



Tuesday, 22 January 2019

LICENSING SUB-COMMITTEE

A meeting of **Licensing Sub-Committee** will be held on

Wednesday, 30 January 2019

commencing at **10.30 am**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,
Torquay, TQ1 3DR

Members of the Committee

Councillor Thomas (D)

Councillor Thomas (J)

Councillor Tolchard

A prosperous and healthy Torbay

For information relating to this meeting or to request a copy in another format or language please contact:

Lisa Antrobus, Town Hall, Castle Circus, Torquay, TQ1 3DR
01803 207087

Email: governance.support@torbay.gov.uk

www.torbay.gov.uk

LICENSING SUB-COMMITTEE AGENDA

1. **Apologies**

To receive apologies for absence, including notifications of any changes to the membership of the Committee.

2. **Declarations of interests**

- (a) To receive declarations of non pecuniary interests in respect of items on this agenda

For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

- (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda

For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(Please Note: If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)

3. **Urgent items**

To consider any other items that the Chairman decides are urgent.

4. **Licensing Act 2003 – An application for a Transfer of the Premises Licence for Zakopane, 16 Market Street, Torquay** (Pages 3 - 17)

To consider an application for a Transfer of the Premises Licence in respect of Zakopane, 16 Market Street, Torquay.

5. **Licensing Act 2003 – An application for a Variation to a Premises Licence to Specify an Individual as the Premises Supervisor of Zakopane, 16 Market Street, Torquay TQ1 3AQ** (Pages 18 - 30)

To consider an application for a Variation to a Premises licence to specify an individual as the Premises Supervisor of Zakopane, 16 Market Street, Torquay.

6. **Licensing Act 2003 – An application for a Review of a Premises Licence for Zakopane, 16 Market Street, Torquay TQ1 3AQ** (Pages 31 - 98)

To consider an application for a Review of a Premises Licence for Zakopane, 16 Market Street, Torquay.



Public Agenda Item: **No**

Title: **Licensing Act 2003 – An application for a Transfer of the Premises Licence for Zakopane, 16 Market Street, Torquay TQ1 3AQ**

Wards Affected: **Tormohun**

To: **Licensing Sub - Committee** On: **30 January 2019**

Contact Officer: **Mandy Guy**
Telephone: **01803 208293**
E.mail: **Licensing@torbay.gov.uk**

1. Key points and Summary

- 1.1 To consider and determine an application, in respect of the Premises detailed above, which is situated within the Cumulative Impact Area. The application relates to the Transfer of the Premises Licence in respect of which a Notice has been received from the Police Superintendent, stating that it is the opinion of the Police that there are exceptional circumstances in relation to the proposed Licence Holder and members of staff at the Premise. The Police believe these links may lead to the Crime Prevention Objective being undermined and they therefore request that this application is refused. The Notice is shown in Appendix 2.
- 1.2 The Sub-Committee must consider the effects of the application against all the Corporate Priorities within the Community Plan.
- 1.3 The matter must be considered on its merits having received details of the issues arising either at a hearing or by written Representation if all parties have agreed that a hearing is not necessary. A decision must be made either:-
 - (a) to grant the application or,
 - (b) having regard to the Notice, reject the application if it is considered that it is necessary for the promotion of the Crime Prevention Objective to do so.
- 1.4 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Applicant, the proposed Premises Supervisor and the Police on determination of the matter.

forward thinking, people orientated, adaptable - always with integrity.

- 1.5 Where an application is received to Transfer a Premises Licence, it is necessary for the existing Licence Holder, where able to do so, to provide written consent to

give permission for the licence to be transferred. This consent forms part of the application form and therefore has been provided.

- 1.6 This application includes a request that the Transfer applied for should take immediate effect.

2. Introduction

- 2.1 An application has been made under Section 42 of the Act for a Transfer of the Premises Licence at the Premises detailed above. Details of the application are shown in Appendix 1.

- 2.2 The Council as Licensing Authority, is satisfied that the Applicant has met the administrative requirements of Section 42(5) but is unable to grant the application as a Notice has been received from the Police under Section 42(6). The Authority is also satisfied that such Notice has been received within the appropriate timescale and has not been subsequently withdrawn. Details of the Notice are shown in Appendix 2.

- 2.3 The Authority is required to conduct a hearing by the provisions of Section 44(5) unless all parties agree that this is not necessary.

- 2.4 Appropriate Notices have been issued to all parties, as required by the Licensing Act 2003 (Hearing Regulations) 2005, including, where appropriate, details of the Representation and the procedure to be followed at the hearing.

- 2.5 If the application is refused, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 1 of Schedule 5, to the Applicant.

- 2.6 If the application is granted, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 6(2) of Schedule 5 to The Chief Officer of Police (who had given an appropriate Notice which was not withdrawn).

- 2.7 Following such Appeal, the Magistrates' Court may:-

(a) dismiss the appeal,

(b) substitute for the decision appealed against any other decision which could have been made by the licensing authority, or

(c) remit the case to the licensing authority to dispose of it in accordance with the direction of the court,

(d) and may make such order as to costs as it thinks fit.

Steve Cox
Environmental Health Manager (Commercial)

Appendices

Appendix 1 A copy of the Application form.

Appendix 2 The Notice received from the Police.

Documents available in members' rooms

None

Background Papers:

The following documents/files were used to compile this report:

Torbay Council Licensing Policy 2016-2021.



FORM 1

Application to transfer premises licence to be granted 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/We Zakopane Torquay Ltd

(Insert name of applicant)

apply to transfer the premises licence described below under section 42 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number

PL1130

Part 1 – Premises details

Postal address of premises or, if none, Ordnance Survey map reference or description

16 Market Street
 Torquay
 Devon
 TQ1 3AQ

Post town Torquay

Post code TQ1 3AQ

Telephone number at premises (if any)

Please give a brief description of the premises (see note 1)

European Food Store

Name of current premises licence holder

Wali Ahmed Khader

Part 2 - Applicant details

In what capacity are you applying for the premises licence to be transferred to you?

- | | |
|---|---|
| a) an individual or individuals* | Please tick <input checked="" type="checkbox"/> yes
<input type="checkbox"/> please complete section (A) |
| b) a person other than an individual * | X please complete section (B) |
| i. as a limited company | <input type="checkbox"/> please complete section (B) |
| ii. as a partnership | <input type="checkbox"/> please complete section (B) |
| iii. as an unincorporated association or | <input type="checkbox"/> please complete section (B) |
| iv. other (for example a statutory corporation) | <input type="checkbox"/> please complete section (B) |

- c) a recognised club please complete section (B)
- d) a charity please complete section (B)
- e) the proprietor of an educational establishment please complete section (B)
- f) a health service body please complete section (B)
- g) an individual who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in respect of an independent hospital in England please complete section (B)
- h) the chief officer of police of a police force in England and Wales please complete section (B)

*If you are applying as a person described in (a) or (b) please confirm:

Please tick yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a
 - statutory function or
 - a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

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

Surname **First names**

Date of birth **Nationality** **I am 18 years old or over** Please tick yes

Current residential address if different from premises address

Post town **Post code**

Daytime contact telephone number

E-mail address
(optional)

SECOND INDIVIDUAL APPLICANT (fill in as applicable)

Mr Mrs Miss Ms

Other title
(for example, Rev)

Surname

First names

Date of birth
Nationality

I am 18 years old or over

Please tick yes

Current
residential
address if
different from
premises
address

Post town

Post code

Daytime contact telephone number

E-mail address
(optional)

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name Zakopane Torquay Ltd
Address 16 Market Street Torquay Devon TQ1 3AQ
Registered number (where applicable) 11693690

Description of applicant (for example partnership, company, unincorporated association etc.) Limited Company
Telephone number (if any)
E-mail address (optional)

Part 3

Please tick yes

Are you the holder of the premises licence under an interim authority notice?

Do you wish the transfer to have immediate effect?

If not when would you like the transfer to take effect?

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

Please tick yes

I have enclosed the consent form signed by the existing premises licence holder

If you have not enclosed the consent form referred to above please give the reasons why not. What steps have you taken to try and obtain the consent?

Please tick yes

If this application is granted I would be in a position to use the premises during the application period for the licensable activity or activities authorised by the licence (see section 43 of the Licensing Act 2003)

Please tick yes

I have enclosed the premises licence

If you have not enclosed premises licence referred to above please give the reasons why not.
Will be posted

- I have made or enclosed payment of the fee
- I have enclosed the consent form signed by the existing premises licence holder or my statement as to why it is not enclosed
- I have enclosed the premises licence or relevant part of it or explanation
- I have sent a copy of this application to the chief officer of police today
- I have sent a copy of this form to Home Office Immigration Enforcement today

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

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 2)

Part 4 – 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 10th January 2018

Capacity Solicitor

For joint applicants signature of second applicant, second applicant's solicitor or other authorised agent (please read guidance note 5). If signing on behalf of the applicant please state in what capacity.

Signature

.....

Date

.....

Capacity

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6) Victoria Cartmell Forrest Solicitors Ironworks House	
Post town Carnforth	Post Code
Telephone number (if any) [REDACTED]	
If you would prefer us to correspond with you by e-mail your e-mail address (optional) [REDACTED]	



Consent of premises licence holder to transfer licence

I/we Wali Ahmed Khader
[full name of premises licence holder(s)]

the premises licence holder of premises licence number PL1130
[insert premises licence number]

relating to

Zakopane 16 Market Street, Torquay
[name and address of premises to which the application relates]

hereby give my consent for the transfer of premises licence number

PL1130
[insert premises licence number]

to

Zakopane Torquay Ltd
[full name of transferee]

Signed 
Name
(please print) Wali Khader
Dated 10/1/19



Devon & Cornwall Police

Licensing Department
Torbay Council
C/O Torquay Town Hall
Castle Circus
TORQUAY
TQ1 3DR

Licensing Department
Devon and Cornwall Police
Police Station
South Street
TORQUAY TQ2 5AH

Telephone: 01803 218900

18 January 2019

Dear Sir/Madam

Application to Transfer the Premises Licence in respect of Zakopane, 16 Market Street, Torquay

I refer to an application to Transfer the Premises Licence of the above named premises into the name of Zakopane Torquay Ltd. This application was received by the police on Friday 11 January 2019 and it was marked for immediate effect.

Companies House shows that the sole director of Zakopane Torquay Ltd is Mr Abdullah Omar Abdullah.

This premises is situated within your Cumulative Impact Area and therefore there is a greater expectation that the Premises Licence Holders and DPS will ensure that their premises are managed in a responsible manner, whilst promoting the licensing objectives.

At approximately 11.00 am on Monday 14 January 2019 Mrs Smart attended Zakopane in the company of Sgt Dave Curtis, Police Licensing Sergeant for Devon. Mrs Smart advised the male member of staff present, Mr ██████████, that she was going to carry out a licensing inspection and he indicated that he was happy to help.

Mrs Smart then checked each of the conditions contained within the Premises Licence. At the conclusion of this Mrs Smart explained to Mr ██████ that as some of the conditions on the Premises Licence were not being complied with, every time that alcohol is sold from the premises offences under Section 136 of the Licensing Act 2003 are being committed.

Contact the police

Emergency 999

Non-emergency www.devon-cornwall.police.uk/reportcrime

101@dc.police.uk 101

Follow us DevonAndCornwallPolice DC_Police DCPolice



The Government Standard
Star code 5F615

As Sgt Curtis was not satisfied that all of the conditions were being complied with he issued Mr ██████ with a Closure Notice under Section 19 of the Criminal Justice and Police Act 2001. A copy of that notice is attached for your information.

When the Section 19 Closure Notice was completed, Mrs Smart was aware that the Incident Book and Barred Customer Book produced by Mr ██████ had been provided to Zakopane by the Licensing Agent who applied for the original grant of the Premises Licence in October 2017. She was therefore expecting these books to contain entries but she now acknowledges that as Mr Abdullah only took over responsibility for the premises on 11 January 2019 it is unlikely that any incidents have occurred or customers been barred since that date.

In relation to the condition on the Premises Licence which states "The premises are secured with roller shutters at the front and rear and alarmed when closed", at the time of the visit the rear door did not have a roller shutter. However, Mrs Smart was concerned about a fire door being fitted with roller shutters and therefore this matter was not written on the Section 19 notice. Mrs Smart and Sgt Curtis have now discussed this matter and as a result of those discussions, Sgt Curtis is not satisfied that the condition is being complied with. However, as the door in question is a fire exit, the police recommend that the Premises Licence Holder seeks the advice of the Fire Service in relation to this matter.

As Mr Abdullah, the sole director, was described at the Review hearing as being an experienced licence holder, having managed at least one licensed premises in the Leicester area, it is of great concern that the conditions of the licence were not being complied with at the time of this visit.

Furthermore, Sgt Curtis and Mrs Smart first met Mr Abdullah at the Licensing Sub-Committee Hearing in relation to the Review of the Premises Licence of Zakopane, Market Street, Torquay on Thursday 17 January 2019.

At that hearing it was obvious that there was a language barrier. Mr Abdullah had difficulty understanding and clarifying questions asked of him, to the extent that the hearing has been adjourned to allow a suitable interpreter to attend.

The role of Premises Licence Holder requires that individual or company to ensure that their premises are managed in compliance of the law and in a manner which promotes the licensing objectives. Should any Responsible Authority have concerns regarding the management of a licensed premises they have a duty to advise the Premises Licence Holder of those concerns. I do not believe that Mr Abdullah possesses sufficient English language skills to be able to understand issues brought to his attention by representatives of any other Responsible Authority without the need for an interpreter.

In addition to the above, from information provided at the Review hearing it is apparent that several employees of the previous licence holder, Mr Khader, have been retained by Mr Abdullah. This contradicts information provided to Sgt Curtis and Mrs Smart by Mr [REDACTED] on 14 January 2019 as he stated that none of the previous staff were employed at the premises. Mr [REDACTED] also told them that he had been requested by Mr Abdullah (his cousin) to help him run the premises and he said he had only been at the premises for one day.

At the Review hearing Mr Abdullah was accompanied by a male, who Ms Cartmell (Mr Abdullah's legal representative) said had been employed to assist Mr Abdullah in the management of the premises. Mrs Smart recognises this male as a previous employee at the premises.

There are also similarities between the management of the premises under Mr Khader and Mr Abdullah as both were found to be breaching the conditions of the premises licence within a very short period of them becoming responsible for the premises.

It is the opinion of the police that the staff employed at the premises by Mr Khader were complicit in the sale of illegal tobacco and alcohol. As these persons are still employed at the premises, it does not appear that much has changed except there being a different company 'fronting' the business.

It is the opinion of the police that there are exceptional circumstances in relation to the links between Mr Abdullah and members of staff at the premises. The police believe these links may lead to the crime prevention objective being undermined and we therefore request that this application is refused.

Should you require any further information or assistance, please do not hesitate to contact my Licensing Officer, Mrs Julie Smart, on telephone number 01803 218900.

Yours faithfully



Superintendent J Hawley
Head of Prevention Department
Devon & Cornwall and Dorset Police Alliance



File No.:	Computer URN:	Minute No.:
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Closure Notice

Section 19 Criminal Justice and Police Act 2001

Section 19 of the Criminal Justice and Police Act 2001 empowers a constable or local authority to serve a closure notice on a person having control of, or responsibility for, any premises that are being, or have been used within the last 24 hours, for the sale or consumption of alcohol on or in the vicinity of the premises, without a licence. (Where such a closure notice is served it must also be served on any other occupier of the premises whose access may be impeded if the part involved in the unlicensed sale of alcohol was to be closed.) Where a constable is satisfied that any premises are being, or within the last 24 hours have been, used for the unauthorised sale of alcohol for consumption on, or in the vicinity of, the premises, he may serve a notice in respect of the premises.

