

Agenda

Licensing Sub-Committee Meeting

Date: Tuesday, 10 October 2023

Time 10.00 am

Venue: Council Chamber, Swale House, East Street, Sittingbourne, ME10 3HT*

Membership:

Councillors Carole Jackson, Lee-Anne Moore and Tony Winckless

Quorum = 3

Pages

Information about this meeting

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- (a) The fire alarm is a continuous loud ringing. In the event that a fire drill is planned during the meeting, the Chair will advise of this.
- (b) Exit routes from the chamber are located on each side of the room, one directly to a fire escape, the other to the stairs opposite the

lifts.

- (c) In the event of the alarm sounding, leave the building via the nearest safe exit and gather at the assembly point on the far side of the car park. Do not leave the assembly point or re-enter the building until advised to do so. Do not use the lifts.
- (d) Anyone unable to use the stairs should make themselves known during this agenda item.

2. Apologies for Absence
3. Notification of Chair and Outline of Procedure
4. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves, their families or friends.

The Chair will ask Members if they have any disclosable pecuniary interests (DPIs) or disclosable non-pecuniary interests (DNPis) to declare in respect of items on the agenda. Members with a DPI in an item must leave the room for that item and may not participate in the debate or vote.

Aside from disclosable interests, where a fair-minded and informed observer would think there was a real possibility that a Member might be biased or predetermined on an item, the Member should declare this and leave the room while that item is considered.

Members who are in any doubt about interests, bias or predetermination should contact the monitoring officer for advice prior to the meeting.

Part B Reports for the Licensing Sub-Committee to decide

5. Review of Premises Licence under the Licensing Act 2003 5 - 82

To review the premises Licence of Best One, 16 Hawthorn Road, Sittingbourne, Kent, ME10 1BB.

Issued on Monday, 2 October 2023

The reports included in Part I of this agenda can be made available in alternative formats. For further information about this service, or to arrange for special facilities to be provided at the meeting, please contact **DEMOCRATIC SERVICES** at democraticservices@swale.gov.uk. To find out more about the work of this meeting, please visit www.swale.gov.uk

**Chief Executive, Swale Borough Council,
Swale House, East Street, Sittingbourne, Kent, ME10 3HT**

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Licensing Sub-Committee Meeting	
Meeting Date	10th October 2023
Report Title	Consideration of an application for the review of a premises licence under the Licensing Act 2003
Premises	Best One, 16 Hawthorn Road, Sittingbourne, Kent ME10 1BB
Lead Officer	Johanna Thomas, Licensing Officer
Key Decision	No
Classification	Open
Recommendations	Members are requested to determine the application on its merits and decide whether to take such steps as Members consider appropriate for the promotion of the licensing objectives

1 Purpose of Report and Executive Summary

- 1.1 The report advises Members of an application for the review of a premises licence granted under the Licensing Act 2003 made by PC Ian Pickett 12274 on behalf of Kent Police in respect of Best One, 16 Hawthorn Road, Sittingbourne, Kent ME10 1BB.

2 Background

- 2.1 The Licensing Sub-Committee is asked to determine an application for the review of a premises licence under section 51 of the Licensing Act 2003.
- 2.2 The Licensing Act 2003 (the 2003 Act) requires the Council (as licensing authority) to carry out its various functions so as to promote the following four licensing objectives:
- the prevention of crime and disorder
 - the protection of public safety
 - the prevention of public nuisance
 - the protection of children from harm
- 2.3 The 2003 Act requires the council to publish a ‘Statement of Licensing Policy’ that sets out the policies that will generally apply to promote the licensing objectives when making decisions on applications made under the Act. The council first adopted its Statement of Licensing Policy in 2004 and it has been regularly reviewed in line with legislative requirements ever since. The latest policy was adopted on 1st April 2021. The policy will be available at the meeting for reference purposes and is available to view at <https://swale.gov.uk/news-and-your-council/strategies-and-policies/statement-of-licensing-policy>

- 2.4 Under the 2003 Act, licensing authorities must, in carrying out their functions, have regard to guidance issued by the Secretary of State under section 182. The Guidance cannot anticipate every possible scenario or set of circumstances that may arise. Provided that the licensing authority has properly understood and considered the guidance, it may depart from it when it has reason to do so. However, as the licensing authority is under a duty to have regard to the guidance, it will need to give full reason for any departure from it. This would be a key consideration for the courts should departure from the guidance result in a determination which might lead to an appeal or judicial review. The Guidance will be available at the hearing for reference purposes.
- 2.5 A copy of the council's approved procedure for hearing of the Licensing Sub-Committee in relation to an application, along with a copy of the Hearings Procedure has been circulated to all parties prior to the meeting.
- 2.6 The Licensing Sub-Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property which may include licences in existence and the protection of private and family life.

3 The current Licence

- 3.1 The current premises licence was originally granted on 6th September 2005 to become effective on 24th November 2005 when the Licensing Act 2003 became law. At that time the premises licence holders were Mr and Mrs D Andrews and Mr Denver Andrews was the DPS.
- 3.2 On 22nd October 2009 the licence was transferred, and the premises licence Holders were Roopak Kapoor and Roopesh Kapoor. The Designated Premises Supervisor (DPS) was Vijay Kapoor.
- 3.2 The licence was further transferred into the name of Roopesh Kapoor as premises licence holder on 21st December 2017 and Vijay Kapoor remained as DPS.
- 3.3 On 24th August 2023 an application to vary the DPS was received to nominate Roopesh Kapoor to the role. As allowed by legislation this change took place with immediate effect and the current premises licence which allows for the sale of alcohol for consumption off the premises is attached as **APPENDIX I**. It has been noticed that the opening hours for the premises are not in accordance with the permitted hours for the sale of alcohol and the licence can be amended accordingly as permitted by the Licensing Act 2003 as an administrative error has occurred.
- 3.4 The Licensing Act 2003 allows for a period of 14 days from the date that the DPS variation application is received in which the police can lodge an objection. The police may object to the designation of a new premises

supervisor where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective.

- 3.5 An objection to Roopesh Kapoor being DPS at the premises has been received from Kent police citing the same reasons as to why this review application has been served. Their objection is the subject of a separate report to the Licensing Sub-Committee.

4 The Review Application

- 4.1 An application for a review of the premises licence was received on 17th August 2023 from PC Ian Pickett 12274 on behalf of Kent Police.
- 4.2 It is a requirement of the Licensing Act 2003, that the licensing authority advertise the review application, inviting representations from any responsible authority or interested party. The application has been correctly advertised with notices posted at the premises, on the council website and the council offices for the required period of 28 days.
- 4.3 The grounds for the review are the failure of the premises licence holder to promote the licensing objectives of: prevention of crime and disorder and protection of children from harm and breaches of the premises licence conditions. The review application is attached as **APPENDIX II**.
- 4.4 Witness statements and supporting evidence have been submitted by the following police officers:
- a) PC Ian Pickett – shown as **APPENDIX III**
 - b) PC Andre Smuts – shown as **APPENDIX IV**
- 4.5 As part of the review application the Police ask for the following:
- Revocation of the Premises Licence
- 4.6 Members are advised that they may only modify premises licences if it is appropriate to promote the licensing objectives.

5 Representations

- 5.1 At any stage during the 28-day consultation period a responsible authority, a Councillor or an interested party may make representations provided that the grounds are relevant to the licensing objectives and are not deemed vexatious, frivolous or repetitive.
- 5.2 There have been 3 representations from responsible authorities and 15 from interested parties as shown below:

- a) Swale BC licensing team leader acting as a responsible authority in support of the review application– shown as **APPENDIX V**
- b) Kent Trading Standards in support of the review application– shown as **APPENDIX VI**
- c) 15 representations have been received from interested parties some of which are support of the review application and others which support the licence holder– shown as **APPENDIX VII**

6 Determining the application – Options of the Licensing sub-Committee

6.1 Members must, having regard to the application and any relevant representations, take such steps mentioned below as they consider appropriate for the promotion of the licensing objectives. The steps are:

- To take no action;
- To issue a warning or caution;
- 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 3 months;
- To revoke the licence.

6.2 Relevant sections of the Guidance issued under section 182 of the Licensing Act 2003 that Members should take into account are:

- Chapter 2 Licensing Objectives
- Chapter 10 Conditions attached to Premises Licences and Club Premises Certificates
- Chapter 11 Reviews

6.3 Members should also take into account relevant policy statements as contained in the Swale BC Statement of Licensing Policy 2021 – 2026 including specifically section 14: Review of Premises Licence or Club Premises Certificates. This is attached as **APPENDIX VIII**.

7 Implications

Issue	Implications
Corporate Plan	There are links to Priority 3 – Tackling deprivation and creating equal opportunities for everyone. Point 3.4 states “Ensure that the council plays a proactive role in reducing crime and anti-social behaviour including through the modernisation of CCTV provision.

Financial, Resource and Property	There are no direct financial requirements at this time. There is the possibility of a challenge by way of an appeal.
Legal, Statutory and Procurement	<p>Under the Licensing Act 2003 the Licensing Authority has a duty to exercise licensing control of relevant premises.</p> <p>The Licensing Sub-Committee is obliged to determine this application with a view to promoting the four licensing objectives.</p> <p>In making its decision, the Licensing Sub-Committee is also obliged to have regards to the S182 Guidance that accompanies the Licensing Act 2003 and the council's Statement of Licensing Policy.</p> <p>The Licensing Sub-Committee must also have proper regard to the Human Rights Act 1998 in respect to the rights of an individual when making decisions that affect them. However, it also has to have regard to the safety and protection of the public and therefore to ensure that the right balance is found.</p>
Crime and Disorder	<p>Section 17 of the Crime and Disorder Act requires local authorities to consider the crime and disorder implications of their decisions and it is the Licensing Authority's responsibility to co-operate in the reduction of crime and disorder in the Borough.</p> <p>Section 17 of the Crime and Disorder Act 1998 states: "Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it can reasonably can to prevent crime and disorder in its area".</p>
Environment and Climate/Ecological Emergency	No implications
Health and Wellbeing	Anti-social behaviour and noise nuisance can impact on the wellbeing of nearby residents
Safeguarding of Children, Young People and Vulnerable Adults	The protection of children from harm is one of the 4 licensing objectives that underpin the Licensing Act 2003 and must be considered when making decisions on licence applications.
Risk Management and Health and Safety	Departure from the Guidance and Statement of Licensing Policy could lead to an increased risk of appeal. Similarly, if any decision made is not evidence based and proportionate
Equality and Diversity	No implications
Privacy and Data Protection	Normal privacy and data protection rules apply

8 Appendices

8.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Current premises licence – ref: SIT/SWALE/189/0222
- Appendix II: Review Application
- Appendix III: Witness Statement PC Ian Pickett
- Appendix IV: Witness Statement PC Andre Smuts
- Appendix V: Representation Swale BC Licensing Team Leader acting as a responsible authority
- Appendix VI: Representation from Oliver Jewell, Kent Trading Standards
- Appendix VII: Representations from interested parties
- Appendix VIII: Extract of Swale BC Statement of Licensing Policy 2021 - 2026

9 Background Papers

Licensing Act 2003

Home Office Guidance issued under s.182 of the Licensing Act 2003 (as amended)

Swale BC Statement of Licensing Policy 2021 - 2026



Swale Borough Council, Swale House, East Street,
Sittingbourne, Kent, ME10 3HT

Premises licence number
SIT/SWALE/189/0222

Part 1 – Premises details

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

Hawthorn Road Off Licence
16 Hawthorn Road

Post town	Sittingbourne, Kent	Post code	ME10 1BB
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Telephone number	01795 428847
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Where the licence is time limited the dates

No Limitation

Licensable activities authorised by the licence

Sale of Alcohol

The times the licence authorises the carrying out of licensable activities

Monday – Saturday: 08:00 – 23:00
Sunday: 10:00 – 22:30
Good Friday: 08:00 – 22:30
Christmas Day: 12:00 – 15:00 & 19:00 – 22:30

The opening hours of the premises

Monday – Sunday: 10:30 – 22:30
Christmas Day/Boxing Day/ New Year's Day: Closed

24/08/2023

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

Off the premises

Part 2**Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence**

Mr Roopesh Kapoor
16 Hawthorn Road
Sittingbourne
Kent
ME10 1BB
Tel No: 07962 355055

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

N/A

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

Mr Roopesh Kapoor
16 Hawthorn Road
Sittingbourne
Kent
ME10 1BB

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

Licence No: SWALE-PL-0183

Issued by: Swale Borough Council

Annex 1 – Mandatory Conditions**Condition 1**

No supply of alcohol may be made under this licence:-

- (a) At a time when there is no designated premises supervisor in respect of it or
- (b) At a time when the designated premises supervisor does not hold a personal licence or his/her personal licence is suspended.

Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.

Condition 9

- (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 licence 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.

Condition 11

- (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 purpose of the condition set out in paragraph 1:-
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);
 - (b) “permitted price” is the price found by applying the formula:- $P = D + (D \times V)$ 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;

24/08/2023

- (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(7)
- (3) Where the permitted price given by Paragraph (b) of paragraph (2) would (apart from this 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.

Annex 2 - Conditions consistent with the Operating Schedule

Condition 1

- (a) A CCTV system will be installed, or the existing system maintained, such system to be fit for the purpose.
- (b) The CCTV system shall be capable of producing immediate copies of recordings on site. Copies of recordings will either be recorded on good quality videotape or digitally onto CD/DVD or other equivalent medium.
- (c) Any recording shall be retained and stored in a suitable and secure manner for a minimum of 28 days and shall be available, subject to compliance with the Data Protection legislation, to the Police or Officers of the Licensing Authority on request.
- (d) The CCTV system will incorporate a camera covering the entrance door and the licensed areas and will be capable of providing an image which is regarded as identification standard. The precise positions of the cameras may be agreed, subject to compliance with Data Protection legislation, with Police from time to time.
- (e) The system will display, on any recording, the correct time and date of the recording.
- (f) A system will be in place to maintain the quality of the recorded image and a complete audit trail maintained.
- (g) The CCTV system will be maintained so as to be fully operational throughout the hours that the premises are open for any licensable activity.
- (h) Appropriate signage informing customers CCTV is in operation to be displayed. Signage informing customers that they will be asked to produce age identification when purchasing alcohol to be displayed.

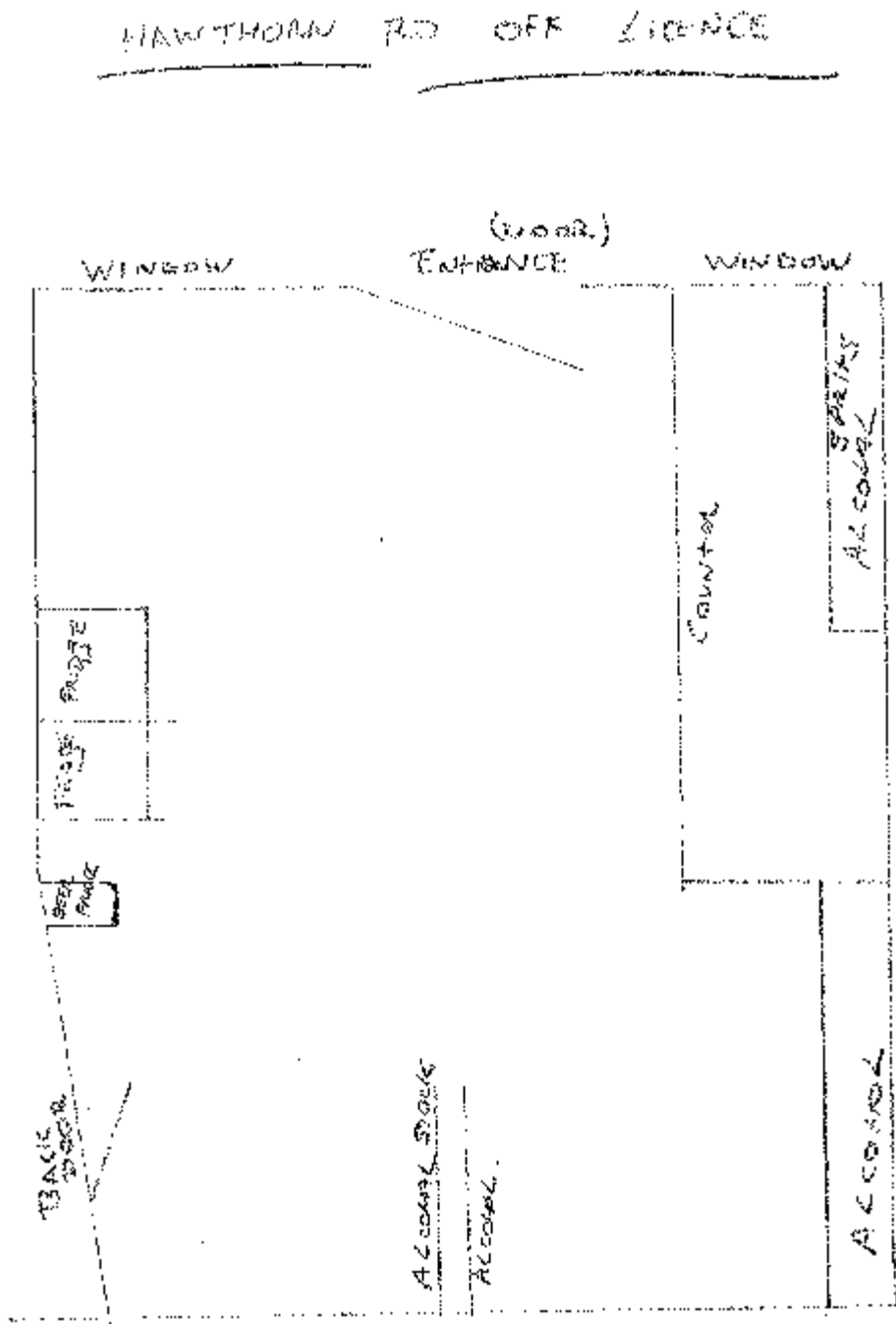
Condition 2

- (a) A refusal/incident book will be kept with details of refusal, time, day and date of event.
- (b) Challenge 21 shall be adopted and relevant signs displayed.
- (c) The premises will be an active member of the Swale Safe radio system

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

N/A

Annex 4 – Plans



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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, PC Ian Pickett apply for the review of a premises licence under Section 51 of the Licensing Act 2003 for the premises described in part I below

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
Best One 16 Hawthorn Road	
Post town Sittingbourne	Post code (if known) ME10 1BB
Name of premises licence holder or club holding club premises certificate (if known)	
Mr Roopesh Kapoor	
Number of premises licence or club premises certificate (if known)	
SIT/SWALE/189/0222	

Part 2 – Applicant details

I am

Please tick yes

- 1) an interested part (please complete (A) or (B) below)
 - a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises
 - d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)

3 a member of the club to which this application relates (please complete (A) below)

Official (when complete)

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

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in a applicable)

Please tick

Mr **Mrs** **Miss** **Ms** **Other title**
(for example, Rev)

Surname

First names

Please tick yes

I am 18 years old or over

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

Official (when complete)

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

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address PC Ian Pickett 12274 North Kent Licensing Team Medway Police Station Purser Way Gillingham ME7 1NE
Telephone number (if any) 01634 792276
E-mail address (optional) ian.pickett@kent.police.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 checked="" type="checkbox"/> |

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

Kent Police provide evidence of Best One, 16 Hawthorn Road, Sittingbourne failing to promote the licensing objectives relating to the prevention of crime and disorder and the protection of children from harm.

Kent Police will also evidence breaches of the premises licence.

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

Please provide as much information as possible to support the application

(please read guidance note 2)

Best One, 16 Hawthorn Road, Sittingbourne is a convenience store, authorised to sell alcohol as follows:-

Monday – Saturday: 08:00 – 23:00

Sunday: 10:00 – 22:30

Good Friday: 08:00 – 22:30

Christmas Day: 12:00 – 15:00 & 19:00 – 22:30

The premises is situated in a residential area, with a barbers next door and is located a short walk from the town centre.

The Premises licence holder is Roopesh Kapoor and the designated premises supervisor is Vijay Kapoor.

The premises licence granted by Swale council has mandatory conditions, as well as conditions on the operating schedule as follows:-

Condition 1

(a) A CCTV system will be installed, or the existing system maintained, such system to be fit for the purpose.

(b) The CCTV system shall be capable of producing immediate copies of recordings on site. Copies of recordings will either be recorded on good quality videotape or digitally onto CD/DVD or other equivalent medium.

(c) Any recording shall be retained and stored in a suitable and secure manner for a minimum of 28 days and shall be available, subject to compliance with the Data Protection legislation, to the Police or Officers of the Licensing Authority on request.

(d) The CCTV system will incorporate a camera covering the entrance door and the licensed areas and will be capable of providing an image which is regarded as identification standard. The precise positions of the cameras may be agreed, subject to compliance with Data Protection legislation, with Police from time to time.

(e) The system will display, on any recording, the correct time and date of the recording.

(f) A system will be in place to maintain the quality of the recorded image and a complete audit trail maintained.

(g) The CCTV system will be maintained so as to be fully operational throughout the hours that the premises are open for any licensable activity.

(h) Appropriate signage informing customers CCTV is in operation to be displayed. Signage informing customers that they will be asked to produce age identification when purchasing alcohol to be displayed.

Condition 2

(a) A refusal/incident book will be kept with details of refusal, time, day and date of event.

(b) Challenge 21 shall be adopted and relevant signs displayed.

(c) The premises will be an active member of the Swale Safe radio system

This premises has had a number of reports of age restricted sales to persons under 18, however at this time, no confirmed sales have taken place from the premises prior to June 2023. There has also been unconfirmed reports of the premises, buying stolen products to sell within the store.

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

Kent police received information regarding allegations of age restricted sales to persons under 18, with the premises licence holder given a written request in July 2023 to provide CCTV footage for 6 time periods over four different dates between 23th June and 4th July 2023.

Mr Kapoor, the premises licence holder subsequently informed Kent police that the CCTV hard drive recording system had not been working but had since been replaced the hard drive with a new system, with the old recording unit, being disposed of.

The premises licence holder assured Kent police that the new system was in full working order.

On 27th July 2023, Kent police, in company with Swale licensing officers and Trading Standards officer, attended the premises where a licensing visit was conducted. Upon entry, a male known to Kent police was present at the counter.

Mr Kapoor admitted during this visit that the DPS, Vijay Kapoor had retired and had not worked at the premises for several years. Condition 1 of the premises licence clearly states:

No supply of alcohol maybe made under this licence:-

- (a) At a time when there is no designated premises supervisor in respect of it or
- (b) At a time when the designated premises supervisor does not hold a personal licence or his/her personal licence is suspended.

Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.

Whilst Kent Police have not witnessed a sale of alcohol when visiting the premises, we can confirm that alcohol is displayed and available for purchase. Any sale of alcohol made since the retirement of the DPS several years ago would be a breach. Swale Council licensing dealt with this by issuing the premises licence holder with a S.19 notice, which was later rescinded after contact from Vijay Kapoor confirming he was resuming his previous role of DPS.

Trading Standards officer present seized a total of 86 illegal vape products, as well as identifying a product containing Isopropyl Nitrate which can be sold as a room odouriser, but is also used as a "popper", but advised that the product can have dangerous side effects if taken without appropriate guidance.

