

Swindon Borough Council
Licensing Act 2003 – Licensing Panel

NOTICE OF HEARING

Date of Hearing: Monday, 3 April 2017

Place of Hearing: Committee Room 2, Civic Offices

Time of Hearing: 3.00 p.m.

Panel Members:

Conservative Councillors

Alan Bishop
Vera Tomlinson

Labour Councillors

Derique Montaut

Committee Officer: Shaun Banks (Telephone 01793 463606)

Email: email: sbanks@swindon.gov.uk

Address: Swindon Borough Council, Civic Offices, Euclid Street, Swindon SN1 2JH

AGENDA

- 1. Appointment of Chair**
- 2. Apologies for Absence**
- 3. Declarations of Interest**

Members are reminded that at the start of the meeting they should declare any known interests in any matter to be considered, and also during the meeting if it becomes apparent that they have an interest in the matters being discussed.

- 4. Application to Review the Premises Licence in respect of Moredon Off Licence, 275 Whitworth Road, Swindon, SN25 3BU together with a copy of each relevant representation made and supporting documents (Pages 7 - 44)**

Date of Despatch: 17 March 2017

Access Arrangements – The Venue is wheelchair accessible and an infrared receiver hearing system is provided. If you would wish to attend the meeting but have any special requirement to enable you to do so please contact the Committee Clerk above, as soon as possible prior to the date of the meeting.

If you would like to receive any of the pages contained in this agenda in a larger print size please contact the Committee Officer whose name appears on the first page of this agenda.

INFORMATION TO ACCOMPANY NOTICE OF HEARING

Action following receipt of Notice of Hearing:

A party shall give to the Licensing Panel within the period of time provided for in the following provisions of this regulation a notice (in the form attached) stating: -

- Whether he intends to attend or be represented at the hearing.
- Whether he considers a hearing to be unnecessary.
- In a case where a party wishes any other person (other than the person he intends to represent him at the hearing) to appear at the hearing, the notice referred to in paragraph (1) shall contain a request for permission for such other person to appear at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.

The following notice periods apply:

No later than one working day in respect of:

- Cancellation of interim authority notice following police objection, or
- Counter notice following police objection to temporary event notice.

No later than two working days before the first day of hearing:

- Review of premises licence following closure order or review of premises licence following review notice;
- Determination of application for conversion of existing licence;
- Determination of application for conversion of existing club certificate; or
- Determination of application by holder of justices' licence for grant of personal licence.

In any other case, the party shall give the notice no later than five working days before the day or the first day on which the hearing is to be held.

Right of attendance, assistance and representation:

A party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

The hearing will take place in public. However the Licensing Panel may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public. For these purposes a party and any person assisting or representing a party may be treated as a member of the public.

The Licensing Panel may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may:

- refuse to permit that person to return, or
- permit him to return only on such conditions as the authority may specify.

Any such person may, before the end of the hearing, submit to the authority in writing any information which they would have been entitled to give orally had they not been required to leave.

Representations and Supporting Information:

At the hearing a party shall be entitled to:

- Give further information as appropriate in response to a point upon which the Licensing Panel has given notice that clarification is required (Note – if clarification is required from any party this will have been indicated in the Notice of Hearing);
- If given permission by the Licensing Panel, question any other party; and
- Address the authority.
- Failure of Parties to attend the Hearing

If a party has informed the authority that he does not intend to attend or be represented at a hearing, the hearing may proceed in his absence.

If a party who has not so indicated fails to attend or be represented at a hearing the authority may: -

- Where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or
- Hold the hearing in the party's absence.
- Where the authority holds the hearing in the absence of a party, the authority shall consider at the hearing the application, representations or notice made by that party.
- Where the authority adjourns the hearing to a specified date it must forthwith notify the parties of the date, time and place to which the hearing has been adjourned

Procedure:

A summary of the procedure that will normally be followed at the hearing is attached.

It should be noted that this is a general procedure intended to cover matters that will normally be applicable at all Hearings. However depending on the circumstances of each individual case, it is recognised that other issues may need to be considered as preliminary points at the hearing. These may include (but are not limited to): -

- Whether to proceed in the absence of a party;
- Whether to admit new documents or information submitted at the hearing;
- Whether it is in the public interest to exclude members of the public from the hearing or any part of it;

- Whether any party wished to withdraw representations previously submitted
- Whether to disregard any information given by a party or any person to whom permission to appear at the hearing is given by the authority which is not relevant to:
 - Their application, representations or notice (as applicable) or in the case of another person, the application representations or notice of the party requesting their appearance, and
 - The promotion of the licensing objectives