Date and time of the Closure Notice: 11 20am 14/01/19

Person making the Notice: SGT DAVE CURTIS
Signature: [Signature]

Name (if applicable) and address of the affected premises:
ZAKOPANE, 16 MARKET STREET, TORQUAY.

Alleged unauthorised use of the premises:
NO CCTV INTERVIEW CHECK BOOK, INCIDENT BOOK
PRODUCED BUT NO ENTRIES; PARKED CUSTOMER LOG NO ENTRIES
STAFF TRAINING RECORDS - BOOK PRODUCED BUT NO ENTRIES

Steps which may be taken to end the alleged unauthorised use of the premises, or to prevent it from re-occurring:
ADDRESS ISSUES ABOVE - IN PARTICULAR STAFF TRAINING

The person (if applicable) on whom the Closure Notice has been served:
Name: [Redacted]
Signature: [Signature]

Explanatory Notes

A police officer, or an authorised officer from the local authority has decided to issue this Closure Notice under the terms of Section 19 of the Criminal Justice and Police Act 2001 ('The 2001 Act').

Section 19 of the 2001 Act – Closure Notices

Where a police officer or an authorised officer from the local authority is satisfied that any premises are being, or within the last 24 hours have been used for the unlicensed sale of alcohol, including being in breach of its licence conditions, he may serve under Sub Section (3) a notice in respect of the premises.

Section 20 of the 2001 Act – Closure Orders

Your attention is drawn to Section 20 of the 2001 Act. This provides that the police, or as the case may be the local authority, can take action against the said premises by applying to a Justice of the Peace at the local Magistrates' Court for a closure order if the unlicensed sale of alcohol (as alleged in this Closure Notice) is continuing, or there is a reasonable likelihood that the premises will be so used in the future. The application for a Closure Order must be made not less than 7 days, and not more than 6 months after the date on which this closure notice was served.

After an application for the Closure Order is made the Justice of the Peace may issue a summons requiring the applicant and also the persons or persons on whom the Closure Notice was served to attend a hearing at the court on a specified date and time. At the hearing the court will consider the applicant's complaint against the said premises and decide whether a Closure Order should or should not be made.

In accordance with the Magistrates' Court Act 1980 and under the law on human rights, you are entitled to be legally represented at the hearing and to make representations to the court before any decision is taken.

Appeals – Section 24 of the 2001 Act

An appeal against a decisions by the Magistrates' Court to grant a Closure Order, or a decision to refuse an application for a Closure Order can be made by an affected person to the Crown Court within 21 days.

Enforcement Powers and Offences - Section 24 of the 2001 Act

It is an offence for a person, without reasonable excuse, to permit a premises to open in contravention of a Closure Order made by the Magistrates Court. Any person found guilty of such an offence will be liable to a fine not exceeding £20,000 or to imprisonment for a term not exceeding three months, or to both.

It is also an offence for a person who, without reasonable excuse fails to comply with any other terms of a Closure Order made by the court, or does an act, which contravenes those other terms. Any person convicted of this offence is liable to a fine not exceeding £5,000 or to three months imprisonment, or to both.

Police officers and authorised officers from the local authority have the power to enter the said premises at any reasonable time, and to do anything reasonably necessary to secure compliance with the Closure Order (for example, to board up the premises). However when exercising this power the constable or the officer must produce evidence of his authority to enter and also his identity before entering the premises, if asked to do so by the owner (or the occupier or the person in charge of the premises).

It is an offence for a person to intentionally obstruct police officers or authorised local authority officer from exercising these powers. Any persons convicted of obstructing a police officer is liable to a fine not exceeding £5,000, or to three months imprisonment, or to both. Any person convicted of obstructing an authorised local authority officer is liable to a fine not exceeding £5,000.



Briefing Report No:

Public Agenda Item: **No**

Title: **Licensing Act 2003 – An application for a Variation to a Premises Licence to Specify an Individual as the Premises Supervisor of Zakopane, 16 Market Street, Torquay TQ1 3AQ**

Wards Affected: **Tormohun**

To: **Licensing Sub - Committee**

On: **30th January 2019**

Contact Officer: **Mandy Guy**

☎ Telephone: **01803 208293**

✉ E.mail: **Licensing@torbay.gov.uk**

1. Key points and Summary

- 1.1 To consider and determine an application, in respect of the Premises detailed above, which is situated within the Cumulative Impact Area. The application relates to a Variation to a Premises Licence to Specify an Individual as the Premises Supervisor in respect of which a Notice has been received from the Police Superintendent, stating that it is the opinion of the Police that the application should not be granted due to a number of concerns. These concerns are listed in the Police Notice which is shown in Appendix 2.
- 1.2 The Sub-Committee must consider the effects of the application against all the Corporate Priorities within the Community Plan.
- 1.3 The matter must be considered on its merits having received details of the issues arising either at a hearing or by written Representation if all parties have agreed that a hearing is not necessary. A decision must be made either:-
 - (a) to grant the application or,
 - (b) having regard to the notice, reject the application if it is considered that it is necessary for the promotion of the Crime Prevention Objective to do so.
- 1.4 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Applicant, the proposed Premises Supervisor and the Police on determination of the matter.

forward thinking, people orientated, adaptable - always with integrity.

- 1.5 Where a Premises Licence has been issued under the Act to permit regulated activities to be provided at any Premises, one of which is the supply of alcohol, it

is necessary for the holder of the Licence to also designate a Premises Supervisor. This can be the holder of the Licence or another person. In the latter case, the individual concerned must consent to the application being made.

- 1.6 This application includes a request that the Variation applied for should take immediate effect.

2. Introduction

- 2.1 An application has been made under Section 37 of the Act for a Variation to a Premises Licence to Specify an individual as the Premises Supervisor at the Premises detailed above. Details of the application are shown in Appendix 1.

- 2.2 The Council as Licensing Authority, is satisfied that the Applicant has met the administrative requirements of Section 37(4) but is unable to grant the application as a Notice has been received from the Police under Section 37(5). The Authority is also satisfied that such Notice has been received within the appropriate timescale and has not been subsequently withdrawn. Details of the Notice are shown in Appendix 2.

- 2.3 The Authority is required to conduct a hearing by the provisions of Section 39(3) unless all parties agree that this is not necessary.

- 2.4 Appropriate Notices have been issued to all parties, as required by the Licensing Act 2003 (Hearing Regulations) 2005, including, where appropriate, details of the Representation and the procedure to be followed at the hearing.

- 2.5 If the application is refused, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 1 of Schedule 5, to the Applicant.

- 2.6 If the application is granted, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 5(2) of Schedule 5 to The Chief Officer of Police (who had given an appropriate notice which was not withdrawn).

- 2.7 Following such Appeal, the Magistrates' Court may:-

- (a) dismiss the appeal,

- (b) substitute for the decision appealed against any other decision which could have been made by the licensing authority, or

- (c) remit the case to the licensing authority to dispose of it in accordance with the direction of the court,

- (d) and may make such order as to costs as it thinks fit.

Appendices

Appendix 1 A copy of the Application form.

Appendix 2 The Notice received from the Police.

Documents available in members' rooms

None

Background Papers:

The following documents/files were used to compile this report:

Torbay Council Licensing Policy 2016-2021.

FORM N



Application to vary a premises licence to specify an individual as designated premises supervisor 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 / we Zakopane Torquay Ltd

(full name(s) of premises licence holder)

being the premises licence holder, apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003

Premises licence number

PL1130

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description 16 Market Street	
Post town Torquay	Post code (if known) TQ1 3AQ
Telephone number (if any)	

Description of premises (please read guidance note 1) European Food Store

Part 2

Full name of proposed designated premises supervisor
Abdullah Omar Abdullah

Nationality
[REDACTED]

Place of birth
[REDACTED]

Date of birth
[REDACTED]

Personal licence number of proposed designated premises supervisor and issuing authority of that licence (if any)
Leicester City Council LEIPRS3170

Full name of existing designated premises supervisor (if any)
Wali Ahmed Khader

Please tick yes

I would like this application to have immediate effect under section 38 of the Licensing Act 2003

I have enclosed the premises licence or relevant part of it

(If you have not enclosed the premises licence, or relevant part of it, please give reasons why not)

Reasons why I have failed to enclose the premises licence or relevant part of it
Will post

Please tick yes

- I have made or enclosed payment of the fee
- I will give a copy of this application to the chief officer of police
- I have enclosed the consent form completed by the proposed premises supervisor
- I have enclosed the premises licence, or relevant part of it or explanation
- I will give a copy of this form to the existing premises supervisor, if any
- I understand that if I do not comply with the above requirements my application will be rejected

I/WE UNDERSTAND THAT IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

[APPLICABLE TO INDIVIDUAL APPLICANTS ONLY, INCLUDING THOSE IN A PARTNERSHIP WHICH IS NOT A LIMITED LIABILITY PARTNERSHIP, BUT NOT COMPANIES OR LIMITED LIABILITY PARTNERSHIPS] IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971] FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

Part 3 – Signatures (please read guidance note 2)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 3). If signing on behalf of the applicant please state in what capacity.

Signature	
Date	10/1/19
Capacity	Solicitor

For joint applicants signature of 2nd applicant 2nd applicant's solicitor or other authorised agent (please read guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13)
 Victoria Cartmell
 Forrest Solicitors
 Ironworks House

Post town	Carnforth	Postcode	
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			
			



Consent of individual to being specified as premises supervisor

I **Abdullah Omar Abdullah**
[full name of prospective premises supervisor]

Of **16 Market Street**
Torquay
TQ1 3AQ
.....
[home address of prospective premises supervisor]

hereby confirm that I give my consent to be specified as the designated premises supervisor in relation to the application for

Transfer of Premises Licence

By. **Zakopane Torquay Ltd**
[name of applicant]

relating to a premises licence. PL1130.....
[number of existing licence, if any]

For. **Zakopane**
16 Market Street
Torquay
.....
[name and address of premises to which the application relates]

and any premises licence to be granted or varied in respect of this application made by

Zakopane Torquay Ltd
[name of applicant]

concerning the supply of alcohol at Zakopane
16 Market Street
Torquay
.....
[name and address of premises to which the application relates]

I also confirm that I am entitled to work in the United Kingdom and am applying for, intend to apply for or currently hold a personal licence, details of which I set out below.

Personal licence number. LEIPRS3170.....
[insert personal licence number, if any]

Personal licence issuing authority Leicester City Council
York House
Granby Street.....
Leicester
[insert name and address and telephone number of personal licence issuing authority, if any]

Signed 

Name (please print) Abdullah Omar Abdullah

Date. 10/1/19



Devon & Cornwall Police

Licensing Department
Torbay Council
C/O Torquay Town Hall
Castle Circus
TORQUAY
TQ1 3DR

Licensing Department
Devon and Cornwall Police
Police Station
South Street
TORQUAY TQ2 5AH

Telephone: 01803 218900

18 January 2019

Dear Sir/Madam

Application to Vary the Designated Premises Supervisor in respect of Zakopane, 16 Market Street, Torquay

I refer to an application to Vary the DPS of the above named premises into the name of Mr Abdullah Omar Abdullah. This application was received by the police on Friday 11 January 2019 and it was marked for immediate effect.

This premises is situated within your Cumulative Impact Area and therefore there is a greater expectation that Premises Licence Holders and the DPS will ensure that their premises are managed in a responsible manner, whilst promoting the licensing objectives.

At approximately 11.00 am on Monday 14 January 2019 Mrs Smart attended Zakopane in the company of Sgt Dave Curtis, Police Licensing Sergeant for Devon. Mrs Smart advised the male member of staff present, Mr [REDACTED], that she was going to carry out a licensing inspection and he indicated that he was happy to help.

Mrs Smart then checked each of the conditions contained with the Premises Licence. At the conclusion of this Mrs Smart explained to Mr [REDACTED] that as some of the conditions on the Premises Licence were not being complied with, every time that alcohol is sold from the premises offences under Section 136 of the Licensing Act 2003 are being committed.

As Sgt Curtis was not satisfied that all of the conditions were being complied with he issued Mr [REDACTED] with a Closure Notice under Section 19 of the Criminal Justice and Police Act 2001. A copy of that notice is attached for your information.

Contact the police

Emergency 999

Non-emergency www.devon-cornwall.police.uk/reportcrime

101@dc.police.uk 101

Follow us DevonAndCornwallPolice DC_Police You DCPolice



When the Section 19 Closure Notice was completed, Mrs Smart was aware that the Incident Book and Barred Customer Book produced by Mr Shukir had been provided to Zakopane by the Licensing Agent who applied for the original grant of the Premises Licence in October 2017. She was therefore expecting these books to contain entries but she now acknowledges that as Mr Abdullah only took over responsibility for the premises on 11 January 2019 it is unlikely that any incidents have occurred or customers been barred since that date.

In relation to the condition on the Premises Licence which states "The premises are secured with roller shutters at the front and rear and alarmed when closed", at the time of the visit the rear door did not have a roller shutter. However, Mrs Smart was concerned about a fire door being fitted with roller shutters and therefore this matter was not written on the Section 19 notice. Mrs Smart and Sgt Curtis have now discussed this matter and as a result of those discussions, Sgt Curtis is not satisfied that the condition is being complied with. However, as the door in question is a fire exit, the police recommend that the Premises Licence Holder seeks the advice of the Fire Service in relation to this matter.

As Mr Abdullah was described at the Review hearing as being an experienced licence holder, having managed licensed at least one licensed premises in the Leicester area, it is of great concern that the conditions of the licence were not being complied with on this occasion.

Furthermore, Sgt Curtis and Mrs Smart first met Mr Abdullah at the Licensing Sub-Committee Hearing in relation to the Review of the Premises Licence of Zakopane, Market Street, Torquay on Thursday 17 January 2019.

At that hearing it was obvious that there was a language barrier. Mr Abdullah had difficulty understanding and clarifying questions asked of him, to the extent that the hearing has been adjourned to allow a suitable interpreter to attend.

As the role of the DPS is to be responsible for the day to day management and control of the licensed premises, and to be the first point of contact for all Responsible Authorities, I do not believe that Mr Abdullah possesses sufficient English language skills to be able to understand issues brought to his attention by police officers, Mrs Smart or representatives of any other Responsible Authority.

It is the opinion of the police that Mr Abdullah should not be appointed as DPS due to the above concerns.

Should you require any further information or assistance, please do not hesitate to contact my Licensing Officer, Mrs Julie Smart, on telephone number 01803 218900.

Yours faithfully



Superintendent J Hawley
Head of Prevention Department
Devon & Cornwall and Dorset Police Alliance



File No.:	Computer URN:	Minute No.:
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Closure Notice

Section 19 Criminal Justice and Police Act 2001

Section 19 of the Criminal Justice and Police Act 2001 empowers a constable or local authority to serve a closure notice on a person having control of, or responsibility for, any premises that are being, or have been used within the last 24 hours, for the sale or consumption of alcohol on or in the vicinity of the premises, without a licence. (Where such a closure notice is served it must also be served on any other occupier of the premises whose access may be impeded if the part involved in the unlicensed sale of alcohol was to be closed.) Where a constable is satisfied that any premises are being, or within the last 24 hours have been, used for the unauthorised sale of alcohol for consumption on, or in the vicinity of, the premises, he may serve a notice in respect of the premises.