During the visit, Mr Kapoor could not operate the CCTV system correctly, allowing Kent police to see that the CCTV was recording as well as to confirm if any sales of age restricted products had occurred before our arrival. Also, with the knowledge of the male known to Kent police being present at time of our attendance, Kent police asked for footage to be provided. However Mr Kapoor then subsequently advised all footage prior to 5th August had been deleted accidentally.

During visits by Kent police in November 2022, March 2023 & July 2023 the premises licence holder presented the refusal book, which appeared to be have long periods where no refusals were made, entries where the premises was closed or entries had been filled in retrospectively.

Kent police currently have no faith in the premises licence holder that he will ensure that the licensing objectives are upheld. CCTV is a measure that Kent police would expect to be in working order and available for review at a premises of this type, and given the reasons of hard drive not recording and footage being deleted, Kent police are of the opinion that the premises had reason to not provide footage.

The premises licence holder has admitted that the DPS has not been working at the premises for several years, however the DPS advised after the joint agency visit on 27th July, he would be undertaking the role again, however despite Kent police attending on at least 4 separate occasions to the premises since 27th July, the DPS has not been in attendance at any time, leaving the

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

premises in the hands of the premises licence holder, which as stated previously, Kent police do not have any faith in the premises going forward. It seemingly appears that Vijay Kapoor has not resumed the role of DPS and is not in day-to-day control of the premises, and the suggestion that he had resumed in that capacity was to satisfy the local authority and have the S.19 notice rescinded.

It is the understanding of Kent Police that Mr Roopesh Kapoor is currently undertaking the process of obtaining a personal licence with a view to becoming DPS. Kent Police have no faith in his ability to perform the role and promote the licensing objectives.

Kent police ask that the licensing sub-committee review the evidence provided, giving consideration to the seizure of illegal vapes found on the premises, to the alleged sales of aged restricted products to children at this premises and the reasons given by the premises licence holder for the lack of CCTV, the incomplete entries in the refusals book, the admissions made that the premises operated for a significant period without an active DPS and lack of evidence that DPS has been in the premises since resuming the role.

Kent police concerns regarding this premises would not be alleviated by a change of DPS or addition of premises licence condition and therefore seek revocation of the premises licence.

Official (when complete)

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

Please tick yes

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day		Month		Year			
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

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

Official (when complete)

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

Please tick yes

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

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

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

Signature: PC Ian Pickett 12274
.....

Date: 17th August 2023
.....

Capacity: Licensing Officer, Kent Police.
.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)	
Post town	Post code
Telephone number (if any)	
If you would prefer us to correspond with you using an e mail address your e mail address (optional)	

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

OFFICIAL

WITNESS STATEMENT

Criminal Procedure Rules, r 16.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

46

Statement of: **Ian Pickett PC 12274**Age if under 18: **Over 18** (if over 18 insert 'over 18') Occupation: **Police officer**

This statement (consisting of 8 page(s) each 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.

Signature: **Ian Pickett PC 12274**Date: **15th August 2023**Tick if witness evidence is visually recorded (supply witness details on rear)

This statement is being made in relation to my visits to Best One store, 16 Hawthorn Road, Sittingbourne, Kent and my interactions with the premises licence holder, Roopesh Kapoor and the designated premises supervisor, Vijay Kapoor.

I have been a police officer for 21 years and carried out the role of a police licensing officer for 2 years, all within Kent police, working for the North Division licensing team.

This premises currently has a premises licence for the sale of alcohol, granted by Swale council which was last been amended in 2017, according to our police database, which apart from the mandatory conditions, also had conditions on the operating schedule in relation to CCTV, use of refusals log, Challenge 21 and member of Swale Safe radio system.

Prior to March 2023, I was aware of a visit made by my colleague, PC Smuts at the premises in November 2022.

This premises has a number of reports of sales of age restricted products from the premises, to under age persons however as far as I am aware, none have been substantiated by means of witness statement, CCTV or other means.

I am aware of previous visits by Trading standards where test purchases have been attempted, but no sale was made.

On 3rd March 2023, I attended the Best One store, in order to investigate information that a juvenile had purchased age restricted products at the store on 4th February 2023 between 0900-1200 hours.

Signature: **Ian Pickett PC 12274**Signature witnessed by: **N/A**

Continuation page 2

URN

46

Continuation statement of: **Ian Pickett PC 12274**

Mr Roopesh Kapoor was present and denied any sales, stating he would have been closed at the times I asked about as the premises did not open until 1200 hours. A sign on the front door of the premises, showing times that the premises was open, was on display, showing that the premises was open from 1200-2000 hours, Monday to Saturday. I took a photograph of this sign which I exhibit as IWP/1.

I asked to see the refusals book, which Mr Kapoor provided and saw that the last entry was 25th January 2023. I took photographs of the last two pages, which I exhibit as IWP/2 & IWP/3.

When I asked Mr Kapoor why there was such a long time, since the last entry in the book, considering it was now 3rd March, he told me this was how it was. While I was in the premises, two young females came into the store, and asked to buy a vape product however when challenged for identification by Mr Kapoor, the two females then left, without any products.

After my attendance at the store, I was provided CCTV footage by Mr Kapoor which showed the premises was closed on 4th February between 0900-1200 hours, so believed the information I had been provided was incorrect.

On 6th July I was made aware by a colleague, PC Topham of a number of dates in relation to alleged sales of age restricted products from the premises to persons under 18 years of age.

On 14th July, I attended the store and on entering the premises, a male was at the counter and asked Mr Kapoor for a vape, however there was no sale as this male could provide no identification.

This male was approximately 17-18 years of age.

Once this male had left, I gave Mr Kapoor a letter, detailing what footage I wanted him to provide from the CCTV system that was in operation within the store. The date range was from 23rd June to 4th July 2023, which I believed was well within the 28 days retention period for the premises licence condition in relation to CCTV.

Signature **Ian Pickett PC 12274**Signature witnessed by **N/A**

Continuation page 3

URN

46

Continuation statement of: **Ian Pickett PC 12274**

The dates and times within the letter, were provided with a view to being proportionate and not too onerous on Mr Kapoor, however I believed were specific enough to allow footage that was provided to allow me to investigate each date, in order to confirm if a sale had taken place.

A copy of this letter I exhibit as IWP/4.

Mr Kapoor also told me during my attendance at the store, that he was not at fault, believing that proxy sales to under age persons by another person was a factor, as well as blaming parents buying for their children as well as on line sales.

I again asked to see the refusals register, which had been recorded on a loose, plain piece of paper with the last entry of 30th June. I took a photograph of this page at the time of my attendance, which I exhibit as IWP/5. I advised Mr Kapoor to obtain a new refusals book, in order that any future entries are recorded and retained properly.

On 18th July 2023, Mr Kapoor contacted me regarding provision of CCTV, stating there had been an issue accessing the footage and his CCTV engineer was due to attend later that day, in order to access the system. He again went onto to state other persons were at fault, selling vapes to under age persons rather than himself. He explained how he had been blamed for litter outside the premises, which he believed were from fast food restaurants in the local area and not his store. He said he tried to do the right thing, by removing the packaging from vapes, both cellophane and box, so that these were not dropped by persons when they left the store.

On 19th July, Mr Kapoor text to advise me that the CCTV engineer had not attended on 18th July and was due to attend later that day so he would update me when the engineer had attended.

On 20th July, I text Mr Kapoor, asking for an update in relation to the CCTV. Mr Kapoor replied, telling me that the CCTV engineer had not been able to retrieve any recordings, as the hard drive had stopped working. On trying to call Mr Kapoor, I could not speak with him however I text him to say that as no CCTV in operation, then no sale of alcohol should occur.

Signature **Ian Pickett PC 12274**Signature witnessed by **N/A**

Continuation page 4

URN

46

Continuation statement of: **Ian Pickett PC 12274**

On Friday 21st July, Mr Kapoor told me by telephone that the CCTV system had been replaced and was in working order. When I asked to collect the old hard drive, in order that I could submit the hard drive to Kent police digital forensics unit for them to analyse, I was told that the hard drive had already been disposed of.

On 27th July 2023, I was present with PC Topham at Sittingbourne police station, when we then had cause to attend the Best One store, in company with Oliver Jewell, Trading Standards as well as Christina Hill and Joanne Thomas from Swale Council licensing team. PC Topham had told me that there were youths outside the store, with at least one using a vape. With this in mind, I wanted to review any CCTV from within the store, in order to prove or disprove if the youth had purchased the vape from the store. I also wanted evidence that the CCTV system was recording correctly.

When we entered the store, a male was stood at the counter, carrying a bag and appeared to be speaking with Mr Kapoor, with at least one £5 note on the counter. I assumed this male was paying for an item or items he had purchased.

While within the store, Mr Kapoor was spoken to by Christina Hills regarding the role of DPS and he admitted that his father, Vijay Kapoor had not worked at the premises for a number of years, having retired from working at the premises.

Oliver Jewell asked to review products behind the counter and was allowed access by Mr Kapoor.

Once the issue of the DPS had been explained and documentation issued by Christina Hills, Oliver Jewell stated a number of illegal vapes had been seized by him as well as pointing out other items, such as small deal bags and behind the counter.

I then spoke to Mr Kapoor, telling him I wanted to review CCTV footage from approximately 1330 hours, however after several attempts, Mr Kapoor was unable to show me the footage, so I asked him to provide the footage as requested by Wednesday 2nd August.

Signature **Ian Pickett PC 12274**Signature witnessed by **N/A**

Continuation page 5

URN

46

Continuation statement of: **Ian Pickett PC 12274**

I also took three photos of the refusals book, which were like before, loose, plain pages, with entries from 3rd July to 26th July. These pages I exhibit as IWP/6, IWP/7 & IWP/8.

After leaving the premises, I was informed by PC Topham that the male at the counter, I had seen upon entering the premises, was known to him, which then gave me further cause to obtain the CCTV prior to our visit, in order to clarify what had occurred between Mr Kapoor and this male.

To facilitate Mr Kapoor providing CCTV footage, I sent him a link via the Kent police Digital Asset Management System (DAMS) to his mobile phone number, following this up with a further text message, informing him I required footage from both inside and outside the store. This link allows a premises or member of the public, to submit CCTV footage to Kent police via an online cloud system. On Wednesday 2nd August, I hand delivered a letter to the premises, detailing how I believed there had been breaches of the premises licence, in particular to CCTV, however as the premises was not open, I left the letter in the premises post box. Later the same morning, I emailed Mr Kapoor using an email address, that Mr Kapoor had provided on our visit on 27th July, sending him a copy of the letter as well as reminding him that no CCTV had been provided by him. A copy of this letter I exhibit as IWP/9.

Despite telling Mr Kapoor I wanted to obtain CCTV footage by 2nd August, I had no reply from him via the DAMS link or my letter I had hand delivered/sent by email, so on Thursday 3rd August I attended the premises, where Mr Kapoor was present, however the DPS, Mr Vijay Kapoor was not. I was advised that the DPS had been in the premises for the last four days, but was now off work and would be away for four days the next week.

Mr Kapoor advised me that he needed to download the CCTV footage via a USB stick, so told him I would deliver one in the next few days.

Signature **Ian Pickett PC 12274**Signature witnessed by **N/A**

Continuation page 6

URN 46

Continuation statement of: **Ian Pickett PC 12274**

On Friday 4th August, I attended the premises and handed a USB stick to Mr Kapoor, making him aware of the CCTV footage I required, advising him I would return on Wednesday 9th August to collect the footage. The DPS was not present on this occasion.

On Tuesday 8th August, I returned to work after three rest days, where I found I had received an email notification, received on 5th August at 16:41 hours, that Mr Kapoor had submitted CCTV evidence to DAMS, which I then reviewed to find only the outside camera view, overlooking the exit and parking area outside, had been provided. The footage showed a timing difference, show a start time of 12:33:04, meaning the timing of the CCTV was approximately an hour out.

