

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.

Louise Baxter- Team Manager (East Sussex County Council Trading Standards Service)

(Insert name of applicant)

**apply for the review of a premises licence under section 51 I 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, if none, ordnance survey map reference or description Pleasant Off Licence 72 Mount Pleasant Road Hastings East Sussex	
Post town Hastings	Post code (if known) TN34 3SN
Name of premises licence holder or club holding club premises certificate (if known) Mr Cumar Yalcin	
Number of premises licence or club premises certificate (if known) HOP50294	

WX201126458

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 name

Please tick yes

I am 18 years old or over

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

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Louise Baxter Team Manager East Sussex County Council Trading Standards Service St Mary's House 52 St Leonards Road Eastbourne East Sussex BN21 3UU
Telephone number (if any) 01323 463446
E-mail address (optional) Louise.Baxter@eastsussex.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 type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 1)

LICENSING OBJECTIVE - THE PREVENTION OF CRIME AND DISORDER
Enforcement agencies and licence holders have a duty to do all that is reasonably possible in reducing and preventing crime and disorder in their area.

There is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously. One of these is the use of the licensed premises for the sale of smuggled tobacco and alcohol.

The information provided below gives details of offences relating to fake and illicit alcohol found at Pleasant Off Licence, Hastings.

On 15/12/11 an inspection visit to Pleasant Off Licence Hastings was carried out.

The visit was carried out as part of Operation Mistletoe, a Trading Standards operation in response to intelligence received regarding the sale of counterfeit, illicit and dangerous alcohol.

At the time of the visit 21 bottles of vodka were suspected of being duty evaded and not genuine Vodka (Based on information from the Food Standards Agency see table below). Three of the "DD" vodka were sampled for further examination and the additional 18 bottles were seized for further examination.

The reason for their suspicion and the legislation that has been breached is detailed below. (see also table in part 2 below)

- The Consumer Protection from Unfair Trading Regulations 2008.
- Food Labelling Regulations 1996 and
- General Food Regulations 2004 and
- Spirit Drink Regulations 2008.

An investigation file is being completed in relation to the above offences for consideration for prosecution.

East Sussex Trading Standards are of the opinion that the offences found indicate that the licensing objective indicated above has not been met.

Please provide as much information as possible to support the application

(please read guidance note 2)

2010

Between 17/03/2010 and 12/07/2010 Trading Standards officers undertook test purchases from the trader. This resulted in illegal tobacco product being sold on four different dates and more illegal tobacco being seized by officers on another three occasions.

On 12/07/10 the premises was inspected by Trading Standards and HMRC officers. During the inspection foreign labelled and counterfeit tobacco products were found.

Also seized were seven cases of duty evaded alcohol, including Priskia & Glens Vodka, bearing fake duty stamps.

Legislation breached

The Tobacco Products (Manufacture, Presentation and Sale)(Safety) Regulations 2002.
The Consumer Protection from Unfair Trading Regulations 2008. (Creating the impression that a product can be legally sold when it cannot..)
The Trade Mark Act 1994 and
The General Food Regulations 2004

No formal action was taken in relation to these offences.

2011

On 15/12/11 an inspection visit to Pleasant Off Licence Hastings was carried out.

The visit was carried out as part of Operation Mistletoe, a Trading Standards operation in response to intelligence received regarding the sale of counterfeit, illicit and dangerous alcohol.

At the time of the visit 21 bottles of vodka were suspected of being duty evaded and not genuine Vodka (Based on information from the Food Standards Agency see table below). Three of the "DD" vodka were sampled for further examination and the additional 18 bottles were seized. What was seized/sampled, the reason for their suspicion and the legislation that has been breached is detailed in the table below.

The Samples were sent to the Public Analyst. The results were received on 04/01/12. The results are also included in the table two below.

Item and amount	Reason for suspicion	Breaches of legislation
20 x 70 cl bottles of "DD" Vodka	The Food Standards Agency Food Fraud Intelligence Briefing for Sept/Oct 2011 indicates both DD and Russian Standard Vodka are of concern and are listed as counterfeit or fake.	General Food Regulations 2004 (Regulation 4 Requires any person to comply with provisions of the Regulations (EC) No 178/2002) Article 16 Presentation. The labelling, advertising and presentation of food and feed, including their

