

Public Document Pack
Licensing Sub Committee Agenda

Thursday, 28 January 2021 at 10.00 am
MS Teams

This meeting will be held digitally. A viewing link will be posted on our website nearer the time.

For further information, please contact Democratic Services on 01424 451484 or email democraticservices@hastings.gov.uk

	Page No.
Members of the Licensing Sub Committee to sit on this hearing are:	
Councillors Edwards, Roberts and Sinden with Councillor Cox in reserve.	
1. Appointment of Chair for this Meeting	
2. Apologies for absence	
3. Minutes of previous meeting	1 - 16
4. Declarations of Interest	
5. Notification of Additional Urgent Items	
PROCEDURAL NOTE - Licensing Review	
6. Review of Premise Licence. The Four Seasons Hastings Ltd <i>(Mike Hepworth, Assistant Director, Environment and Place)</i>	19 - 100
7. Additional urgent items (if any)	

This page is intentionally left blank

Agenda Item 3 Public Document Pack

LICENSING SUB COMMITTEE

24 JANUARY 2020

Present: Councillors Cox, O'Callaghan, Patmore (Chair) and Roberts

40. APPOINTMENT OF CHAIR FOR THIS MEETING

In accordance with the terms of reference of the Licensing Committee, the Chief Legal Officer invited nominations for the appointment of Chair for the duration of the meeting. Councillor Roberts moved that Councillor Patmore should take the Chair. This was seconded by Councillor O'Callaghan.

RESOLVED (unanimously) that Councillor Patmore be appointed as Chair for the duration of the meeting.

41. APOLOGIES FOR ABSENCE

None

42. MINUTES OF PREVIOUS MEETING

RESOLVED (unanimously) that the minutes of the meeting held on 27 September 2018 be approved as a true record

43. DECLARATIONS OF INTEREST

None

44. NOTIFICATION OF ADDITIONAL URGENT ITEMS

None

45. REVIEW OF PREMISES LICENCE. OCEAN SPICE, 43 WHITE ROCK, HASTINGS

Councillor Patmore set out the procedure that the Sub-Committee would adopt (in accordance with Standard Practice).

The Licensing Manager, Mr Brown, presented the report of the Assistant Director of Environment and Place in respect of the application made on 26th November 2019 for the review of an existing premises licence for Ocean Spice, 43 White Rock, Hastings. This was from HM Inspector of Immigration, Home Office, made under Section 51 the Licensing Act 2003. During the 28-day consultation the police made a representation under the licensing objectives of Prevention of Crime and Disorder and Public Safety.

HM Inspector Andrews of Immigration made his submission on the basis of Prevention of Crime and Disorder. The application for review was based on the number of visits made to the premise and the number of individuals found at the premise who were working illegally.

LICENSING SUB COMMITTEE

24 JANUARY 2020

The HM Inspector went through a timeline of involvement with the premises as followed;

- **4th October 2018-** Based on intelligence Immigration made its first visit to the premises. They found 3 suspected illegal workers. After investigation 2 workers were found to be illegal and a Civil Penalty of £30,000 was issued. This fine has not been appealed or paid.
- **19th January 2019-** During the previous visit an individual of interest evaded immigration, this gave them cause to return. During this visit 3 suspected workers were found, 2 of which were found on the first visit. After investigation 3 workers were found to be illegal and a Civil Penalty of £45,000 was issued. This fine has not been appealed or paid.
- **14th November 2019-** During this third visit 3 suspected illegal workers were found. After investigation 1 worker was found to be illegal and a Civil Penalty of £20,000 was issued. This fine has not been appealed or paid.

The HM Inspector summarised that between 4th October 2018- 14th November 2019 3 visits had resulted in the discovery of 5 illegal workers and civil penalties totalling £95,000 had been issued. None of these penalties had been appealed or paid.

The HM Inspector added that on each of these visits the Immigration Officers had experienced hostile response on each occasion. As a result of this they asked Sussex Police to support their visit of 14th November 2019 due to the previous aggression and violence. During this visit 3 members of staff were arrested due to their behaviour. This is currently under investigation.

The Chair invited questions.

The Licence Holders Legal Representative, asked when 3 people are referred and only 1 fine is given out is it right to infer that 2 people were not then working illegally?

The HM Inspector responded that when a person is referred Civil Penalties will look at the evidence. If there was not enough evidence to deem the other 2 people as illegally working, then no civil penalty would be issued.

The Chair invited Sussex Police as the statutory consultee to make their representation. Police Inspector Lovell made the representation based on the grounds of the Licensing Objectives of the Prevention of Crime & Disorder and Public Safety.

Police records indicate that members of staff at Ocean Spice were alleged to have been involved in a number of violent incidents since 21st February 2019 in and around the restaurant and elsewhere. A number of these incidences have been concluded without charge. There are some outstanding that are still under investigation.

Police believe that a general pattern is evident in the behaviour of the staff, and in particular members of the Rahman family who own the restaurant, to act as a group when dealing with problematic customers or incidences.

LICENSING SUB COMMITTEE

24 JANUARY 2020

Police Inspector Lovell reported the following timeline of events to the Licensing Sub Committee;

- **Thursday 5th December 2019-** 10 males fighting outside British heart Foundation shop at 41 White Rock. Due to dispute with neighbouring restaurant Nazar. After escalating argument an individual from Nazar had assaulted Siddiqur Rahman, Ocean Spices DPS (Designated Premises Supervisor)
- **Thursday 14th November 2019-** During the execution of the search warrant by HM Immigration that identified 3 suspected illegal workers at Ocean Spice, 3 members of the Rahman family were arrested for either obstructing a Police Officer or obstruction of an Immigration Officer. Threats were also made against Officers by members of the Rahman family. This matter is still being investigated.
- **Saturday 28th September 2019-** Dispute over payment for meal at Ocean Spice that led to claims of physical assault outside restaurant between staff members and a customer. Customer sustained injuries consistent with Grievous Bodily Harm. This matter is still being investigated.
- **Monday 23rd September 2019-** A traffic warden was threatened with violence when attempting to issue a parking ticket for a vehicle parked on double yellow line near Ocean Spice. The confrontational individual was Shahnur Rahman son of the Siddiqur Rahman (DPS for Ocean Spice). This has been investigated by police as a S.4 Public Order offence; a summons has been issued.
- **Tuesday 13th August 2019-** Police were called to an incident of theft in a convenience store located at 35 White Rock. The suspect of theft alleged Shahnur Rahman had assaulted him. After an investigation the matter was filed due to the victim declining to support the prosecution.
- **Saturday 10th August 2019-** A male was assaulted by 5 males. Victim sustained injuries consistent with Actual Bodily Harm. Shahnur Rahman and brothers Mominur Rahman & Ridwanur Rahman and cousins Shawjan Khan & Mejan Khan were arrested. After a lengthy investigation the matter was filed due to lack of support from the victim and no witnesses.
- **Sunday 26th May 2019-** Male was allegedly assaulted and received injuries consistent with Actual Bodily Harm by Ridwanur Rahman and Shahnur Rahman. Victim had previously assaulted Ridwanur early in evening. Shahnur had met Ridwanur after this when the alleged assault took place. Both became threatening and abusive with Officers that a Taser was drawn. After an investigation it was decided that, as there was no realistic prospect of a court conviction, the matter should be filed.
- **Tuesday 14th May 2019-** Former staff member receives injuries consistent with Grievous Bodily Harm at the premises allegedly by the 3 Rahman brothers on

LICENSING SUB COMMITTEE

24 JANUARY 2020

instruction of their father Siddiquir Rahman. This was due to the staff member quitting his job after allegedly witnessing Siddiquir Rahman physically and verbally assaulting a female member of staff in the previous week. After an investigation the matter was filed pending any further developments.

- **Thursday 21st February 2019-** Male alleged to of been assaulted by brothers Shahnur, Ridwanur and Monimur in London Road near the Co-op. The victim was a former staff member of Ocean Spice who left after disputing holiday pay. In the absence of witness statements and CCTV to corroborate the victim's account it was decided to take no further police action.

Given the number of incidents involving the Rahman family including Mr Siddiquir Rahman the Designated Premises Supervisor, and their violent nature Sussex Police have no hesitation in supporting the review brought by HM Immigration and agreed that revocation of the licence should be the outcome of the review hearing.

The Chair invited questions.

The Licence Holders Legal Representative, asked questions concerning the incidents. Inspector Lovell confirmed that out of all the incidences none had been to court but 2 where still being investigated (14th November 2019 and 28th September 2019). The final incident on 5th December 2019 was one where Siddiquir Rahman was assaulted.

The Legal Representative asked if filming the police during this incident was considered illegal as the police written submission references this. Inspector Lovell confirmed it was not adding that they were concerned about the Rahman family behaviour due to them being aggressive and uncooperative.

There were no further questions.

The Chair invited the Licence Holder to make their submission. They requested a 10-minute adjournment which the Chair granted

(Meeting adjourned at 10.35am)

(Meeting reconvened at 10.47am)

The Licence Holders Legal Representative outlined their submission.

They did not accept the evidence of HM Immigration in relation to the Civil Penalty notices stating that they are in the process of appealing them.

When the licence holder initially received the notices, he took advice from his accountant who assured him that the matter was being dealt with. Mr Rahman accepts that this was not the case and he had been given incorrect advice. He now realises that he should have checked that the notices had been appealed.

Mr Rahman does not accept that he had knowingly taken on illegal workers. The process of recruitment that he said he used was to give workers a trial period of work. The workers were expected to provide supporting documents for their right to work

LICENSING SUB COMMITTEE

24 JANUARY 2020

legally but they would be allowed to provide these at a later date. This was his system of verification but accepts that it was inadequate.

The Licence Holder submitted additional supporting documents. Part of this was a new staff recruitment policy. This would be overseen by a dedicated recruitment manager. Prospective staff members would not be allowed to be employed, allocated shifts or paid until they have provided relevant documents proving their right to work as required by the Home Office.

,In response to the incidences highlighted by Sussex Police they had taken place outside of the premises and were not related to Mr Rahman not fulfilling his licensing objectives. The latest incident mentioned by the police was one in which Mr Rahman was assaulted.

Ocean Spice had policies in place and were taking additional steps for prevention of nuisance and protection of children from harm using processes such as challenge 25 for alcohol purchases.

The legal representative stated that there had to be a sense of proportionality in relation to the review. Revocation of the premises licence is not the only option available to the licensing committee and in regard to the 5 options the Licensing Manager detailed in his report, the following is suggested for the committees consideration;

- **To modify the conditions of the licence-** Add the condition that right to work checks must be completed rather than just through the voluntary employment process
- **To remove the Designated Premises Supervisor (DPS)-** If the committee wanted to remove Siddiqur Rahman as DPS, Monimur Rahman would be willing to take on this role and would be very suitable. He is already a director of the company
- **To suspend the licence for a period not exceeding three months-** This would have a substantial effect on the premises. This would allow them to get better processes in place

In relation to keeping Siddiqur Rahman as the DPS, the additional supporting document pack contains a number of positive character references for him. It also contains a positive reference for Monimur Rahman.

The additional supporting documents also contain employment documents such as individual employment records and P45s. The intention by the premise was to employ these workers legally. Workers had promised to supply the relevant documents and, in some incidences, supplied false documentation.

LICENSING SUB COMMITTEE

24 JANUARY 2020

SIA registered doormen could also be added as a condition to help meet the licensing objective during potential times of disorder although this would incur large financial cost to the business.

This is the first time the premises licence has been reviewed by the committee and believes revoking the licence is too strong a penalty for the first time. Imposing conditions on the licence would be a sufficient and proportional penalty for these offences.

The Chair invited questions.

The Licensing Manager asked if the proposed new DPS had a personal licence. Monimur Rahman responded he did not. The Licensing manager explained that a personal licence was needed to become a DPS. The Licence Holders Legal Representative advised that if the Licensing committee decided to remove the current DPS the process to obtain a personal licence would be completed with 28 days or sooner if needed.

The Licensing Manager asked if there was a recruitment process prior to the one proposed and if so, did they have evidence of this. The Licence Holders Legal Representative responded that Mr Rahman had a system where he believed he was recruiting legitimate workers. He was making efforts to record their documents. This can be submitted to the committee.

The Licensing Manager questioned the suggestion that the committee place a condition on the licence that right to work checks must be completed. He stated that this was already a legal requirement for licensed premises. The Licence Holders Legal Representative responded that this is correct but by adding the condition on the licence the committee and HM Immigration could be assured that this legal requirement is met. It would also mean if this was not met revoking the licence would be a likely.

The Chair invited Committee members to ask questions.

Councillors asked why the proposed Staff Recruitment Policy wasn't implemented after the first HM Immigration visit. The Licence Holders Legal Representative responded that they did not accept the charges relating to the fine. The advice they were given at the time led them to believe that the matter was in hand and would be appealed. They now know that advice was incorrect. The new Recruitment policy recognises the seriousness of that situation and addresses it

Councillors asked if the Fines totalling £95,000 were being appealed. The Licence Holders Legal Representative advised that the fines are being appealed but wasn't sure at this stage if a formal appeal had been submitted. They are doing this at a later stage due to receiving incorrect legal advice at the time when the fines were first issued.

Councillors asked that after the first visit a fine of £30,000 was issued. Why was this not appealed. The Licence Holders Legal Representative responded that their

LICENSING SUB COMMITTEE

24 JANUARY 2020

accountant had advised incorrectly that they had the matter in hand. Mr Rahman believed that this was the case.

Councillors asked additionally that 3 months later, a further visit resulted in a £45,000 fine which brought the total up to £75,000, why didn't the licence holder appeal at that time? The Licence Holders Legal Representative responded that Mr Rahman did not understand the seriousness of the issue and the accountant had again told Mr Rahman that everything was under control.

Councillors asked if Mr Rahman still employed the same accountant. He confirmed he did.

There were no further questions.

