

Horsham District 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 Peter Aston, Trading Standards, Team Manager,
West Sussex County Council Trading Standards Service**

(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

Ashman Express Ltd t/a Choices of Horsham
Burtons Court, Park Way

Post town Horsham

Post code (if known) RH12 1PY

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

Harinder Singh **ANAND**

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

LI/11/0132/PREM

(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 FOR & ON BEHALF OF THE RESPONSIBLE AUTHORITY APPLICANT: Mr Peter Aston Team Manager West Sussex County Council Trading Standards Service Parkside Chart Way Horsham RH12 1XH
Telephone number (if any) 0330 222 7661
E-mail address (optional) peter.aston@westsussex.gov.uk

This application to review relates to the following licensing objective(s)

- | | |
|-----------------------------------------|---------------------------------|
| | Please tick one or more boxes ✓ |
| 1) the prevention of crime and disorder | ✓ |
| 2) public safety | ✓ |
| 3) the prevention of public nuisance | |
| 4) the protection of children from harm | |

Please state the ground(s) for review (please read guidance note 2)

West Sussex County Council Trading Standards Service (the 'responsible authority') contends the following licensing objectives have been undermined by the carrying on of licensable activities at these premises:

- the prevention of crime and disorder
- Public Safety

Full particulars in support of the application are to be found in the next section, but in summary:

On the 11th October 2023, during a Trading Standards Inspection at Ashman Express Ltd t/a Choices of Horsham, 95 oversized 'ENE' Legend 3500 Puff disposable vapes were found in a cardboard box in a small cupboard under the counter at the point of sale. The Tobacco and Related Products Regulations 2016 set out requirements for nicotine inhaling products, otherwise known as E-cigarettes, vapes and e-liquids. E-cigarettes/Vapes should contain no more than 2 ml of liquid, which is equivalent to around 600 puffs. It is a criminal offence to supply nicotine containing liquid in a disposable electronic cigarette with a tank capacity greater than 2ml.

80 packets of 20 Polish 'Marlboro Gold' cigarettes (1600 sticks in total), were found in the toilet area of the premises during the inspection. The cigarettes were not in the mandatory, legally required, UK compliant standard packaging, and were not labelled in English as required by regulation 11(4) Tobacco and Related Products Regulations 2016, and thereby constitute offences under regulation 48 (a) (i) Tobacco and Related Products Regulations 2016. It is an offence to produce or supply a tobacco product (or herbal products for smoking) in breach of the requirements under the Standardised Packaging of Tobacco Products Regulations 2015, or the Tobacco and Related Products Regulations 2016.

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

1.1 On the 5th of August 2022 West Sussex County Council Trading Standards (WSCCTS) received a complaint from a member of the public (this was another local business) alleging that Ashmans Express Ltd/ta Choices of Horsham was selling vapes to children. On the 3rd of October 2023 WSCCTS received a further complaint from a member of the public (again this was a local business) alleging that Ashmans Express Ltd/ta Choices of Horsham were selling oversized vapes. This business has previously received a warning letter from WSCCTS regarding 520 oversized E-cigarettes, and 3 unsafe electrical adapters found by WSCCTS Officers during an inspection of the premises on 16 August 2022, along with a further warning letter relating to Underage sales of alcohol on 14th of December 2022. Ashmans Express Ltd/ta Choices of Horsham has also previously been subject to a Licence Review on the 14th of March 2023, subsequently resulting in a 1-month suspension of the licence following the sale of alcohol to a person under 18 during a WSCCTS Underage Sales Operation.

1.2 On the 11th of October 2023, Officers from WSCCTS, along with a sniffer dog and its handler, and a Sussex Police Constable visited Ashmans Express Ltd/ta Choices of Horsham. The WSCCTS Officers present introduced themselves and requested that the shop be closed while an inspection of the premises took place.

1.3 During the inspection 95 oversized 'ENE' Legend 3500 Puff disposable vapes were found in a cardboard box in a small cupboard under the counter at the point of sale. The Tobacco and Related Products Regulations 2016 sets out requirements for nicotine inhaling products, otherwise known as E-cigarettes, vapes and e-liquids. E-cigarettes/Vapes should contain no more than 2 ml of liquid, which is equivalent to around 600 puffs. It is a criminal offence to supply nicotine containing liquid in a disposable electronic cigarette with a tank capacity greater than 2ml. The product requirements are listed in regulation 36 of The Tobacco and Related Products Regulations 2016. Regulation 36 (2) (b) states "Nicotine-containing liquid which is presented for retail sale must be in — (b) a disposable electronic cigarette, a single use cartridge, or a tank, in a volume not exceeding 2 millilitres." The tank of the vapes exceeded the maximum capacity allowed.