**Standard procedure for licensing committee or
licensing panel review hearings**

- 1) The general facts of the review application will be put to the hearing by an officer of the Licensing Authority.**
- 2) The applicant for the review will put their case. They will be invited to clarify and support (but not add to) their written submission.**
- 3) Members of the Licensing Committee (or Panel) may ask questions arising from this submission, as may any other Member of Swindon Borough Council who is present. The premises licence holder will not be allowed to comment or reply at this stage but may ask the party which applied for the review to give a brief clarification concerning any of the points they have made.**
- 4) Ward Members who wish to speak on behalf of constituents who have made representations following the review application or aspects of the review application will be invited to speak. Written notification of those representations must be submitted within the required period of notice.**
- 5) Where individuals or organisations have given the required notice that they wish to make relevant representations on the review application, they will be invited one at a time to clarify and support (but not add to) their written submissions. Representations will be heard only from those who have submitted an objection in writing before the deadline given for comments. This restriction applies equally to Members and Officers of the Council.**
- 6) Members of the Licensing Committee (or Panel) may ask questions arising from each representation, as may any other Member of Swindon Borough Council who is present. The premises licence holder will not be allowed to comment or reply at this stage but may ask those making representations to give a brief clarification of any of the points they have made.**
- 7) Ward Members who wish to speak on behalf of constituents who have made a representation against the review and in support of the premises licence holder will be invited to speak. Written notification of the positive representation must have been submitted within the required period of notice.**
- 8) The premises licence holder and / or their solicitor or representative will be invited to make a submission in opposition to the application for review and to respond to points made by**

those who submitted the review application or who made representations subsequently. No unreasonable limits will be placed on the right of the applicant to make their case and they may present any documentation they wish, in doing so.

- 9) Members of the Licensing Committee (or Panel) may ask questions arising from the premises licence holder's submission, as may any other Member of Swindon Borough Council who is present.**
- 10) The party which applied for the review and anyone who made representations subsequently will be allowed in turn to ask the premises licence holder to give a brief clarification of any point they have made. They will not be permitted to restate or develop their review application or representation and must limit any further brief comment to issues that arise directly from answers given by the premises licence holder or the premises licence holder's representative.**
- 11) Members of the Committee or Panel hearing the application will then discuss the application in private, accompanied only by non-partisan officers who are there in a support role.**
- 12) Should any person present act in a disruptive manner the Chair will first warn him or her about their conduct and then, if the Chair considers it appropriate, may require the person concerned to leave the meeting forthwith. Where a party to the hearing insists on wasting the time of the hearing by needlessly repeating points that have been well aired and clearly put by earlier speakers, their actions may be judged to be disruptive and they may be asked to leave. It is strongly recommended that any spoken representations from groups of people with common concerns are made through an agreed spokesperson.**

Review of a Premises Licence in respect of Moredon Off Licence, 275 Whitworth Road, Swindon, SN25 3BU

Licensing Panel

Date: March 2017

Author: Kathryn Ashton – Licensing Manager

Wards: Rodbourne Cheney

Locality Affected: North Central

Parishes Affected: None

1. Purpose and Reasons

- 1.1 To consider the application for a review of a premises licence received from the Wiltshire Police in respect of Moredon Off Licence, 275 Whitworth Road, Swindon, SN25 3BU

2. Recommendations

It is recommended that the Panel:

- 2.1 Considers the application made by the Wiltshire Police together with any supporting evidence, and determines the application for the review of the premises licence. The options available to the Panel are:
- To modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition;
 - To exclude a licensable activity from the scope of the licence;
 - To remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - To suspend the licence for a period not exceeding three months;
 - To revoke the Licence

3.0 Detail

- 3.1 An application for the review of a premises licence in respect of Moredon Off Licence, 275 Whitworth Road, Swindon, SN25 3BU has been received from Wiltshire Police who consider that the licensing objective in respect of crime and disorder is being undermined by current licensable activities at the premises. A copy of the review application is attached as **Appendix A**.

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- 3.2 Representations in respect of the review application have been received from residents, viz. Rodbourne Cheney Residents Association and Whitworth Road Residents Association which are attached as **Appendix B**
- 3.2 Moredon Off Licence is a licensed premises, operating under a premises licence (ref: 881160765LAPRE), attached as **Appendix C**. The licence was issued on 4th October 2016, following a licensing hearing, and authorises the sale of alcohol Monday to Saturday from 08.00hrs to 23:00hrs and Sunday from 08.00hrs to 22.30hrs. The Designated Premises Supervisor specified on the licence is Ms Gonul Howell.
- 3.3 The grounds for the review are stated in the Police's application as follows:
- 3.3.1 On 20th December 2016 at 19:00hrs, Wiltshire Police officers conducted a routine visit at the premises. A male identified as Alahattin ARIK was working at the premises – he spoke little English and was unable to answer any questions with regards to the premises. Whilst he phoned the manager police officers observed that Part B of the premises licence was not on display and there were no Challenge 25 posters visible.
- A short time later a male identified as Ali SARI arrived who stated he was the manager and produced the premises licence that showed the Premises Licence Holder and Designated Premises Supervisor to be Gonul Howell. Ms Howell was not present and Mr Sari made no attempt to contact her.
- Mr Sari was found to be under the influence of Cannabis and was arrested for driving whilst unfit and also for the possession of Cannabis a Class B drug.
- 3.3.2 On 31st December 2016 at 21:50 hrs PC Diffin attended the location to conduct a full licensing check. When entering the premises 2 members of staff were seen to sell alcohol. Both stated they were not being paid and only helping out. They had no knowledge that Ms Howell was the Premises Licence Holder or the Designated Premises Supervisor and had never spoken with or seen her or have any means of contacting her. They confirmed that they had not received any formal training from Ms Howell with regards the sale of alcohol.
- Ms Howell was contacted by phone and PC Diffin observed that Part B of the premises licence was not on display. It was produced with Part A from an envelope held under the counter