		<p>shape, appearance or packaging, the packaging materials used, the manner in which they are arranged and the setting in which they are displayed and the information which is made available about them through whatever medium shall not mislead consumers.</p> <p>The Consumer Protection from Unfair Trading Regulations 2008. A misleading action with regard to the provenance of the product.</p>
	Duty stamp does not fluoresce	<p>The Consumer Protection from Unfair Trading Regulations 2008. Creating the impression that a product can be legally sold when it cannot.</p>
	Traceability record not available	<p>General Food Regulations 2004 (Regulation 4 Requires any person to comply with provisions of the Regulations (EC) No 178/2002)</p> <p>Article 18 Traceability. Requires that the traceability records be made available on demand to the competent authorities on demand. The purpose is to assist with withdrawals and recalls of unsafe food. Food businesses should be able to produce their records within a short timescale in the event that they are needed for a recall or withdrawal.</p>
1 x 70 cl bottle Vodka Redstar	Name and address missing from label	<p>The Consumer Protection from Unfair Trading Regulations 2008. Creating the impression that a product can be legally sold when it cannot.</p> <p>Food Labelling Regulations 1996 Item was not marked with the name or business name and address or registered office of either or both of the manufacturer or packer, or a seller established within the European Community.</p>
	Statement on label- made in the heart of Russia-Berlin	<p>The Consumer Protection from Unfair Trading Regulations 2008. A misleading action with regard to the</p>

		<p>provenance of the product.</p> <p>General Food Regulations 2004 (Regulation 4 Requires any person to comply with provisions of the Regulations (EC) No 178/2002)</p> <p>Article 16 Presentation. The labelling, advertising and presentation of food and feed, including their shape, appearance or packaging, the packaging materials used, the manner in which they are arranged and the setting in which they are displayed and the information which is made available about them through whatever medium shall not mislead consumers.</p>
	Traceability record not available	<p>Article 18 Traceability. Requires that the traceability records be made available on demand to the competent authorities on demand. The purpose is to assist with withdrawals and recalls of unsafe food. Food businesses should be able to produce their records within a short timescale in the event that they are needed for a recall or withdrawal.</p>
	Duty stamp does not fluoresce	<p>The Consumer Protection from Unfair Trading Regulations 2008. Creating the impression that a product can be legally sold when it cannot.</p>

Public analyst results

Spirit Drink Regulations 2008.

The results revealed that the amount of alcohol found in the "DD" vodka sample was deficient of that declared to the extent of 3.0% vol, this deficiency being ten times the maximum permitted tolerance of 0.3% vol., as prescribed by the Food Labelling Regulations 1996. The amount of alcohol found is also deficient of the minimum alcoholic strength for vodka as required by the Spirit Drink Regulations 2008.

Food Labelling Regulations 1996.

The sample was not marked with the name or business name and address or registered office of either or both of the manufacturer or packer, or a seller established within the European Community, as required by the Food Labelling Regulations 1996.

General Food Regulations 2004

Furthermore no lot mark or batch code could be identified on the sample as required by the General Food Regulations 2004, and irregularities with the HMRC duty mark indicated that the mark may not be genuine.

The sample was also analysed for the presence of other substances which were found and as such it is the opinion of the Public Analyst that the sample is not consistent with genuine vodka.

Mr Cumar Yalcin the Premises Licence Holder was not present at the shop on 15/12/11 the day of the visit. A man who gave his name as Mr Salim Ali Mohammed was working in the shop and he advised he was not the owner but just helping out.

Mr Robert Newton (Senior Trading Standards Officer) requested the invoices for the products which were seized on the day of the visit 15/12/11. Mr Newton wrote again on 12/01/12 requesting the invoices for the products seized.

General Food Regulations 2004, state businesses are required to maintain records of traceability for all of the food and drink products they have on offer for sale and to produce those records when required to do so. No traceability documents have yet been provided.

Taking all the information into account East Sussex Trading Standards are of the opinion that the offences found indicate that the licensing objectives have not been met and as such we would like to recommend that the licence is revoked.

Please tick if 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 if 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

X

- I understand that if I do not comply with the requirements my application will be rejected

X

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

Signature: L. Baxter

Date: 1/2/12

Capacity: Team Manager

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

Louise Baxter
Team Manager
East Sussex County Council Trading Standards Service
St Mary's House
52 St Leonards Road
Eastbourne
East Sussex

Post town Eastbourne

Post Code BN21 3UU

Telephone number (if any) 01323 463446

If you would prefer us to correspond with you using an e-mail address, enter your e-mail address here (optional) Louise.Baxter@eastsussex.gov.uk

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.