The Chair asked Councillors if they needed any clarification from the Licensing Manager. Councillors asked what was the statutory time limit in appealing the Civil Penalty notices issued by HM Immigration? HM Immigration answered this question instead and advised that it was 28 days. The Licence Holders Legal Representative added that it is possible to appeal outside the time limit depending on circumstances. Councillors asked if any official appeals had been submitted. The Chair was shown an email from the 4th December by the Licence Holder that indicates that they are attempting to appeal some of the notices

The Chair asked for summaries.

In their summary the Licensing Manager advised that this was a statutory request for a review of the premises licence based on Crime & Disorder and Public Safety offences. If the committee choose to either suspend or revoke the licence Ocean Spice wouldn't be able to sell alcohol or offer late night entertainment or refreshments. It would still be able to operate as a restaurant up to 11pm.

In their summary Sussex Police would argue that the operational & management style of the premises was directly linked to licensable activities. The DPS has a responsibility to uphold the licensing objective of Prevention of Crime and Disorder. The Police contend that the evidence of violent incidences, resistance to authorities and repeated occasions of employment of illegal workers question the suitability of the premises to uphold this licencing objective. On this basis they recommend revocation of the premises licence.

In their summary HM Immigration advised they are seeking a full revocation of the licence and that this is proportional and a necessary response to the number of occasions of illegal workers found at the premises. These breaches had happened over a long period of time (13 months) where 5 workers were identified to be working illegally. On each occasion the business was given a substantial financial penalty totalling £95,000 which currently has not been paid or formally appealed. Most businesses would have a robust recruitment policy in place. They would expect the premise to have had one but especially after the first, second and third visit from HM immigration. A full revocation would act as a deterrent from other employers recruiting illegal workers. Illegal workers have no rights there is no guarantee of basic employment protection and pay. The Licence Holders Legal representative had

LICENSING SUB COMMITTEE

24 JANUARY 2020

previously advised that this was a 'first strike' offence but HM Immigration response to that is that they have visited the premises on 3 separate occasions and found 5 people illegally working. HM Immigration believe that amendments to the licence would be insufficient and are seeking revocation of the licence.

In their summary the Licence Holders Legal Representative reiterated that none of the illegal workers were exploited as HM Immigration had indicated. Sussex Police have also indicated that the committee are not here to act as arbitrators of guilt or innocence. The committee has been asked to consider revocation, but this is too strong a step. It is suggested that the following approach be considered instead;

- **To modify the conditions of the licence-** Add the condition that right to work checks must be completed prior to employment.
- **To suspend the licence for a period not exceeding three months-** This would have a substantial effect on the premises.
- **To remove the Designated Premises Supervisor (DPS)-** It would give the opportunity for a new person to build a working relationship with Licensing, Police and Immigration.

The committee can look at these suggested solutions and add other conditions as necessary. They believe that these were sufficient rather than revoke the premises licence.

The Chair thanked everyone for their submissions. Chair explained that Councillor Cox was observing proceedings and the deliberation by the committee but would have no part in the decision making.

RESOLVED (unanimously) to REVOKE the premises licence

The reason for the decision was:

The committee has listened carefully to all submissions and believe that revocation is the only option available to the committee at this time. The licensing objectives have been seriously undermined.

Our role is to solely determine what steps should be taken in connection with the premises license, for the promotion of the crime prevention objective.

The committee was shocked to read the witness statements that the police and immigration services were subject to a hostile reception and a lack of cooperation. We are particularly shocked by the number of alleged violent incidents and although we are not here to pass judgment of guilt pertaining to those incidents, we can be mindful when making our decision.

LICENSING SUB COMMITTEE

24 JANUARY 2020

Licensing guidance at para 11.27 states that, for employing a person who is disqualified from work by reason of their immigration status in the UK, should be treated particularly seriously.

There have been three occasions where the applicant has been deemed to have employed illegal workers over a prolonged period of time. We have seen no formal evidence of past appeals being lodged and the fines still remain outstanding.

Whilst we have been asked to consider certain conditions on the license, we believe any conditions wouldn't stop the licensing objectives from being undermined in the future because the premises would still be under the same organisational control.

46. ADDITIONAL URGENT ITEMS (IF ANY)

None

(The Chair declared the meeting closed at. 12.24 pm)

This page is intentionally left blank

Public Document Pack
LICENSING SUB COMMITTEE

12 FEBRUARY 2020

Present: Councillors Cox, O'Callaghan, Patmore and Sinden (in reserve).

47. APPOINTMENT OF CHAIR FOR THIS MEETING

In accordance with the terms of reference of the Licensing Committee, the Chief Legal Officer invited nominations for the appointment of Chair for the duration of the meeting. Councillor O'Callaghan moved that Councillor Patmore should take the Chair. This was seconded by Councillor Cox.

RESOLVED (unanimously) that Councillor Patmore be appointed as Chair for the duration of the meeting.

48. APOLOGIES FOR ABSENCE

None.

49. DECLARATIONS OF INTEREST

None.

50. NOTIFICATION OF ADDITIONAL URGENT ITEMS

None.

51. REVIEW OF PREMISES LICENCE. FLAMES GRILL.

Councillor Patmore set out the procedure that the Sub-Committee would adopt (in accordance with standard practice).

The Licensing Manager, Mr Brown, presented the report to consider an application to review the Premises Licence as a result of representations received from Sussex Police under the licensing objectives "Prevention of crime and disorder" and "Public safety".

On the 18th December 2019 Hastings Borough Council received an application for the review of an existing premises licence for Flames Grill, 19 Havelock Road, Hastings, TN34 1BP, made under Section 51 of the Licensing Act 2003.

The operator, Mr Caglar Kanik, currently holds a premises licence under the Licensing Act 2003, which covers the use of the premises for Late Night Refreshment. The application was considered in line with Government guidance. The application from Sussex Police refers to several incidents and requests revocation of the licence.

The Licensing Manager outlined the options available to the Committee as set out in the report.

Mr Michael Forster, legal representative for Sussex Police, outlined the case for revocation of the licence.

LICENSING SUB COMMITTEE

12 FEBRUARY 2020

Mr Forster said that the application to review the licence was brought forward following a series of serious violent incidents in or near the premises, starting in March 2019 and continuing through to September in the run up to the events of 15th November 2019. Mr Forster said that the incidents demonstrated a lack of control over the premises by the licence holder.

For a long period of time it has been apparent that the CCTV, which is part of the licence conditions, has not been compliant and deletes images after 7 days rather than 28. On occasions when the police have been to the premises to access CCTV images for evidence they haven't been able to do so as it has been out of operation.

These incidents culminated in a very serious episode on the 15th November 2019 when members of staff went out of the shop armed with various offensive weapons, including knives, following a group of aggressors. If any of the weapons had been used to stab somebody this could have resulted in a fatality. Sussex Police consider this such a serious matter that it should result in the revocation of the licence.

Mr Forster called Inspector Lovell to give evidence to the Committee.

Inspector Lovell confirmed that there were incidents back in March and May last year where the CCTV was found to overwrite itself after 7 days. The detail of what sparked the incident on November 15th 2019 is still unclear due to the inability to access the CCTV. The licence holder and staff had been advised not to pursue people outside and to report incidents to the police. He said that the seriousness of the incident means the police are regrettably asking for revocation of the licence. Enhanced conditions have been suggested in case the Committee is minded not to revoke the licence.

There were no questions from the licence holder, Licensing Manager or Committee members to the applicant.

The licence holder's legal representative, Mr Ilian Granville, gave a submission to the Committee.

Mr Granville said he was unable to comment in detail on the incident of 15th November 2019 as the matter is still under investigation, however the event was regrettable. The licence holder, Mr Kanik, did not want to follow the aggressors into the street but acted in self-defence as it seemed the aggressors were coming back into the shop. Mr Kanik regrets the fact that the previous CCTV system was not fit for purpose and a new system has since been installed. There have been no further incidents. Mr Kanik is fully committed to running the business in a safe way for staff and customers. The premises is now part of Bar Watch and the licence holder is keen to work with the local community and authorities.

Mr Granville said that in order to move forward Mr Kanik was willing to accept all the conditions recommended by Sussex Police except for the stipulation to have two door supervisors on Friday's and Saturday's and the reduction in hours. Most of the incidents have occurred on Thursday's and there are adequate resources within the town centre on Friday and Saturday nights to deal with problems.

LICENSING SUB COMMITTEE

12 FEBRUARY 2020

The Chair invited the applicant to ask questions of the licence holder.

Mr Forster asked if it was the application for revocation of the premises licence that prompted installation of a new CCTV system, rather than the incident on 15th November? The licence holder produced a receipt for the new CCTV system, but this was not dated.

On 23rd March 2019 staff said there were plans to install new CCTV following an incident, why was this not done? The licence holder's brother informed the Committee that after the incident a technician was called out to get the CCTV system to work as required. Nothing had been deleted from the previous hard drive and the password was given to the police. It is regrettable that they have been unable to access the CCTV images.

Mr Forster asked if the licence holder's brother accepts that he informed the police he was going to get his SIA accreditation in September 2019? It was confirmed that he received accreditation in December 2019.

Mr Forster asked if the Licence Holder was informed by PC Wilkes on 13th September 2019 not to leave the premises and follow aggressors outside? Mr Kanik confirmed this was the case.

Mr Forster asked why on 15th November did staff arm themselves and go out into the street? Mr Kanik said that the shop doors were closed in the beginning. One of the aggressors attacked a car owned by the licence holder's brother and smashed the windows of the shop. They acted in self-defence as they thought the aggressors were trying to re-enter the shop.

The Chair invited the Licensing Manager to ask questions of the licence holder.

The Licensing Manager asked why it had taken the licence holder 15 years to have compliant CCTV? Mr Kanik's legal representative said that the CCTV system was thought to be operational. When it was apparent that it had failed it was replaced. It was not intentional to have non-compliant CCTV.

The Chair invited the members of the Committee to ask questions of the licence holder.

Councillor O'Callaghan asked if the new CCTV system had failed? Mr Kanik said this was not the case. Since the incident in November a new compliant CCTV system has been in operation.

There were no questions to the Licensing Manager from the applicant or licence holder.

In response to a question from the Committee the Licensing Manager said that checks are undertaken on licensed premises if there is good reason to do so. If it was identified that a licence holder was operating in breach of conditions they can be

LICENSING SUB COMMITTEE

12 FEBRUARY 2020

prosecuted. If the Committee decide to maintain the licence with additional conditions those conditions would be monitored.

The Licensing Manager, licence holder and applicant summarised their positions.

The Committee adjourned at 11.04am to consider its findings and reconvened at 11.41am.

RESOLVED (unanimously):

The committee has listened carefully to all submissions before it and are minded to keep the premise licence subject to all the following conditions:

- 1. CCTV: Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System 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.**
- 2. The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times**
- 3. CCTV footage will be stored for a minimum of 28 days**
- 4. 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 and alleged crime**
- 5. The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy**
- 6. 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**
- 7. Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable**
- 8. Two SIA registered door staff will be employed at the premises from 21.00 until half an hour after the premises has closed on Thursday, Friday and Saturday's plus Bank Holidays, New Year's Eve, public holidays and at any time when a temporary event notice is in operation.**
- 9. An incident report will be kept and maintained at the premises and made available for inspection by police officers and local authority officers on**

LICENSING SUB COMMITTEE

12 FEBRUARY 2020

request. This book shall be solely used for the purpose of recording incidents

10. A refusal register will be kept and maintained at the premises and made available for inspection by police licensing officers and local authority officers on request.

11. The opening hours of the premises to be;

Sunday to Wednesday 17.00 to 02.00hrs, Thursday to Saturday 17.00 to 03.00hrs
Sunday preceding a BH Monday 17.00 to 03.00hrs

12. Late night refreshment hours to be;

Sunday to Wednesday 23.00 to 02.00hrs. Thursday to Saturday 23.00 to 03.00hrs, Sunday preceding a BH Monday 23.00 to 03.00hrs

Reasons for the decision:

The committee believe that the conditions are a fair and proportionate response in upholding the licensing objectives, particularly the prevention of crime and disorder and public safety.

We believe this has been a wakeup call for the licence holder and hope that he manages and controls the premises in compliance with the conditions. We would also hope that the licence holder heeds the police advice and does not involve themselves in future incidents.

52. ADDITIONAL URGENT ITEMS (IF ANY)

None.

(The Chair declared the meeting closed at. 11.45 am)

This page is intentionally left blank

Agenda Annex

Licensing Review Procedures

1. Introductions

- Chair introduce Members and Officers. Invite applicant / Licence Holder / representatives to table. Ask to introduce themselves.
- Chair explain procedure. Ask if Parties received report and ready to proceed.
- In the event that any Party to the hearing fails to attend Members consider whether to adjourn the hearing or to proceed in the Party's absence.

2. Summary of report by Licensing Manager / Officer.

3. Applicant / Representative (for eg Environmental Health, Police, Trading Standards) submissions on the application / call any witnesses.

Any Questions for Applicant / Representative

- Statutory Consultees?
- Licence holder?
- Officers?
- Members?

4. Statutory Consultees (for eg Police, Fire Service, Environmental Health) submissions on the application.

Any questions for Statutory Consultees from

- Applicant / Representative?
- Licence holder?
- Officers?
- Members?

5. The Licence Holder's submission on the application.

Any questions for Licence Holder from

- Applicant / Representative?
- Statutory Consultee?
- Officers?
- Members?

6. Do Members require any clarification from the Licensing Manager / Officer?

If clarification given, questions on clarification only from:

- Applicant / Representative?
- Licence holder?
- Statutory Consultees?
- Members?

7. Summaries (if required)

- Licensing Manager / Officer summing up
- Statutory Consultees summing up
- Licence Holder summing up
- Applicant/Representative summing up

8. Decision Making

- Members retire to discuss the application, propose and second a recommendation and vote on this.
- They may take legal advice from the Legal Advisor. The Legal Advisor will advise the Parties of any legal advice given to the sub-committee. No other person may retire with the Sub-committee.
- The decision is announced by the Chair giving full reasons for the decision, together with any conditions, which are to be attached to the grant of the licence or the reasons for a refusal of the application.