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- 3.3.3 Whilst at the premises on 31st December 2016, PC Diffin also noted that a number of licensing conditions were being breached, namely conditions 5, 6 and 7. For clarification;

When Ms Howell arrived at 22;20hrs she was cautioned and was unable to produce any staff training records in breach of condition 5 that states:

'No member of staff shall be permitted to sell alcohol until they have completed training upon induction that covers the supply of alcohol to persons who are intoxicated, drug awareness and the operation of the 'Challenge 25' policy. Staff shall receive refresher training on these subjects at no greater than six month intervals. Records of this training shall be kept on the premises and shall be made available to officers of any of the responsible authorities upon request. The records can be retained as electronic or written form'.

Ms Howell was unable to produce a Challenge 25 policy and training records. Condition 6 on the premises licence states:

'A Challenge 25 policy will apply to the premises and all staff serving alcohol shall be trained in the operation of the scheme so that anyone attempting to buy alcohol who appears to be aged 25 or under will be asked for identification of age in the form of either a valid passport, photo driving licence, government issued identity card or PASS accredited card or its equivalent successor card and if none is supplied or that supplied is unacceptable a sale will be refused and a record kept of the refusal. Staff selling alcohol will be subject to refresher training every 3 months and records of training shall be kept. Records of refusals and training shall be made available to enforcement officers on request.'

Mr Arik and Ms Gates were unable to work the CCTV stating that only Mr Sari could work it. Ms Howell was also unable to work the CCTV. Condition 7 states

'CCTV equipment which is fit for purpose and which covers all trading areas, smoking areas and entrance areas shall be provided and maintained in working condition when the premises are open for business. The CCTV product will be maintained for a minimum of 28 days and shall be provided to enforcement bodies on request. There must be a person on the premises able to download CCTV at all times the premises is open for trading.

- 3.3.4 Ms Howell stated that Mr Keskin owned the shop and that he and Mr Sari were using her licence. She had nothing to do with the running of the shop

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Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager on 01793 466113, or by email: kashton@swindon.gov.uk

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and that she had applied for the licence for Mr Sari and Mr Keskin. She took no part in the day to day running of the premises as the Designated Premises Supervisor

- 3.4 The Panel is requested to consider the application for the review of the premises licence from the Wiltshire Police and supporting evidence, having regard to Swindon Borough Council's Statement of Licensing Policy and the Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.
- 3.5 Wiltshire Police have included in their submission that should the Panel not revoke the Premises Licence then the following be considered:
- Ms Howell be removed as the Designated Premises Supervisor;
 - A condition attached which specifies that the Designated Premises Supervisor or a nominated personal licence holder shall be present at all time when the Premises is trading authorising licensable activities;
 - A condition be attached which specifies that a register be maintained in the form of a book with consecutively numbered pages, setting out the full name of any person who is employed or carrying out any unpaid work as part of the business. This shall show who is working that day and the times when they are present. The register shall be made available for inspection by authorised officers at any reasonable time.

4. Alternative Options

- 4.1 It would be possible to defer the determination of the review application to a date within five working days of the day (or the last day) on which the hearing was held, or to defer the hearing itself to a specified date (or dates) where it is considered to be necessary for the authority's consideration of any representation or notice made by a party. However, either step should be seen as an exceptional measure.

5. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 5.1 There are no direct financial implications arising from the report. Failure to reach a reasonable conclusion, based on the facts, could lead to crime and disorder, or to unwarranted damage to the business in question. Either scenario could raise issues of compensation. In the case of an appeal, the Council could become liable for costs.

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Legal and Human Rights Implications

- 5.2 A declaration has been made by the Secretary of State that the Licensing Act is compliant with the Human Rights Act. None of the relevant Articles of the Human Rights Act has absolute sway over the others. Article 8 deals with a right to undisturbed home life; Article 10 gives the right to free expression, including the right to entertain; Article 1 of the Protocol says that licences are 'possessions', which the holder has a right to enjoy. Common sense has to be used, in balancing each of these against the other.

- 5.3 All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

This report relates to the requirements of licensing legislation.

- 5.4 Diversity Impact Assessment

It is not considered that the preparation of a DIA is required in respect of this report.

- 5.5 **Consultees**

The Director of Law and Democratic Services (Monitoring Officer) is consulted in respect of all reports.

- 5.6 **Background Papers**

Licensing Act, 2003

Secretary of State revised Section 182 Guidance

Swindon Borough Council's Statement of Licensing Policy, (2016)

- 5.7 **Appendices**

Appendix A - Application from Wiltshire Police for the review of a Premises Licence, (dated 5th January 2017), incorporating the Witness Statement of PC Diffin, (dated 5th January 2017).