No other camera views were provided despite what I had requested, so I then intended to visit the premises on 9th August in order to clarify with Mr Kapoor why only one camera view had been provided. When I started work on 9th August, I checked my work mobile phone, to find a text from Mr Kapoor, which I have copied as follows:-

“Hi Mr Pickett, In regards to your request for CCTV on the 27th July I have sent you the footage via the link you sent me for 20 mins before you arrived. However due to issues I was having with operating the system (not being technologically minded) only the exit camera was available To send. However going forward, since then I have to the best of my ability undertaken training on how to operate the system fully and refreshed myself with the terms of my premises licence conditions. Also the DBS check has been completed...personal policy training course is being done...and Dps consent form being completed. Thanks, Roop Kapoor.”

In order to clarify why only the outside camera was provided, I attended the premises on 9th August where Mr Kapoor was present but without the DPS. Mr Kapoor told me he had been “messaging about” with the CCTV system, in order to provide me with the relevant footage, when he deleted all footage prior to 5th August. The CCTV engineer who had installed the new system had then told him what to do, in order to provide the relevant footage, but it was only then he realised that camera views 2 and

Signature **Ian Pickett PC 12274**Signature witnessed by **N/A**

Continuation page 7

URN

46

Continuation statement of: **Ian Pickett PC 12274**

3 had all been deleted. He also advised me that the timing had been adjusted as this had been wrong on the previous footage provided.

As the DPS was not present, I asked where he was and Mr Kapoor then told me he had gone away, leaving on Saturday 5th August, returning on Saturday 12th August. He also advised me that he had found two more vapes, which he believed to be illegal had not been taken during our visit on 27th July so advised him to retain them, to allow a colleague of mine to seize them.

On 14th August, I attended the premises to seize the vapes as my colleague had been unable to assist with the seizure of the vapes, as well as to confirm if the DPS was present. On approaching the premises, a male juvenile, approximately 14 years of age, entered the premises ahead of me. This juvenile asked for a vape, but was refused by Mr Kapoor as he had no identification. Mr Kapoor was present and handed over two vapes, which I seized. The DPS was not present and Mr Kapoor advised that the DPS was not well. Mr Kapoor tried to contact him but I was advised he was asleep, so I asked that the DPS call me when he was awake.

At 1848 hours, I received a phonecall from the DPS, Vijay Kapoor on my work mobile. Mr Vijay Kapoor confirmed that he was not able to attend the premises, but intended to be back in the premises by the coming weekend. When I asked the last time, he had been in the premises, he advised it had been the Saturday before, meaning 5th August. He also told me that he had been away since Tuesday 8th August, returning on Saturday 12th August. He stated that he was aware of his responsibilities as a DPS as he had been involved in owning premises of this sort for 50 years.

At the time of writing this statement, at no time have I seen Mr Vijay Kapoor within the premises.

No CCTV has been provided from the premises, with the premises licence holder, Mr Roopesh Kapoor providing different reasons as to why this was not provided.

On review of the different pages of the refusals logs, anomalies have come to light, such as on my visit on 14th July, I took a photo of the refusal log (IWP/5), which showed the last entry of 30th June,

Signature **Ian Pickett PC 12274**Signature witnessed by **N/A**

Continuation page 8

URN

46	
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Continuation statement of: **Ian Pickett PC 12274**

however when I attended on 27th July and took further photos of the refusal log, there were two entries dated 3rd July on the first page (IWP/6), meaning these entries were added retrospectively after my visit.

Also, on the refusal log (IWP/5) there are two entries dates 11th June, however on checking this date in 2023, this is a Sunday and Mr Kapoor has told me the premises does not open and this was confirmed by sign on the door (IWP/1) during my visit in March.

During both my visits and the visit by PC Smuts, there have been extended periods where no refusals have occurred however on several of my visits to the premises, there have been persons either in the premises or entering the premises, with a view to purchasing age restricted products, who were refused. As such, I would have expected that the gaps between each refusal would be days, rather than weeks.

Signature **Ian Pickett PC 12274**

Signature witnessed by **N/A**

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ed for th
ty and c

NEW OPENING HOURS

MON - 12pm till 8pm

TUES - 12pm till 8pm

WED - 12pm till 8pm

THURS - 12pm till 8pm

FRI - 12pm till 8pm

SAT - 12pm till 8pm

SUN - CLOSED

AGES
SHOP
ME
YOU

KITCHEN PORTER
FRONT OF HOUSE
DELIVERY DRIVER WANTED
FOR LOCAL INDIAN TAKEAWAY
CONTACT SCARLETT
07906 496242

King & Sons
Commercial Vehicles
Fuel & Fleet Services
Call Mr. King on
07928 169 828

TASK
HAVE ID

Continuing

Page 12

Date	Time	Sex	Approx Age	Frictions	Search	Initials
10-1	3:10	(M) F	Under (18) 19-25	A T (S)	NO ID	RK
10-1	3:30	M (F)	Under (18) 19-25	A T (S)	"	"
11-1	3:15	(M) F	Under (18) 19-25	A T (S)	"	"
11-1	3:30	M (F)	Under (18) 19-25	A T (S)	"	"
11-1	4:00	(M) F	Under (18) 19-25	A T (S)	"	"
12-1	3:45	M (F)	Under (8) 19-25	A T (S)	"	"
12-1	4:15	(M) F	Under (8) 19-25	A T (S)	"	"
12-1	5:00	(M) F	Under (8) 19-25	(A) T (S)	"	"
12-1	5:15	M (F)	Under (8) 19-25	A T (S)	"	"
13-1	3:40	(M) F	Under (8) 19-25	A T (S)	"	"
13-1	4:20	M (F)	Under 18 / (19-25)	A T (S)	"	"
13-1	5:00	(M) F	Under (18) 19-25	A T (S)	"	"
13-1	5:30	M (F)	Under (8) 19-25	(A) T (S)	"	"
14-1	12:15	M (F)	Under (8) 19-25	A T (S)	"	"
14-1	2:00	M (F)	Under (8) 19-25	A T (S)	"	"
14-1	2:45	M (F)	Under (8) 19-25	A T (S)	"	"
14-1	4:15	M (F)	Under (8) 19-25	A T (S)	"	"
16-1	3:30	(M) F	Under (18) 19-25	A T (S)	"	"
16-1	4:20	M (F)	Under (18) 19-25	A T (S)	"	"
16-1	4:40	(M) F	Under (18) 19-25	A T (S)	"	"
17-1	3:55	(M) F	Under (18) 19-25	A T (S)	"	"
17-1	5:05	M (F)	Under (18) 19-25	A T (S)	"	"
17-1	5:15	(M) F	Under (18) 19-25	A T (S)	"	"
18-1	4:05	M (F)	Under (18) 19-25	A T (S)	"	"

Checked by _____ Date _____

Date	Time	Male	Under 18	Alcohol	eg no ID	Staff to
eg 5/9		Female	19 to 25	Tobacco		initial
				Other		

Refusal Register

Page 13

Date	Time	SEX	Approx Age	Products	Reason	Initials
18-1	4:15	(F)	Under (18)	A T O	NO ID	RK
18-1	4:40	(F)	Under (19)	A T O	"	"
19-1	5:15	(F)	Under (19)	A T O	"	"
19-1	5:40	(F)	Under (18)	A T O	"	"
20-1	3:45	(M)	Under (18)	A T O	"	"
20-1	4:00	(F)	Under (18)	A T O	"	"
20-1	5:00	(F)	Under (18)	A T O	"	RK
21-1	1:00	(F)	Under (18)	A T O	"	"
21-1	1:45	(F)	Under (18)	A T O	"	"
21-1	2:30	(F)	Under (18)	A T O	"	"
23-1	3:50	(F)	Under (18)	A T O	"	"
23-1	4:15	(F)	Under (18)	A T O	"	"
24-1	1:00	(F)	Under (18)	A T O	"	"
24-1	1:00	(F)	Under (18)	A T O	"	"
25-1	3:55	(F)	Under (18)	A T O	"	"
25-1	4:20	(F)	Under (18)	A T O	"	"
		M F	Under 18 / 19-25	A T O		
		M F	Under 18 / 19-25	A T O		
		M F	Under 18 / 19-25	A T O		
		M F	Under 18 / 19-25	A T O		
		M F	Under 18 / 19-25	A T O		
		M F	Under 18 / 19-25	A T O		
		M F	Under 18 / 19-25	A T O		
		M F	Under 18 / 19-25	A T O		

Checked by

Date

Date eg 5/9	Time	Male Female	Under 18 19 to 25	Alcohol Tobacco Other	eg no ID	Staff initial
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Police**

Protecting and serving the people of Kent

Medway Police Station
Purser Way
Gillingham
Kent
ME71NE

Tel: 07980700435

Licensing.north.division@kent.police.uk

13th July 2023

Dear Mr Kapoor

I am writing to request CCTV footage for the following dates for your premises, Best One, 16 Hawthorn Road, Sittingbourne, Kent.

23/06/23 – 12:05-12:25
26/06/23 – 12:00-12:20 & 15:50-16:10
01/07/23 – 18:45-19:15
04/07/23 – 12:00-12:20 & 16:15-16:35

This request is in relation to allegations of sales of age restricted products at your premises on the dates and times concerned.

As there are a number of dates, I can send you a link via email or text in order that these are uploaded without the need for a USB stick or disc. Please can the CCTV be direct from your CCTV system and not recorded by another device from a computer or phone screen.

I will remind you that failure to provide the relevant CCTV footage will be in breach of a condition on your premises licence and may result in enforcement action by Kent police which could lead to a full review of the premises licence.

Please let me know if you require a link to be sent to you, for the CCTV to be provided.

Your sincerely

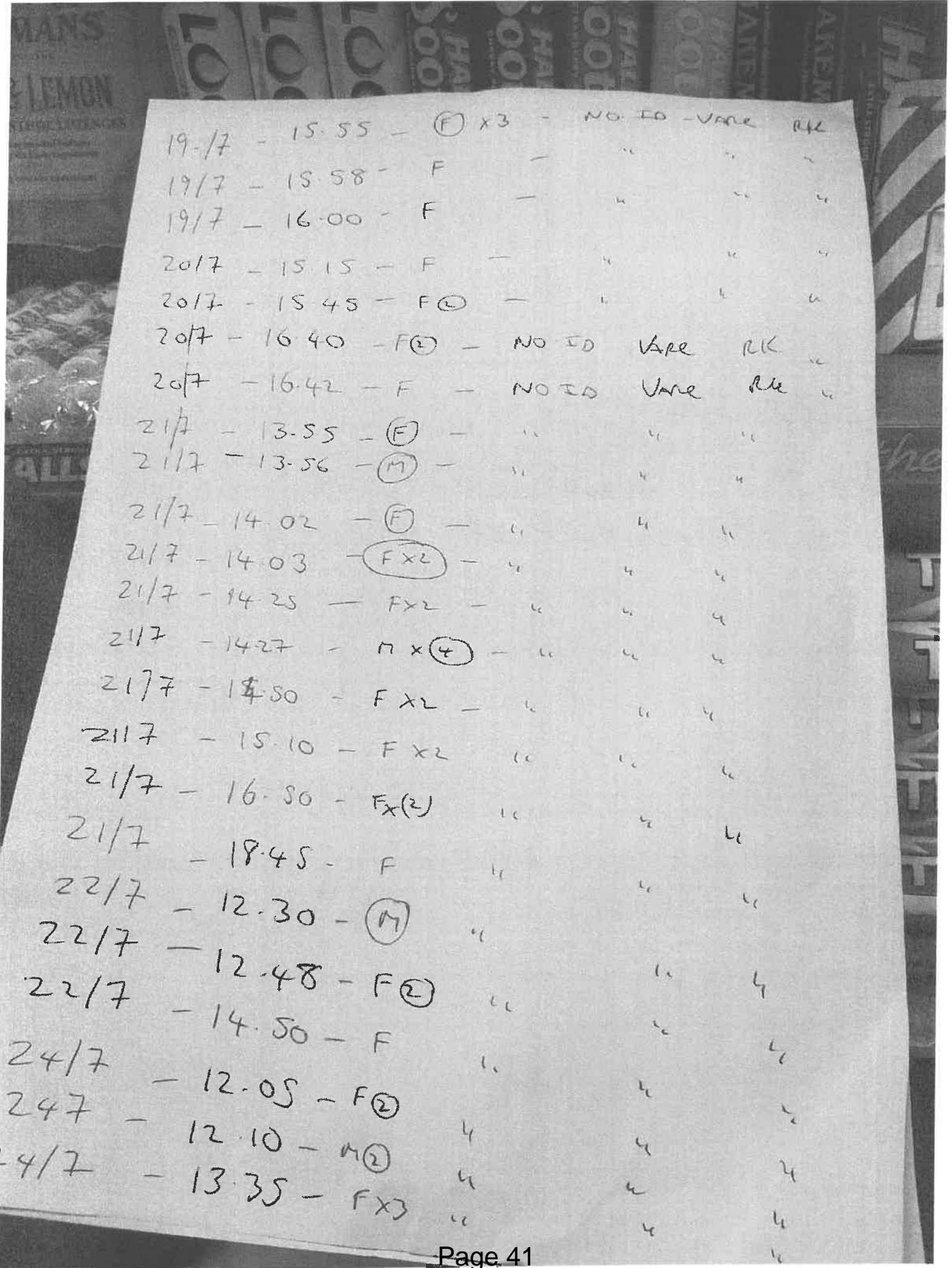
A handwritten signature in black ink that reads 'Ian Pickett' followed by some illegible scribbles.