This page is intentionally left blank

Agenda Item 6



Report to: Licensing Sub-Committee.

Date of Meeting: January 2021.

**Report Title: Review of Premise Licence. The Four Seasons Hastings Ltd, 68-70
Bohemia Road, St Leonards on Sea, TN376RQ.**

Report By: Mike Hepworth. Assistant Director Environment and Place.

Purpose of Report

To consider an application to review the Premises Licence as a result of representations received.

Responsible Authorities. One.

Recommendation(s)

1. Member's instructions requested.

Reasons for Recommendations

The Licensing Act 2003 requires a licensing sub-committee to consider such applications when appropriate representations have been made. The decision reached at the sub-committee can be subject to appeal at the Magistrates Court by any party to the hearing, who is aggrieved by the decision.

Introduction

1.0 Background

1. On 7th February 2005 the Licensing Act 2003 came into force for all local authorities, marking the practical commencement of the Government's new liquor licensing regime.
2. On the 8th December 2020 Hastings Borough Council received an application for the review of an existing premises licence for the Four Seasons Convenience Store, 68-70 Bohemia Road, TN376RQ, St Leonards on Sea, East Sussex from Paul Davison, Enforcement and Investigations Manager at ESCC Trading Standards, made under Section 51 the Licensing Act 2003. (The application for review and supporting papers is attached Appendix A.)
3. Four Seasons Hastings Limited has operated at 68-70 Bohemia Road since June 2016, initially under a different name. The premises have changed operators several times, the most recent and current licence holder being the Four Seasons Hastings Ltd, 68-70 Bohemia Road, St Leonards on Sea. (Attached map Appendix A).
4. The premise currently holds a premises licence under the Licensing Act 2003. (Attached in Appendix B).
5. The existing premises licence covers the use of the premises for the ' Off Sales ' supply by retail of Alcohol.
6. It currently operates under the following trading hours;
 - Sale of alcohol. Monday to Saturday 08:00-22:00 hrs
Sunday 10:00-22:00 hrs

The designated premise supervisor for the premises since 2016 is Mr PARAMAGURU INTHIAKUMAR

2.0 Application

7. The grounds for review made by Mr Paul Davison are under the licensing objective "Prevention of Crime and Disorder" I have considered the application and consider it valid and in line with the central government guidance issued on such matters. In his application for review, he comments about the visit to the premises prior to the seizure of eight bottles of wine suspected of being counterfeit, the subsequent formal interview under caution and the test results of the Public Analyst on the suspected counterfeit alcohol. As a result, he is seeking a revocation of the existing premises licence.
8. When submitting an application for a review under the Licensing Act 2003 the applicant is required to send copies of the review application to the other

responsible authorities listed under the Act and a copy to the premises licence holder, this has been done.

9. In addition, the licensing authority is required to place a copy of the notice on the premises concerned and the public notice board situated at Council Offices this has been done, in addition the review notification has been placed on the Council website. These notices must remain in place for 28 days to allow further representations to be made.
10. An application for review cannot be considered by the Council's Licensing Sub-Committee until the 28-day representation period has elapsed, in this case that ended at midnight on the 6th January 2021.

3.0 Consultation

11. No further representations were received during the consultation period.

4.0 Legal Considerations

The Licensing Act 2003 is now the only process to licence and control premises for all forms of entertainment, late night refreshment and the sale of Alcohol.

The review process is laid down in statute and allows for representations to be made by specified groups of people provided they are relevant to one or more of the licensing objectives listed in the Act and are not considered frivolous, vexatious or repetitive.

If a relevant representation is made by either a responsible authority or other party, a hearing must be held.

The Home Office has issued guidance under Section 182 of the Licensing Act 2003. This guidance is provided to Licensing Authorities to assist them in carrying out their functions.

Hastings Borough Council has developed, published and reviewed its Statement of Licensing Policy as required by the Licensing Act 2003.

All members of the Licensing Committee have been supplied with copies of the Official Government guidance and the Hastings Borough Council Statement of Licensing Policy.

Human rights considerations must be taken into account fully in balancing licensing issues, in particular, article 1 of the first protocol. Article 1 relates to the protection of property and the peaceful enjoyment of possessions and property. Holding a premises licence would be considered a possession. These are qualified rights and can be deprived of "in the public interest". Interference is permissible if what is done, has its basis in law, and;

Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim;

Is proportionate to the aims being pursued; and,

Is related to the prevention of crime; or, the protection of public order or health.

The licence holder has a right of appeal to the Magistrates Court against any decisions made by the licensing Sub-Committee with respect to this application for review.

5.0 Options

To modify the conditions of the licence.

To exclude a licensable activity from the scope of the licence.

To remove the designated premises supervisor.

To suspend the licence for a period not exceeding three months.

To revoke the licence.

Members are reminded they must give written reasons for their decision.

Wards Affected

Gensing.

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness

Crime and Fear of Crime (Section 17)

Risk Management

Environmental Issues

Economic/Financial Implications

Human Rights Act

Organisational Consequences

Local People's Views

Anti-Poverty

Additional Information

Appendix A. Review application and supporting papers.

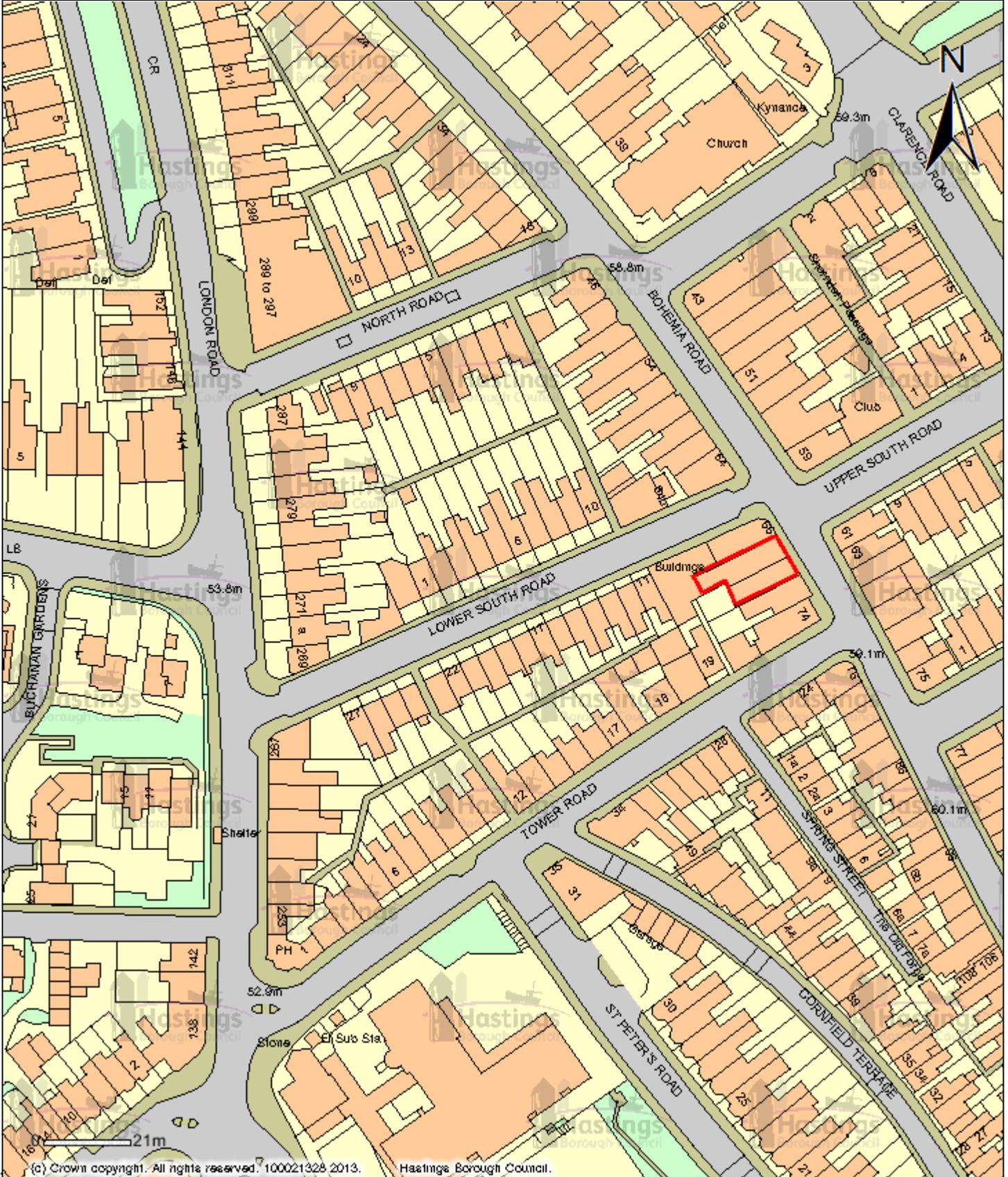
Appendix B. Copy of existing licence.

Officer to Contact

Stewart Bryant

stewart.bryant@hastings.gov.uk

01424 783232



(c) Crown copyright. All rights reserved. 100021328 2013.

Hastings Borough Council.



Title:

68-70 Bohemia Road

Scale:

1:1250

Date:

11 / 1 / 2021

This page is intentionally left blank

Hastings Borough Council

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 Paul DAVISON

(Insert name 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, if none, ordnance survey map reference or description

Four Seasons Hastings Ltd
68 – 70 Bohemia Road

Post town St Leonards on Sea

Post code (if known) TN376RQ

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

FOUR SEASONS HASTINGS LTD

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

HOP50390

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)

Please tick ✓ yes

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 East Sussex Trading Standards East Sussex County Council County Hall St Anne's Crescent Lewes BN71UE
Telephone number (if any) 0345 6080197
E-mail address (optional) Trading.standards@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 2)

Alcohol found on the premises and in the possession of the licence holder has been confirmed as infringing product (COUNTERFEIT) contrary to Section 92 of the Trade Marks Act 1994

Trading Standards state that the following objective has not been met:

- 1) The prevention of crime and disorder.

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

The premises and business operate as a retail store in a residential area of St Leonards on Sea. The business is also known to engage in business to business sales of alcohol, selling to the general public and other retailers.

Four Season Hastings Ltd registered the company address as 68 Bohemia Road with Companies House in January 2016.

The premises licence was transferred on the 23rd March 2016 to Four Seasons Hastings Ltd, the sole director of which is Mrs Thushya INTHIAKUMAR. The Designated Premises Supervisor is Mr PARAMAGURU INTHIAKUMAR.

Trading Standards has identified a problem of selling of illegal alcohol in the Hastings and St Leonards area. Illegal alcohol includes counterfeit, non-duty paid (smuggled and diverted) and alcohol which has incomplete or no tracability. Counterfeit product by its illegal nature is not duty paid.

Non-payment of duty and VAT has an impact on the local and national economy. Businesses willing to sell illegal alcohol receive an unfair trading advantage over other businesses. There is also a risk of counterfeit products entering the market with inherent risks to public health as a result of the use of industrial alcohol and other chemicals not intended for human consumption, poor production methods and quality control problems. Also, illegal alcohol does not have tracability so matters of public health can not be traced back to the supplier. It is a legal duty for a food business to have and supply traceability for food showing one step forward and one step back in the distribution chain by virtue of The Food Safety and Hygiene (England) Regulations 2013.

On the 10 June 2020 Graham WOLSTENHOLME (GMW) & Wendy SCOTT Senior Trading Standards Officers and Tim DOWDING Trading Standards Officer visited Four Seasons Hastings Ltd and during that visit seized bottles of suspected counterfeit Blossom Hill White Zinfandel.

This product was in the store room of the shop and the sales person, Mr N NIRMALAN, stated they were not for sale as they tasted odd and volunteered the information that it had been removed from sale by the manager as a customer had said it tasted funny.

Tracability for the product was requested at the time of the visit but was not supplied.

On the 3rd July 2020 traceability was again requested in writing.

On the 16th July, having not received any traceability an invite to interview under caution was posted to the company at its registered address. In response to this letter GMW received an email stating that the stock was old

stock. This was clarified by a subsequent email where Mrs Thushya INTHIAKUMAR stated 'confirm that the bottles taken by you from our back-stock room were stock from when we took over the shop'.

It is not possible that this stock was present when Four Seasons Hastings Ltd took over the premises in 2016 as the design of the product label was not available until 2017 following a change of ownership of the Blossom Hill brand.

The product has subsequently been confirmed as Trade Mark infringing product by the trade mark proprietor's agent and has been tested by the Public Analyst and found to be insufficient in alcohol to be legally called wine. (test result A0980A attached)

Whilst the product tested did not contain dangerous substances, there is no guarantee, due to the lack of quality control in the production of illegal alcohol that all the bottles of alcohol are safe. In addition, the bottle tested was under strength to an extent it is not legally wine. By supplying illegal wine, the business risked supplying dangerous alcohol to their customers.

This together with the failure to provide credible traceability for the product and the Directors reckless claim that the product was inherited in 2016 leads Trading Standards to have no confidence that the management are competent to run the premises, so as to ensure that the Licencing Objectives are met. Further, the Company are known to sell to other traders, potentially spreading the counterfeit product wider in the community.

Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 issued April 2018 lists certain criminal activity which may arise in connection with licenced premises which the Secretary of State considers should be treated particularly seriously. This includes the use of licences premises for the sale of smuggled alcohol.

The guidance also states that 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.

Trading Standards asks that the Committee give serious consideration to the revocation of the premises licence and that this step is necessary and proportionate to ensure that the licencing Objective of the prevention of crime and order is met.

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

--	--	--	--	--	--	--	--

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

Not Applicable

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, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

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 **7th December 2020**
.....
.....