Appendix B – Representations to the licence review from three residents, Rodbourne Cheney Residents Association and Whitworth Road Residents Association

Appendix C – Copy of extant Premises Licence, in respect of 275 Whitworth Road, Swindon dated 4th October 2016

**Review of a Premises Licence in respect of Moredon Off Licence, 275
Whitworth Road, Swindon, SN25 3BU**

Licensing Panel

Date: March 2017

Final Draft

Appendix A

WILTSHIRE POLICE



Swindon Police Station
Gablecross
Shrivenham Road
South Marston
Swindon
Wiltshire SN3 4RB
Telephone: 101
Direct Dial: 01380861630

Gonul HOWELL
61 Moredon Road
Swindon
S21 2JG

Date 05/01/17

Your ref

Our ref

Reply contact name is PC Michael DIFFIN MBE Police Licensing Officer

Dear Ms Howell,

RE – Application for Premise Licence Review Moredon Off Licence 275
Whitworth Road Swindon

Please find enclosed Wiltshire Police application and evidence to review the premises licence at Moredon Off Licence under the Crime and Disorder Objective of the Licensing Act 2003.

Yours Sincerely,

Michael DIFFIN MBE
Police Constable 1630
Police Licensing Officer.



WILTSHIRE POLICE

www.wiltshire.police.uk

**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 1630 Michael DIFFIN MBE on behalf of the CHIEF CONSTABLE OF
WILTSHIRE POLICE

(Insert name of applicant)

**apply for the review of a premises licence under section 51 (delete as
applicable)**

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Moreton off Licence 275 Whitworth Road	
Post town SWINDON	Post code (if known) SN25 3BU

Name of premises licence holder or club holding club premises certificate (if known) Ms Gonul HOWELL 61 Moreton Road Swindon SN2 2JG
--

Number of premises licence or club premises certificate (if known) 881160765LAPRE

Part 2 – Applicant details

I am

Please tick yes

1) an interested party (please complete (A) or (B) below)

- | | |
|--|--------------------------|
| a) a person living in the vicinity of the premises | <input type="checkbox"/> |
| b) a body representing persons living in the vicinity of the premises | <input type="checkbox"/> |
| c) a person involved in business in the vicinity of the premises | <input type="checkbox"/> |
| d) a body representing persons involved in business in the vicinity of the
premises | <input type="checkbox"/> |

2) a responsible authority (please complete (C) below)

☒

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

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

Please tick

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

Surname

First names

I am 18 years old or over

Please tick yes
☐

Current postal
address if
different from
premises
address

Post town

Post Code

Daytime contact telephone number

E-mail address
(optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address PC 1630 Michael DIFFIN MBE POLICE LICENSING OFFICER SWINDON POLICE STATION GABLECROSS, SHRIVENHAM ROAD, SOUTH MARSTON, SWINDON, SN3 4RB
Telephone number (if any) 01380 861630
E-mail address (optional) michael.diffin@wiltshire.pnn.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
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

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

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

This application to review the premises licence for Moredon Off Licence is based on evidence which shows a breach to the licensing objective of:

Crime & Disorder – Failure to display Part B of the premise licence. An offence under Section 57(4) Licensing Act 2003

Crime & Disorder - Failure to comply with conditions on a premise licence. Offences under Section 136(1) Licensing Act 2003.

Crime & Disorder - Making a false statement in connection with a licensing application. An offence under Section 158(1) Licensing Act 2003.

Please provide as much information as possible to support the application
(please read guidance note 2)

Re: Licence Review – Moredon Off Licence 275 Whitworth Road, Swindon.

Moredon Off Licence is a Licensed Premises and operates under a premises licence (881160765LAPRE) issued by Swindon Borough Council (SBC) on 4th October 2016. The premises licence holder is Gonul HOWELL. The licence was issued in accordance with the Licensing Act 2003 to allow the sale by retail of alcohol Monday to Sunday 0800hrs to 2300hrs and 0800hrs to 2230hrs on Sundays. The premise opening hours are 0800hrs to 0030hrs for non licensable activities.

The Designated Premises Supervisor(DPS) is Gonul HOWELL.

On the 20th December 2016 at 1900hrs Wiltshire Police conducted a routine visit at Moredon Off Licence. On entering the store officers spoke with a male working there who spoke very little English, this male has been identified as being Alahattin ARIK born 20/03/1982, ARIK was unable to answer any questions with regards to the premise and phoned the manager. Whilst waiting for the manager officers observed that Part B of the premises licence was not on display, there were no Challenge 25 posters visible, the store was well stocked with alcohol but the food shelves virtually empty and made the following observation that three young males entered, one was definitely under 18 and the other two looked as though they might be also. They bought some sweets between them and left. From the way they behaved on seeing police in the store I suspect that they had come in to buy alcohol and had done so before.