PC Ian Pickett 12274
Licensing Hub
Strategic Prevention Command

Date	Time	Day	Substance	NO	IP	RU
30-5	3.10	F	Vape			
31-5	12.30	M	"			
1-6	2.45	F	"	4		
2-6	3.50	M	"	4		
3-6	4.10	M	"	4		
7-6	3.45	M	"	4		
9-6	5.15	F	"	4		
9-6	7.30	F	"	4		
11-6	3.55	F	Alcohol / Vape			
11-6	4.15	F	Vape			
13-6	4.30	M	Vape			
15-6	1.20pm	M	"			
16-6	5.30pm	M	Vape			
17-6	7.00pm	M	"			
20-6	3.55pm	F	"			
21-6	4.40	F	Vape	4		
24-6	6.45	M/F	4 / Vape	4		
26-6	5.40	M	Vape			
28-6	3.50	M	Vape			
30-6	4.15	F	Vape			
30-6	6.15	M	Alcohol / Vape			

3/7 - 15 45 - (F) x2 NO ID VAPOR RIK
 3/7 - 15 50 - (M) NO ID - VAPOR RIK

Date	Time	Gender	Notes	ID	Substance	Result
14/7	12:30	(M)		NO ID	VAPOR	RIK
14/7	13:30	(M)		"	VAPOR	RIK
"	13:30	(F)		"	ALCOHOL	RIK
"	13:30	(M)		"	VAPOR	"
"	15:20	(M)		"	"	"
"	15:45	(F)		"	"	"
17/7	15:10	(M)		"	"	"
17/7	15:15	(M)		"	"	"
17/7						
17/7	15:30	(F) x3		"	"	"
17/7	15:35	M x2		"	"	"
17/7	15:45	F		"	"	"
17/7	15:50	F		"	"	"
17/7	15:55	F x2		"	"	"
17/7	16:15	M/F		"	"	"
17/7	16:15	M		"	"	"
17/7	16:45	F		"	"	"
18/7	16:15	M/F (2)		"	"	"
18/7	16:20	M (2)		"	"	"
19/7	12:15	(F)		"	"	"



Date	Time	Refusal	NO. ID	VARE	RLK
19/7	15.55	(F) x3	-	-	-
19/7	15.58	F	-	-	-
19/7	16.00	F	-	-	-
20/7	15.15	F	-	-	-
20/7	15.45	F(2)	-	-	-
20/7	16.40	F(2)	NO ID	VARE	RLK
20/7	16.42	F	NO ID	VARE	RLK
21/7	13.55	(F)	-	-	-
21/7	13.56	(M)	-	-	-
21/7	14.02	(F)	-	-	-
21/7	14.03	(FX2)	-	-	-
21/7	14.25	FX2	-	-	-
21/7	14.27	M x (4)	-	-	-
21/7	14.50	FX2	-	-	-
21/7	15.10	FX2	-	-	-
21/7	16.50	FX(2)	-	-	-
21/7	18.45	F	-	-	-
22/7	12.30	(M)	-	-	-
22/7	12.48	F(2)	-	-	-
22/7	14.50	F	-	-	-
24/7	12.05	F(2)	-	-	-
24/7	12.10	M(2)	-	-	-
24/7	13.35	FX3	-	-	-

24/7	- 17.07	- (F)	- No JD	VME	- ALK
25/7	- 12.00	- M/F	- "	"	- "
25/7	- 12.30	- F(3)	- "	Vodka	"
25/7	- 13.15	- M	- "	VME	"
"	- 13.17	- M	- "	"	"
"	- 13.24	- M(2)	- "	"	"
"	- 14.45	- M(3)	- "	"	"
26/7	- 13.10	- M	- "	"	"
26/7	- 13.17	- F	- "	"	"
26/7	- 13.47	- F	- "	"	"



**Kent
Police**

Protecting and serving the people of Kent

Medway Police Station
Purser Way
Gillingham
Kent
ME71NE

Tel: 01634 792733

Licensing.north.division@kent.police.uk

1st August 2023

Dear Mr Kapoor

On 14th July 2023 I made a visit to your premises and hand delivered a letter, detailing what dates I required of CCTV footage in relation to alleged sales of age restricted products. After this visit, I spoke with you on 18th July to confirm if CCTV was available, during which you advised me that the engineer would be visiting later that day however returned on 19th July and found that the system had not been recording and so a replacement hard drive was to be installed, however the correct length cable was not available so one ordered from Amazon. Despite you knowing that I wanted the relevant CCTV footage, it was not until 20th July when I made contact with you that I was made aware by text that the hard drive had not been recording. It was not until 21st July that I spoke with you, in order to clarify the issue of the hard drive not recording footage.

Despite your reasoning that there was no way of you knowing of the failure of the hard drive and this should be taken in mitigation, if I refer to condition 1 part g of the operating schedule for the premises licence for your store, this states "*the system should be maintained so as to be fully operational throughout the hours that the premises are open for any licensable activity.*"

Also, when I visited the premises with Swale licensing and trading standards on 27th July 2023, you could not work the CCTV correctly and as such, believe you would not be able to provide CCTV footage as condition 1 part b states "*The CCTV system shall be capable of producing immediate copies of recordings on site. Copies of recordings will either be recorded on good quality videotape or digitally onto CD/DVD or other equivalent medium.*"

A CCTV link was sent later on 27th July to yourself to provide CCTV footage prior to our visit on 27th July from 1330 hours, however at the time of writing this letter, no CCTV footage has been received.

I must remind you that the premises licence conditions are there for you as the premises licence holder to ensure they are complied with. I would urge you to ensure that you refresh yourself with what the conditions are and ensure full compliance going forwards. Any failure to comply with premises licence conditions could result in enforcement action by Kent police and could lead to a full review of the premises licence.

If you have any questions or concern, then please feel free to contact the North Division Licensing Unit using either the telephone number or email address above.

Your sincerely

PC Ian Pickett 12274
Licensing Hub
Strategic Prevention Command

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OFFICIAL**WITNESS STATEMENT**

Criminal Procedure Rules, r 16.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

46

Statement of: **PC 11250 Andre Smuts**.....Age if under 18: **Over 18** (if over 18 insert 'over 18') Occupation: **Constable**.....

This statement (consisting of 2 page(s) each 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.

Signature: **PC 11250 A. Smuts**..... Date: **15th August 2023**Tick if witness evidence is visually recorded (supply witness details on rear)

On Friday 4th November 2022, approximately 1945 hours I was on duty, in plain clothes when I attended Best One Off Licence, 16 Hawthorne Rd, Sittingbourne. Upon arrival I introduced myself to a male I now know to be Mr Roopesh KAPOOR. He confirmed to me that he was the manager and premises licence holder and that he was the only person who worked at the shop. The reason why I wished to ascertain this detail was to determine whom would have been responsible in allegedly selling nicotine products to underage children. This information which had been received from colleagues at Swale Council Licensing Dept. was the reason for my visit to the shop.

After I informed him of the reason for visit and he explained he would always check IDs of anyone buying alcohol, cigarettes and vapes. On occasion he has parents entering the shop with their children buying them vapes in the mistaken belief that it is not harmful. He produced a list of purchases with dates and times of parents buying vapes for their children, the last entry was being 01/10/22. He recently had a parent coming in demanding why he had sold their child a vape. He asked the parent to produce the child so he could ask them. The child was brought in, and they changed their story saying that their older friend had bought it for them, but they had not wanted to get them into trouble. I then inspected and signed off the shop's refusal register, it's last entry being on 20/09/22. As this entry was made a month and a half (45 days) before my visit I advised KAPOOR re keeping the

PC 11250 A. Smuts

N/A

Signature:

Signature witnessed by:

OFFICIAL

Continuation page 2

URN

46

Continuation statement of:

register up to date.

KAPOOR then showed me his fully working CCTV which covered the whole shop. KAPOOR mentioned the likelihood of the shop being converted into residential flats in the near future as he had been granted planning permission. He also said that he only operates between 1100 and 2000 daily due to a lack of business.

I concluded the visit informing him that he should carry out his business with the licensing objectives in mind and reiterating that the Authority, Kent Police and Trading Standards were going to monitor the premises going forward. PC 11250 A. Smuts

PC 11250 A. Smuts

N/A

Signature

Signature witnessed by

Lorraine Crowley

From: Licensing (SBC)
Subject: APPENDIX V

From: Chris Hills <ChrisHills@Swale.gov.uk>
Sent: 07 September 2023 16:52
To: Licensing (SBC) <Licensing@swale.gov.uk>
Subject: Best One, 16 Hawthorn Road, Sittingbourne, Kent ME10 1BB

Good afternoon

I refer to the application made by Kent Police for a review of the premises licence granted under the Licensing Act 2003 in respect of Best One off-licence, 16 Hawthorn Road, Sittingbourne, Kent ME10 1BB – reference SIT/SWALE/189/0222.

Acting in the role as a responsible authority under the Licensing Act 2003, I wish to make a representation in support of the review application on the grounds that the premises licence holder Roopesh Kapoor has failed to comply with a mandatory condition on the premises licence, namely that for a period of approximately 3 years there was no Designated Premises Supervisor at the premises to authorise all sales of alcohol and to be in day to day management control of the premises.

To support my representation, I attach a witness statement and 3 exhibits.

Yours sincerely

Christina Hills

Christina Hills
Licensing Team Leader

Tel: 01795 417286 | Email: chrishills@swale.gov.uk | Website: www.swale.gov.uk
Swale Borough Council | Swale House | East Street | Sittingbourne | Kent | ME10 3HT

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WITNESS STATEMENT
(Criminal Procedure Rules 2015, r16.2; Criminal Justice Act 1967 s.9),

Statement of: Christina Hills	
Age if under 18: OVER 18	Occupation: Licensing Team Leader

This statement consisting of 3 pages each 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.

I am the above-named person and I am employed by Swale Borough Council as Licensing Team Leader. This statement is being made in relation to a visit to Best One off-licence, 16 Hawthorn Road, Sittingbourne, Kent ME10 1BB and my interaction with the premises licence holder, Roopesh Kapoor.