Date and time of the Closure Notice: 11 20am 14/01/19

Person making the Notice: SGT JAYE CURTIS
Signature: [Handwritten Signature]

Name (if applicable) and address of the affected premises:
ZAKOPANE, 16 MARKET STREET, TORQUAY.

Alleged unauthorised use of the premises:
NO CCTV WEEKLY CHECK BOOK, INCIDENT BOOK
PRODUCED BUT NO ENTRIES, BARRED CUSTOMER LOG NO ENTRIES
STAFF TRAINING RECORDS - BOOK PRODUCED BUT NO ENTRIES

Steps which may be taken to end the alleged unauthorised use of the premises, or to prevent it from re-occurring:
ADDRESS ISSUES ABOVE - IN PARTICULAR STAFF TRAINING

The person (if applicable) on whom the Closure Notice has been served:
Name: [Redacted]
Signature: [Redacted]

Explanatory Notes

A police officer, or an authorised officer from the local authority has decided to issue this Closure Notice under the terms of Section 19 of the Criminal Justice and Police Act 2001 ('The 2001 Act').

Section 19 of the 2001 Act – Closure Notices

Where a police officer or an authorised officer from the local authority is satisfied that any premises are being, or within the last 24 hours have been used for the unlicensed sale of alcohol, including being in breach of its licence conditions, he may serve under Sub Section (3) a notice in respect of the premises.

Section 20 of the 2001 Act – Closure Orders

Your attention is drawn to Section 20 of the 2001 Act. This provides that the police, or as the case may be the local authority, can take action against the said premises by applying to a Justice of the Peace at the local Magistrates' Court for a closure order if the unlicensed sale of alcohol (as alleged in this Closure Notice) is continuing, or there is a reasonable likelihood that the premises will be so used in the future. The application for a Closure Order must be made not less than 7 days, and not more than 6 months after the date on which this closure notice was served.

After an application for the Closure Order is made the Justice of the Peace may issue a summons requiring the applicant and also the persons or persons on whom the Closure Notice was served to attend a hearing at the court on a specified date and time. At the hearing the court will consider the applicant's complaint against the said premises and decide whether a Closure Order should or should not be made.

In accordance with the Magistrates' Court Act 1980 and under the law on human rights, you are entitled to be legally represented at the hearing and to make representations to the court before any decision is taken.

Appeals – Section 24 of the 2001 Act

An appeal against a decisions by the Magistrates' Court to grant a Closure Order, or a decision to refuse an application for a Closure Order can be made by an affected person to the Crown Court within 21 days.

Enforcement Powers and Offences - Section 24 of the 2001 Act

It is an offence for a person, without reasonable excuse, to permit a premises to open in contravention of a Closure Order made by the Magistrates Court. Any person found guilty of such an offence will be liable to a fine not exceeding £20,000 or to imprisonment for a term not exceeding three months, or to both.

It is also an offence for a person who, without reasonable excuse fails to comply with any other terms of a Closure Order made by the court, or does an act, which contravenes those other terms. Any person convicted of this offence is liable to a fine not exceeding £5,000 or to three months imprisonment, or to both.

Police officers and authorised officers from the local authority have the power to enter the said premises at any reasonable time, and to do anything reasonably necessary to secure compliance with the Closure Order (for example, to board up the premises). However when exercising this power the constable or the officer must produce evidence of his authority to enter and also his identity before entering the premises, if asked to do so by the owner (or the occupier or the person in charge of the premises).

It is an offence for a person to intentionally obstruct police officers or authorised local authority officer from exercising these powers. Any persons convicted of obstructing a police officer is liable to a fine not exceeding £5,000, or to three months imprisonment, or to both. Any person convicted of obstructing an authorised local authority officer is liable to a fine not exceeding £5,000.



Public Agenda Item: **Yes**

Title: **Licensing Act 2003 – An application for a Review of a Premises Licence for Zakopane, 16 Market Street, Torquay TQ1 3AQ**

Wards Affected: **Tormohun**

To: **Licensing Sub Committee** **17 January 2019**

Contact Officer: **Mandy Guy**
Telephone: **01803 208124**
E.mail: **Licensing@torbay.gov.uk**

1. Key points and Summary

- 1.1 To consider and determine an application, in respect of the Premise detailed above, for a Review of a Premises Licence. The Premises is in the Cumulative Impact Area.
- 1.2 The application relates to all the Corporate Priorities within the Community Plan.
- 1.3 The matters raised relate to the Licensing Objectives “The Prevention of Crime and Disorder”, “The Prevention of Crime and Disorder” and “Public Safety”.
- 1.4 Under regulations to the Licensing Act 2003 (the Act) the Licensing Authority (the Authority) must hold a hearing to consider the application and any relevant Representations.

The Authority must have regard to the application and any relevant Representations and take one or more of the steps as detailed below as it considers appropriate for the promotion of the Licensing Objectives.

The steps are –

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the Designated Premises Supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;
- (f) to do nothing;

and for this purpose, the conditions of the licence are modified if any of them are altered or omitted or any new condition is added.

If the licence is subject to sections 19, 20 and 21 (requirement to include certain conditions in Premises Licences) they remain.

Where the Authority takes a step to modify the conditions or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

- 1.6 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Interested Parties and Responsible Authorities at the determination of the matter.

2. Introduction

- 2.1 The application has been made under Section 51 of the Act for a Review of the Premises Licence, at the Premise detailed above.

A brief description of the Review is as follows:

The application has been submitted by the Police and concerns matters relating to the Licensing Objective “The Prevention of Crime and Disorder”.

The grounds for Review as stated in the application are as follows:-

- 1) Breaches of the Premises Licence conditions were identified by the police and a member of staff from the Torbay Council Licensing Team only 2 weeks after the licence was granted.
- 2) The premises have been used for the sale and storage of a large quantity of smuggled goods, in contravention of Section 144 of the Licensing Act 2003.

Details of the application are shown in Appendix 1.

A copy of the current licence, including the plan of the premises is attached as Appendix 2.

- 2.2 Torbay Council as the Licensing Authority, is satisfied that the Applicant is a person as defined under the Act as being entitled to make such application and that the application is not frivolous or vexatious. The Authority is also satisfied that the administrative requirements of Section 51(3) (a) and (b) have been met and that the application is therefore, properly made.

We have received a representation from Trading Standards in relation to the Licensing Objective “The Prevention of Crime and Disorder”. This is shown as Appendix 3.

We have also received a Representation from Public Health in relation to the Licensing Objective “Public Safety”. This is shown as Appendix 4.

There have been no Representations from any other Responsible Authority or any other Interested Party.

- 2.3 The Authority is required to conduct a hearing under provision of Section 52(2) of the Act.

- 2.4 Appropriate Notices have been issued to all parties, as required by the Licensing Act 2003 (Hearing Regulations) 2005, including, where appropriate, details of the Representations and the procedure to be followed at the hearing.

- 2.5 Once the matter is determined, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 8(2) of Schedule 5 to :-
- (a) the Applicant for the Review,
 - (b) the holder of the Premises Licence, or
 - (c) any other person who made relevant Representations in relation to the application.

In the event that an Appeal is entered, the determination will not have effect until the Appeal is either determined or withdrawn.

- 2.6 Following such Appeal, the Magistrates' court may:-
- (a) dismiss the Appeal,
 - (b) substitute for the decision appealed against any other decision which could have been made by the Licensing Authority, or
 - (c) remit the case to the Licensing Authority to dispose of it in accordance with the direction of the Court,
- and may make such an order as to costs as it thinks fit.

Steve Cox
Environmental Health Manager (Commercial)

Appendices

Appendix 1	Application for Review
Appendix 2	A copy of the Premise Licence
Appendix 3	Representation from Trading Standards
Appendix 4	Representation from Public Health

Documents available in members' rooms

None

Background Papers:

The following documents/files were used to compile this report:

Torbay Council Licensing Policy 2016-2021.



LICENSING ACT 2003

APPLICATION FOR THE REVIEW OF A PREMISES LICENCE OR CLUB PREMISES CERTIFICATE

NOTIFICATION

Information held by Torbay Council complies with and is held in accordance with the UK Data Protection Act 1998. The information that you provide on this form will only be used for this application form and will only be disclosed where necessary under any applicable legislation.

Information may also be shared for the prevention and detection of crime, for example with the police and other agencies as required by law, such as the Audit Commission under the National Fraud Initiative data matching exercise.

You have a right of access to your personal information. If you wish to access your personal information or exercise any of your rights under the legislation then please contact Torbay Council's Information Governance team on 01803 20 7467. Further information can be found on the Information Governance pages on Torbay Council's Internet site at, www.torbay.gov.uk

Completed forms should be returned to:

Environmental Health Manager (Commercial)
Torbay Council
Community Safety
C/O Torquay Town Hall
Castle Circus
Torquay
TQ1 3DR

Contact Details:

Tel: 01803 208025

Web: www.torbay.gov.uk

Email: licensing@torbay.gov.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 Julie SMART, Police Licensing Officer for the Torbay area

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Zakopane 16 Market Street	
Post town Torquay	Post code (if known) TQ1 3AQ

Name of premises licence holder or club holding club premises certificate (if known) Mr Wali Ahmed KHADER

Number of premises licence or club premises certificate (if known) PL1130

Part 2 - Applicant details

I am Please tick ✓ yes

- | | |
|---|-------------------------------------|
| 1) an individual, body or business which is not a responsible authority
(please read guidance note 1, and complete [A] or [B] below) | <input type="checkbox"/> |
| 2) a responsible authority (please complete [C] below) | <input checked="" type="checkbox"/> |
| 3) a member of the club to which this application relates
(please complete (A) below) | <input type="checkbox"/> |

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

Please tick ✓ yes

Mr

Mrs

Miss

Ms

Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address
Devon and Cornwall Police
Police Station
South Street
TORQUAY
Devon

Telephone number (if any)
01803 218900

E-mail address (optional)
Julie.smart@devonandcornwall.pnn.police.uk

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

Please tick one or more boxes ✓
X

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

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

- 1) Breaches of the Premises Licence conditions were identified by the police and a member of staff from the Torbay Council Licensing Team only 2 weeks after the licence was granted.
- 2) The premises have been used for the sale and storage of a large quantity of smuggled goods, in contravention of Section 144 of the Licensing Act 2003.

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

An application for the Grant of a Premises Licence in respect of this premises was received by the police on 6 October 2017. Prior to the submission of this application there had been no consultation from the applicant, Mr Wali Khader, or his agent, Ms June Clarke, in relation to this application. I subsequently met with Mr Khader and informed him that as the premises are situated within the Torbay Council Cumulative Impact Area the police would seek conditions prohibiting the sale of certain types of high strength alcohol due to complaints of anti-social behaviour caused by street drinkers in Market Street, Torquay.

On 24 October I sent an email to Mr Khader's agent advising her of the conditions that the police would seek in relation to Mr Khader's application. Ms Clarke indicated that she would discuss the matter with Mr Khader and get back to me as soon as possible. As I had not heard from Mr Khader or his agent by the last date of consultation, 31 October 2017, I prepared a police representation which was forwarded to Torbay Council Licensing Team.

During the afternoon of 31 October 2017 I received the attached email from Ms Clarke advising that her client accepted the condition re no single cans but did not accept the condition re no beer/cider/lager of 6.1% or greater. I rang Ms Clarke on the following Wednesday morning and advised her that the police had made a representation the day before as I had not heard from Ms Clarke prior to the cut-off date and we discussed the matter further. In relation to Mr Khader's comments that street drinkers don't drink polish cans I told her that the police have evidence in relation to 2 different areas within Torquay where they are definitely drinking Polish high strength beer/cider/lager products. With regards to his comments that this condition would seriously limit his range of beers, Mrs Smart informed her that another Polish shop in the same street has this condition and from going into this premises I had witnessed that that premises carries a wide variety of products. I explained that Ms Clarke and her client would be invited to attend a hearing and she said that she had already been instructed by her client to agree to the condition if the police continued to pursue the matter. I told Ms Clarke that the police would need agreement in writing which was subsequently provided to both myself and Torbay Council.

As agreement had been reached between the applicant and the police, the licence was subsequently granted by Torbay Council on 1 November 2017.

On 15 November 2017, only two weeks later, complaints were received by myself and Torbay Council Licensing Team that the premises were selling cans of beer/cider/lager with an abv of more than 6% in breach of the licence conditions. We also received complaints that the premises were selling bottles of spirits and tobacco which had been illegally brought into the country without UK duty having been paid.

At 2.00 pm on 15 November 2017 myself and Mr Shaun Rackley of Torbay Council Licensing Team visited the premise. At that time we noted the following cans of beer/cider/lager on display within the fridge area and on the floor below the fridge: Tatra 7.0% abv, Okocim 7.0% abv, Warka 6.5% abv and Debowe 7.0% abv. We also noted several single cans within this area and further noted that the plastic wrapping on several 4 can multi-packs had been ripped open.

Whilst we were looking at the display a member of staff came over and introduced himself. We explained the situation and he told us that they had just realised that these products shouldn't be on display and he said they had just been removing them. We asked to speak to Mr Khader, the Premises Licence Holder and DPS, and he arrived shortly after. We explained the situation to Mr Khader and he said that they hadn't sold any of these products.

We then carried out a full licensing compliance check and established the below:

- No record of CCTV checks
- No incident book
- No refusals book
- No barred customer log book,
- No signage requesting customers to leave the area quickly and quietly
- No waste bin outside
- No ID checking log book

- The till prompt worked for some types of alcohol but not all
- No challenge 25 signage
- No training records

Heated discussions took place, with Mr Khader blaming the situation on Torbay Council for failing to send him his copy of the Premise Licence. It was pointed out to Mr Khader that he had completed the application form with his agent and therefore he should be fully aware of the conditions that he needed to comply with. He was also informed that as agreement had been reached regarding other conditions in respect of the premises he should also have been aware of what those conditions were. I informed Mr Khader that he had committed offences under Section 136 of the Licensing Act 2003. Full details of the discussions I had with Mr Khader and his agent, Ms Clarke, are contained within the attached documentation at page 1.

You will see from these notes that Mr Khader agreed to cease the sale of alcohol until the matters identified had been rectified. Myself and Mr Rackley and were satisfied with this and gave Mr Khader suitable advice.

However, you will also notice from the notes that information was received by Mr Rackley that less than an hour after we left the premises, that alcohol had been sold by the premises. Although I cannot prove that the breaches identified had been resolved by the time of this sale, I considered it unlikely, particularly as ensuring the till prompt worked properly for all types of alcohol and producing training records would take a substantial amount of time to complete.

I subsequently discussed my concerns with Sgt Norsworthy and it was decided that the police would issue the premises with a Closure Notice under Section 19 of the Criminal Justice and Police Act 2001.

At 10.30 am on 16 November 2017 I attended the premise with PC Rebecca Willicott. Mr Khader at first denied that any sale had taken place the day before. However he subsequently admitted that his staff had sold alcohol to someone known to them. I again checked to see whether the conditions of the licence were being complied with and I again noted that certain conditions were not being met. A further heated discussion took place between myself and Mr Khader, and as PC Willicott was satisfied that the licence conditions were not being met she served him with a Section 19 Closure Notice, which is attached for your information at document 2.

With regards to bottles of spirits not bearing the UK duty paid stamp, I did not find any of these within the shop. However I subsequently contacted Trading Standards and HMRC, advising them of the allegations that had made in respect of this premises.