A short time later a male arrived and was identified as Ali SARI who stated that he was the manager, he also produced the premise licence that showed the Premises Licence holder and DPS to be Gonul HOWELL who was not present nor was any attempt made to contact her. On SARI's arrival ARIK was seen to leave the store.

SARI was found to be under the influence of Cannabis and was arrested for driving whilst unfit and also for possession of Cannabis a Class B drug. SARI called who he stated was the owner of the store and a male arrived who was identified as being Cem KESKIN. Due to SARI's arrest officers had to leave the location at this time.

On 31st December 2016 at 2150hrs PC DIFFIN attended the location to conduct a full licensing check. On entering the store there were two members of staff behind the till observed selling alcohol in the form of cans of cider to a male, one of the members of staff was ARIK and the second identified as being his wife Helen GATES. Both stated that they were only helping out and not getting paid to work at the location. They stated that they had been asked to help by SARI and KESKIN, they had no knowledge as to the fact that HOWELL was the premises licence holder or the DPS and had never spoken with or seen her nor did they have any means to contact her. They confirmed that they had received no formal training from her with regards to the sale of alcohol. ARIK stated that he was working there for free hoping that he would be given a job in the future by KESKIN.

HOWELL was contacted by phone and attended PC DIFFIN observed that Part B of the premises licence was not on display it was produced along with part A from under the counter in an envelope by ARIK.

ARIK and GATES were unable to work the CCTV stating that only SARI could work it condition 7 on the premise licence states

CCTV equipment which is fit for purpose and which covers all trading areas, smoking areas and entrance areas shall be provided and maintained in working condition when the premises are open for business. The CCTV product will be maintained for a minimum of 28 days and shall be provided to enforcement bodies on request. There must be a person on the premises able to download CCTV at all times the premises is open for trading.

At 2220hrs HOWELL arrived at the location and was cautioned, she was unable to produce any staff training records as required under condition 5 that states

No member of staff shall be permitted to sell alcohol until they have completed training upon induction that covers the supply of alcohol to persons who are intoxicated, drug awareness and the operation of the 'Challenge 25' policy. Staff shall receive refresher training on these subjects at no greater than six month intervals. Records of this training shall be kept on the premises and shall be made available to officers of any of the responsible authorities upon request. The records can be retained as electronic or written form.

She was also unable to produce a Challenge 25 policy and training records. Condition 6 on the premise licence states

A Challenge 25 policy will apply to the premises and all staff serving alcohol shall be trained in the operation of the scheme so that anyone attempting to buy alcohol who appears to be aged 25 or under will be asked for identification of age in the form of either a valid passport, photo driving licence, government issued identity card or PASS accredited card or its equivalent successor card and if none is supplied or that supplied is unacceptable a sale will be refused and a record kept of the refusal. Staff selling alcohol will be subject to refresher training every 3 months and records of training shall be kept. Records of refusals and training shall be made available to enforcement officers on request.

HOWELL was also unable to work the CCTV. She stated that KESKIN owned the shop and that he and SARI were using her licence. She had nothing to do with the running of the shop, she stated that she had applied for the licence for SARI and KESKIN but had never even seen the issued licence nor been at the store and she had no knowledge as to who ARIK and GATES were.

Wiltshire Police are asking for the premise licence at Moredon Off Licence to be revoked as at the time of making the application HOWELL had no intention of having any involvement in the running of the location and intended it to be run by SARI and KESKIN nor has she taken any part in the day to day running as the DPS

Due to the breaches of the conditions and her failure to comply with them since the issue of the licence on 4th October 2016 all sales of alcohol have been unlawful and unauthorised at the location.

Should the panel decide not to revoke the licence Wiltshire Police are asking for the following to be considered.

1. HOWELL to be removed as DPS

The following conditions to be applied to the licence

1. The DPS or a nominated personal licence holder will be present at the premises at all times that the premise is open.

2. A register shall be maintained in the form of a book with consecutively numbered pages, setting out the full name of the any person who is employed or carried out any unpaid work as part of the business, showing on a daily basis who is working that day and the times when they are present. The register shall be made available for inspection by authorised officers, at any reasonable time.

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

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

- 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



Date 05/01/2017

Capacity Police Licensing Officer

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.

IN THE MATTER OF AN APPLICATION BY THE CHIEF CONSTABLE OF
WILTSHIRE POLICE FOR A LICENSING REVIEW OF (ALI) MOREDON OFF
LICENCE, 275 WHITWORTH ROAD, SWINDON.