I have been a licensing officer since 2005 and have been employed by Swale Borough Council for 6 years.

Best One off-licence has the benefit of a premises licence granted under the Licensing Act since 2005. The licence is to allow the sale of alcohol off the premises. The licence was last amended in 2017 and the persons responsible for the operation of the premises are Roopesh Kapoor who is the premises licence holder and Vijay Kapoor who is the Designated Premises Supervisor (DPS). The role of the DPS is to have day to day management control of the licensed premises.

Prior to July 2023 the licensing team had been made aware of a number of complaints made to Kent Police and to Trading Standards, mainly regarding allegations of sales of tobacco products and vapes to underage persons but also to the sale of alcohol to underage persons.



Signature:

Dated: 7th September 2023

It is my understanding that officers from Trading Standards had previously carried out test purchase operations at the store but that no sales were made.

On 4th November 2022 the premises were visited by PC 11250 Andre Smuts following a request by myself to see if there may be any basis to these allegations. PC Smuts reported back that he had spoken to Roopesh Kapoor who had confirmed that he was the only person working at the shop. He also advised Roopesh Kapoor regarding his obligations to uphold the licensing objectives and that Kent Police, Trading Standards and Swale licensing would be monitoring the premises.

On Thursday 27th July 2023 a multi-agency visit was made to Best One involving PC Ian Pickett and PC Marcus Topham, Oliver Jewell, Kent Trading Standards, Johanna Thomas, Swale BC licensing and myself.

I spoke to Roopesh Kapoor and asked of the whereabouts of Vijay Kapoor and whether I could speak to him. Roopesh queried why I wanted to do so, and I explained that as Vijay was the DPS and therefore the person in day-to-day management control it was important that I could speak to him in this regard. Roopesh then confirmed that Vijay had retired approximately 3 years ago. I explained to Roopesh that this meant that in actual fact all alcohol that had been sold at the premises from the time Vijay Kapoor was no longer working, had been illegal, and I showed him the mandatory condition on all premises licences which states:


Annex 1 – Mandatory Conditions

Condition 1

No supply of alcohol may be made under this licence:-

- (a) At a time when there is no designated premises supervisor in respect of it or
- (b) At a time when the designated premises supervisor does not hold a personal licence or his/her personal licence is suspended.

Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.



Signature:

Dated: 7th September 2023

I then produced an Unlicensed Premises Closure Notice under Section 19 Criminal Justice and Police Act 2001 (as amended by the Licensing Act 2003) which can be served on premises where there has been an unlawful sale of alcohol in the previous 24 hours. This is exhibited as EX I.

The effect of such a notice is that all licensable activities at the premises should cease immediately although all other activities can continue. An authority then has between 7 days and 6 months to seek a Closure Order from the Magistrates' Court if the circumstances that led to the Closure Notice being served in the first place are not remedied.

I asked Roopesh Kapoor if he wished to sign this which he did. He confirmed that he understood what this meant, and he confirmed that he did and that he would shut the premises immediately which he did.

Oliver Jewell then engaged Roopesh in conversation about the illegal vapes that he had found within the store and PC Pickett wished to view the CCTV evidence so Johanna and myself then left the premises.

At 20:35 on Thursday 27th July 2023 Vijay Kapoor emailed me to confirm that he would resume his position as DPS at the premises and when not at the premises he would be contactable. This is exhibited as EX II.

On Friday 28th July 2023 I emailed Vijay Kapoor to confirm that the S19 Closure Notice was now lifted, and alcohol sales could resume. This is exhibited as EX III.

Subsequent to this on 23rd August 2023 Roopesh Kapoor submitted an application for the grant of a personal licence to him under the Licensing Act 2003. This application was processed the same day and a licence issued to him with the reference SWALE-PL-2313.

On 24th August 2023 Roopesh Kapoor submitted an application for a variation to the Designated Premises Supervisor role of premises licence SIT/SWALE/189/0222 so that he could take up this position. The Licensing Act 2003 allows for this change to come into immediate effect, so an amended licence was issued the same day to show that Roopesh Kapoor was now both the premises licence holder and the DPS.

However, the police have 14 days in which to lodge an objection to the DPS variation which they did on 27th August 2023. The police cited the same grounds as those that they have submitted a review application of the premises licence. This will now be the subject of a hearing of the Licensing Sub-Committee to determine whether Roopesh Kapoor is suitable to remain the DPS at the premises.

END OF STATEMENT



Signature:

Dated: 7th September 2023



UNLICENSED PREMISES – CLOSURE NOTICE

Section 19 Criminal Justice and Police Act 2001
as amended by Licensing Act 2003

Premises Name: Best One, Hawthorn Road Off Licence

Address: 16 Hawthorn Road, Sittingbourne, Kent ME10 1BB

Grounds for Notice - to make a closure notice under Section 19 a local authority must be satisfied that any premises are being, or within the last 24 hours have been, used for the unauthorised sale of alcohol in contravention of section 136 of the Licensing Act 2003

Reasons for Notice

(Specify the alleged use and the steps that will have to be taken to ensure the alleged use of the premises ceases or, as the case may be, does not occur –S19(6))

There is no valid Designated Premises Supervisor in place for the premises which is in contravention with mandatory conditions imposed on a premises licence granted under the Licensing Act 2003 – Reference SIT/SWALE/189/0222

Details of Council officer making the notice

Name: Christina Hills

Designation: Licensing Team Leader

Date: 27 July 2023

Signature

Time

27/7/23

Details of person having control of, or responsibility for, activities carried on at the premises (Section 19(3) Criminal Justice and Police Act 2001)

Notice served on: Mr Rupesh Kapoor

Signature/Refused

Date: 27 July 2023 Time.

Details of any other persons whose access to the building may be impeded if a closure order is made

Notice served on:

Signature/Refused.....Date.....Time

Details of any other persons involved in control of, or responsibility for, activities carried on at the premises or has an interest in the premises

Notice served on:

Signature/Refused.....Date.....Time.....

Details of Council officer serving the notice

Name

Designation

Signature

Date

Time

This document will be served with the document detailing the effect of Section 20 of the Criminal Justice and Police Act 2001

UNLICENSED PREMISES – CLOSURE NOTICE

Section 19 Criminal Justice and Police Act 2001
as amended by Licensing Act 2003

Criminal Justice and Police Act 2001

A council officer has decided to make this closure notice under the terms of section 19 of the Criminal Justice and Police Act 2001 as amended by Licensing Act 2003, requiring the premises specified in the order to be closed.

The effect of Section 20 of the Criminal Justice and Police Act 2001

This part of the closure notice now explains the effects of section 20 of the Criminal Justice and Police Act 2001 which enables a constable or local authority to apply for a closure order by complaint from magistrates (between 7 days and six months after the service of the closure notice) in relation to premises on which a closure notice has been served. A complaint cannot be laid where the police or local authority is satisfied that the unlicensed sale of alcohol has ceased and there is no reasonable prospect of it re-starting.

- 20(1)** Where a closure notice has been served under section 19(3), a constable or the local authority concerned may make a complaint to a justice of the peace acting for the petty sessions area in which the premises are situated for an order under section 21 (a "closure order").
- 20(2)** A complaint under subsection (1) shall be made not less than seven days, and not more than six months, after the service of the closure notice under section 19(3).
- 20(3)** No complaint shall be made under subsection (1) if the constable or local authority is satisfied that –
- (a) the use of the premises for the unlicensed sale of intoxicating liquor for consumption on or in the vicinity of, the premises has ceased; and
 - (b) there is no reasonable likelihood that the premises will be so used in the future.
- 20(4)** Where a complaint has been made to a justice of peace under subsection (1), the justice may issue a summons to answer the complaint.
- 20(5)** The summons shall be directed to-
- (a) the person on whom the closure notice was served under section 19(3); and
 - (b) any other person on whom the closure notice was served under section 19(5)(a).

Chris Hills

Subject: EX II

From:
Sent: 27 July 2023 20:25
To: Chris Hills <ChrisHills@Swale.gov.uk>
Subject: BEST ONE 16A HAWTHORN ROAD ME10 1BB

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognize the sender and know the content is safe.

TO: Chris Hills

FROM: Vijay Kapoor

DATE: 27-07-2023

Regarding: Best One 16A Hawthorn Road ME10 1BB

Hello

I, Vijay Kapoor as the Designated Premises Supervisor (DPS), take responsibility for the day to day running of the above mentioned business and I am also responsible for authorising the sale of alcohol from these premises.

If on any occasion I am not at the above mentioned premises then I will be contactable.

Thank you.

Vijay Kapoor.

Sent from Outlook

Chris Hills

Subject: EX III

From: Chris Hills <ChrisHills@Swale.gov.uk>
Sent: 28 July 2023 10:07
To: **Subject:** RE: BEST ONE 16A HAWTHORN ROAD ME10 1BB

Good morning Mr Kapoor

Thank you for your email.

As a consequence of your returning to your role as Designated Premises Supervisor (DPS) on premises licence granted under the Licensing Act 2003 - reference SIT/SWALE/189/0222, I can confirm that the Closure Notice that was served yesterday 27 July 2023 for illegal sales of alcohol, has now been lifted and you will be able to resume selling alcohol when your shop opens today as 12:00.

I would remind you that the role of a DPS is to be in day-to-day management control of the premises and you will therefore be expected to be in attendance at the premises for a substantial part of every day that your shop is open to the public.

In this regard I can advise that random spot checks will be conducted at your premises and if it is found that you are routinely not in attendance then a further Closure Notice will be served. This could also be used as evidence should it be necessary for the premises to be the subject of an application to review the premises licence.

I will email you under separate cover regarding how to apply for a DPS variation and how Mr Roopesh Kapoor can apply for a personal licence.

I hope this is clear.

Best regards

Yours sincerely

Christina Hills

Christina Hills

Licensing Team Leader

Tel: 01795 417286 | Email: chrishills@swale.gov.uk | Website: www.swale.gov.uk
Swale Borough Council | Swale House | East Street | Sittingbourne | Kent | ME10 3HT

From: Vijay Kapoor [REDACTED]
Sent: 27 July 2023 20:25
To: Chris Hills <ChrisHills@Swale.gov.uk>
Subject: BEST ONE 16A HAWTHORN ROAD ME10 1BB

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognize the sender and know the content is safe.

TO: Chris Hills

FROM: Vijay Kapoor

DATE: 27-07-2023

Regarding: Best One 16A Hawthorn Road ME10 1BB

Hello

I, Vijay Kapoor as the Designated Premises Supervisor (DPS), take responsibility for the day to day running of the above mentioned business and I am also responsible for authorising the sale of alcohol from these premises.

If on any occasion I am not at the above mentioned premises then I will be contactable.

Thank you.

Vijay Kapoor.

Sent from Outlook

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Memorandum



TRADING STANDARDS

From Oliver Jewell
Principal Trading Standards Officer

Tel 03000419327

Email oliver.jewell@kent.gov.uk

Date 11th September 2023

Our Ref 205171

Your Ref

To Swale Borough Council Licensing Section

The Trading Standards Department of Kent County Council as a responsible authority under the Licensing Act 2003, make representation on the grounds of the **crime and disorder**, **public nuisance** and the **protection of children from harm** licensing objectives, in connection with the review submitted by Kent Police in relation to **Best One, 16 Hawthorn Road, Sittingbourne**.

The following representations are made with reference to information held on the departmental complaints database as well as information received from the Kent County Council Public Protection Intelligence Team who receive reports from external agencies.

The data referred to goes back to 2017 (with some reference to incidents before), being relevant in demonstrating the long standing concerns held in respect of the premises at 16 Hawthorn Road, Sittingbourne. As of late 2021, the majority of complaints relate to disposable vaping products which although not subject to the Licensing Act, is a relevant matter in relation to the age restrictions placed on those products and the resulting inferences on the ability to uphold objectives of the Licensing Act.

