a person involved in business in the vicinity of the premises ☐
  - 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 John Peerless Head of Service Trading Standards Brighton & Hove City Council Bartholomew House Bartholomew Square Brighton BN1 1JP
Telephone number (if any) 01273 292497
E-mail address (optional) Catriona.macbeth@brighton-hove.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
- 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)

On 25 February 2011 the premises sold alcohol to a 16 year old child assisting with a test purchase operation.

Counterfeit alcohol has been seized from the premises.

Non-duty paid cigarettes that also infringe safety regulations have been seized from the premises.

Alcohol has been detained on the premises due to concerns about the authenticity of the duty marks and that therefore the stock is non duty paid/smuggled.

Invoices provided do not relate to all of the alcohol seized/detained.

Trading Standards state that the following licensing objectives have not been met:

- 1) the prevention of crime and disorder.
- 2) the protection of children from harm.



**Please provide as much information as possible to support the application**  
(please read guidance note 2)

Best One/Dharni Stores at 165 Hangleton Way, Hove, BN3 8EY is a convenience store and off licence. The Premises Licence Holder and Designated Premises Supervisor (DPS) is Mr Subodh Dharni. The licence was granted to Mr Dharni in June 2006.

Trading Standards and Sussex Police work in partnership to deal with combating the sale of alcohol to children. This involves the sharing of intelligence, Joint Test Purchase Operations and in respect of Trading Standards, offering businesses support and training to assist them with complying with the law relating to age restricted products and to meet the Licensing Objective of protecting children from harm.

Joint Police and Trading Standards Test Purchase Operations take place on an ongoing basis, targeting premises as a result of either intelligence that children are able to buy alcohol from the premises or as a result of alcohol related youth disorder in the vicinity.

Trading Standards have identified a problem in Brighton & Hove with premises selling illegal alcohol. Illegal alcohol includes counterfeit alcohol, non duty paid (smuggled and diverted) alcohol, incorrectly described alcohol, incorrectly labelled alcohol and alcohol which has incomplete or no traceability. As a result Trading Standards have been working in partnership with HMRC and Sussex Police to tackle the problem and have seen a progression in the tactics being used in order to introduce illegal alcohol into the market.

The amount of excise and VAT due on alcohol is dependent on the quantity and ABV (alcohol by volume). The excise duty and VAT on a 70cl bottle of 37.5% ABV spirit pre 4 January 2011 is £6.83 and in respect of a one litre bottle of 37.5% ABV spirit pre 4 January 2011 is £9.76.

Non payment of duty and VAT has an impact on both the local and national economy. Businesses willing to stock illegal alcohol receive an unfair trading advantage over other businesses. There is also a risk of counterfeit products entering the market with the inherent risks to the public's health as a result of the use of industrial alcohol and other chemicals not intended for human consumption, poor production methods and quality control and no traceability of the products.

These premises first came to the attention of Trading Standards in early 2007, when intelligence was received that children were buying alcohol from the premises. A test purchase was therefore conducted at the premises on 12 May 2007 when alcohol was sold to the child assisting with the test purchase operation.

On 27 November 2008 cigarettes were sold to a child assisting with a test purchase operation. On this occasion the member of staff who sold to the child stated that if the child had attempted to buy alcohol that they would have asked the child for ID. The legal age to buy cigarettes was increased to 18 years on 1 October 2007.

On 6 August 2009 Miss Macbeth, Fair Trading Officer, attended the premises to undertake a business support visit. At this time she spoke to Mr Dharni the Premises Licence Holder and DPS about illegal alcohol including non duty paid/smuggled goods and the risks involved in buying alcohol with no invoices (traceability). She also provided him with some Challenge 21 posters and noted that the premises did not have a written refusals register but that the till system had a till prompt and a system for recording challenges and creating reports to monitor challenges but that



Mr Dharni did not know how to use the system to create reports. It was pointed out to Mr Dharni that it was his responsibility to check these records and that he needed to ensure that he could create these reports. During the course of this visit Miss Macbeth also undertook a check of the spirits and discovered nothing of concern.

These premises again came to the attention of Trading Standards in early 2011 when intelligence was received that children were regularly buying alcohol from the shop; the premises were therefore identified as suitable for test purchase.

On 25 February 2011 a Joint Test Purchase Operation with Sussex Police was conducted at the premises resulting in alcohol being sold to the 16 year old child assisting with the Test Purchase Operation. Mrs Nicola Humble, Fair Trading Officer, was assisting with the Test Purchase Operation and entered the premises shortly after the sale had taken place. She noted, other than a No ID No Sale notice on the entrance door that there was no other signs or posters displayed in the shop to indicate that an age policy for checking ID was in force. She was told by Mr Dharni the Premises Licence Holder and DPS that there was a prompt on the till, and that whilst there was no written refusals register, there was a reporting system on the till operating system for challenges, ID checks and refusals but that Mr Dharni did not know how to run the report. It is clear that Mr Dharni as Premises Licence Holder and DPS had not been monitoring the refusals system since at least August 2009 when Miss Macbeth visited and she was told that he could not create a report of the refusals recorded on the till system. Mr Dharni also disclosed to Mrs Humble that there was no documented record of any training provided to his staff and that any instructions were only given verbally.