As a result of the Section 19 Closure Notice having been served, Mr Khader's agent, Ms Clarke, contacted Mr Rackley and copies of their email correspondence is attached for your information at document 3.

At 1400 hours on 22 November 2017 I again attended Zakopane, this time in the company of Sgt Norsworthy. We carried out a licensing inspection and Sgt Norsworthy was satisfied that the licence conditions were being complied with. He therefore he issued a Section 19 Cancellation Notice, a copy of which is attached at document 4.

Since November 2017 I have received at least 2 further complaints concerning allegations that these premises are selling non UK duty paid alcohol, cigarettes and tobacco. As this is not a policing matter, the information received was passed to Trading Standards and HMRC.

At the beginning of November 2018 I received a telephone call from a male who stated that he knew the premises were selling non duty paid tobacco and alcohol. He told me that the premises had a walkie-talkie system in operation where the staff in the shop request staff in another part of the building to bring the requested goods down. I again forwarded this information to HMRC. On this occasion Mr Paul Clark of HMRC contacted me and told me that HMRC officers had visited the premises in September of this year. However, it was noted that a specialist tobacco detection dog had given several clear indications whilst within the premises.

Mr Clark informed Mrs Smart that he was intending to re-visit the premises on Saturday 10 November 2018 and he said that he would be grateful if the police could assist by providing a couple of officers. Mr Clark subsequently liaised with PC Mike Haworth to arrange police resources and the premises were visited on that date.

As a result of that visit the below items were seized by HMRC:

Cigarettes – 478,120
Hand rolling tobacco – 137 kgs
Vodka -181.3 ltrs

In order to remove these items from the premises 3 vans were required.

A copy of an email that Mrs Smart received from Mr Clark is attached for you information at document 5. You will note that Mr Clark indicates that the items were located within a purpose built, highly sophisticated concealment within the premises which was identified by the tobacco detection dog. A walkie-talkie system was in use so that staff in the shop could communicate with staff in other areas of the premises. A man was found upstairs in possession of a black bag containing a mixture of brands of non-duty paid cigarettes and Mr Khader was also in possession of a packet of cigarettes, with the same brand being located within the concealment.

It appears that attempts were made to try to distract the detection dog by the placement of garlic and coffee grounds within the premises, but this attempt was unsuccessful. A large supply of small black bags was found, along with receipts from a cash and carry in Poland, a safe and a notebook with Kurdish writing. All these items were seized by HMRC.

Mr Khader was arrested and taken to Torquay Police Station where he was interviewed. Mr Clark has advised me that HMRC are continuing with their investigation into this matter.

I would point out that condition 9 under the heading The Prevention of Crime and Disorder on the Premises Licence states: "All purchases of alcohol and tobacco products must be made from reputable wholesalers and all purchases must be recorded. These records must be made available on request to the police or authorised officer."

As the alcohol and tobacco seized did not contain UK duty paid markings, it is the opinion of the police that they were not purchased from a reputable wholesaler and therefore this condition has not been met.

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

No

If yes please state the date of that application

Day Month Year

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

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

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 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). If signing on behalf of the applicant please state in what capacity.

Signature Smart

Date 21-11-18

Capacity Police Licensing Officer

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

Julie Smart
Police Licensing Officer
Torquay Police Station
South Street

Post town
Torquay

Post Code
TQ2 5AH

Telephone number (if any) 01803 218900

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) julie.smart@devonandcornwall.pnn.police.uk

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

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SMART Julie 50403



Force Licensing Team > Licensing Items – Active > Zakopane Torquay

Item Type Visit - Multiagency
 Prem Name Zakopane Torquay
 Date Rec'd 15/11/2017
 Date Due
 Event Start Date 15/11/2017 14:15
 Event End Date
 Submitting Officer SMART Julie 50403
 Applicant Surname
 Applicant First Name
 Proposed DPS Surname
 Proposed DPS First Name
 Prem Street Market Street
 Prem District
 Prem Town Torquay
 Prem County Devon
 Prem Postcode
 Premises risk rating
 Hub Location EAST - Exeter
 Logic outcome Fail

Licensing Office Torbay

Allocated To Julie SMART

Item Report Summary Complaint received by Torbay Council that premises are selling beer/cider/lager in excess of 6.1% abv. Further complaint received that premises are selling spiritis that do not have the UK duty stamp on them.

Comments ■ SMART Julie 50403 (22/11/2017 14:39):

1400 HRS 22/11/17 Sgt Norsworthy and myself visited the premises and carried out a check of all licence conditions. Sgt Norsworthy was satisfied that the licence conditions were being complied with and issued a S19 Cancellation Notice. Copy attached.

A copy of the Cancellation Notice has been forwarded to Torbay Council for their information. Copy attached.

No further action required.

■ SMART Julie 50403 (20/11/2017 14:56):



Telephone call received from Mr Khader this morning. He stated that he has done everything that he needs to do within the S19 and asked whether he can sell alcohol. I told him that he is certain is complying with the requirements then he can. He wanted me to go down and check that everything is ok today but I told him that it has to be done by a police officer and that myself and Sgt Norsworthy would attend at 2.00 pm on Wednesday afternoon. He stated that he wouldn't be there at that time, and I told him that if everything is ok a cancellation notice will be served but if there is a problem I will ring and let him know.

■ SMART Julie 50403 (17/11/2017 09:00):

Mr Khader's agent has now contacted Torbay Council questioning why the Section 19 Notice does not include the fact that the Premises Licence Summary is not on display. I didn't include this matter, or the failure to produce the Premises Licence, on the notice, as I was aware that Torbay Council had failed to send these documents out and therefore Mr Khader could not be held responsible for those matters. Copy email from Shaun to June Clarke attached for information.

■ SMART Julie 50403 (16/11/2017 11:59):

Attended premises just after 2.00 pm yesterday, 15/11/17. We noted the following cans on display within the fridge area or on the floor below the fridge:

Tatra 7.0% abv

Okocim 7.0% abv

Warka 6.5% abv

Debowe 7.0%.

We also noted several single cans and further noted that the plastic wrapping on several 4 packs had been ripped open.

Whilst we were looking at the display a member of staff came over and introduced himself. We explained the situation and he told us that they had just realised that these products shouldn't be on display and they had been removing them. He said we could check CCTV to establish that. We asked to speak to the PLH/DPS and a short time later Mr Wali Khader arrived. We explained the situation to him and he said that they hadn't sold any. We then carried out a full check of all conditions on the licence and established that there was no record of CCTV checks, no Incident Book, no Refusals book, no Barred Customer Log book, no signage requesting customer to leave the area quickly and quietly, no waste bin outside, no ID checking log book, the till prompt worked for some types of alcohol but not all, no Challenge 25 signage and no training records. Heated discussions took place with Mr Khader blaming the situation on Torbay Council for failing to send him his copy of the Premises Licence. It was explained that he had completed the application form with his agent and signed it therefore he should be aware of what he needs to comply with. He was also advised that we had reached agreement on other conditions and therefore he should be aware of

①

those. He stated that a lady from Torbay Council had telephoned him and advised him that the licence had been granted and would be sent to him by Wednesday of last week. I pointed out that despite him not receiving the licence, he should be complying with all the conditions every time he sells alcohol and these measures should all have been in place before he put alcohol on display. I advised Mr Khader that offences were being committed every time alcohol was sold at the premises and we needed to work out a way forward. Mr Khader then rang his agent, June, who dealt with the application and I spoke to her. She defended Mr Khader by again repeating that Torbay Council hadn't sent the licence out and therefore were responsible for situation but I told her what I had told Mr Khader, that the responsibility is his to comply from the moment the premises sells alcohol. June said that once she gets the licence from the Council she puts together a compliance pack and sends it to the premises and she hasn't been able to do so. I told her that regardless of that the premises needs to comply at all times. She asked me to authorise Mr Khader to continue selling alcohol and that other police forces and councils allow this type of situation for a new premises and sometimes it can take up to 3 months before everything is in place. I told her that this was unacceptable and I could not authorise a premises/person to carry out illegal activities. She continued to ask for more time and I asked her where within the licensing act it allowed this to happen. I advised her that I would be telling my line manager and it was likely that a Closure Notice would be served. She then asked to speak to Mr Khader, and they did so for some time. When he came off the phone he told myself and Shaun that the premises would not sell alcohol until the matters identified had been rectified. I used his phone to get a copy of the licence on so that the could read through it. Shaun advised him to go to a shop and buy some notebooks and head them "Incident Book", "Refuals Book" etc. Discussed location of the exterior bin and advised him that the council won't allow a bin to be placed on the pavement and he will have to afix it to the exterior wall of his premises or apply for a minor variation to remove the condition, but in the mean time he must comply.

This morning I received an email indicating that the premises had sold alcohol less than an hour after myself and Shaun left the premises yesterday afternoon, despite being told that they would not sell any. A copy of this email is attached.

Sgt Norsworthy is on leave today but I have discussed the matter with him, advising him that I wanted an officer to serve a Section 19 Closure Notice for breach of conditions and he agreed to this course of action.

At 1030 hrs I attended the premises with PC Rebecca Willicott. Mr Khader at first denied that any sale had taken place despite my warning re the commision of offences yesterday, however he subsequently admitted that his staff had sold to someone known to them. I again checked the conditions of the licence and again these weren't being complied with. With regards to beer/cider/lager of 6.1% and over there were no cans on display. I was satisfied with the compliance of that condition. Again heated discussions took

Not attached as contains too much information requiring redaction - such as personal details of informant.

①

place and Mr Khader was served with the S19 Notice and advised that I will contact him and let him know the date and time of my visit next week.

With regards to the sale of products that don't have a UK duty stamp I could not find any of these within the shop. [REDACTED] has sent me photo's of the bottle she bought but there were none of those in the shop yesterday or today. With regards to the brand that the other complaints says is sold, there was one bottle on display but this did have a UK duty stamp. I will liaise with Trading Standards re this matter, and will consider disclosing this information to Customs.

Visit tasked	NO
LA Time Taken	
LO Time Taken	190
Item Briefed	
Representation/Objection	No
Hearing	No
Status	COMPLETE
Attachments	Zakopane Email from Shaun to June Clarke .msg ZAKOPANE EMAIL TO TORBAY COUNCIL RE S19 CANCELLATION .msg Zakopane S19 Cancellation Notice.pdf Zakopane S19 Closure Notice.pdf Zakopane Sale of alcohol on 151117 .msg Zakopane Vodka Not Duty Stamped .msg

Version: 4.0
Created at 16/11/2017 11:59 by SMART Julie 50403
Last modified at 22/11/2017 14:39 by SMART Julie 50403

Close



Devon & Cornwall Police
Building safer communities together



2

Form No.: L15
Rev. 06/2010

File No.:	Computer URN:	Minute No.:
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Closure Notice

Section 19 Criminal Justice and Police Act 2001

Section 19 of the Criminal Justice and Police Act 2001 empowers a constable or local authority to serve a closure notice on a person having control of, or responsibility for, any premises that are being, or have been used within the last 24 hours, for the sale or consumption of alcohol on or in the vicinity of the premises, without a licence. (Where such a closure notice is served it must also be served on any other occupier of the premises whose access may be impeded if the part involved in the unlicensed sale of alcohol was to be closed.) Where a constable is satisfied that any premises are being, or within the last 24 hours have been, used for the unauthorised sale of alcohol for consumption on, or in the vicinity of, the premises, he may serve a notice in respect of the premises.

Date and time of the Closure Notice: 16-11-17 10:30am

Person making the Notice: PC 7211 MILCOTT
Signature: *[Signature]*

Name (if applicable) and address of the affected premises:
ZAKOPANE, 16 MARKET STREET, TORQUAY, TQ1 3AQ

- Alleged unauthorised use of the premises:
- ① NO CCTV RECORD OF CHECKS CARRIED OUT.
 - ② NO INCIDENT BOOK
 - ③ NO REFUSALS BOOK
 - ④ NO BARRED CUSTOMER LOG BOOK.
 - ⑤ NO SIGNAGE RE CUSTOMERS LEAVING QUIETLY
 - ⑥ NO WASTE BIN
 - ⑦ NO CHALLENGE 25 POSTER.
 - ⑧ NO TILL PROMPT FOR ALL ALCOHOL
 - ⑨ NO TRAINING

Steps which may be taken to end the alleged unauthorised use of the premises, or to prevent it from re-occurring:
PLH/DPS TO READ THROUGH CONDITIONS OF LICENCE
+ ENSURE THAT ALL ARE BEING MET.

The person (if applicable) on whom the Closure Notice has been served:
Name: *Wendy Wheeler*
Signature: *[Signature]*

2



Explanatory Notes

A police officer, or an authorised officer from the local authority has decided to issue this Closure Notice under the terms of Section 19 of the Criminal Justice and Police Act 2001 ('The 2001 Act').

Section 19 of the 2001 Act – Closure Notices

Where a police officer or an authorised officer from the local authority is satisfied that any premises are being, or within the last 24 hours have been used for the unlicensed sale of alcohol, including being in breach of its licence conditions, he may serve under Sub Section (3) a notice in respect of the premises.

Section 20 of the 2001 Act – Closure Orders

Your attention is drawn to Section 20 of the 2001 Act. This provides that the police, or as the case may be the local authority, can take action against the said premises by applying to a Justice of the Peace at the local Magistrates' Court for a closure order if the unlicensed sale of alcohol (as alleged in this Closure Notice) is continuing, or there is a reasonable likelihood that the premises will be so used in the future. The application for a Closure Order must be made not less than 7 days, and not more than 6 months after the date on which this closure notice was served.

After an application for the Closure Order is made the Justice of the Peace may issue a summons requiring the applicant and also the persons or persons on whom the Closure Notice was served to attend a hearing at the court on a specified date and time. At the hearing the court will consider the applicant's complaint against the said premises and decide whether a Closure Order should or should not be made.

In accordance with the Magistrates' Court Act 1980 and under the law on human rights, you are entitled to be legally represented at the hearing and to make representations to the court before any decision is taken.

Appeals – Section 24 of the 2001 Act

An appeal against a decisions by the Magistrates' Court to grant a Closure Order, or a decision to refuse an application for a Closure Order can be made by an affected person to the Crown Court within 21 days.

Enforcement Powers and Offences - Section 24 of the 2001 Act

It is an offence for a person, without reasonable excuse, to permit a premises to open in contravention of a Closure Order made by the Magistrates Court. Any person found guilty of such an offence will be liable to a fine not exceeding £20,000 or to imprisonment for a term not exceeding three months, or to both.

It is also an offence for a person who, without reasonable excuse fails to comply with any other terms of a Closure Order made by the court, or does an act, which contravenes those other terms. Any person convicted of this offence is liable to a fine not exceeding £5,000 or to three months imprisonment, or to both.

Police officers and authorised officers from the local authority have the power to enter the said premises at any reasonable time, and to do anything reasonably necessary to secure compliance with the Closure Order (for example, to board up the premises). However when exercising this power the constable or the officer must produce evidence of his authority to enter and also his identity before entering the premises, if asked to do so by the owner (or the occupier or the person in charge of the premises).

It is an offence for a person to intentionally obstruct police officers or authorised local authority officer from exercising these powers. Any persons convicted of obstructing a police officer is liable to a fine not exceeding £5,000, or to three months imprisonment, or to both. Any person convicted of obstructing an authorised local authority officer is liable to a fine not exceeding £5,000.

3

SMART Julie 50403

From: Rackley, Shaun <Shaun.Rackley@torbay.gcsx.gov.uk>
Sent: 16 November 2017 15:09
To: ~~XXXXXXXXXXXX~~
Cc: SMART Julie 50403
Subject: RE: Zakopane, 16 Market Street, Torquay, TQ1 3AQ

Hi June,

Thank you for your enquiry.