25/10/2017 – test purchase operation carried out on the basis of prior intelligence (July 2015 sale of alcohol to minors, November 2015 sale of alcohol and tobacco to minors, August 2017 sale of alcohol and tobacco to minors). The test purchase on this occasion was passed.

20/12/2017 – a Challenge 25 test purchase was attempted on the basis of continuing concerns related to the premises. A challenge 25 test purchase is designed to determine if a premises is following the best practice principle of challenging anyone appearing to be under 25 for age restricted goods.

3/8/2018 – a further under 18 test purchase was carried out on the basis of further intelligence received. Once again the sale was refused

The following detail ongoing reports received by the Trading Standards Service which unless stated, are all unique in terms of who has made the complaint.

27/9/2019 – a member of the public reports that they are aware the premises is selling alcohol and tobacco products to minors. They are also aware that cigarettes are being sold singly from the premises which if proven would constitute a breach of the Standardised

Packaging of Tobacco Regulations 2015, whereby cigarettes must be sold in a minimum quantity of 20 as a measure to prevent young people from accessing tobacco products.

A drop in reports was experienced throughout the Covid pandemic, however disposable vaping products emerged in popularity in the autumn of 2021, shortly after which complaints re-emerged.

1/4/21 – an anonymous report was received through Crimestoppers alleging that the premises was selling alcohol to “large groups of underage children”

4/9/2021 – a report from Kent Police was disseminated to Trading Standards in respect of young people aged 14-16 being known to purchase alcohol from the store without challenge. The same youths were alleged to drink alcohol in the nearby vicinity thus causing a public nuisance.

11/11/2021 – a report from Kent Police was disseminated to Trading Standards alleging a young person believed to be 15-16 years old was seen entering the store and leaving shortly after with a packet of cigarettes believed to have been purchased at that time.

12/11/2021 – a report from Kent Police was disseminated to Trading Standards alleging that Year 9 children (approx. 13-14 years old) from Westlands Secondary School were being sold vape products from the premises.

23/11/2021 – a report from Kent Police was disseminated to Trading Standards to allege that 13 year olds were being sold vape products from the premises.

22/1/2022 – a member of the public reports concerns that the premises is selling alcohol, tobacco and vaping products to under 18's. The same complaint raises concern of drugs being sold from the premises.

9/6/2022 – a report was received through an online anonymous reporting portal to state the shop was selling vapes to 12 and 13 year olds. It was alleged the young people would go after 3pm when the owner was there as he would sell to them.

28/6/2022 – a report from Kent Police was disseminated to Trading Standards to state the premises was selling cigarettes and vape products to Year 7 children (approx. 11-12 years old) from the Westlands Secondary School.

11/7/2022 – a report from Kent Police was disseminated to Trading Standards to state that 11-12 year olds were being sold vape products from the premises. It was alleged the owner removed the vapes from the packaging and told the young people to move away from the shop after buying the products.

12/8/2022 – a member of the public reports that their 13 year old daughter and her friend have been sold vaping products from the premises

28/8/2022 – a member of the public reports that their 13 year old daughter bought vapes from the premises in July and “her and her friends went to this shop because they would get served”

29/8/2022 – a member of the public reported that their 12 year old daughter had been sold vapes from the premises.

6/9/2022 - a member of the public reported that the premises had sold vaping products to their daughter and her friend who were 12-13 years old.

23/9/2022 – a member of the public witnessed vape products being sold to young people who were in school uniform.

27/10/2022 – a member of the public reported the sale of a vape to a 13 year old.

5/1/2023 - a member of the reported a sale of a vape to their 13 year old daughter.

5/1/2023 – a report from Kent Police was disseminated to Trading Standards which appears to be duplicate to the previous report received directly by Trading Standards.

9/1/2023 – a report from Kent Police was disseminated to Trading Standards stating that underage children that attend the Sittingbourne School were being sold vapes from the premises. Given the timing of the report, it is possible that this report is duplicate.

7/3/2023 – a member of the public witnessed a sale being made to a group of three young people, one being described as in school uniform and the other two being judged to be no more than 14-15 years of age.

On the **5/4/2023** an advisory visit was carried out by officers from Kent Trading Standards. Officers met with the owner Roopesh Kapoor and advised him of concerns. Mr Kapoor showed signage relating to Challenge 25 and use of a refusals book as his evidence that he had been refusing sales to young people. At the time of the visit Mr Kapoor reported that it was only him working in the shop and he confirmed that his CCTV was working and recording for 28 days as required.

10/5/2023 – a member of the public reported that their 15 year old daughter had purchased a vape from the premises

17/6/2023 – a member of the public reported that their 12 year old child had been sold a vape from the premises. The report continued that vape was a 9000 puff model which they were told were kept under the counter. The complaint continued to allege that their child and friends were sold vape products when wearing school uniform.

The Tobacco and Related Product Regulations 2016 require that a disposable e-cigarette device contain no more than 2ml of nicotine containing liquid. Although other legislation requires the quantity to be given on the packaging, some manufacturers choose to represent the volume by a number of puffs the product provides. Industry have equated 2ml to approximately be represented as 600 puffs and is commonly quoted on UK legal products. **A product claiming to contain 9000 puffs will without doubt be an illegal product that has not been subject to the proper checks for sale in the UK.**

On **27/7/2023** Trading Standards participated in the multi-agency visit to Best One at 16 Hawthorn Road, Sittingbourne. As identified in the application Mr Roopesh Kapoor was alone in control of the shop upon our arrival.

Disposable vape products were displayed prominently on the counter which were checked and all those on display appeared to meet the legal requirements, notably being no more than 2ml/600 puffs. Mr Kapoor allowed the officer behind the counter where the inspection continued.

In boxes behind the counter were disposable vape products that immediately were recognized as illegal brands such as the R&M Tornado device which was labelled as containing 18ml (nine times the UK legal limit).



3 x illegal vapes seized and 1 x pack herbal waterpipe shisha



Side view of illegal vapes (two showing volume > 2ml) and reverse of shisha pack

Illegal vapes, particularly those of higher capacities remain popular with young people as per ml of liquid they are considerably cheaper than UK legal products, however in addition to breaking UK safety requirements, they have been reported in other cases to contain heavy metals such as lead where cheaper components not subject to emissions testing are used.

A total of 86 illegal vaping products were found and seized from these boxes behind the counter. Mr Kapoor claimed to be unaware that there was anything wrong with them, claiming they were present on the previous visit and nothing was said to him. The fact remains however that it is implausible that by chance, not one of the illegal products were found in the displays. Furthermore, it is believed Mr Kapoor knew exactly which products were and which were not legal for UK sale.

In addition to the vaping product, 6 packs of herbal shisha molasses were seized. The shisha did not carry correctly the health warnings required for sale in the UK, as required by the Tobacco and Related Product Regulations 2016. It is likely that they are also subject to duty evasion and are in fact smuggled goods. Herbal molasses carry the same duty thresholds as tobacco as a means to reduce consumption. The current duty rate of £161.62/kg is applied to 'other smoking tobacco' which includes herbal products. At a pack weight of 50g, the duty alone on each pack would be £8.08 whereas the price shown in the picture shows them to be available for £3.00.

While checking for the presence of any further illegal vapes a number of other items were drawn to the attention of officers.

Alongside the illegal vapes, a box containing bottles of 'Room Odourisers' under brands such as Liquid Gold and Rush XXL was found as shown in the image below. The bottles are sold in this way to avoid scrutiny as their true purpose of 'poppers' which are inhaled recreationally causing euphoric effects. The active ingredient is isopropyl nitrite which can also cause dizziness and increased heart rates (and are potentially dangerous for those with heart problems). Poppers are not covered by the Psychoactive Substances Act 2016 but would be regulated under the Medicines Act 1968.



Close up of Rush XXL Bottle as found behind counter

Also behind the counter were boxes full of mini zip lock bags (as shown below). There is no restriction on the sale of zip lock bags, however the setting, size and quantity indicates once bought they would be used for drugs, a fact that was not denied by Mr Kapoor. Likewise the presence of cream whippers and balloons used for the inhalation of nitrous oxide gas.



Shelf Displaying Ziplock bags with packs of balloons to the left



Cream Whippers found on counter (to be used in combination with nitrous oxide cannisters)

At the conclusion of the visit Mr Kapoor signed a voluntary disclaimer to allow the future destruction of the seized goods.

Despite passing several exercises of testing Best One, either with those under the legal age limit or as part of a Challenge 25 test purchase, complaints have persisted leading to the conclusion that it is only those already known to Mr Kapoor who will be served.

On the balance of probabilities, the information including the sheer volume of complaints suggests that the premises has and will continue to sell vapes to young people as well as the likely continuation of products associated with drug use.

In a period between June 2022 and July 2023, this premises accounted for over 7% of all complaints received by Trading Standards across the whole county in relation to the sale of vapes to young people. The complaints have been assessed and are deemed to be individual, unique and not vexatious against the premises.

It is believed that Mr Kapoor is not a person who is willing or able to uphold the licensing objective to protect children from harm and equally given the associated concerns from young people drinking alcohol in the immediate vicinity and the presence of drug paraphernalia in the shop indicates that he is also unwilling or unable to uphold the prevention of public nuisance objective. The presence in the shop of the illegal vapes in the shop demonstrates an unwillingness to prevent crime.

Trading Standards would therefore support any moves to revoke the premises licence as there are no conditions that would be suitable to bring about satisfactory change to this business and the continuation of the licensable activity at this premises risks further undermining of the Licensing Act objectives.



Oliver Jewell
Principal Trading Standards Officer – Kent County Council

Chris Hills

Subject: Representation 1

From:
Sent: 02 September 2023 12:27
To: Licensing (SBC) <Licensing@swale.gov.uk>
Subject: Best One, 16 Hawthorn Road, Sittingbourne, Kent ME10 1BB

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To Who It May Concern,

I wish to put to you my comments with regards to the Best One Shop as titled in this email. I agree with the licensing review into this premises.

I live on Arthur Street which is beside the shop (and its Hairdresser neighbour). We constantly have anti-social behaviour from youths who are waiting for the shop to open, getting to the shop before it closes or simply going in there to make their illegal purchases of Alcohol, Cigarettes and Vapes.

The youths will often then congregate down Arthur Street, in the parking bays opposite the premises. They are loud, sometimes fighting, breaking glass bottles, leaving vape packages everywhere and have caused numerous issues for which the Police/PCSO's have been called including damage to vehicles, intimidating householders by knocking on windows and doors and all manner of other antisocial behaviour. A camera was installed after long held concerns by residents in relation to the Police and the local MP.

The shop owner made this worse by illegally cutting away a metal fence which was installed by the council to prevent people sitting along the parking bays (to allow access to gate they installed for a one-bedroom flat in the rear of the shop property).

It is well known amongst young people that they will be sold illegal products such as alcohol, cigarettes and vape products. Infact you often see and hear youths walking down the road to see whether the shop is open, finding it closed and then actively waiting until it opens.

We have found that when the proprietor has a day-off and the shop closed, there is virtually no antisocial behaviour occurring but as soon as the shop opens, it starts again. This is particularly bad during school holidays so we are well aware that the people buying these products are under-age but know they can be serviced by this shop.

There are simply too many incidents of abhorrent behaviour to list them all here, but we would strongly urge you to revoke any such license which would be of great benefit to all those householders in the vicinity.

Chris Hills

From: Licensing (SBC)
Subject: Representation 2

From:
Sent: 02 September 2023 12:57
To: Licensing (SBC) <Licensing@swale.gov.uk>
Subject: Best one Hawthorn Road

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I am emailing regarding the license review for The Best One on Hawthorn Road which has been trading illegally for several years.