Capacity **Enforcement and Investigations Manager**
.....
.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6) Paul Davison Trading Standards East Sussex County Council St Anne’s Crescent	
Post town Lewes	Post Code BN7 1UE
Telephone number (if any)	

**If you would prefer us to correspond with you using an e-mail address
your e-mail address (optional) [REDACTED]**

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.

This page is intentionally left blank



EXHIBIT LIST 1/ (Exhibits in exhibit file 1)

R v Four Seasons Hastings Ltd

URN

P1186

* Check box if exhibit attached

List Ref	Brief description of item (indicate if copy)	Exhibit reference no.	Person producing and current location of exhibit	*
1	Till receipt	GMW/01	Person producing: Graham Wolstenholme Current location: Paper exhibit with file	<input type="checkbox"/>
2	Visit note four Seasons Hastings td	GMW/02	Person producing: Graham Wolstenholme Current location: Paper exhibit with file	<input type="checkbox"/>
3	Copy of letter requesting traceability	GMW/03	Person producing: Graham Wolstenholme Current location: Paper exhibit with file	<input type="checkbox"/>
4	Proof of receipt	GMW/04	Person producing: Graham Wolstenholme Current location: Paper exhibit with file	<input type="checkbox"/>
5	Letter of invite to interview	GMW/05	Person producing: Graham Wolstenholme Current location: Secure Store	<input type="checkbox"/>
6	Proof of receipt	GMW/06	Person producing: Graham Wolstenholme Current location: Paper exhibit with file	<input type="checkbox"/>
7	Email chain between GMW and Thushya INTHIRAKUMAR	GMW/07	Person producing: Graham Wolstenholme Current location: Paper exhibit with file	<input type="checkbox"/>
8	Companies House AD01 form	GMW/08	Person producing: Graham Wolstenholme Current location: Paper exhibit with file	<input type="checkbox"/>
9	Interview in writing to Four Seasons	GMW/09	Person producing: Graham Wolstenholme Current location: Paper exhibit with file	<input type="checkbox"/>
10	Kent Scientific Services report KSS162151	KSS1621 51	Person producing: Jon Griffin Current location: Paper exhibit with file	<input type="checkbox"/>
11	4 x Bottles of Blossom Hill White Zinfandel	TD/01	Person producing: Tim Dowding Current location: Secure store	<input type="checkbox"/>
12	Photographs taken by TD	TD/04	Person producing: Tim Dowding Current location: Secure Store	<input type="checkbox"/>



13	Seizure form	TD/05	Person producing: Tim Dowding Current location: Secure Store	<input type="checkbox"/>
14	Photographs of suspected Blossom Hill White Zinfandel inspected by brand holder	TD/01a	Person producing: Rachelle RUSH Current location: Paper file	<input type="checkbox"/>
15	Photographs of suspected Blossom Hill White Zinfandel inspected by brand holder	TD/01b	Person producing: Rachelle RUSH Current location: Paper exhibit on file	<input type="checkbox"/>
16	Photographs of suspected Blossom Hill White Zinfandel inspected by brand holder	TD/01c	Person producing: Rachelle RUSH Current location: Paper exhibit on file	<input type="checkbox"/>
17	Trade Mark WE00001305079	DG/02	Person producing: Rachelle RUSH Current location: Paper exhibit on file	<input type="checkbox"/>
18			Person producing: Current location:	<input type="checkbox"/>
19			Person producing: Current location:	<input type="checkbox"/>
20			Person producing: Current location:	<input type="checkbox"/>
21			Person producing: Current location:	<input type="checkbox"/>
22			Person producing: Current location:	<input type="checkbox"/>
23			Person producing: Current location:	<input type="checkbox"/>
24			Person producing: Current location:	<input type="checkbox"/>
25			Person producing: Current location:	<input type="checkbox"/>

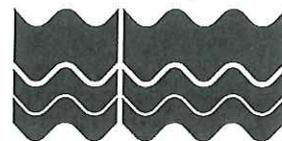


EXHIBIT LABEL

Seized Property No:	NA
Identification reference:	GMW/01
Description:	Till receipt headed Four Seasons Supermar for 3 x Blossom Hill White Zinfandel
Time/date:	22/10/2020
Produced by:	G WOLSTENHOLME
Signed:	

Four Seasons Supermar
- Till-1

1x Blossom Hill Whi Zin	6.99
1x Blossom Hill Whi Zin	6.99
1x Blossom Hill Whi Zin	6.99

Total to pay 20.97

Cash 21.00

Change 0.03

01424 425234

10/06/20 12:46

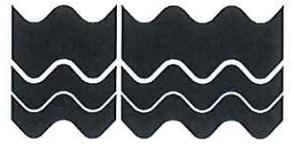
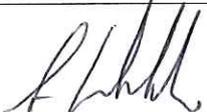
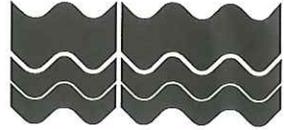


EXHIBIT LABEL

Seized Property No:	NA
Identification reference:	GMW/02
Description:	Visit note for Four Seasons Hastings Ltd
Time/date: 22/10/2020	
Produced by:	G WOLSTENHOLME
Signed: 	



Trading Standards
Lucy V C Corrie
LLB (Hons) DMS MTSI
Head of Service

TO: (Proprietor).....
(Trading Name) Four Seasons
(Address) 68-70 Bohemia rd
.....
Tel:..... Post Code TN37 6RQ
Type of Business:.....

Registered Office.....
Four Seasons (Hastings)
Htd.
.....
Tel:..... Post Code.....
Email / Website:.....

TICK LEGISLATION APPLICABLE:

- Food Safety Act 1990
- Trade Marks Act 1994
- Manufacture and Storage of Explosives Regulations 2005
- Weights and Measures Act 1985
- Other (specify)
- Consumer Protection Act 1987

FOOD SAFETY ACT 1990

This report only covers areas inspected at the time of inspection.

FOOD STANDARDS INSPECTION REPORT

It should not be taken as indicating compliance with any provisions of the Food Safety Act 1990 or regulations made under it.

ALL PREMISES (Incl. Manufacturing)

- Quality Systems
- Product Labelling
- Records
- Stock Rotation
- Materials & Articles Intended to come into contact with food

MANUFACTURING PREMISES ONLY

- Product Design & Recipe
- Raw Materials.....
- Storage & Distribution.....
- Production Process
- Specifications
- Segregation of Goods
- Completed Product
- Documentation
- Recall and/or re-labelling systems

Legal Requirement

Guidance to follow

- Formal sample of Blossom Hill
White Zinfandel (no visible lot code)
A0980A retained by business.
A0980B
A0980C

- Invoices required for the Blossom Hill White Zinfandel above ↑

Failure to comply with legal requirements may constitute an offence and may lead to enforcement action.

Advice / Best Practice / Comments

- other wines seized as per seizure list.
- 2 x Gallo Family Sycamore Canyon Syrah rose 2007 removed from sale due to missing rear labels
This is Best Practice advice and not a legal requirement. → keep until further notice, sealed + bagged.

Issued by G. Woodson

Signed N. Nirmalan POT662757

Signed..... (Authorised Officer)

Page 30 Name MR NIRMALAN

Date 10/6/20 Time 13:25

Position Sale staff Date 10/6/20

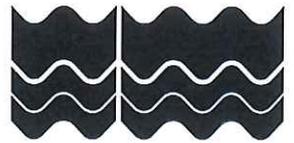


EXHIBIT LABEL

Seized Property No:	NA
Identification reference:	GMW/03
Description:	Copy of letter requesting tracabilty
Time/date: 22/10/2020	
Produced by:	G WOLSTENHOLME
Signed: 	

Four Seasons Hastings Limited
68-70 Bohemia Road
St Leonards on Sea
East Sussex
TN37 6RQ

03/07/2020

Dear Sirs

Food Safety and Hygiene (England) Regulations 2013

I am writing to you following this departments visit to your premises Four Seasons Supermarket, at 68-70 Bohemia Road, St Leonards on Sea, TN37 6RQ on 10th June 2020 when a formal food sample Blossom Hill White Zinfandel was procured.

At that visit I left a visit note, a copy of which is attached for your reference, which required traceability documents for this product.

It is a legal requirement under the above legislation that you as a food business can facilitate traceability, through relevant documentation or information fo any food which you supply.

The sample has now been analysed and is unsatisfactory, I enclose a copy of the report for your records.

Our records show that as of today's date we have not received any traceability documentation from you . I now require you to provide these documents as soon as possible and in any event before the 10th July 2020.

Yours sincerely

Graham Wolstenholme
Senior Trading Standards Officer

T:

E:



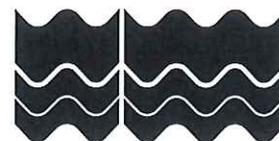


EXHIBIT LABEL

Seized Property No:	NA
Identification reference:	GMW/04
Description:	Royal mail proof of delivery
Time/date:	22/10/2020
Produced by:	G WOLSTENHOLME
Signed:	



[Track your item](#) [Find a postcode](#) [Get a price](#) [Redelivery](#) [Pay a fee](#)

Search Go

[Sending mail](#)

[Track and manage](#)

[Shop](#)

[Help & support](#)

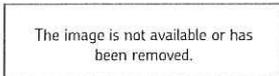
[Home](#) [Track and Trace - Track your Item](#)

Track and Trace - Track your Item

Check the progress of your deliveries

Delivered
Tracking no. KS805032157GB Your item was delivered on 04-07-2020 .

Service used:
Royal Mail Signed For™



Not the signature you expected? [Find out why](#).

Signed for by: CV19

Delivered: 12:34pm.

Updated on: Saturday 04 July

12:34pm Delivered and Signed St Leonards On Sea DD
--

Help and info

- [Help & support](#)
- [Contact us](#)
- [Terms & conditions](#)
- [Privacy Notice](#)
- [Change Consent Preferences](#)
- [Cookies policy](#)
- [Terms of use](#)
- [Accessibility](#)

Our other websites

- [Royal Mail Group](#)
- [Parcelforce Worldwide](#)

About us

- [I'm an employee](#)
- [Supporting Action for Children](#)
- [Latest news](#)

Our partners

- [Stamp retailers](#)



[Jobs](#) [A-Z of services](#) [Mailing tools](#) [Sitemap](#) [Cymraeg](#)

© Royal Mail Group Ltd 2020. All rights reserved.



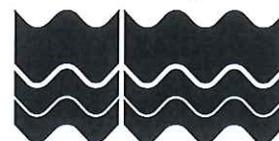


EXHIBIT LABEL

Seized Property No:	NA
Identification reference:	GMW/05
Description:	Letter inviting trader to Interview under caution
Time/date:	22/10/2020
Produced by:	G WOLSTENHOLME
Signed:	

Four Seasons Hastings Ltd
68-70 Bohemia Road
St Leonards-On-Sea
East Sussex
TN37 6RQ

our ref: T/001186
your ref:

16 July 2020

Dear Sirs

Trade Marks Act 1994
Food Safety Act 1990
The Food Safety and Hygiene (England) Regulations 2013

On the the 10th June 2020 officers of this service procured bottles of apparent Blossom Hill White Zinfandel Wine with no Lot code from your retail store at the above address. That product has now been tested and it has been confirmed that it is not wine and is a counterfeit product.

At the time of procuring the items a visit note was left requiring you to provide traceability, this is a legal requirement under the above legislation. A second letter was posted to you on the 3rd July providing till the 10th of July to provide traceability documents. As of the 16th July 2020 no such traceability has been provided.

From the information I have, it appears that some of the provisions of the above legislation may have been breached and offences committed for which your Company may have liability. This includes alleged possession of counterfeit goods in the course of a business, the sale of food not of the nature demanded by the consumer and failure to provide traceability.

In order to investigate this, I wish to interview a representative of the Company, who may be a Company Secretary or Director (or if not should be another person clearly authorised in writing) to speak on behalf of the Company for the matters at hand.

It is proposed that the interview is audio recorded and conducted in accordance with provisions of the Police and Criminal Evidence Act 1984. You will be interviewed under caution. You will not be under arrest and you will be free to leave at any time.

You have a right to independent legal advice at all times and a suitably qualified person may be present at the interview. Please see the attached Notice to Persons Attending Voluntary Interview Under Caution for a full list of your rights.

In order to assist an effective interview, please bring along any documents you may want to make reference to. In particular I would be grateful if you could bring documents providing tractability for

the product either purchased by you or sold to another trader. These are documents which I would have the power to inspect at your premises by virtue of the The Food Safety and Hygiene (England) Regulations 2013. Providing these at the time of interview rather than during a premises visit will assist a prompt investigation.

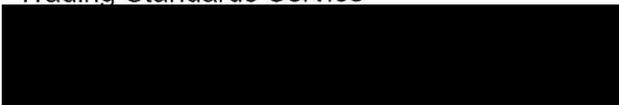
I would be grateful if you could contact me before **24/07/2020** to confirm your willingness to attend this interview, and to make arrangements for a suitable appointment time and date, by contacting me at 01323 464043 or graham.wolstenholme@eastsussex.gvo.uk. Please advise me of any particular access or other provisions you may require.

If you have any queries in connection with this matter please do not hesitate to contact me.

Yours Faithfully,



Mr Graham Wolstenholme
Senior Trading Standards Officer
Trading Standards Service



Notice to Persons Attending Voluntary Interview Under Caution

* This information is important. If you have difficulty reading it, you should show it to someone who can help you *

The purpose of this Notice is to advise you of your rights as a suspect when attending a voluntary interview under Caution.

The purpose of the voluntary interview is to question you to obtain evidence about any involvement, or suspected involvement, that you have in the offences described when you are cautioned and told that you are not under arrest.