The Licensing Team operates under a call centre system, so if you have tried to contact the department there would have been a record, however I cannot currently find a trace that you have contacted us, or left a message.

When I visited the premises yesterday (15th November 2017) with a colleague from Police Licensing I left all of my contact details with Mr Wali Ahmed Khader (the premises licence holder and DPS), this included my work mobile number, so I have made it easy to be contacted direct.

Regarding the premises licence, this was sent out in the post yesterday so you should receive this in the post either today/tomorrow. As for displaying the summary, I cannot see this listed on the S19 Closure Notice which has been issued by the Police.

I would strongly argue that you were aware that the licence was granted on the 3rd November as a colleague (Mandy Guy) contacted you direct and informed you the licence was granted as applied for with the additional conditions agreed with Devon & Cornwall Police Licensing. I understand you organise for the 'Licensing Compliance Box' to be set up, but as you were aware the licence had been granted as applied for, this 'Compliance Box' could have been set up without receiving the premises licence. Alternatively you could have viewed our public register to view the licence and the premises Licence and summary could have been sent to the premises once received. It is not for me to comment on how you run the business, however, this seems to be the sensible solution. If the premises felt that measures were not in place and they had not received the correct information then the premises should not have been selling alcohol until the correct measures were in place.

If you do not receive the licence by Monday, please contact me directly as you now have my direct email address and I will ensure that a copy is delivered to the premises if required.

Regards

Shaun

Shaun Rackley
Licensing Officer
Torbay Council,
C/O Town Hall
Castle Circus
Torquay
TQ1 3DR
Tel:-01803 208025
Fax:-01803 208854

Information in this message is confidential and may be legally privileged. It is intended solely for the person to whom it is addressed. If you are not the intended recipient, please notify the sender and please delete the message from your system immediately. The views in this message may be personal and therefore not necessarily those of Torbay Council.

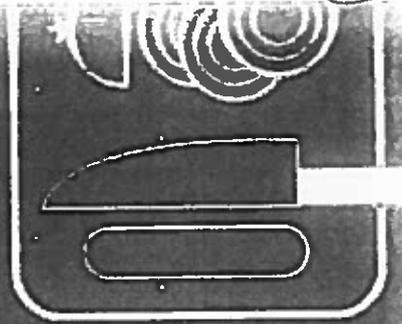
Food Safety and Licensing

@TorbayFSL



Community Safety

Tel: 01803 208025 www.torbay.gov.uk/licensing



3

From: Licensing
Sent: 16 November 2017 14:09
To: Rackley, Shaun <Shaun.Rackley@torbay.gcsx.gov.uk>
Subject: FW: Zakopane, 16 Market Street, Torquay, TQ1 3AQ

-----Original Message-----

From: June Clarke [redacted]
Sent: 16 November 2017 13:41
To: Licensing <Licensing@torbay.gov.uk>
Subject: Zakopane, 16 Market Street, Torquay, TQ1 3AQ

Hello Licensing,

We are unable to contact your office direct.

My client from the above premises has recently been visited by the police who have served him with a list of non compliance. On the list she has given to the shop it is noted that the failure to display the summary is not on the list!

I have explained to the police that I cannot send his Licensing Compliance box to him until the Premises Licence is received as his forms part of the Training book.

Could you please advise as to when we can expect to receive this Premises Licence?

Kind regards

June

June Clarke

[redacted]
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]

[redacted]
[redacted].com

4



Devon & Cornwall Police
Building safer communities together

Form No.: L15b Rev. 12/2012 (white)

File No.:		Computer URN:		Minute No.:	
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Cancellation of Closure Notice (Section 19 Criminal Justice and Police Act 2001)

Date and time of the Cancellation of Closure Notice: 22/11

Officer making the Cancellation Notice: SGT 3671 N

Signature: *[Signature]*

Station: HD

Name of officer serving the Cancellation Notice: SGT 3671 NORSWORTHY

Station: HD

Date and time served: 22/11/17 2:15 PM

Name (if applicable) and address of the affected premises: ZAKUPANE, 16 MARKET ST. TOPSHAM

Reasons (grounds) for cancelling the Closure Notice: ALL CONDITIONS ON THE PREMISES LICENCE HAVE BEEN CHECKED AND THE PREMISES ARE COMPLYING

The person (if applicable) on whom the Cancellation of Closure Notice has been served:

Name: WALI KHADER Signature: *[Signature]*

Address: ZAKUPANE, 16 MARKET ST. TOPSHAM

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From: paul.clark [REDACTED]
Sent: 13 November 2018 12:23
To: SMART Julie 50403
Subject: Zahophane, 16 Market St, Torquay, TQ1 3AQ

Hi Julie,

Further to our telephone conversation.

We visited this shop on 10/11/18 and seized the following:-

Cigarettes – 478,120
HRT – 137kgs
Vodka – 181.3ltrs

On entering the premises, three of my Officers proceeded up the stairs to the first floor. They found a male carrying two small black plastic bags heading towards the stairs. He immediately put the bags on a table. On inspection, it was discovered that the bags contained a mixture of brands of non-duty paid cigarettes. When the male was asked about the contents, he made no reply and just shrugged his shoulders.

On entering the premises, I asked the owner, Wali Khader if he sold non-duty paid goods. He said no. I called Khader upstairs and asked him to explain the presence of the cigarettes. He said they were for the personal use of the man who had been carrying them.

There was a walkie-talkie behind the counter on the ground floor and a second walkie-talkie was in the possession on the male on the first floor. When asked about these, Khader said he used these to ask for stock to be brought to the shop floor.

A tobacco detection dog was deployed around the shop. It indicated the presence of tobacco behind a wall in the stock room on the first floor to the rear of the premises. On closer inspection, it was found that the panel moved when pressure was applied, which indicated the presence of a concealment held by an electro-magnet. Khader was brought up and asked what was behind it. He said he had no idea. I said we were going to gain entry to it and he said we could do what we wanted.

Entry was gained by using a 'key', where we found a large walk-in concealment. Behind the door was a bowl of pickled garlic and a tray of coffee grounds. This is where we found the goods. We also found a safe which we seized and also a notebook with Kurdish writing in it which we believe is his order/distribution book. This was also seized along with a number of receipts from a cash and carry in Poland. There was also a large supply of the small black bags mentioned above.

Khader was arrested and his mobile phone was seized. Also on his person was a packet of Regina Red cigarettes, a large quantity of which was discovered in the concealment.

Khader issued a prepared statement in Custody and when interviewed made no comment.

It would appear that the stock room had been constructed specifically to accommodate the concealment.

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If you wish any further information, please let me know.

Kind Regards

[Redacted]

Paul Clark
Criminal Investigation Wales, West & N.I.

[Redacted]

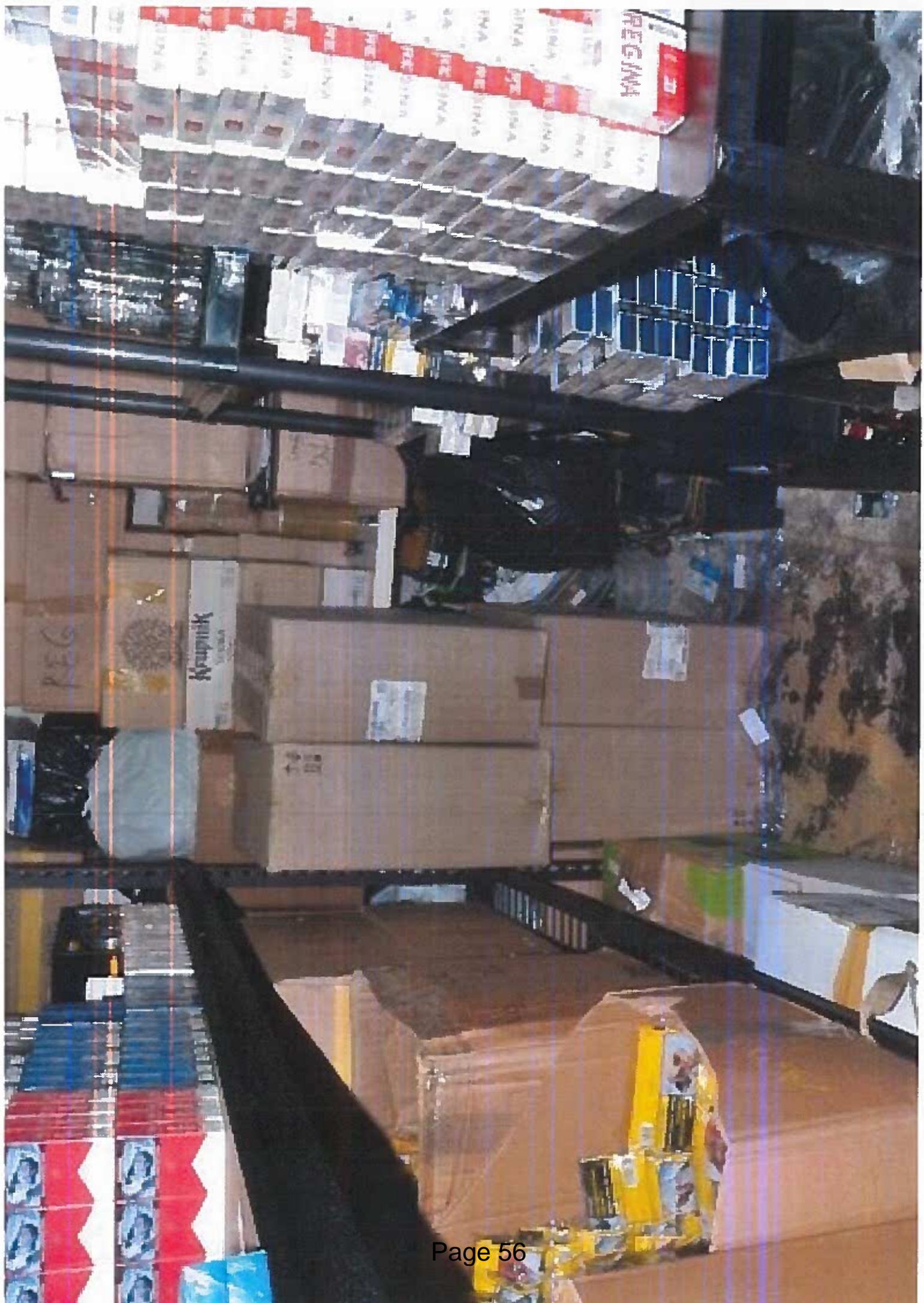
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HM Revenue & Customs computer systems will be monitored and communications carried on them recorded, to secure the effective operation of the system and for lawful purposes.

The Commissioners for HM Revenue and Customs are not liable for any personal views of the sender.

This e-mail may have been intercepted and its information altered.

[Redacted]



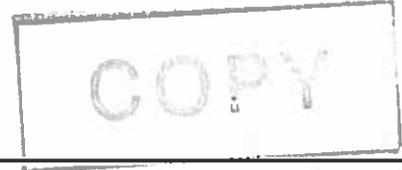
Licensing Act 2003
Premises Licence

1130

LOCAL AUTHORITY



Torbay Council
Licensing & Public Protection
c/o Town Hall
Castle Circus
Torquay
TQ1 3DR



Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Zakopane

16 Market Street, Torquay, Devon, TQ1 3AQ.

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- the sale by retail of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
M. The sale by retail of alcohol for consumption OFF the premises only	Monday to Sunday	8:00am	11:00pm

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	8:00am	11:00pm

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- M. The sale by retail of alcohol for consumption OFF the premises only

Part 2

NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

Wali Ahmed Khader

3 Barden Green, Leeds, LS12 3TW.

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Wali Ahmed KHADER

3 Barden Green, Leeds, LS12 3TW.



Licensing Act 2003

Premises Licence

1130

**PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR
WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL**

Licence No. PERL/09312/17

Issued by Leeds



Steve Cox
Environmental Health Manager
15 November 2017



ANNEXES

ANNEXE 1

MANDATORY CONDITION: WHERE LICENCE AUTHORISES SUPPLY OF ALCOHOL

- 1) No supply of alcohol may be made under the premises licence:-
 - (a) at a time where 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/her 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 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.
- 4) 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.

ANNEXE 2

CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

General

1. A tamper-proof digital colour CCTV system must be installed and maintained at the premises to the satisfaction of Devon and Cornwall Police. The system must run and record continuously for 24 hours a day, 7 days per week and recorded footage must be stored for a minimum of 28 days.
2. The system must provide a clear head and shoulders view to an evidential quality on every entry/exit route and within any other vulnerable areas as identified by Devon and Cornwall Police.
3. Recorded footage must be provided to a representative of any responsible authority on request. Such footage must be provided in an immediately viewable format and must include any software etc. which is required to view the footage. Any discs, portable drives or other storage media onto which footage is transferred must be provided by the premises and sufficient stock of such storage media must be kept on the premises at all times.
4. The Designated Premises Supervisor must ensure that the CCTV system is checked at least once every week by a suitably trained member of staff. This check must include the operation of the cameras, the recording facilities, the facilities for providing footage and the accuracy of the time & date. A written record of these checks must be kept, including a signature of the person carrying out the check. This written record must be kept on the premises at all times and made available to a representative of any responsible authority on request.
5. The premises are secured with roller shutters at the front and rear and alarmed when closed.
6. Only 15% of the floor area will be used for the display of alcohol.
7. A Personal Licence Holder will be on duty at all times the shop will be open.
8. Purchasing records to be kept.



ANNEXES continued ...

9. All purchases of alcohol and tobacco products must be made from reputable wholesalers and all purchases must be recorded. These records must be made available on request to the police or authorised officer.

The prevention of crime and disorder

1. No super strength beers, lagers or ciders of 6.1% or above shall be sold from the premises.
2. No single cans of beers, lagers or ciders shall be sold from the premises.
3. All spirits will be stored and sold from behind the counter.
4. When the DPS is not on duty a contact telephone number will be available at all times.
5. An incident book (with the pages numbered sequentially) must be kept on the premises and be made available for inspection by responsible authorities. The incident book must be used to record the following:
 - (i) Any incident of violence or disorder on or immediately outside the premises
 - (ii) Any other crime or criminal activity on the premises.
6. A refusals book must be kept at the premises and must be used to record all refusals to sell alcohol for any reason. Where other age restricted products are sold at the premise, any refusals to sell such items to underage persons or persons who appear underage must be recorded. The details to be recorded must be as follows:
 - (i) Time, day & date of refusal
 - (ii) Item refused
 - (iii) Name & address of customer (if given)
 - (iv) Description of customer
 - (v) Details of i.d. offered (if shown)The refusals book must be made available for inspection by responsible authorities on request.
7. Barred Customer Log book will be used to record details of customers who have been asked to leave the premises.

Public safety

None

The prevention of public nuisance

1. The Management will monitor the exterior of the premises with the CCTV and use their best endeavours to disperse any persons who appear to be congregating outside the premises.
2. Signage requesting all customers to leave the area quickly and quietly and to respect the needs of local residents will be displayed at the exterior of the premises.
3. A waste bin will be provided at the exterior of the premises and regular checks of litter will be made and logged.