STATEMENT OF Police Constable MICHAEL DIFFIN MBE

I, Police Constable 1630 MICHAEL DIFFIN, Police Licensing Officer, Licensing
Department, Divisional Police Headquarters, Gablecross Police Station, Swindon, Wiltshire
SN3 4RB will say as follows:

1. I am a Police Licensing officer for Wiltshire Police and I have been in post since April 2015. My role is to gather and collate evidence around Licensing issues. Prior to this I was the Night Time Economy Manager for Swindon Town Centre. I took up this position in 2012 and held this post until early 2015. I have been a member of the Wiltshire Constabulary since 2001 and have served all of my time in Swindon Town Centre.
2. My role as the Police Licensing Officer is to work with the local policing teams and other agencies to identify and tackle long term issues in areas caused as a result of alcohol and non-compliance with the Licensing Act 2003.
3. On the 20th December 2016 at 1900hrs PCSO SYKES and PC 2759 FINNING conducted a routine visit at ALI 275 WHITWORTH ROAD SWINDON. On entering the store she spoke with a male working there who spoke very little English, this male has been identified as being Alabattin ARIK born 20/03/1982, ARIK was unable to answer any questions and phoned the manager. Whilst waiting for the manager PCSO SYKES observed that Part B of the premises licence was not on display, there were no Challenge 25 posters visible, the store was well stocked with alcohol but the food shelves virtually empty and she made the following observation that three young males entered, one was definitely under 18 and the other two looked as though they might be also. They bought some sweets between them and left. From the way they behaved on seeing police in the store I suspect that they had come in to buy alcohol and had done so before.
4. A short time later a male arrived and was identified as Ali SARI born 13/10/1980 who

stated that he was the manager, he also produced the premise licence that showed the Premises Licence holder and DPS to be Gonul HOWELL who was not present nor was any attempt made to contact her. On SARI's arrival ARIK was seen to leave the store.

5. SARI was found to be under the influence of Cannabis and was arrested for driving whilst unfit and also for possession of Cannabis a Class B drug. SARI called who he stated was the owner of the store and a male arrived who was identified as being Cem KESKIN born 25/03 1979. Due to SARI's arrest officers had to leave the location at this time and I was advised of their findings.
6. As a result of the above on 31st December 2016 at 2150hrs I have attended the location to conduct a full licensing check. On entering the store there were two members of staff behind the till and I saw them serve alcohol in the form of cans of cider to a male, one of the members of staff was ARIK and I identified the second as being his wife Helen GATES born 13/10/1967. Both stated that they were only helping out and not getting paid to work at the location. I asked them who they were working for and they stated SARI and KESKIN, they had no knowledge as to the fact that HOWELL was the premises licence holder or the DPS and had never spoken with or seen her nor did they have any means to contact her. They confirmed that they had received no formal training from her with regards to the sale of alcohol. ARIK stated that he was working there for free hoping that he would be given a job in the future by KESKIN. It is my belief that both were working there and being paid cash in hand to avoid having to make any declaration to the DSS.
7. I contacted HOWELL by phone and advised her that she needed to attend the location whilst waiting for her I conducted a number of checks and observed that Part B of the premises licence was not on display it was produced along with part A from under the counter in an envelope.
8. ARIK and GATES were unable to work the CCTV stating that only SARI could work it condition 7 on the premise licence states

CCTV equipment which is fit for purpose and which covers all trading areas, smoking areas and entrance areas shall be provided and maintained in working condition when the premises are open for business. The CCTV product will be maintained for a minimum of 28 days and shall be provided to enforcement bodies on request. There must be a person on the premises able to download CCTV at all times the premises is open for trading.

9. At 2220hrs HOWELL arrived at the location and I cautioned her, she was unable to produce any staff training records as required under condition 5 that states

No member of staff shall be permitted to sell alcohol until they have completed training upon induction that covers the supply of alcohol to persons who are intoxicated, drug awareness and the operation of the 'Challenge 25' policy. Staff shall receive refresher training on these subjects at no greater than six month intervals. Records of this training shall be kept on the premises and shall be made available to officers of any of the responsible authorities upon request. The records can be retained as electronic or written form.

10. She was also unable to produce a Challenge 25 policy and training records. Condition 6 on the premise licence states

A Challenge 25 policy will apply to the premises and all staff serving alcohol shall be trained in the operation of the scheme so that anyone attempting to buy alcohol who appears to be aged 25 or under will be asked for identification of age in the form of either a valid passport, photo driving licence, government issued identity card or PASS accredited card or its equivalent successor card and if none is supplied or that supplied is unacceptable a sale will be refused and a record kept of the refusal. Staff selling alcohol will be subject to refresher training every 3 months and records of training shall be kept. Records of refusals and training shall be made available to enforcement officers on request.

11. HOWELL was also unable to work the CCTV. Whilst talking to her she stated that KESKIN owned the shop and that he and SARI were using her licence. She had nothing to do with the running of the shop, she stated that she had applied for the licence for SARI and KESKIN but had never even seen the issued licence nor been at the store and she had no knowledge as to who ARIK and GATES were. She is in a relationship with SARI and was doing them a favour though she is now estranged from him and he is not allowed to have any contact with her.

12. Whilst talking with HOWELL KESKIN arrived at the location, he was very agitated and confrontational towards Police and refused to listen to reason resulting in him having to be removed from the store.

Statement of Truth

I confirm that the contents of this statement are true to the best of my knowledge and belief.

Signed..........
PC MICHAEL DIFFIN

Dated..........

Appendix B

Whitworth Road Residents Association

Attention of Licensing Manager.