Your rights if you agree to attend a voluntary interview and for it to proceed:

- You will not be under arrest and you will not be obliged to remain at the interview location.
- You will be under the following Caution: **You do not have to say anything but it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence.**
- You have a right to be informed about the offences in question by being provided with sufficient information to enable you to understand the nature of those offences, and why you are suspected of committing them. This is in order to allow for the effective exercise of your rights as a defendant. It applies whether or not you ask for legal advice and includes any further offences that come to light and are pointed out during the voluntary interview and for which you are cautioned.
- You have a right to independent legal advice at all times and a suitably qualified person may be present at the interview. If you wish to consult a legal advisor you should arrange this before the interview.
- You may be entitled to Legal Aid. The Citizens' Advice Bureaux <https://www.citizensadvice.org.uk/> may give general advice on the processes involved. The Law Society <http://www.lawsociety.org.uk/> can provide links to legal firms in your area and the Charity Law for Life <http://www.advicenow.org.uk/> has some useful information.
- You have a right to consult the relevant PACE Codes of Practice to which the Trading Standards Service has regard. These will be available at our offices.
- If the interviewing officer determines that you are a juvenile or that you are vulnerable; or that you need help to check documentation, you will have a right to have an appropriate adult present, or (as the case may be) to have the necessary help to check documentation. The interview will be delayed until the presence of the appropriate adult, or the necessary help, is secured.
- If, as determined by the interviewing officer, you are a juvenile or you are vulnerable, and do not want legal advice, your appropriate adult has the right to ask for a solicitor to attend if this would be in your best interests. Your appropriate adult will be so informed. In this case, action to secure the provision of advice, if so requested by your appropriate adult, will be taken without delay in the same way as if requested by you.
- You have a right to an interpreter, if the interviewing officer determines that you require an interpreter. If you do require an interpreter, then he/she will be appointed by East Sussex County Council Trading Standards. The interviewing officer will make the necessary arrangements and the interview will be delayed for those arrangements to be made.
- The interview will be arranged for a time and location that enables your rights described above to be fully respected. The entire interview will be recorded using an authorised recording device (in accordance with PACE Code 'E' – Code of Practice on audio recording of interviews with suspects, or Code 'F' – Code of Practice on visual recording with sound of interviews with suspects).
- Your agreement to take part in the interview also signifies your agreement for the interview to be audio-recorded, or (as the case may be) visually recorded with sound.

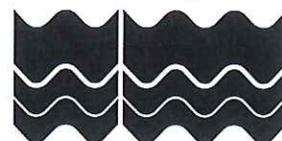


EXHIBIT LABEL

Seized Property No:	NA
Identification reference:	GMW/06
Description:	Royal mail proof of delivery
Time/date:	22/10/2020
Produced by:	G WOLSTENHOLME
Signed:	



[Track your item](#) [Find a postcode](#) [Get a price](#) [Redelivery](#) [Pay a fee](#)

[Sending mail](#)

[Track and manage](#)

[Shop](#)

[Help & support](#)

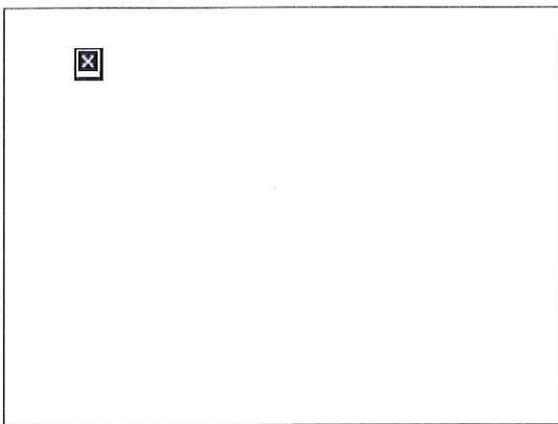
[Home](#) [Track and Trace - Track your Item](#)

Track and Trace - Track your Item

Check the progress of your deliveries

Delivered
Tracking no. KS805032421GB Your item was delivered on 17-07-2020 .

Service used:
Royal Mail Signed For™



Not the signature you expected? [Find out why.](#)

Signed for by: C1.9

Delivered: 10:33am



Tracking Assistant

[Print](#)

Updated on: Friday 17 July

10:33am

Delivered and Signed

St Leonards On Sea D0

[Contact us](#)

[Terms & conditions](#)

[Privacy Notice](#)

[Change Consent Preferences](#)



© Royal Mail Group Ltd 2020. All rights reserved.



Tracking Assistant

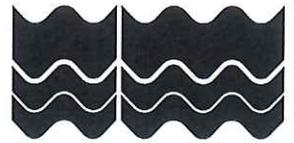


EXHIBIT LABEL

Seized Property No:	NA
Identification reference:	GMW/07
Description:	email chain from Thushya Inthirakumar Director of Four Seasons Hastings Ltd
Time/date:	22/10/20.
Produced by:	G WOLSTENHOLME
Signed:	

Graham Wolstenholme

From: Thushya Inthirakumar <fourseasonshastingsltd@gmail.com>
Sent: 24 July 2020 12:46
To: Graham Wolstenholme
Subject: Re: Four Seasons.

Good afternoon,

Thank you for your reply.

I hope you're well and safe.

I confirm that the bottles taken by you from our back stock room were stock from when we took over the shop.

Thanks,

Kind Regards,
Thushya.

On 20 Jul 2020, at 8:57 am, Graham Wolstenholme [REDACTED] wrote:

Dear Mr Inthirakumar,
Thank you for your email.
Can you please clarify if this invoice is for the Blossom Hill white zinfandel which was purchased from Four Seasons by myself on the 10th June 2020 or if the bottles purchased were stock from when you took over the shop.

Kind Regards
Graham Wolstenholme
Senior Trading Standards Officer
Trading Standards
[REDACTED]

What did you think of the service you received today?

<image001.png>

<image002.png>

<image003.png>

<image004.png>

From: Thushya Inthirakumar <fourseasonshastingsltd@gmail.com>
Sent: 17 July 2020 13:53
To: Graham Wolstenholme [REDACTED]
Subject: Four Seasons.

Dear Graham Wolstenholme,

I hope you're well and safe.

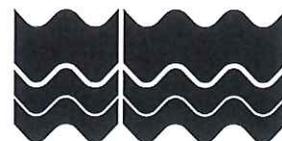


EXHIBIT LABEL

Seized Property No:	NA
Identification reference:	GMW/08
Description:	Companies house AD01 document showing notification of address dated stamped 06/02/2016
Time/date:	22/10/2020
Produced by:	G WOLSTENHOLME
Signed:	

AD01

Change of registered office address



Companies House

You can use the WebFiling service to file this form online.
Please go to www.companieshouse.gov.uk

What this form is for
You may use this form to change
a company's registered office
address.

What this form is NOT for
You cannot use this form to
change the registered office address of
a Limited Liability Partnership.
If you are a Limited Liability Partnership
do this, please use form
Change of registered office address of
a limited liability partnership.

SATURDAY



A10 *A505MR7S* #66
06/02/2016
COMPANIES HOUSE

1 Company details

Company number	9900018
Company name in full	FOUR SEASONS HASTINGS LTD.

→ Filing in this form
Please complete in typescript or in
bold black capitals.
All fields are mandatory unless
specified or indicated by *

2 New registered office address

The change in registered office address does not take effect until the Registrar has registered this notice.

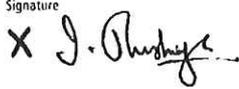
A person may validly serve any document on the company at its previous registered office for 14 days from the date that a change of registered office is registered.

Building name/number	68-70
Street	BOHEMIA ROAD
Post town	ST LEONARDS - ON - SEA
County/Region	EAST SUSSEX.
Postcode	TN37 6RQ

① Change of registered office
For England and Wales companies,
the address provided can either be
in England or Wales.
For Welsh companies, the address
provided must be in Wales.
For companies registered in Scotland
or Northern Ireland, the address
provided must be in Scotland or
Northern Ireland respectively.

3 Signature

I am signing this form on behalf of the company.

Signature	<input checked="" type="checkbox"/>  <input type="checkbox"/>
-----------	--

This form may be signed by:
Director ①, Secretary, Person Authorised ②, Liquidator, Administrator,
Administrative receiver, Receiver, Receiver manager, Charity commission receiver
and manager, CIC manager, Judicial factor.

② Societas Europaea
If the form is being filed on behalf
of a Societas Europaea (SE), please
delete 'director' and insert details
of which organ of the SE the person
signing has membership.

③ Person authorised
Under either section 270 or 274 of
the Companies Act 2006.

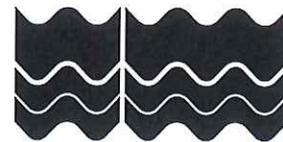


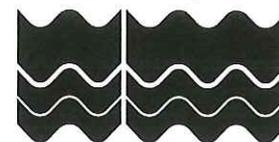
EXHIBIT LABEL

Seized Property No:	NA
Identification reference:	GMW/09
Description:	Interview in writing to Four Seasons Hastings Ltd
Time/date:	22/10/2020.
Produced by:	G WOLSTENHOLME
Signed:	

Communities, Economy & Transport
Rupert Clubb
BEng (Hons) CEng MICE
Director

Floor D, West Block
County Hall
St Anne's Crescent
Lewes
East Sussex
BN7 1UE

East Sussex
County Council



Trading Standards
Lucy V C Corrie
LLB (Hons) DMS MTSI
Head of Service

Tel: 0345 60 80 197
trading_standards@eastsussex.gov.uk
www.eastsussex.gov.uk

Mrs Thushya Inthirakumar
8-70 Bohemia Road
St Leonards-On-Sea
East Sussex
TN37 6RQ

Email: fourseasonshastingsltd@gmail.com

Date 17 September 2020

our ref: T/1186

Dear Mrs Inthirakumar

**Food Safety Act 1990
Trade Marks Act 1994
The Food Safety and Hygiene (England) Regulations 2013**

I am writing to you following your attendance at the offices of East Sussex County Council to attend a voluntary interview. At that time, I had reason to suspect that you did not have sufficient understanding of my spoken English and so it was decided that the interview would be re scheduled whilst I arranged for translation services. At that time, you informed me that you had a good understanding of written English as you had previously replied to my emails.

The reason for the interview was that on the 10/06/2020 at 12:30 hrs, officers of East Sussex Trading Standards inspected Four Seasons Hastings Ltd retail store at 68 -70 Bohemia Road, St Leonards on Sea. At that time 5 bottles of apparent Blossom Hill White Zinfandel wine were precured from Four Seasons Hastings Ltd under the above legislation (see IMG_4736.JPG attached). Theses bottles of liquid have now been tested / inspected and are not wine because their alcoholic content is to low and are counterfeit product as they were not made by nor authorised by the brand holder of Blossom Hill.

From the information I have, it appears that some of the provisions of the above legislation may have been breached and offences committed for which you may have liability. In order to investigate this, I wish to interview you and you have agreed that the interview is conducted in writing rather than an audio recorded interview.

Please confirm your full name and your maiden name, home address, National Insurance number and place and date of birth. In addition, please confirm that as the Company Director you can make representation on behalf of the company.

Before you answer any questions, I must caution you that **YOU DO NOT HAVE TO MAKE ANY WRITTEN COMMENTS BUT IT MAY HARM YOUR DEFENCE IF YOU DO NOT MENTION WHEN QUESTIONED SOMETHING WHICH YOU LATER RELY ON IN COURT. ANYTHING YOU DO SAY MAY BE GIVEN IN EVIDENCE.**

Part 1

The bottles of liquid procured as above and labelled as 'Blossom Hill White Zinfandel' have now been tested / inspected and are not wine. See attached test report KSS Ref:162151

Food Safety Act 1990

I put it to you that Four Seasons Hastings Ltd had in its possession for the purpose of sale misdescribed food contrary to Section 15 of the Food Safety Act 1990.

Please describe in as much detail as you can what steps you took to as a business to ensure that the food exposed for sale by the business was as described.

The Food Safety and Hygiene (England) Regulations 2013

You were asked for traceability for this product and replied by email that it was there when you took over the premises (see attached email dated 24/07/2020) did you send this email?

Companies House records show that Four Seasons Hastings Ltd was incorporated on the 3d December 2015 and changed its registered address to 68 – 70 Bohemia Road, Hastings, East Sussex TN376RQ on the 15th February 2016 (see attached P1186 CO House.pdf) .

Is this your signature on the AD01 form?

The packaging of this Blossom Hill White Zinfandel was not available until 2017 and so could not have been on the premises when you took over.

What or who led you to believe that these goods were in stock when you took over?

Did you receive a stock inventory when you took over the premises?

How do you explain your claim that you had it in stock a year before it was first available?

Please describe in as much detail as you can what steps you took to as a business to ensure a traceability system is in place and working.

Please supply any documents which may support your claim that the goods were in stock in 2016.

Part 2

Trade Marks Act 1994

The bottles of liquid labelled as 'Blossom Hill White Zinfandel' have now been inspected and are not Blossom Hill White Zinfandel.

I put it to you that the bottles of beverage are not genuine Blossom Hill White Zinfandel and Four Seasons Hastings Ltd had in its possession, custody or control in the course of a business goods in packaging identical to, or likely to be mistaken for, a registered trademark contrary to Section 92 of the Trade Marks Act 1994.

Do you agree that Four Seasons Hastings Ltd had in its possession on the 20th June 2020 Trade Mark infringing goods, name bottles of beverage labelled Blossom Hill White Zinfandel wine which were counterfeit (See attached photo IMG_4736.JPG)

Did you know the goods were counterfeit?

Can you explain in as much detail as possible why you had trade mark infringing items in your possession and what steps you and the company took to prevent this happening?

Please supply any documents you may want to make reference to. These are documents which I would have the power to inspect at your premises by virtue of **Regulation 21 of the Consumer Protection from Unfair Trading Regulations 2008; Para 27 of Schedule 5 of the Consumer Rights Act**. Providing these with your response rather than during a premises visit will assist a prompt investigation.

You may wish to seek legal advice before deciding whether or not to respond to this letter. If you are intending to respond could you please do so within fourteen days of receipt of this letter.