Prior to the Test Purchase Operation on 25 February 2011, Trading Standards had received intelligence about counterfeit Jacobs Creek Wine being offered for sale in London and had subsequently discovered bottles for sale within Brighton & Hove. As a result Mrs Humble checked the Jacobs Creek Wine on sale and identified some labelling irregularities which led her to believe that the bottles of wine were counterfeit.

On 28 February 2011 Mr Steven Lings and Miss Catriona Macbeth visited the premises and undertook a check of the Jacobs Creek Wine and the spirits on sale. Mr Lings seized 8 bottles of wine bearing Jacobs Creek labels that he believed to be counterfeit. Ms Macbeth integrity sealed and detained on site the following items which she considered to be non-duty paid/smuggled due to irregularities with the labelling.

10 x 20cl bottles of White Russian Vodka  
12 x 70cl bottles of Glens Vodka  
12 x 70cl bottles of High Commissioner Whisky  
1 x 70cl bottle of Kirowa Vodka  
5 x 1L bottles of Soviet Vodka  
7 x 70cl Aros Vodka

With regards the bottles of Glens Vodka and the High Commissioner Whisky, Miss Macbeth identified a number of irregularities with the rear label of the bottles which indicate that the labels and therefore the duty stamps incorporated within the label are false and that the UK duty has not therefore been paid.

Trading Standards took a sample of the White Russian Vodka and this has been analysed. Whilst the vodka is not hazardous, enquiries made by Trading Standards have failed to establish that this is a genuine brand. Due to the size of the bottles, there is no requirement for a duty stamp to be attached, however due to irregularities with the labelling of the bottles and the box containing them and the lack of invoices it



is suspected that these bottles are non UK duty paid (smuggled)

The bottles of Kirowa Vodka, Soviet Vodka and Aros Vodka are also of concern as there are labelling irregularities and there have also been instances of the brands being non UK duty paid and there being no invoices available (traceability)

Miss Macbeth seized 2,000 cigarettes that were stored under the counter on the premises, knowing that they breached product safety legislation due to incorrect labelling and that the duty had not been paid (smuggled) and suspecting that they may have been counterfeit. Mr Dharni admitted that he was aware that the cigarettes were on the premises albeit that they belonged to a male helping him out. It should be noted that Mr Dharni has failed to provide any details about this male.

Trading Standards have received confirmation from the Brand Holder for Jacobs Creek that the 8 bottles of wine seized from the premises are counterfeit and further the Public Analyst has confirmed that the contents of a sample bottle are not genuine. Trading Standards have also received confirmation from the Brand Holder for the cigarettes that these are genuine but were produced for the Indonesian market and were not for sale in the UK. These cigarettes were therefore non UK duty paid and had been smuggled into the UK.

In April 2011 Mr Dharni booked two members of staff on Trading Standards "Preventing Underage Sales" training course to be held on 3 May 2011. Nobody from the premises attended the course on either 3 May 2011 or any subsequent dates.

Mrs Humble visited the premises again on 4 May 2011 and spoke to Mr Dharni, advising him on best practice with regards the prevention of underage sales.

On 12 May 2011 Mr Lings and Mrs Humble interviewed Mr Dharni in connection with the 8 bottles of counterfeit Jacobs Creek wine and the potential offences under Trading Standards enforced legislation. Whilst Mr Dharni has produced 2 invoices which he states relates to the counterfeit wine, they do not show the particular varieties seized. Mr Dharni has failed to produce invoices for all of the other alcohol detained in situ despite there being a legal requirement for him to do so when requested. Indeed he has admitted that most of the alcohol was purchased by his staff around Christmas 2010 and that invoices were not provided.

Mr Dharni has made a voluntary surrender of the counterfeit Jacobs Creek wine and the cigarettes that were seized.

It is accepted that there have been occasions when these premises have passed Test Purchase Operations, the latest being on 19 April 2011. However there have been times when whilst the staff at the premises have refused to sell to the children assisting with the operation, they have either asked for the child's age or have asked for ID and when the child has responded that they do not have any ID they have then been asked their age; it is Trading Standards view that this is not appropriate for preventing the sale of alcohol to children.

Guidance issued under section 182 of the Licensing Act 2003 lists certain criminal activity which may arise in connection with licensed premises which the Secretary of State considers should be treated particularly seriously. This list includes the use of the licensed premises for the sale of smuggled alcohol and tobacco. The guidance states that even in the first instance revocation of the premises licence is appropriate where the premises have been used for the sale of smuggled alcohol and tobacco.

At all relevant times Mr Dharni has been the Premises Licence Holder and DPS of these licensed premises. Trading Standards request that the Committee give serious



consideration to the revocation of the premises licence.

**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

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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

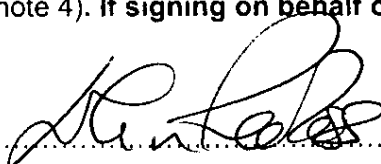
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

**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 June 2011

Capacity Head of Trading Standards

**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.