The protection of children from harm

1. A "Challenge 25" policy shall be operated at the premises at all times.
2. The premises will operate an ID checking log book for all suspected persons that appear to be under the age of 25.
3. A till prompt system will be installed on all the tills to alert the staff to check ID when alcohol has been scanned.
4. The only forms of ID that shall be accepted (at the discretion of the Management) as proof of age are a valid passport, a valid photographic driving licence, a PASS approved proof of age card, HM Services Warrant Card or other reliable photo I.D. that is approved for acceptance within the Home Office guidelines.
5. Signage for "Challenge 25" scheme shall be displayed at the premises.
6. A Personal Licence holder will be on duty at all times the premises is open to the public.
7. A documented on-going training programme shall be introduced for all staff in a position to sell, serve alcohol. No staff will be allowed to sell alcohol until they have undergone Age verification Training. The programme shall be made available for inspection at the request of Trading Standards, Licensing Authority Officers and Police. A written record



ANNEXES continued ...

shall be kept of the content of training.

ANNEXE 3

CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

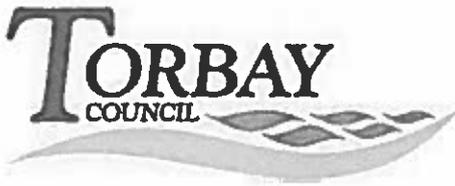
None

ANNEXE 4

PLANS

Copy attached to Licence.



LOCAL AUTHORITY

Torbay Council
Licensing & Public Protection
c/o Town Hall
Castle Circus
Torquay
TQ1 3DR

Premises Details**POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION****Zakopane**

16 Market Street, Torquay, Devon, TQ1 3AQ.

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- the sale by retail of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
M.	The sale by retail of alcohol for consumption OFF the premises only Monday to Sunday	8:00am	11:00pm

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	8:00am	11:00pm

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- M. The sale by retail of alcohol for consumption OFF the premises only

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Wali Ahmed Khader

3 Barden Green, Leeds, LS12 3TW.

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)**NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL**

Wali Ahmed KHADER

STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

Access is restricted only under the terms of the Licensing Act 2003



Licensing Act 2003

Premises Licence Summary

1130

Stephen Cox

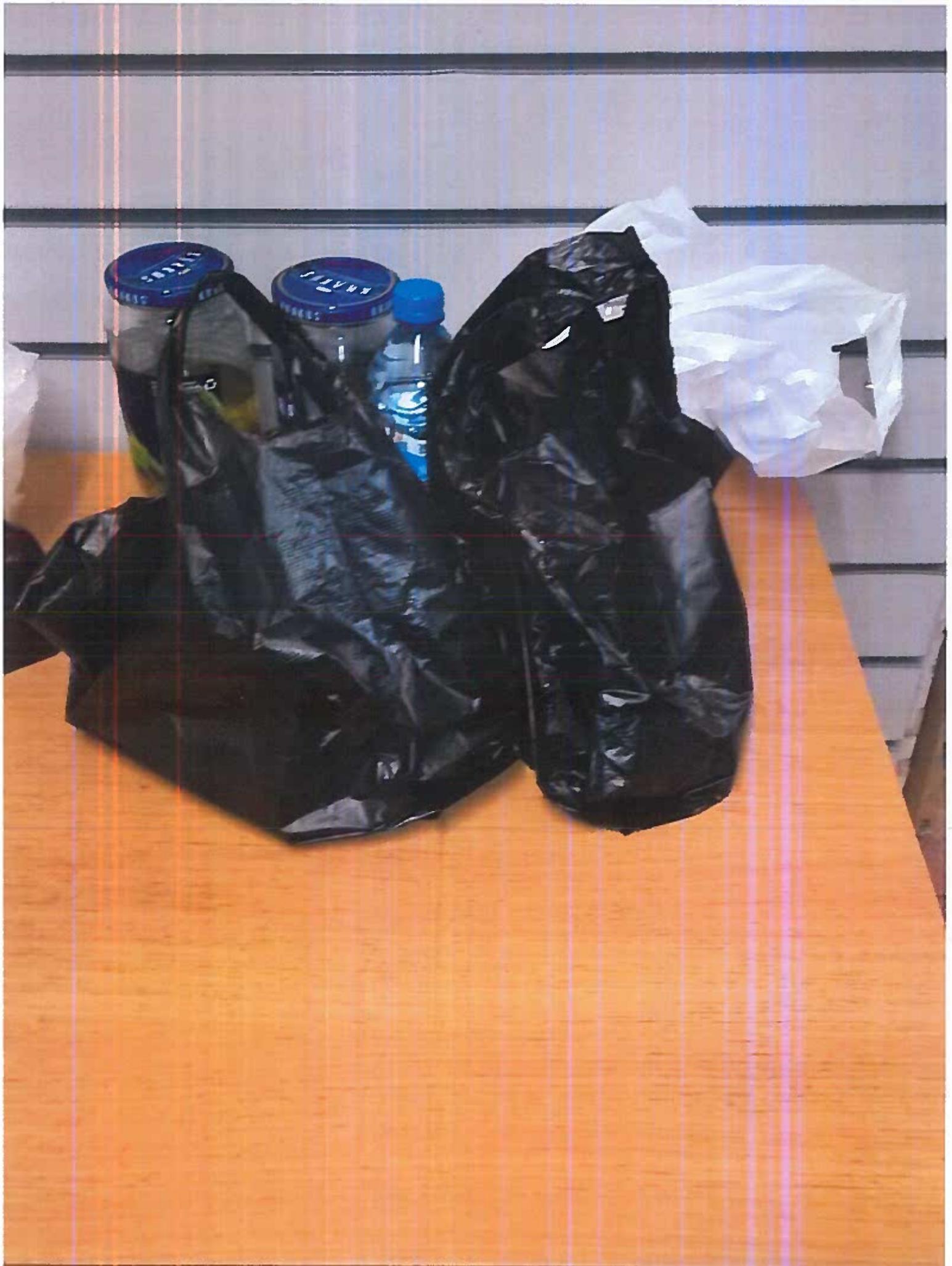
Steve Cox
Environmental Health Manager
15 November 2017

My name is Irene CAPEL and I am also known as Jay CAPEL. I am employed by Devon County Council as a part of the Devon and Somerset Trading Standards Service as a Trading Standards Officer. I was previously employed by Somerset County Council Trading Standards Service as a Senior Trading Standards Officer until the amalgamation and joint commissioning of the Devon County Council Trading Standards Service and the Somerset County Council Trading Standards Service in May 2013 and the Torbay Trading Standards Service in 2017. I have 18 years' experience in Trading Standards enforcement, including being the Lead Trading Standards Officer for age-restricted products which incorporates illicit tobacco and licensing issues. I am a duly authorised officer for the purposes of the Consumer Protection Act 1987.

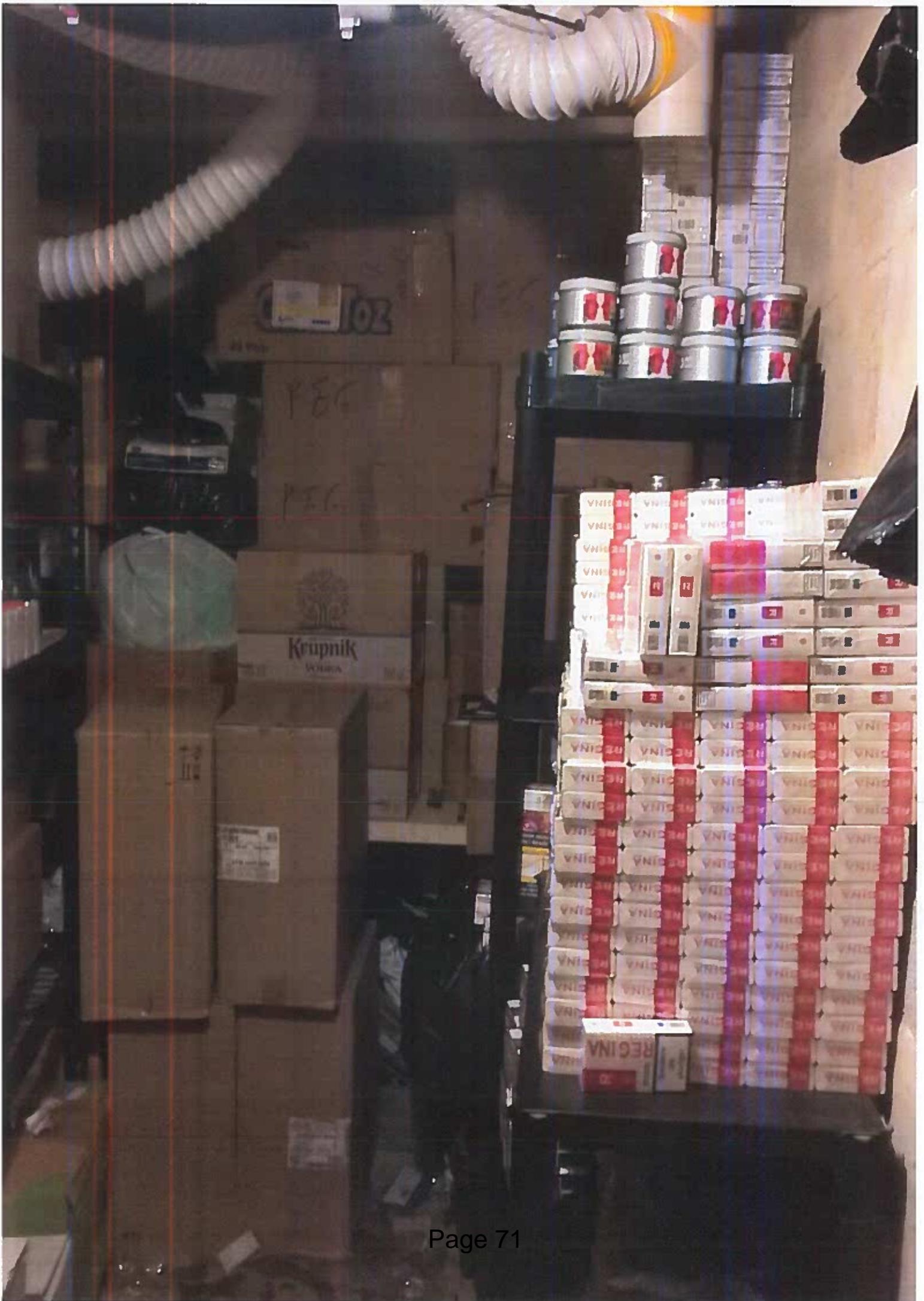
During the morning of 10 November 2018, I assisted Her Majesty Revenue and Customs (HMRC) officers in an operation at Zakopane, 16 Market Street, Torquay, Devon TQ1 3AQ. This operation was the consequence of intelligence received by this Service and HMRC that illicit tobacco was being sold from the aforementioned premises. This operation used specially trained search dogs who are trained to detect concealed tobacco. There was also a small number of cigarettes found on a desk in small black plastic bags which the owner of the premises, Mr. Wali Ahmed KHADER, claimed belonged to an employee. These cigarettes did not have the necessary fiscal duty paid mark. Later that morning I was told by an HMRC officer that the dogs had indicated to a wall in the storage area upstairs and subsequently tobacco products, cigarettes, hand rolling tobacco (HRT) and vodka were found in a chamber behind this wall. I have attached photographs taken by myself on a mobile telephone of the tobacco as found insitu. These photographs have not been altered or enhanced.

I was later informed by HMRC that in total an estimated 478,120 cigarettes (an estimated 23,000.00 x packets of 20 cigarettes), 137 Kgs of HRT and 181.3 litres of vodka were seized from the premises. Currently this Service is making enquires as to whether any of these tobacco products are counterfeit with regards to possible trade mark offences.

I am willing to support any action deemed necessary and I am prepared to attend a Licensing Committee hearing.