Yours Faithfully,

Mr. Graham Wolstenholme
Senior Trading Standards Officer

[Redacted signature]

Attached documents:

A0980A.pdf: copy of KSS Ref:162151

IMG_4736.JPG: photograph taken on premises of apparent Blossom Hill White Zinfandel prior to bagging.

P1186 CO House.pdf: Copy of AD01 from Companies House records

Email dated 240720: email between GMW and Mrs Inthirakumar

Notice to Persons Attending Voluntary Interview Under Caution

* This information is important. If you have difficulty reading it, you should show it to someone who can help you *

The purpose of this Notice is to advise you of your rights as a suspect when attending a voluntary interview under Caution.

The purpose of the voluntary interview is to question you to obtain evidence about any involvement, or suspected involvement, that you have in the offences described when you are cautioned and told that you are not under arrest.

Your rights if you agree to attend a voluntary interview and for it to proceed:

- You will not be under arrest and you will not be obliged to remain at the interview location.
- You will be under the following Caution: **You do not have to say anything but it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence.**
- You have a right to be informed about the offences in question by being provided with sufficient information to enable you to understand the nature of those offences, and why you are suspected of committing them. This is in order to allow for the effective exercise of your rights as a defendant. It applies whether or not you ask for legal advice and includes any further offences that come to light and are pointed out during the voluntary interview and for which you are cautioned.
- You have a right to independent legal advice at all times and a suitably qualified person may be present at the interview. If you wish to consult a legal advisor you should arrange this before the interview.
- You may be entitled to Legal Aid. The Citizens' Advice Bureaux may give general advice on the processes involved. The Law Society can provide links to legal firms in your area and the Charity Law for Life has some useful information.
- You have a right to consult the relevant PACE Codes of Practice to which the Trading Standards Service has regard. These will be available at our offices.
- If the interviewing officer determines that you are a juvenile or that you are vulnerable; or that you need help to check documentation, you will have a right to have an appropriate adult present, or (as the case may be) to have the necessary help to check documentation. The interview will be delayed until the presence of the appropriate adult, or the necessary help, is secured.
- If, as determined by the interviewing officer, you are a juvenile or you are vulnerable, and do not want legal advice, your appropriate adult has the right to ask for a solicitor to attend if this would be in your best interests. Your appropriate adult will be so informed. In this case, action to secure the provision of advice, if so requested by your appropriate adult, will be taken without delay in the same way as if requested by you.
- You have a right to an interpreter, if the interviewing officer determines that you require an interpreter. If you do require an interpreter, then he/she will be appointed by East Sussex County Council Trading Standards. The interviewing officer will make the necessary arrangements and the interview will be delayed for those arrangements to be made.
- The interview will be arranged for a time and location that enables your rights described above to be fully respected. The entire interview will be recorded using an authorised recording device (in accordance with PACE Code 'E' – Code of Practice on audio recording of interviews with suspects, or Code 'F' – Code of Practice on visual recording with sound of interviews with suspects).

- Your agreement to take part in the interview also signifies your agreement for the interview to be audio-recorded, or (as the case may be) visually recorded with sound.

Graham Wolstenholme

From: Graham Wolstenholme
Sent: 17 September 2020 09:10
To: 'fourseasonshastingsltd@gmail.com'
Subject: P1186 Trading Standards interview under caution by letter
Attachments: A0980A.pdf; IMG_4736.JPG; P1186 CO House.pdf; Email dated 240720.pdf; P1186 luC letter.doc

Dear Mrs Inthirakumar

Please find attached letter of interview under caution and supporting documents.

A0980A.pdf: copy of KSS Ref:162151

IMG_4736.JPG: photograph taken on premises of apparent Blossom Hill White Zinfandel prior to bagging.

P1186 CO House.pdf: Copy of AD01 from Companies House records

Email dated 240720: email between GMW and Mrs Inthirakumar

Kind Regards

Graham Wolstenholme
Senior Trading Standards Officer
Trading Standards

What did you think of the service you received today?





KSS Ref: 162151
 Client Ref: A0980B
 Date: 1 July 2020
 Summary **Not Satisfactory**
 Opinion

To: G Wolstenholme
 East Sussex County Council
 Trading Standards
 County Hall
 St Anne's Crescent
 Lewes
 East Sussex
 BN7 1UE

**Certificate of Analysis or Examination carried out under the Food Safety
 (Sampling and Qualifications) (England) Regulations 2013**

Reference number: **A0980B**
 Date sample taken: **16 June 2020°**
 Description: **Blossom Hill White Zinfandel Wine - Lot None**
 Place of Sampling: **Four Seasons, Hastings°**
 Date analysis completed: **1 July 2020**
 Weight or Volume:

I, the undersigned, Public Analyst for East Sussex County Council, certify that on 17 June 2020, the sample marked as above was received by me from G Wolstenholme. I certify that the sample was analysed by me or under my direction and the results are as follows:-

A summary opinion based solely on the tests applied to the sample is provided to assist the reader however the report as a whole must be read.

Determination	Result	Method Code	Method Recovery %
Alcohol	6.0 ± 0.1 %vol	<i>KSS M6a</i>	
Methanol	95.6 g/100LEtOH	<i>KSS M61 *</i>	

My opinion and observations are:

The sample was a red coloured mobile liquid which had a detectable alcoholic odour and taste.

An alcoholic drink (wine) with a declared alcohol content of 10.5%vol is permitted to contain a maximum of 11.0%vol and a minimum of 10.0%vol and therefore the amount of alcohol found was low and outside the acceptable tolerance (Regulation (EU) No 1169/2011, Annex XII).

Methanol was found at a concentration of 95.6g/100L of Ethanol and other volatile congeners consistent with the production of an alcoholic drink by a fermentation process were detected.

The food was described as "Wine of USA". Wine, as defined, is a product obtained exclusively from the total or partial alcoholic fermentation of fresh grapes or grape must and should have an alcoholic strength of not less than 8.5% volume. Based on the analysis carried out, therefore, the sample was not wine as defined (Regulation (EU) No 1308/2013, Annex VII, Part II).

In my opinion, the sample was falsely described within the meaning of section 15 of the Food Safety Act 1990.

I further certify that the sample had undergone no change which would affect my results, opinion or observations.

Certified by me this 1st day of July 2020, at Kings Hill.

KSS Ref: 162151
Client Ref: A0980B
Date: 1 July 2020

JON GRIFFIN
Public Analyst
BSc (Hons) MChemA CChem
MRSC



The test result for a food or feed contaminant has been corrected for recovery using the average method recovery indicated and consists of the analytical result followed by the measurement uncertainty value that is based on a coverage factor of 2 providing a level of confidence of approximately 95%.

Tests marked * in this report are not UKAS accredited and are not included in the UKAS Accreditation Schedule for our laboratory.

Test methods developed under the UKAS flexible scope are marked ^.

Methods marked + in this report are subcontracted.

Information marked ° in this report has been provided by the customer.

The results in this report apply to the sample as received.

The results in this report relate only to the items tested.

Opinion and interpretations which are not based on the reported analytical results are outside the scope of UKAS accreditation.

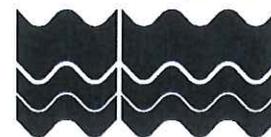


EXHIBIT LABEL

Seized Property No:	NA
Identification reference:	TD04
Description:	Photographs taken during inspection
Time/date:	22/10/2020
Produced by:	Tim DOWDING
Signed:	<u>Dowding</u>









Trading Standards Service
 D Floor, West Block, County Hall
 St. Anne's Crescent, LEWES
 East Sussex
 BN7 1UE

East Sussex County Council
 Trading Standards Services

Exhibit No.
TD05

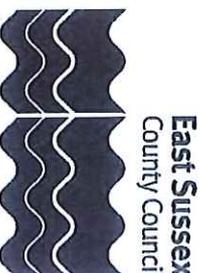
Report Concerning: **FOUR PERSONS HASSELLS LIMITED**

Signature:

[Signature]

Date: **22-10-20**

This document consists of pages

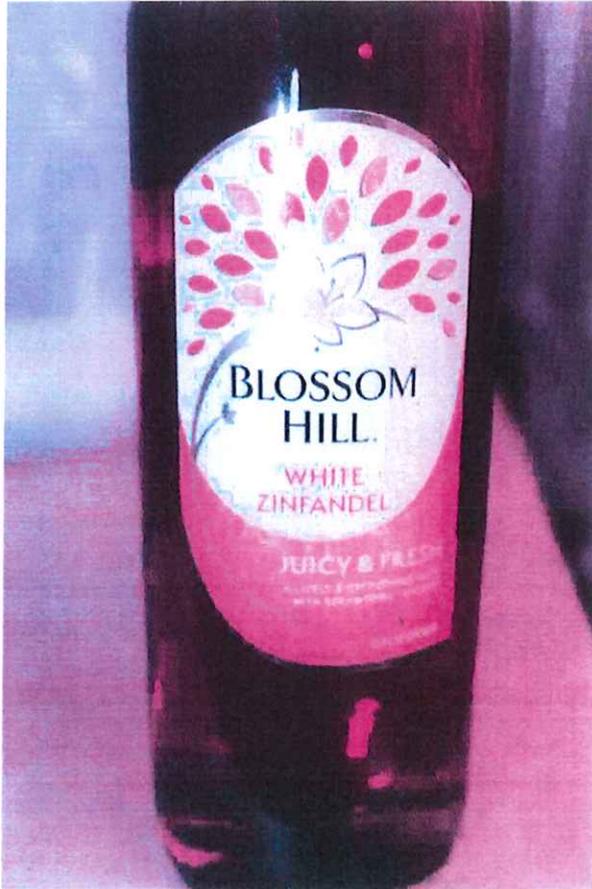


I, **T. DOWDING** an authorised officer under the **TRADE MARKS** Act, have today, **10.10.20** seized goods and/or documents at **FOUR PERSONS HASSELLS LIMITED 68-70 TOTHEIM ROAD TN11 6RQ** (address) as listed below.

Signed *[Signature]* Dated **10/10/2020**

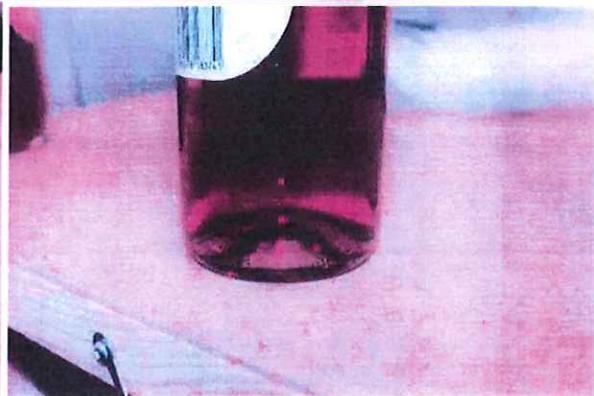
Item	Description	Location of Property	Officer	Identity No.
TD/01	4x Blossom Hill White Zinfandel No. Lot	Great Stock Room	TD	W7106783
TD/02	3 x GALLO VINEYARDS CHARDONNAY 2015 (NO BOTTLES)	3HP 3762F	TD	P01662762
TD/03	1 x GALLO VINEYARDS CHARDONNAY 2015 (NO BOTTLES)	3HP 3762F	TD	P01662761

Exhibit TD01a



Signed: *Rachelle Rush*
Rachelle Rush
Head of Supply Chain Projects, NPD and Quality
Treasury Wine Estates EMEA
Date: 20/10/2020

Exhibit TD01b



Signed: 
Rachelle Rush
Head of Supply Chain Projects, NPD and Quality
Treasury Wine Estates EMEA
Date: 20/10/2020

Exhibit TD01c



Signed: *Rachelle Rush*
Rachelle Rush
Head of Supply Chain Projects, NPD and Quality
Treasury Wine Estates EMEA
Date: 20/10/2020

[Skip to main content](#)

Intellectual Property Office

Trade mark number

WE00001305079

Status

Protected

Overview

Trade mark



Mark details

Trade mark type

Mark consists of colour or colours per se

Dates

Date protection granted in EU

19 January 2017

Renewal date

17 May 2026

International registration date

17 May 2016

Date of Designation of the EU

17 May 2016

Office of origin

Australia

Priority details

Priority date

12 May 2016

Priority country

Australia

TM from which priority claimed

1770495

Goods and services

Classes and terms

Class 33

Wine.

Names and addresses

Holder's name

Treasury Chateau & Estates

240 Gateway Road West, Napa California 94558, United States of America

WIPO representative name

TREASURY WINE ESTATES AUSTRALIA LIMITED

Level 8, 161 Collins Street, Melbourne Victoria 3000, Australia

The information displayed is our version of the details supplied by WIPO. For the official register of the case please refer to the [WIPO website](#).

Intellectual Property Office is an operating name of the Patent Office

**Statement of Grant of Protection where no notification of provisional refusal
has been communicated pursuant to Rule 18ter(1) of the Common Regulations
under the Madrid Agreement and Protocol and Rule 116(2) EUTMIR**

Alicante, 19/01/2017

International registration number: **1305079**
Date of notification to the EUIPO: **11-08-2016**
Name of the Holder: **Treasury Chateau & Estates**
Trade Mark: **BLOSSOM HILL**

The opposition period has expired without any opposition or observations by third parties being filed and the abovementioned mark is accepted for protection in the European Union.

The mark has been published pursuant to Article 152(2) EUTMR on **19/01/2017**.

Pursuant to Article 151(2) EUTMR and Rule 116(1) EUTMIR, it shall have the same effect as the registration of a mark as an European Union trade mark.