I am a resident of Arthur St and I see first hand every day that this shop is almost exclusively selling vapes, tobacco products, alcohol and drugs paraphernalia to underage children, often in school uniform. No longer does it sell fresh items or milk which are useful and serve the community.

Since the opening of Tesco, Morrisons and Lidl, this shop has found itself in an area that no longer requires a convenience store, and has subsequently turned to selling vapes to school children to make money.

Every day there are children hanging around outside our houses waiting for 'Roo' to start serving, and it is common for large groups to hang around and send one child in who will report back 'he said come back later coz he's not serving yet!' It's been happening in plain sight for around the last 3 years. It wasn't like this before.

I am a teacher and it is WELL KNOWN in local schools that this shop is serving underage children. It is also well known amongst the local police. I as a resident have reported the shop many times to reading standards, the police, and several times to my local MP Gordon Henderson. I hope all of these people/institutions are consulted in this licensing review as the information provided by them would be stark and shocking.

This shop is a hub for anti social behaviour including verbal abuse to residents, damage to cars and property, and unbelievable amounts of litter and should be shut down immediately.

Thank you,

Chris Hills

From: Licensing (SBC)
To: [REDACTED]
Subject: Representation 3

From:
Sent: 07 September 2023 16:02
To: Licensing (SBC) <Licensing@swale.gov.uk>
Subject: LICENSING REVIEW FOR THE BEST ONE SHOP HAWTHORNE ROAD, SITTINGBOURNE

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To the Licensing Team

We would like to make our comments regarding the above premises with regard to renewing the licence.

We have witnessed on several occasions under age children entering the above shop and purchasing alcohol, vapes and cigarettes, we have listed some of these below although we have telephoned the Police several times, there is also a cctv camera on the corner of Arthur Street, when telephoning the Police we have also given them date, time and descriptions of the children.

1st July - 4 boys aged about 14/15yrs of age came out of shop with bottles of beer and sat in the recess of 16c Arthur Street when they finished drinking they smashed all the bottles in Arthur Street, a neighbour had to go out and clean all the glass up because it was a danger to road users.

6th July - 4.00 in the afternoon one boy aged around 15/16rs went into the shop and came out with a black plastic carrier bag , he took out a bottle of whiskey and placed it inside his rucksack he also purchased a vape.

This behaviour has been going on for far too long where we have been plagued with anti-social behaviour where hoards of kids all over from Sittingbourne and beyond congregate to purchase alcohol, vapes and cigarettes.

The problem when Trading Standards do an underage operation is the owner sells to children who know a special password which enables them to purchase the alcohol, vapes and cigarettes. The schools in Sittingbourne know all about this.

We therefore would be very disappointed should these premises continue selling alcohol.

Swale Council
R.E: hawthorn road licensing review

My name is Kelly, the residents of Arthur street that keep moaning about the shop being there, moaning about anything and everything really need to look at the bigger picture. I see them use the shop but yet the moan about it. They have approached me many times and I live on hawthorn road trying to get me to sign things and moan about the shop, littering, the fence, opening hours and people hanging around outside. I've never had an issue with him and the shop looks after the community really well.

Yours,

Re: Best One Hawthorn Road Sittingbourne

To whom it may concern,

I am writing to advise that Roop is a pillar of this community and without the shop the areas residents would struggle greatly. I have never seen anything untoward going on in the shop and I visit daily. He is an asset to the area and goes out of his way to help others

Regards

To Swale Council,

I live opposite the shop, I saw the notice in the window and felt the need to write in. I can see everything that goes on and it's run really well. The shop opening hours are good and considerate towards the neighbours in the street as he opens late and shuts at a reasonable time. The shop is busy with people from the area and I've never noticed anything dodgy going on.

From

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Dear Swale Licensing Company:

I am writing with regards to the shop next door to where I have work for the past 18 years. Roop owns the shop and has always been an asset to our community. Roop has always gone above and beyond for all his customers. In all the years I have worked in the barbers next door I can confirm I have never once seen or witnessed Roop sell anything he shouldn't to underage children, however I have in the past witnessed teenagers asking adults to purchase cigarettes + Alcohol and they have agreed and purchased these for them unknowingly to Roop. I do hope that you take this information with sincere honesty and Roop may continue business as normal

Yours Sincerely,

Chris Hills

From: Licensing (SBC)
Subject: Representation 8

From:
Sent: 13 September 2023 17:17
To: Licensing (SBC) <Licensing@swale.gov.uk>
Subject: Best One, Hawthorn Road, Sittingbourne

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To whom it may concern,

I would like to make a representation in support of the review of the premises licence at the Best One Off Licence, Hawthorn Road.

I can confirm that the current occupier/staff within the premises have been selling electronic vaping devices to my underage daughter on numerous occasions. My daughter attends a local secondary school and it is well known among students that this establishment will sell vaping devices to underage children. My daughter will visit the shop in her school uniform and still be allowed to purchase the device.

Whilst I am doing my best to remove these devices and highlight to my daughter the safety & health concerns of vaping, this is made increasingly hard when premises are prepared to continually sell underage children vaping products.

The shop is within easy walking distance of secondary schools and is not meeting the licensing objective to protect children from harm. One could question if they are willing to sell vaping devices to underage children are they also selling alcohol without the required checks. I would also argue the willingness to sell several devices to underage children over a number of months puts into question the suitability of the owner & staff of the premise to hold a licence.

Kind Regards

Representation 9

The Licensing Section
Swale Borough Council
Swale House
East Street
Sittingbourne
Kent
ME10 3HT

Subject: Best One, 16 Hawthorne Road, Sittingbourne, Kent, ME10 1BB

To whom it may concern

I am making a representation in relation to a recent REVIEW OF PREMISES LICENCE to the above store. During the last 7 years that I have been using this store daily and have never witnessed the store owner sell any age restricted products including alcohol to any minor under the legal age of 18. I have witnessed requests for identification regularly from the owner to verify the customers age.

The owner continues to play a pivotal role in this community and has been even more so during the recent corona virus lock down periods ensuring that his customers, including the most vulnerable had access to vital daily essentials at the risk of his own health.

I am extremely disappointed that the above order has been unjustifiably applied to this store when there are other stores in sittingbourne, in particular the bottom half of the high street that do not follow and rules and are knowingly selling illicit products.

I feel that this order has been applied to this store in grave error and would urge you to reconsider your actions.

Kind Regards

The Licensing Section
Swale Borough Council
Swale House
East Street
Sittingbourne
Kent
ME10 3HT

Representation 10

Subject: Best One, 16 Hawthorne Rd, Sittingbourne
Kent, ME10 1BB.

To whom it may concern,

I have been using this shop for many years
and have never ever witnessed the store owner
sell any age restricted products, including
alcohol to any persons under the legal legal
age.

I am outraged that this review of premises to
licence has occurred. If anything, he is being
targeted, because he abides by the law.

,

Hawthorn Convenience
Review

Representation 11

Swale Council,

My name is Karen and I live on Hawthorn Road in the flats. I think its really out of order that Roops shop/license is being questioned. He has always run that shop properly. I have often been asked to buy booze, fags and vapes by teenagers who hang around, so this shows he doesnt serve under age. He is a decent fella and the shop is very convenient and it would be a great shame if he had to close.

Regards

Dear Swale licensing,

My name is Alan, I live a few doors down from the shop. I've lived here as long as the shop has been there, Roops run it the best way and there's no issues that I'm aware of from the shop being there, no crime and disorder that you mention in the notice.

Representation 13

To the council/licensing committee,

I have worked next door to Best One Hawthorn Road Sittingbourne for years now and for the most part it's a quiet little shop, away from the main road and it's essential for the local elderly residents who can't make it in to town. You mention in the public statement that the police are wanting the licence to be reviewed to protect the children and to minimise crime and disorder however near enough every day I see parents willingly buy their kids the vapes, even in other stores you see parents buy their kids alcohol and come outside and give it to them.

Thank you

Representation 14

Swale council,

I've been using the shop since Roop and his family have owned it. Honest and hard working people with a good retail background. I was a regular at the other store they owned in sittingbourne and now use this one regularly. Everything from prices they charge and to the way they run the store is fair and it's a pleasure going there and spending my money compared to other shops that rip you off. I know a number of people from various generations that know the family well who would speak highly of them especially Roop and they are a credit to Sittingbourne retail community.

Regards,

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took over the running of the shop, in fact they will
even get there on Sundays when the shop doesn't
open. It's true that teens can be a bit of a nuisance
at times (my car was recently perted with eggs!)
and I imagine that the residents near the junction
do get fed up with them, but I fail to see how
the shop has caused or encouraged this in any way.

I am a frequent user of the shop and would like to
remain that way, Mr Kappoor is a friendly and caring
member of our community, I know from experience that
he gets items in specially for several elderly and
disabled customers, who would surely miss the shop if it
were to cease trading. Personally I have not witnessed
any wrongdoing by Mr Kappoor, I have a sixteen-year old
son myself and would not approve of any such behaviour.

Representation 15

11th September 2023

Dear Sir or Madam

I am writing to you in respect of the Best One
general store in Hawthorn Road, I gether from
your notice that you have some concerns regarding
prevention of crime and disorder, as well as
protection of children from harm.

I have been a resident of Hawthorn Road for
nearly ten years now and I'm happy to say that
I have neither been a victim of or experienced any
incidents in this time. As for disorder, occasionally
there will be a bit of noise at night when people
are returning from town after a night out, but this
hasn't been anything to do with the Best One shop.

Regarding the protection of children, it's true that
if some reason the pavement where Hawthorn Road
joins Leaburnum Place has always seemed to be a
phoning spot for teens (god knows why!) but this
has always been the case, even before Mr Kappoor

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EXTRACT FROM SWALE BC STATEMENT OF LICENSING POLICY UNDER THE LICENSING ACT 2003 – 2021 - 2026**14 REVIEW OF A PREMISES LICENCE OR CLUB PREMISES CERTIFICATE**

- 14.1 The Licensing Authority acknowledges that at any stage following the grant of a premises licence matters can arise at premises that raise concern as to the continued promotion of the licensing objectives at licensed premises.
- 14.2 The Act allows a licence to be reviewed where such matters arise. It is expected that most reviews will be applied for by Responsible Authorities.
- 14.3 Although this Licensing Authority is also a Responsible Authority and may bring about a review application, it is not expected that it will act as a Responsible Authority on behalf of other parties (for example, local residents, local councillors or community groups).
- 14.4 Such parties can make relevant representations to the Licensing Authority in their own right, and it is reasonable for the Licensing Authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and the Licensing Authority is aware of relevant grounds to make a representation, it may consider acting in its capacity as Responsible Authority.
- 14.5 The Licensing Authority will determine whether a review application is relevant and the validity of a review application will be determined by a licensing officer. This will be on the basis of whether the request for the review is:
- relevant to one or more of the licensing objectives and
 - not frivolous, vexatious or repetitious.
- 14.6 In every review case an evidential basis for the allegations made will need to be submitted to the Council as the Licensing Authority.
- 14.7 The Licensing Authority would expect grounds for a review to be evidence based but will consider each application on its merits.
- 14.8 Where a review application is accepted the Licensing Authority will encourage the parties to enter into mediation during the consultation period to help resolve or narrow issues arising. The Council would be happy to assist in these meetings as appropriate.
- 14.9 All reviews, save where agreed by all parties as unnecessary, will lead to a hearing before a sub-committee. This may be a full hearing or a condensed hearing to consider the outcome of mediation. However other parties who have made representation but not been involved in mediation will be permitted to voice their representations at the hearing in accordance with the Hearings Regulations. The Policy applied to hearings can be found in section 16.

- 14.10 The authority considers that where reviews are raised as a result of serious crime and disorder causing that licensing objective to be undermined, then it is likely that that a revocation of the licence will be considered.