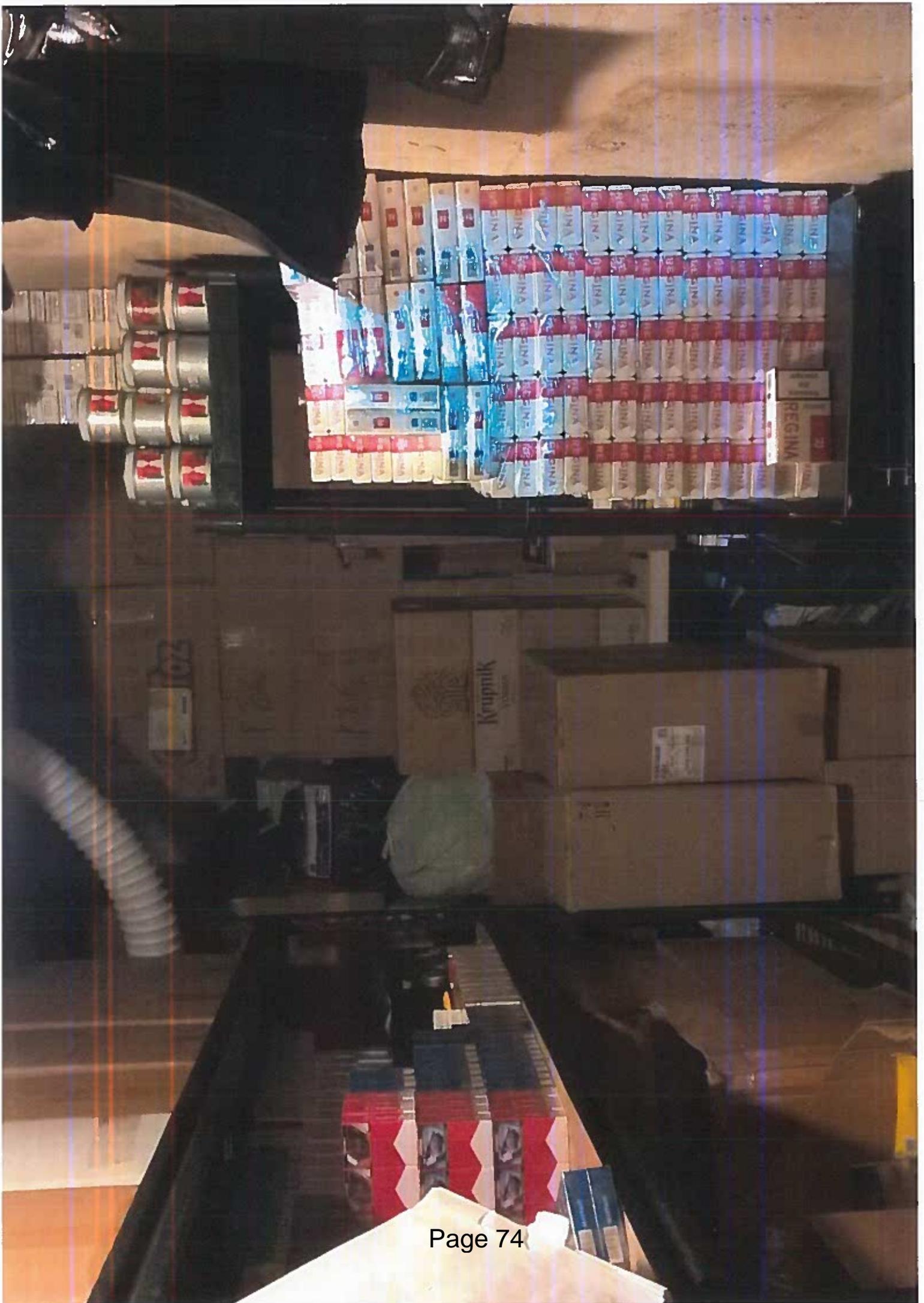


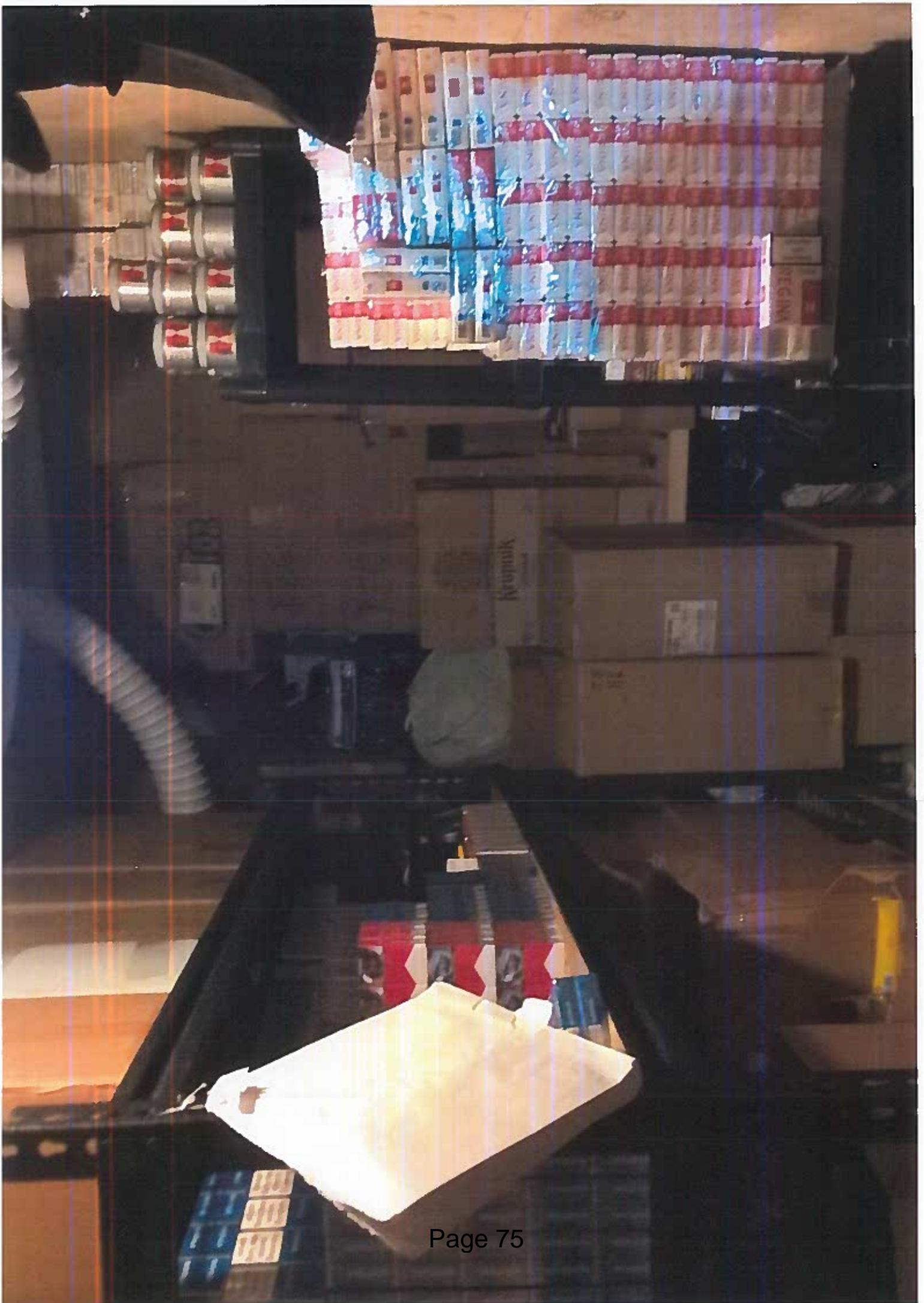




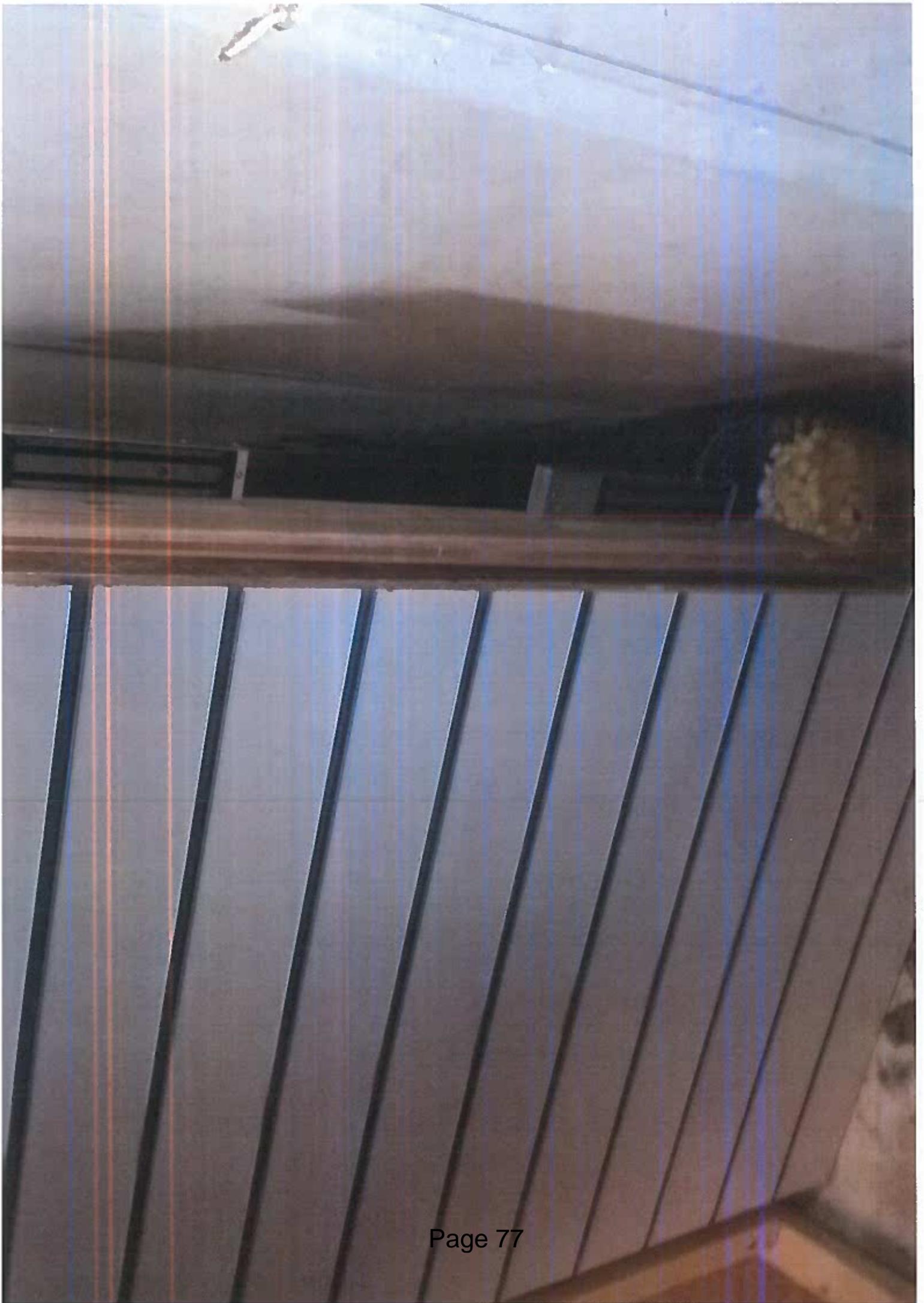


















MAYFAIR
Smoking causes fatal lung cancer

Cancer

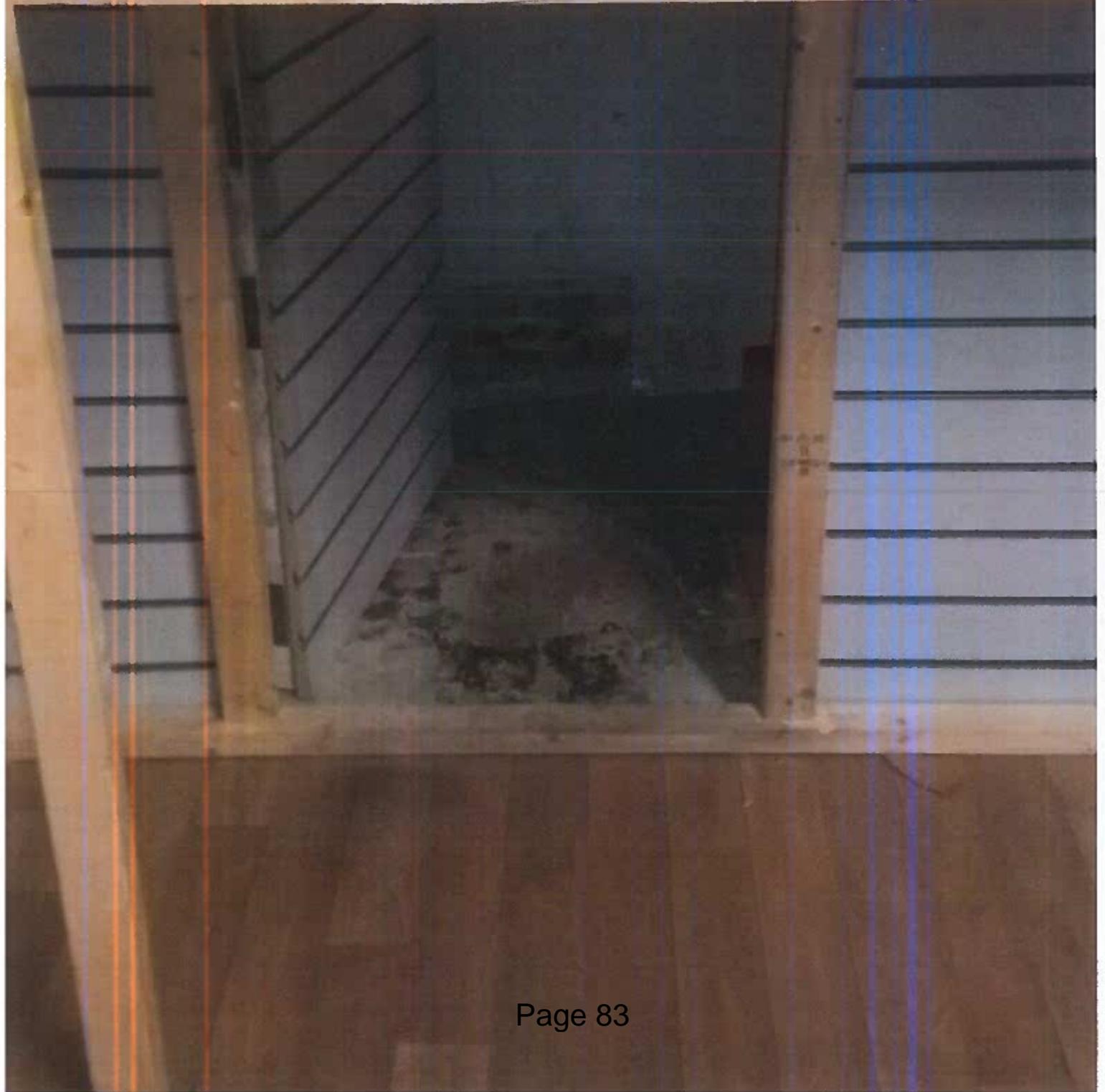
Cancer

Cancer

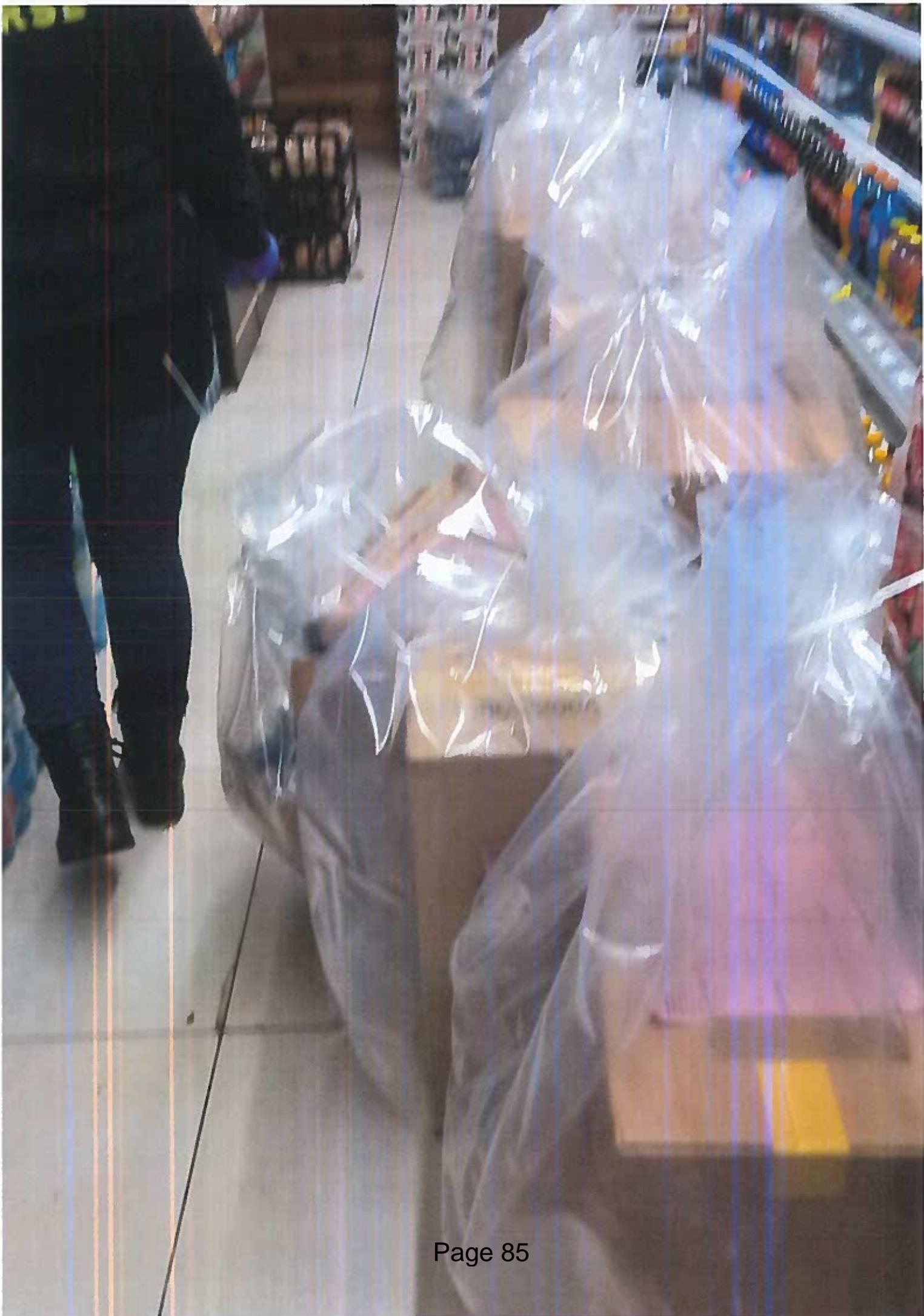
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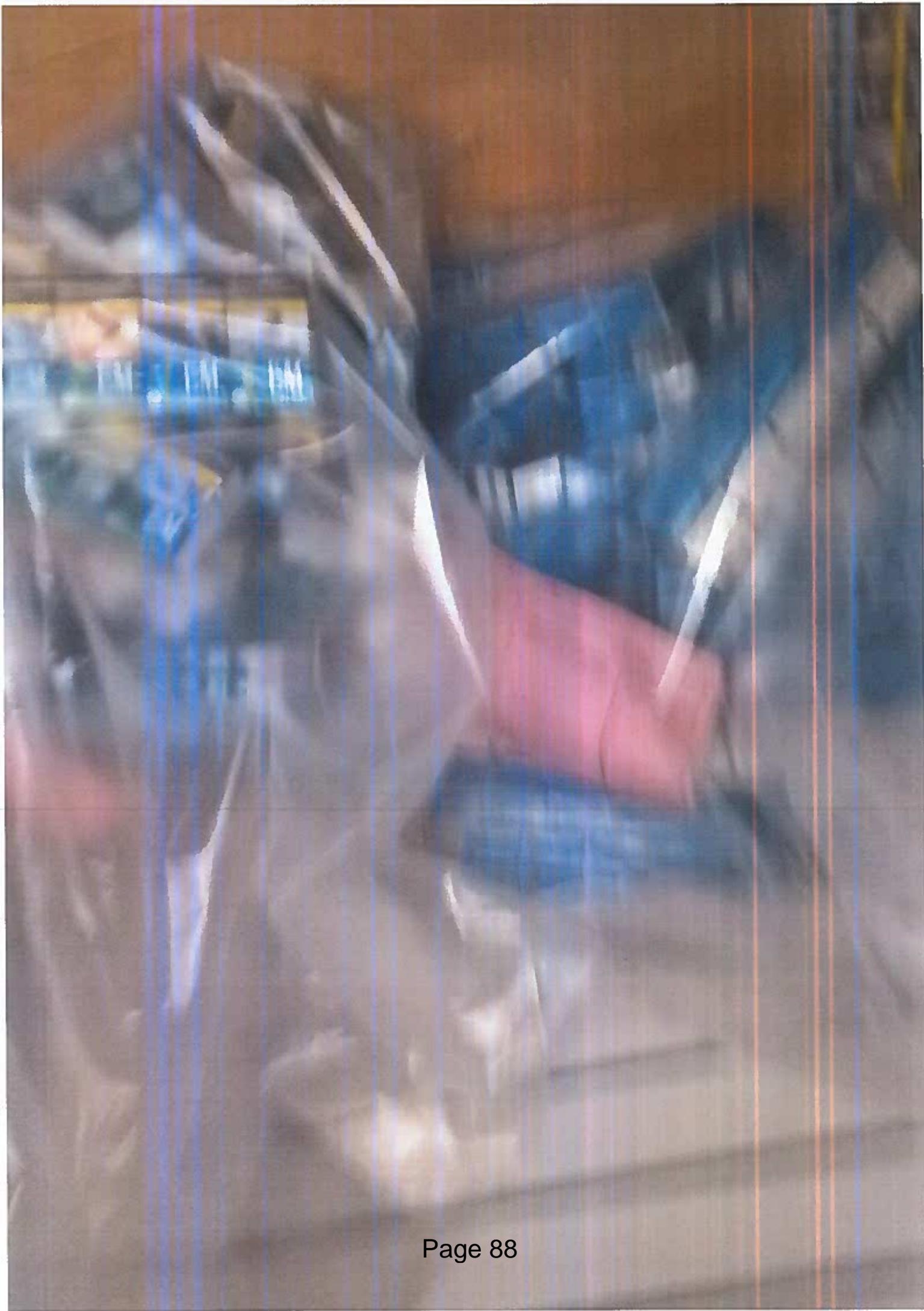