SIRVINSKIENE, Julija



WITNESS LIST

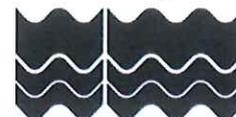
Case of: ESCC v Four Seasons Hastings Ltd

URN P1186

Date of completion:

* Tick if statement attached

Wit. No.	Witness Details (In the 'Wit.No.' column enter 'V' if the witness is a victim, 'Vu' if vulnerable or intimidated)	Statement Number	*	
	Name: Graham WOLSTENHOLME Address: Trading Standards, County Hall, St Anne's Crescent, Lewes Post Code: BN7 1UA Occupation: Senior Trading Standards Officer Date of Birth: over 18 Telephone No. (Work) [REDACTED] Mobile: E-mail: [REDACTED]	1 Original signed in file		
	Name: Wendy SCOTT Address: Trading Standards, County Hall, St Anne's Crescent, Lewes Post Code: BN7 1UA Occupation: Senior Trading Standards Officer Date of Birth: over 18 Telephone No. (Work): Mobile: E-mail: [REDACTED]	2 Original signed in file		
	Name: Tim DOWDING Address: Trading Standards, County Hall, St Anne's Crescent, Lewes Post Code: BN7 1UA Occupation: Trading Standards Officer Date of Birth: over 18 Telephone No. (Work): TB Mobile: E-mail: [REDACTED]	3 Original signed in file		



EAST SUSSEX COUNTY COUNCIL STATEMENT OF WITNESS

*(Criminal Procedure Rules, r. 16.2;
Criminal Justice Act 1967, s. 9)*

Statement of: Graham Michael WOLSTENHOLME

Age of Witness if under 18: OVER 18

Occupation: Senior Trading Standards Officer

This statement (consisting of 4 page signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signed:

Date:

22/10/2020

I am employed by East Sussex County Council as a Senior Trading Standards Officer.

I am authorised under the Consumer Rights Act 2015 and the Trade Marks Act 1994.

This is my statement regarding my dealings with Four Seasons Hastings Ltd of 68 – 70 Bohemia Road, St Leonards On Sea TN376RQ Company number 09900018 (the company)

On the 10th June 2020 I attended the premises of the company at the above address.

I was accompanied by Wendy SCOTT Senior Trading Standards Officer and Tim DOWDING Trading Standards Officer. On arrival I identified myself to the sole occupant of the premises a male who I now know as Mr N NIRMALAN.

An inspection of wine took place and 7 bottles of suspected counterfeit Blossom Hill White Zinfandel (the goods) were found in the rear store room. Mr N NIRMALAN volunteered that these were not for sale and that they had been taken off sale by the manager following a consumer complaint that they tasted odd.

Signed:

Page 79

Date:

22/10/2020

I purchased 3 bottles of the goods for analysis under the Food Safety Act 1990 for which I paid £6.99 and now produce the receipt for those 3 bottles as GMW/01. These were sealed in bags as reference A0980A, A0980B and A0980C, Item A0980A was retained by the business. The remaining 4 bottles were seized by DOWDING using powers under the Trade Marks Act 1994.

Tracabilty for the goods was requested from the business in writing on a visit note which I now produce as GMW/02 (Exhibit.....). We then left the premises and continued with other duties.

The sample A0980B was later tested by the Public Analysis and were found unsatisfactory due to the alcohol level been lowered that that declared this is documented in the PA report KSS Ref 162151. In addition, I sent photographs of three bottles within Exhibit TD01 to the brand holder which I identified as TD01a, Td01b and TD01c. I received confirmation from the brand holder that the labelling of 2 of the 3 bottles infringed their Trade Mark. The fourth bottle from TD01 had previously been sent to Matthew Dalton Wine Standards Inspector for separate inspection.

As the wine had tested as unsatisfactory it was important that we could trace it back to its source to ensure it was removed from sale, however on the 3rd July 2020 , despite the request in writing on the 10th June, no tracabilty documents had been received so I wrote to the company asking for it to be supplied by no later than the 10th July 2020. The letter was received by the company on the 4th July 2020 and I now produce a copy of that letter and confirmation of delivery as GMW/03 (Exhibit.....) and GMW/04 (Exhibit.....).

Signed: (witness) Date: 22/10/2020

(To be completed if applicable:.....being unable to read the above statement, I,.....of.....reads it to him/ her before he/ she signed it.

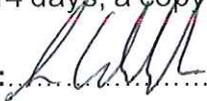
Signed:.....(witness) Date:.....

On the 16th July 2020 I had still received no contact from the company nor had any traceability been provided. I therefore wrote to the company and invited them to attend an interview under caution. According to Royal Mail Track and Trace this letter was received by the company on the 17th July 2020 and I now produce a copy of that letter and confirmation of delivery as GMW/05 (Exhibit.....) and GMW/06 (Exhibit.....) .

On the same day I received an email from Thushya Inthirakumar which I now produce as GMW/07 (Exhibit.....). Thushya Inthirakumar claimed that the product had been in the store when they took over. On checking Companies House, I could see that an AD01 form for change of address was processed on the 6th February 2016 and I now produce a printout as GMW/08. This showed that the company had been at the address from at least February 2016. I made further enquiries with the brand holder who informed me that the label on this product was not designed until 2017 and so could not have been in the shop when Four Seasons Hastings Ltd took over the premises in 2016.

The company was again invited to interview, and both Mr & Mrs Inthirakumar attended on the 21st August 2020. However, despite the excellent written English of the emails, which Mrs Inthirakumar stated she had written, neither had in my opinion a sufficient understanding of spoken English to be able to be interviewed without an interpreter. I therefore cancelled the interview planning on rearranging with an interpreter. However due to the current health precaution surrounding the COVID 19 pandemic it was decided that an interview in writing would be more appropriate.

An interview in writing letter was sent to the company asking for written responses within 14 days, a copy of which I now produce as GMW/09 . No response was provided

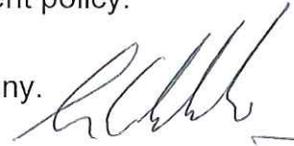
Signed:  (witness) Date: 22/10/2020

(To be completed if applicable:.....being unable to read the above statement, I,.....of.....reads it to him/ her before he/ she signed it.

Signed:..... (witness) Date: Page 81 2

but on the 21/10/20 an email from their legal counsel was received requesting disclosure so they could advice their client, this was provided same day. On the 21st October 2020 I had received no response from either the trader or their legal representative and so wrote again advising that a report would be submitted for consideration of further action in line with our published enforcement policy.

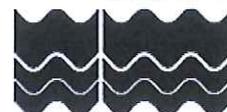
To date I have not received any credible tracabilty from the company.



Signed:  (witness) Date: 22/10/2020

(To be completed if applicable:.....being unable to read the above statement, I,.....of.....reads it to him/ her before he/ she signed it.

Signed:.....(witness) Date:.....



EAST SUSSEX COUNTY COUNCIL STATEMENT OF WITNESS

*(Criminal Procedure Rules, r. 16.2;
Criminal Justice Act 1967, s. 9)*

Statement of: Wendy Scott
Age of Witness if under 18: OVER 18 Over 18
Occupation: Senior Trading Standards Officer

This statement (consisting of 2 page signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signed:

Date: 20th October 2020

I am employed by East Sussex County Council Trading Standards Service as a Senior Trading Standards Officer. As such I am authorised under the Consumer Rights Act 2015, the Food Safety Act 1990 and the Trade Marks Act 1994. On the 10th June 2020, at approximately 12.30pm I accompanied Graham WOLSTENHOLME, Senior Trading Standards Officer, and Tim DOWDING, Trading Standards Officer on a visit to Four Seasons, 68-70 Bohemia Road, St Leonards on Sea to inspect the alcohol on sale. On entry into the shop, Mr WOLSTENHOLME introduced us to a man serving behind the counter, who identified himself and I noted down his name as Mr NIRMALAN, a member of staff. I proceeded to look on the shelves in the shop at the alcohol on sale, it was noticeable that the shelves seemed to have lots of space and were not found to be stocking bottles of Blossom Hill White Zinfandel wine, a wine of interest on our inspection due to it being under suspicion of being counterfeit. Mr NIRMALAN then showed us to the rear storeroom accessed directly from the shop floor. On top of a counter in the rear storeroom were 7 bottles of Blossom Hill White Zinfandel, Mr

Signed:

(witness) Date:.....20th October 2020...

NIRMALAN explained to us that they had been removed from sale due to a customer informing them that they tasted bad. He said this had happened two days ago and that this was the reason they were out the back and not on the shop floor. Mr WOLSTENHOLME took a formal sample of the bottles (comprising of three bottles) to check for authenticity and these samples were securely bagged and identified as samples A0980A/B/C and payment was made for these bottles. The remaining four bottles were seized by Mr DOWDING under Trade Marks legislation. None of these bottles had visible lot codes. The remainder of the shelves were checked and several bottles were highlighted as missing labelling information, some of these wines were seized by Mr DOWDING under the Trade Marks Act. Two bottles of Gallo Syrah Rose 2007 were found to be missing rear labels and an instruction was given to the premises not to sell them and so these bottles were placed in a secure bag P01662757 and placed in the rear storeroom whilst their traceability was being ascertained. Mr WOLSTENHOLME left an inspection form and seizure documentation with the store assistant and we left the store around 1.30pm.



Signed:  (witness) Date: 20th October 2020

(To be completed if applicable: being unable to read the above statement, I, of reads it to him/ her before he/ she signed it.

Signed: (witness) Date:

EAST SUSSEX COUNTY COUNCIL STATEMENT OF WITNESS

*(Criminal Procedure Rules, r. 16.2;
Criminal Justice Act 1967, s. 9)*

Statement of: Tim DOWDING

Age of Witness if under 18: OVER 18

Occupation: Trading Standards Officer

This statement (consisting of 2 pages signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signed: 

Date: 21st October 2020

I am a Trading Standards Officer employed by East Sussex Trading Standards and am authorised under the Consumer Rights Act 2015 to inspect businesses that are suspected of breaching the Trade Mark Act 1994.

On 10th June 2020 I assisted Graham WOLSTENHOLME and Wendy SCOTT with an inspection for suspected trade mark infringing wine at Four Seasons Supermarket, 68-70 Bohemia Road, St Leonards on Sea, TN37 6RG.

Seven bottles of Blossom Hill White Zinfandel 750ml were found on a shelf in the stock room to the rear of the premises. I seized four of the bottles and placed them into evidence bag R01385053 which I then sealed using a security tag with the number WY106783. I now produce these signed and dated by me as TD/01.

Signed: .....(witness) **Date:**.....

I also seized three bottles of Gallo Chardonnay 2015 750ml and placed them into evidence bag number P01662762 which I now produce signed and dated by me as TD/02 and one bottle of Gallo Chardonnay 2013 750ml which I placed into evidence bag number P01662761 which I now produce signed and dated by me as TD/03.

I took images of the seized bottles which I now produce signed and dated by me as TD/04. The remaining three bottles of Blossom Hill White Zinfandel were procured as formal samples to be tested by the Public Analyst.

I completed a seizure form showing details of the items seized which I now produce signed and dated by me as TD/05. On leaving the premises I took all the seized items and locked them into the Trading Standards van. Later that afternoon the bottles were taken to a secure location for storage.

On 2nd July 2020 I broke open the seal WY106783 to evidence bag R01385053 and removed one bottle of Blossom Hill White Zinfandel. I then placed this bottle into a separate evidence bag with the reference number P01664196. I resealed R01385053 with security tag number LB440151 and left the bag in secure storage until I needed it.

On 6th July 2020 I removed evidence bag P01664196 from the secure storage facility and took it to County Hall in Lewes where I met with Matthew Dalton, a Wine Standards Inspector, who took the sample away for examination. 

Signed:  (witness) Date:

(To be completed if applicable: being unable to read the above statement, I, of reads it to him/ her before he/ she signed it.

Signed: (witness) Date:

STATEMENT OF WITNESS

*(Criminal Procedure Rules, r. 16.2;
Criminal Justice Act 1967, s. 9)*

STATEMENT OF RACHELLE RUSH

Age of witness (if over 18, enter "over 18"): Over 18

This statement (consisting of 1 page) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

On the 17th of September 2020, I was contacted by Graham Wolstenholme, Senior Trading Standards Officer in East Sussex, reporting that suspicious bottles of wine (75cl) bearing the Blossom Hill trademark and marketed as White Zinfandel had been found at Four Seasons Hastings Ltd, 68-70 Bohemia Road, St Leonards-On-Sea, East Sussex with case reference GMW/01.

Evidence was provided for three samples referenced TD01a, TD01b and TD01c. The evidence suggests that the samples referenced TD01b and TD01c are devoid of numerous security features that are found on genuine examples of this product. Based on my experience, knowledge and the evidence provided by Mr Wolstenholme, it is my assertion that the bottles referenced TD01b and TD01c are not genuine, are counterfeit and infringe the Blossom Hill trademark. Inspection of the evidence related to TD01a indicates the presence of the numerous security features on this product and my subsequent assessed that this particular bottle is a genuine example which does not infringe trademark.

In my role as Head of Supply Projects, NPD and Quality at TWE, my team is responsible for the quality assessment of dry goods and bottled liquids which have been packed here in the UK. Blossom Hill White Zinfandel is produced by TWE in the UK, is therefore well known to me and my team through regular post packaging assessments and as a result of the continuous monitoring of the ongoing issue of counterfeit Blossom Hill White Zinfandel reported from various locations across the UK.

The trademark for the Blossom Hill brand (Trademark number **WE00001305079**) was issued on 19 January 2017 to Holder: **Treasury Chateau & Estates**, 240 Gateway Road West, Napa California 94558, United States of America. I am authorised by POA to act for Treasury Chateau & Estates, the trademark holder, with relation to matters infringing IP in the UK.

Treasury Chateau & Estates (240 Gateway Road West, Napa California 94558, United States of America) has not given consent to any person or business for the sign in question to be applied to the products TD01b or TD01c in question that I've examined, or for the sale or possession in the course of a business of such items.

Signed: Rachel Rush (witness)

Date: 19/10/2020

(To be completed if applicable: being unable to read the above statement I, of, read it to him/her before he/she signed it.