Swindon Borough Council

Beckhampton Street

Swindon

Review of Licence at

Moredon Off Licence 275 Whitworth Road.

Rodbourne Cheney

Swindon SN25 3BU.

The Whitworth Road Residents Association request that the licence held by the current licensee be revoked due to the reasons documented in the review paper.

We are particularly concerned that in the short time this off licence was open the manager and licence holder contravened several conditions of the licence ,including a drug offence attributed to the manager.

We reiterate our request that the licensing committee revoke the licence of the current holder at

Moredon Off Licence 275 Whitworth Road.Rodbourne Cheney

Swindon SN25 3BU.

Yours Sincerely

W.S.King



Rodbourne Cheney Residents Association

66, The Broadway, Rodbourne Cheney,
Swindon, Wilts SN25 3BW.
Telephone 01793 341127

The Licensing Manager,
Swindon Borough Council,
Wat Tyler House,
Beckhampton Street,
Swindon.
SN1 2JH.

29th January, 2017

Dear Madam,

On behalf of our residents, many of whom have contacted us, we would like to express our deep concerns that in the short period of time since the Premises Licence was issued in respect of 275, Whitworth Road, Rodbourne Cheney, Wiltshire Police have deemed it necessary to request a review of the Licence because of the number of breaches of conditions imposed when the Licence was granted. It is also of great concern to us that the manager who should have been responsible for upholding these conditions has been arrested for two drug related offences.

Since the conditions breached were all imposed "to prevent crime and disorder", we feel That in order to protect our community this Licence should be revoked.

Regards

Michael Lucas (Vice Chair R.C.R.A.)

Appendix C

**Service
Delivery**

Swindon Borough Council
Wat Tyler House
Beckhampton Street
Swindon, SN1 2JG

Tel:- 01793 445500
DX:- 133055 Swindon 16
Minicom:- 01793 436659

Ms Gonul Howell
61 Moredon Road
Moredon
Swindon
SN2 2JG

Please ask for: Licensing

Direct Dial No: 01793 445500

Email: licensing@swindon.gov.uk

Our Ref: 881160765LAPRE

28th October 2016

Dear Madam,



Re: Licensing Act 2003 – Grant of Premises Licence
Moredon Off Licence, 275 Whitworth Road, Swindon, SN25 3BU

Further to your recent application for a premises licence to be granted in respect of this premises, please find the licence (Part A) and summary (Part B) enclosed. Please check these documents carefully. If there are any administrative errors, you should contact the Licensing Team within the next 21 days so that a correction can be made, if appropriate.

You must familiarise yourself with the licensable activities and hours authorised by the licence and the conditions attached to the licence. Failure to comply with the licence when providing licensable activities is an offence under section 136(1) of the Licensing Act 2003. A person who is found guilty of such an offence is liable on summary conviction to a fine not exceeding £20,000, or to imprisonment for a term not exceeding 6 months, or to both.

Premises Licence (Part A)

The enclosed licence (or a copy certified by a solicitor or notary) must be kept at the premises in the custody or under the control of either

- (a) the holder of the licence, or
- (b) a person who works at the premises and who has been nominated in writing by the licence holder to keep the licence under their control at the premises.

Where the licence is in the custody of a nominated person, a notice must be prominently displayed in the premises stating the position of the person who has been nominated to keep the licence at the premises in their custody

The licence must be made available for inspection by a constable or an authorised officer at all times that the premises is trading.



Premises Licence Summary (Part B)

The summary of the licence (or a copy certified by a solicitor or notary) must be prominently displayed at the premises so that it can be clearly read by the public. The summary of the licence must be displayed at all times when licensable activities are provided in the premises.

Annual Fee

An annual fee is payable each year on the anniversary of the grant of the licence. A reminder will be sent when the fee is due.

Failure to pay the annual fee will result in the suspension of the licence. The provision of licensable activities whilst the licence is suspended is an offence under section 136(1) of the Licensing Act 2003 and the penalties set out above will again apply.

Duration of the Licence

The licence has no expiry date but it will lapse if the licence holder dies, dissolves, becomes insolvent or becomes a person who lacks capacity (in terms of the Mental Capacity Act 2005) to hold the licence. The licence may also be surrendered by the licence holder on return of the licence Swindon Borough Council.

Additionally, Swindon Borough Council (the Licensing Authority) may suspend the licence for up to 3 months or revoke the licence if it is reviewed because the provision of licensable activities undermines the licensing objectives.

Lost/Theft/Damage of the Licence

If the licence or summary are lost, stolen, damaged or destroyed, a duplicate copy can be obtained from Swindon Borough Council on payment of the relevant fee. Where the licence or summary are lost or stolen, the matter should be reported to the police and an incident log number obtained prior to requesting a duplicate copy of the lost or stolen document.

Name/Address Changes

Swindon Borough Council (the Licensing Authority) must be notified as soon as reasonably practicable of any change to the name or address of the licence holder or (where applicable) designated premises supervisor, and the relevant fee paid.