A person guilty of an offence under these Regulations is liable, on summary conviction to imprisonment for a term not exceeding three months, or a fine or both, or on conviction on indictment to imprisonment for a term not exceeding 2 years, or a fine, or both. If an offence is proved, that has been committed by the body corporate (the limited company) proceedings can be taken against officers of the company, where the offence has been committed with the consent or connivance of officers of the company.

1.4 80 packets of 20 Polish 'Marlboro Gold' cigarettes (1600 sticks in total), were found in the toilet area of the premises during the inspection. The cigarettes were not in the mandatory, legally required, UK compliant standard packaging, and were not labelled in English as required by regulation 11(4) Tobacco and Related Products Regulations 2016, and thereby constitute offences under regulation 48 (a) (i) Tobacco and Related Products Regulations 2016. It is an offence to produce or supply a tobacco product (or herbal products for smoking) in breach of the requirements under the Standardised Packaging of Tobacco Products Regulations 2015, or the Tobacco and Related Products Regulations 2016.

In this case the cigarettes packaging did not display the mandatory specifically worded 'Smoking kills quit now' health warning in English, or the mandatory 'UK Duty Paid' label.

1.5 It is also an offence contrary to Section 144 of the Licensing Act 2003 to keep smuggled, non-duty paid goods on licenced premises. Given the non-UK compliant standard packaging, the lack of the legally required 'UK Duty paid' Stamp and the absence of the legally required specifically worded English language warning "Smoking kills, quit now", it is reasonable to believe that they are non-duty paid, and of non-UK origin, therefore keeping these items on licenced premises, is an offence contrary to the Licencing Act 2003, Section 144, (3). A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

1.6 Selling illicit tobacco products fails to prevent further crime and disorder by funding those who illegally import and produce such products. Revised guidance issued under Section 182 of the Licencing Act 2003 (December 2023) 11.27 states: 'There is certain criminal activity that may arise in connection with licenced premises which should be treated particularly seriously. These are the use of the licenced premises, for the sale or storage of smuggled tobacco and alcohol'. 11.28 states: 'It is envisaged that the licencing authorities, the Police, the Home Office (Immigration enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures to deter such activities and crime. Where reviews arise and the licencing authority determines that the crime prevention objectives are 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'.

No meaningful conditions can be put on a premises licence to deal with smuggled goods. Therefore, WSCCTS seek a revocation of the licence. This would send a clear message that Horsham District Council and the county of West Sussex will not tolerate the sale or storage of smuggled tobacco.

1.7 All forms of tobacco products are harmful whether purchased from an illicit seller or a legal source. Due to the low prices which make it harder for smokers to quit, easier for non-smokers to start and ex-smokers to relapse, the trade in illegal tobacco harms local communities, affects honest businesses operating within the law and undermines local and national efforts that have been made to reduce smoking and improve health. The availability and typically lower price of illicit tobacco also encourages young people to take up smoking.

In view of the above, the Responsible Authority do not believe the licensing objectives are being continually upheld at these premises and deem it both proportionate and necessary to invite the committee to consider a review of the premises licence, to limit further criminal activity by this licence holder and to act as a deterrent to other operators considering such illegal conduct.

WSCCTS believes that this premises has been conducting criminal activity, including the storage and supply of illicit tobacco and oversize non-UK compliant vapes that cannot be legally supplied in this Country, the Responsible Authority respectfully suggest an appropriate outcome of the review would be a revocation of the alcohol licence.

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
27	01	2023

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

A previous licence review application was made by the Responsible Authority in January 2023. That application was dated 27/01/2023. An outline of that application and the date of the review hearing can be found below:

On the 16th August 2022 Officers from the Responsible Authority carried out an inspection at the business and discovered a large number of disposable electronic cigarettes that contained nicotine in a capacity greater than the permitted amount.

In total 520 disposable electronic cigarettes were seized from the business.

Officers from the Responsible Authority also discovered and seized 3 Universal Travel Adaptors that posed a known risk of electrocution to consumers.

On the 14th December 2022, as part of an Underage Sales operation the Responsible Authority were carrying out, a 17 year Trading Standards volunteer was sold a bottle of WKD Pink Gin.

A licence review hearing was held by Horsham District Council Licensing Sub-Committee on Tuesday 14th March 2023.

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 11/01/2024

Capacity Team Manager

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

1. 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.