Signed: Date:)

This page is intentionally left blank

Strictly Private and Confidential



The Licensing Manager
Hastings Borough Council
Head of Environmental and Place
Muriel Matters House
Breeds Place
Hastings
TN34 3UY

10 Lower Thames Street
London
EC3R 6AF

T +44 (0) 20 3976 2452
F +44 (0) 20 3905 2744
E london@aliantlaw.com
W www.aliantlaw.com
DX 131002 London City

BY EMAIL ONLY TO: licensing@hastings.gov.uk

06 January 2021

Our Ref: 330-486

Dear Sirs,

Re: Our Client - Four Seasons Hastings Ltd – review of premises licence

We write to make representations on behalf of Four Seasons Hastings Ltd ('Our Client'), at 68 - 70 Bohemia Road, St. Leonards on Sea, TN37 6RQ, on the above matter. For the reasons that follow, we submit that it is neither necessary nor proportionate to revoke the premise licence and ask that the Licensing Authority consider other, more appropriate and proportionate actions.

1. Further to section 52(4) of the Licensing Act 2003 ('the Act'), there are a number of steps the Licensing Authority may take as it considers appropriate. Of those steps listed, revocation of the licence may be the most draconian, and will lead to the most serious consequences for people's livelihoods. In reported cases where the court has upheld the decision to revoke the licence, the actions conducted by the respondents, and thus the reasons for revocation, were much more serious than the actions and reasons relevant to our Client. In the case of *East Lindsey District Council v Abu Hanif [2016] EWHC 1265* the respondent was found to be employing an individual who did not have the right to work or live in the UK, paying the employee cash in hand wages under the minimum wage, and failing to keep PAYE records. According to Mr. Justice Jay, "*the respondent exploited a vulnerable individual*".
2. The principle of proportionality is directly applicable. Paragraph 9.43 of the Revised Guidance issued under section 182 of the Licensing Act 2003 ('the Guidance') states that the authority's determination should be "*justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve*". We submit that steps less serious than revocation of the licence will have the desired effect of promoting the licensing objectives. Our Client's shop ceased selling the relevant wines when a customer said that it tasted odd. An informal warning and recommendations for improvement under paragraph 11.17 of the Guidance would motivate Our Client to be more

organised regarding the stock, make improvements, and seek to ensure that the causes that instigated the review do not happen again, which will effectively promote the licensing objectives.

3. Should the Licensing Authority wish to take more stringent actions, we urge the Licensing Authority to consider paragraph 11.20 and 11.21 of the Guidance:

“11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.”

We submit that revocation of the licence would be contrary to this guidance as it would amount to a disproportionate and inappropriate response to address the causes of concern.

4. As the events leading to the application for review of a premise licence occurred whilst Mr Paramaguru Inthirakumar was the Designated Premises Supervisor (‘DPS’), we submit that an appropriate and proportionate course of action would be to remove Mr Paramaguru Inthirakumar as DPS and install Mrs Thushya Inthirakumar, the Director of our Client, in his stead.

We trust this clarifies our position.

Do confirm safe receipt of this correspondence and its enclosures and in the meantime, we look forward to hearing from you shortly. Should you have any further questions then please do not hesitate to contact our offices.

Yours sincerely,



ALIAN T LAW

PREMISES LICENCE

Premises licence number

HOP50390

Part 1 – Premises details

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

FOUR SEASONS SUPERMARKET
 68 – 70 BOHEMIA ROAD,

Post Town

ST. LEONARDS ON SEA, EAST SUSSEX

Post Code

TN37 6RQ

Telephone number

None given

Where the licence is time limited the dates

NONE

Licensable activities authorised by the licence

SUPPLY OF ALCOHOL

The times the licence authorises the carrying out of licensable activities

MONDAY – SATURDAY	08.00 – 22.00
-------------------	---------------

SUNDAY	10.00 – 22.00
--------	---------------

The opening hours of the premises

MONDAY – SATURDAY	08.00 – 22.00
-------------------	---------------

SUNDAY	10.00 – 22.00
--------	---------------

BANK HOLIDAYS	10.00 – 22.00
---------------	---------------

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

SALE BY RETAIL OF ALCOHOL FOR CONSUMPTION OFF THE PREMISES

HASTINGS BOROUGH COUNCIL

Part 2

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

FOUR SEASONS HASTINGS LTD
68 – 70 BOHEMIA ROAD
ST. LEONARDS ON SEA
TN37 6RQ.

Transfer on 23rd March 2016.

Granted / issued 1st October 2008.

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

09900018

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

PARAMAGURU INTTHIAKUMAR
3 ROCHFORD WAY
CROYDON
SURREY
CR0 3AG.

Change of DOS on the 23rd March 2016.

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

LICENCE NUMBER: 12 / 00732 / LIPERS

ISSUING AUTHORITY: LONDON BOROUGH OF CROYDON

HASTINGS BOROUGH COUNCIL

Mandatory Conditions

All Premises Licence authorising supply of alcohol

The licence is granted subject to the Mandatory conditions for sale of alcohol as set out in the Licensing Act 2003 as amended by the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 and Order 2014.

1. No supply of alcohol may be made under the Premises Licence –
 - (a) At a time when there is no Designated Premises Supervisor in respect of the Premises Licence; or
 - (b) At a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.
2. Every supply of alcohol under the Premises Licence must be made, or authorised by a person who holds a Personal Licence.
3. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises.
 - a) games or other activities which require or encourage, or are designed to require or encourage, individuals to –
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
 - e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

HASTINGS BOROUGH COUNCIL

Mandatory Conditions - continued

4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
5. (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 licences 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.
6. The responsible person shall ensure that –
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Minimum Drinks Pricing

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 – $P = D + (D \times V)$

HASTINGS BOROUGH COUNCIL

Mandatory Conditions - continued

Where –

- (i) P is the permitted price
 - (ii) D is the amount 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 –
- (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) “value 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 the 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.

HASTINGS BOROUGH COUNCIL

Annex 2 – Conditions consistent with the operating schedule

General

Condition requested by the police added following consultation with Nantha Solicitors and applicant:

- Premises have written training policies and formal training programmes in place to ensure that all staff are fully equipped to meet all the licensing objectives. All training and revision / refresher materials are reviewed regularly to reflect the requirements of the Licensing Act 2003 and any subsequent amendments.

The prevention of crime & disorder

Conditions requested by the police added following consultation with Nantha Solicitors and applicant:

- The CCTV system will incorporate a camera covering the entrance doors and the alcohol display areas and be capable of producing an image which is regarded as identification standard; the precise positioning of the cameras to be agreed with Sussex Police prior to the store opening.
- The system will incorporate a recording facility and any recording shall be retained and stored in a secure manner for a minimum of 31 days and made available, subject to compliance with Data Protection legislation, to the police and licensing authority for inspection on request.
- The system will display on any recording, the correct time and date of recording.
- The system will be maintained and fully operational throughout the hours that the premises are open.
- Appoint a named CCTV manager and deputy to take responsibility for the system.
- Train adequate members of suitable staff to use the CCTV system to its full potential thus ensuring that a member of staff is always available to replay footage and download material following an incident.

In order to minimise the risk of crime and disorder, the DPS should:

- Identify 'higher risk occasions' when management of the premises is at its most challenging, for example Friday & Saturday nights.
- Consider the deployment of security staff at identified periods of increased risk.
- Ensure that a responsible and capable individual is left in charge of the premises at all times and in particular at peak periods or at times of increased risk such as evenings and weekends.
- Adopt best practice as outlined in the revised Guidance issued under Section 182 of the Licensing Act 2003, in relation to written authorisation for staff who are not personal licence holders, to permit them to sell alcohol.
- Pay attention to the outside of the premises and the immediate area to ensure that customers or other persons are not loitering or behaving in a manner likely to impact on neighbours or the public.
- Operate a 'zero tolerance' policy in respect of customers who are abusive or threatening, or customers who commit offences of theft or deception and consideration should be given to displaying notices informing customers of this policy.
- Implement sanctions against such customers, such as a ban from the store .

HASTINGS BOROUGH COUNCIL

Annex 2 – Conditions consistent with the operating schedule - continued

- Ensure that where a member of staff or customer is assaulted or an incident occurs necessitating police attendance, that police are promptly alerted. Where such an action is taken, the manager will ensure that:-
 - a) Any CCTV footage of the incident is saved to provide primary evidence for prosecution purposes.
 - b) Staff are made available quickly (when requested) to provide a written statement.
- Maintain an incident book at the premises and ensure that all staff use it to record details of any incident of crime or disorder including date and time, details and / or descriptions of the people involved, exact location of the incident and which staff are present when the incident took place. The use of such a book will ensure that all staff are aware of any ongoing problems and the people responsible.

Public safety

- To undertake risk assessments as required by Health & Safety and review the assessment if circumstances change or additional risks are identified.
- To comply with the requirements in respect of fire safety, regarding risk assessment, safety checks, fire safety equipment and fire exits.

The prevention of public nuisance

- To comply with the requirements of the local authority, in respect of suitable storage of waste and collection on a regular basis, to avoid nuisance to customers, staff and neighbours.

The protection of children from harm

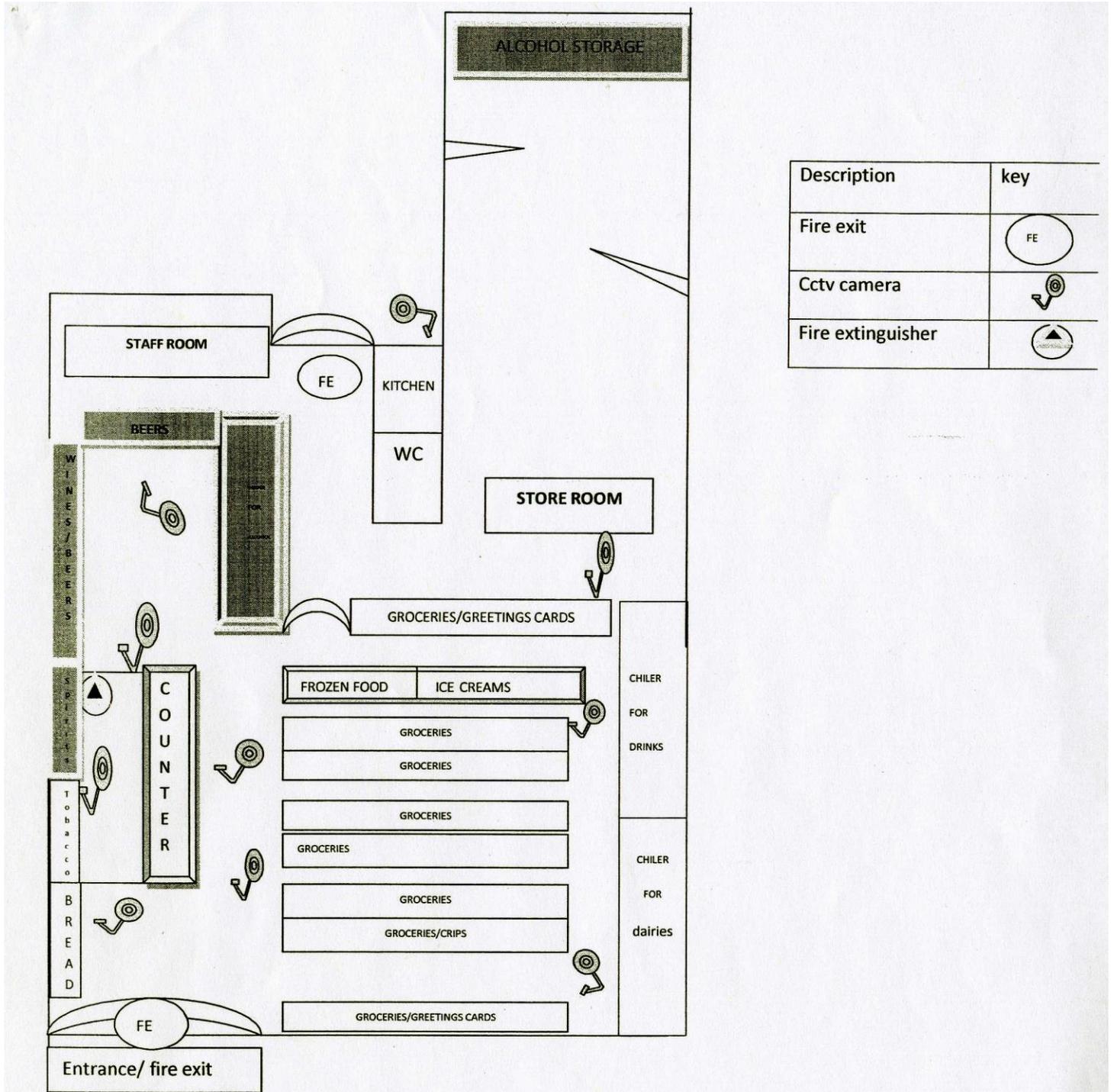
Conditions requested by the police added following consultation with Nantha Solicitors and applicant:

- A refusals register shall be kept near the point of sale and all refusals shall be recorded therein.
- The DPS shall take responsibility for training staff in the use of the register and will regularly check to ensure entries are being made.
- Labelling alcoholic products with stickers carrying a warning regarding alcohol abuse and the name of the store.
- Implement the 'Challenge 25' scheme whereby staff are trained to request the appropriate ID from anyone who appears to be under the age of 25 years and that alcoholic drinks are refused unless that ID is produced.
- Proof of age ID to be photo driving licence, passport or a PASS proof of age card (Proof of Age Standards Scheme), to be accepted.
- Ensure that adequate procedures are in place for dealing with customers who are being refused service, due either to their state of sobriety, their apparent age, their behaviour or as a result of being a banned person.
- Ensure that staff are fully supported in respect of these 'refusals procedures'.

Annex 3 – Conditions attached after a hearing by the licensing authority

NIL

Annex 4 – Plans



TITLE: SHOP LAYOUT

NAME: COSTCUTTER

ADDRESS: 68-70 BOHEMIA ROAD, HASTINGS, EAST SUSSEX TN37 6RQ

DATE: 20.08.2008

This page is intentionally left blank