

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
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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)

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

✓

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 traceability. 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 and 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 traceability 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 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.

Traceability 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

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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.