If you are unsure of the meaning of any part of the licence or summary, or if you require clarification on the contents of this letter, please contact the Licensing Team on the number provided above.

Yours faithfully,

Kathryn Ashton
Licensing Manager



Licensing Authority
5th Floor, Wat Tyler West
Beckhampton Street
Swindon
SN1 2JG
Tel: 01793 466113
licensing@swindon.gov.uk



Premises Licence Schedule 12 - Part A

(THIS PART OF THE LICENCE MUST BE KEPT AT THE PREMISES AT ALL TIMES AND PRODUCED
UPON REQUEST OF AN AUTHORISED OFFICER)

Premises Licence Number	881160765LAPRE
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Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code Moredon Off Licence 275 Whitworth Road Swindon SN25 3BU
Telephone number NIL

Where the licence is time limited the dates Not Applicable
--

Licensable activities authorised by the licence Sale by Retail of Alcohol

Times the licence authorises the carrying out of licensable activities Sale by Retail of Alcohol Sunday 08:00 - 22:30 Monday to Saturday 08:00 - 23:00
--

The opening hours of the premises

Monday to Sunday 08:00 - 00:30

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

Alcohol may only be supplied for consumption off the premises

Part 2

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

Ms Gonul Howell

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

Not applicable

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

Gonul Howell

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

Personal Licence No: 881110132

Licensing Authority: Swindon Borough Council

This Premises Licence is issued by Swindon Borough Council as Licensing Authority under Part 3 of the Licensing Act 2003 and regulations made thereunder.

Dated this 4th October 2016

Kathryn Ashton
Licensing Manager

Mandatory Conditions

1. No supply of alcohol may be made under the premises licence
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the Premises Licence must be made, or authorised by, a person who holds a Personal Licence.
3.
 - (1) The 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 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.
4.
 - (1) A "relevant person" shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the "permitted price".
 - (2) For the purposes of the condition set out in paragraph (1)
 - (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - (b) "permitted price" is the price found by applying the formula

$$P = D + (D \times V)$$

where

- (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence
- (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- (3) Where the permitted price given by Paragraph (b) of paragraph (2) would (apart from 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) (a) Sub-paragraph (4)(b) below applies where the permitted price given by Paragraph (2)(b) above 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.

- (b) 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.

Conditions consistent with the Operating Schedule

None

Conditions attached after a hearing by the Licensing Authority

- 5. No member of staff shall be permitted to sell alcohol until they have completed training upon induction that covers the supply of alcohol to persons who are intoxicated, drug awareness and the operation of the 'Challenge 25' policy. Staff shall receive refresher training on these subjects at no greater than six month intervals. Records of this training shall be kept on the premises and shall be made available to officers of any of the responsible authorities upon request. The records can be retained as electronic or written form.
- 6. A Challenge 25 policy will apply to the premises and all staff serving alcohol shall be trained in the operation of the scheme so that anyone attempting to buy alcohol who appears to be aged 25 or under will be asked for identification of age in the form of either a valid passport, photo driving licence, government issued identity card or PASS accredited card or its equivalent successor card and if none is supplied or that supplied is unacceptable a sale will be refused and a record kept of the refusal. Staff selling alcohol will be subject to refresher training every 3 months and records of training shall be kept. Records of refusals and training shall be made available to enforcement officers on request.
- 7. CCTV equipment which is fit for purpose and which covers all trading areas, smoking areas and entrance areas shall be provided and maintained in working condition when the premises are open for business. The CCTV product will be maintained for a minimum of 28 days and shall be provided to enforcement

bodies on request. There must be a person on the premises able to download CCTV at all times the premises is open for trading.

Plans

Plan Reference: 881160765LAPRE



Licensing Authority
5th Floor, Wat Tyler West
Beckhampton Street
Swindon
SN1 2JG
Tel: 01793 466113
licensing@swindon.gov.uk

Premises Licence

Schedule 12 - Part B

(THIS PART OF THE LICENCE MUST BE DISPLAYED IN A PROMINENT POSITION WITHIN THE PREMISES)

Premises Licence Number

881160765LAPRE

Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

Moredon Off Licence
275 Whitworth Road
Swindon
SN25 3BU

Telephone number NIL

Where the licence is time limited the dates

Not Applicable

Licensable activities authorised by the licence

Sale by Retail of Alcohol

Times the licence authorises the carrying out of licensable activities**Sale by Retail of Alcohol**

Sunday 08:00 - 22:30

Monday to Saturday 08:00 - 23:00

The opening hours of the premises

Monday to Sunday 08:00 - 00:30

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

Alcohol may only be supplied for consumption off the premises

Name, (registered) address of holder of premises licence

Ms Gonul Howell
61 Moredon Road
Moredon
Swindon
SN2 2JG

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

Not applicable

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

Gonul Howell

State whether access to the premises by children is restricted or prohibited

Not Restricted or Prohibited

This Premises Licence is issued by Swindon Borough Council as Licensing Authority under Part 3 of the Licensing Act 2003 and regulations made thereunder.

Dated this 4th October 2016

Kathryn Ashton
Licensing Manager

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