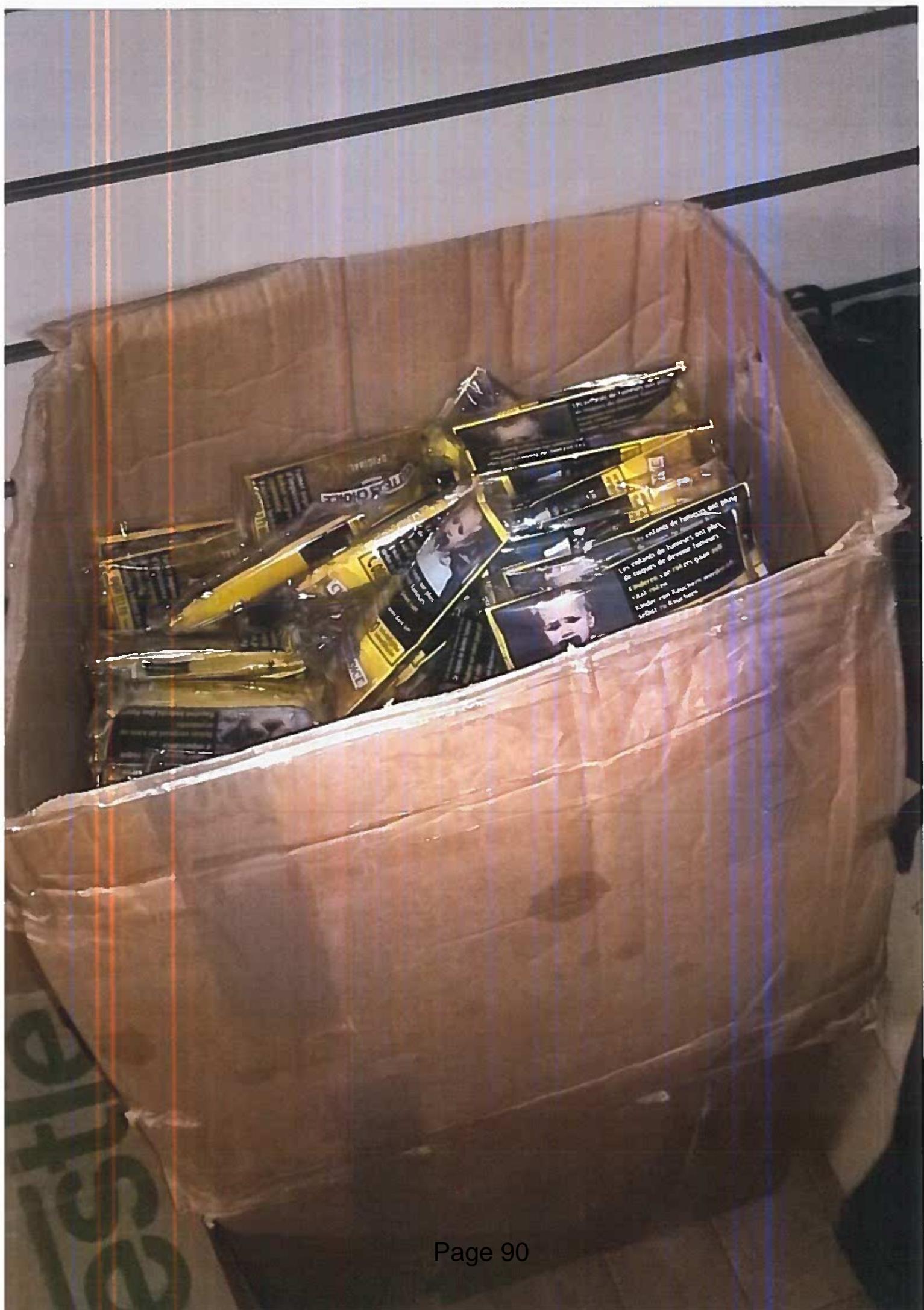












Les enfants de l'histoire ont plus
de temps de donner l'histoire
à leur père et à leur mère
Et leur mère et leur père
Et leur père et leur mère
Et leur mère et leur père
Et leur père et leur mère

PUBLIC HEALTH COMMENTS

To:	Licensing Team	Service Request No.:	PL1130
From:	Public Health	Contact:	Jude Pinder
		Land line:	01803 207388

Subject:	Application for New Premises Licence	
	Variation application	
	License Review	v
Premises Name:	Zakopane	
Premises Address:	16 Market Street, Torquay	

1. I have no comments to make on the above application	
2. The application does not meet the following licensing objectives	
I. Prevention of crime and disorder	
II. Protection of children from harm	
III. Public safety	v
IV. Prevention of nuisance	

Reasons (please list those aspects of the application or variation that give you reason for concern and why you have these concerns)

I would like to make a representation in respect of this licensing review in relation to section 3.2 (a) (i) of the Torbay Council Licensing Statement of Principles 2016-2021 which requires the applicant to "Assess the risks to the public, staff and others associated with operating the Premises or event in accordance with their submitted Operating Schedule and measures implemented to reduce those risks".

My concerns lay in respect of the evidence from the Police (contained within the review documentation) that the licensee was stocking alcohol which has not had UK import duty paid and concern that they had not been purchased from a reputable wholesaler and that this activity poses a risk to public safety.

From a Public Health perspective there are risks to the local population of consuming potentially illicit alcohol.

Illicit alcohol can be identified by it having an unfamiliar brand name, the price may be significantly lower, it may have an unusual taste or smell, it may have low quality labelling and packaging, there may be no 'UK Duty Paid' stamp and it may not have manufacturer details.

Buying illicit alcohol can be dangerous and poses a real risk to health because these goods may not comply with the strict quality standards used by legitimate brand manufacturers. Counterfeit alcohol may also contain hazardous substances and of most concern – methanol. Consumption of methanol can cause nausea and vomiting, abdominal pain, drowsiness and dizziness. It can also lead to kidney or liver problems and even coma. Methanol may cause permanent blindness.

Whilst there is no evidence in the submission that the alcohol found in the premises has been linked to any individual health incidents in the local population we do not have the resources or infrastructure to directly correlate these events and confirm whether there was any impact of harm or not from consumption of the goods seized.

The only way to protect the public from the health harms associated with illicit alcohol consumption is through proactive approaches and relying on the sellers of alcohol to comply with the safety restrictions

in place to protect public safety, including-

- Buying alcohol with UK duty tax paid (the same risks apply to tobacco although this is not a licensed product).
- Buying alcohol from reputable wholesalers.
- Operating within recommended schemes such as 'Challenge 25' (to protect young people)
- Operating within special restrictions such as the Special Saturation Policy (Appendix 1 of Licensing Statement of Principles 2016-2021, Torbay Council) – to protect residents against anti-social behaviour and our vulnerable street drinking population.

If these proactive processes are not in place then there remains a risk to public safety.

Signed:		Date:	13/12/2018
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Devon & Cornwall Police

Licensing Department
Torbay Council
C/O Torquay Town Hall
Castle Circus
TORQUAY
TQ1 3DR

Licensing Department
Devon and Cornwall Police
Police Station
South Street
TORQUAY TQ2 5AH

Telephone: 01803 218900

14 January 2019

Dear Sir/Madam

**Application for a Review of the Premises Licence at Zakopane, 16 Market Street,
Torquay, TQ1 3AQ**

I refer to the Review application submitted by Mrs Smart on Wednesday 21 November 2018 in relation to the above named premises.

I would take this opportunity to update you in relation to further information the police has in respect of this premises.

On Thursday 10 January 2019 Mrs Smart received a phone call from Ms Victoria Cartmell of Forrest Solicitors in Lancaster. Ms Cartmell advised Mrs Smart that Zakopane was either being sold or had been sold to a male called Mr Abdullah Omar Abdullah and she was representing the new owner. Ms Cartmell said that she thought the money had already changed hands and she advised Mrs Smart that she would send proof of this in due course. Ms Cartmell said that she was aware that the new owner is the cousin of Mr Khader, the Premises Licence Holder/DPS, but in her opinion this is a genuine sale of the premises.

On Friday 11 January 2019 Mrs Smart received an email from Ms Cartmell together with Transfer and Vary DPS applications for Zakopane and photographs of Mr Abdullah's National Insurance Card, Passport and Personal Licence. Ms Cartmell advised Mrs Smart within that email that she was hopeful that she would be able to forward the sale documents later that day, but to date these documents have not been received by the police.

Later that day (Friday 11 January 2019) the police were served with copies of the

Contact the police

Emergency 999

Non-emergency www.devon-cornwall.police.uk/reportcrime

101@dc.police.uk 101

Follow us [DevonAndCornwallPolice](https://www.facebook.com/DevonAndCornwallPolice)

[DCPolice](https://twitter.com/DCPolice) [DCPolice](https://www.youtube.com/DCPolice)

DCPolice



The Government Standard
Stock code SF615

Transfer and Vary DPS applications from the Torbay Council Licensing Team as these had been served electronically.

At approximately 11.00 am on Monday 14 January 2019 Mrs Smart attended Zakopane in the company of Sgt Dave Curtis, Police Licensing Sergeant for Devon. Mrs Smart spoke to a male behind the counter and asked to speak to the owner. The male, Mr Ali Omar Shukir, stated that he was in charge of the premises. He advised Mrs Smart that Mr Abdullah was at the cash and carry and he said that he (Mr Shukir) is a Personal Licence holder. Mr Shukir stated that he had only worked at the premises for a day, having been asked by Mr Abdullah to assist him as he had recently bought the premises. Mrs Smart asked Mr Shukir when Mr Abdullah became the new owner, and he stated "Last week".

Mrs Smart advised Mr Shukir that she was going to carry out a licensing inspection and he indicated that he was happy to help.

As Mrs Smart was aware that Transfer and Vary DPS applications in relation to this premises had been accepted by Torbay Council she did not ask Mr Shukir to produce the Premises Licence as she assumed that this had been returned to Torbay Council together with the applications. Mrs Smart noted that the Premises Licence Summary was on display behind the counter.

Mrs Smart then started to check each condition contained within Premises Licence number PL1130. In respect of the CCTV system, Mr Shukir showed her the monitor and views from 16 cameras. Mr Shukir stated that he thinks the footage is retained for 31 days. Mrs Smart then asked to see the record of weekly CCTV checks. Mr Shukir did not know what this was until it was explained to him however he could not produce these records. Mrs Smart explained that the relevant condition on the Premises Licence requires a written record of CCTV system checks to be completed and produced to a representative of any responsible authority on request.

Mrs Smart then checked that the front door had a roller shutter, which it did. Mrs Smart asked if the premises has a back exit and Mr Shukir then took Mrs Smart and Sgt Curtis to a rear door. This door did not have a shutter, but Mrs Smart noticed that it was a fire door. Mrs Smart asked whether there was an alarm system in place and Mr Shukir told them that there is, but he said that there was a problem with the alarms in some part of the premises, and he told Mrs Smart and Sgt Curtis that someone was attending later that day to have a look at the system.

As the Premises Licence requires that a Personal Licence holder is on duty at all times the shop is open to the public, Mrs Smart asked to see Mr Shukir's Personal Licence, but he could not produce this. Mrs Smart advised Mr Shukir that he should keep his Personal Licence in his wallet or on the premises so that it can be produced when requested.

Mrs Smart asked Mr Shukir to produce the Incident Book. He did this, at the same time producing a number of other books that were contained on a shelf behind some bottles of spirits at the rear of the counter area. On looking at these books Mrs Smart recalled that these books were shown to her and Sgt Norsworthy when they attended the premises on 22 November 2017, this being the date that Sgt Norsworthy issued a Section 19 Cancellation Notice at the premises. At that time Mrs Smart was aware that these books were provided within the compliance pack that Ms Clark (the agent who applied for the initial Grant of the Premises Licence at Zakopane in October 2017), provided to Mr Khader. This compliance pack is referred to within item 1 of our supporting documents bundle.

On examining the Incident book and Barred Customer Log there were no entries contained within. On looking at the Refusals book this contained numerous entries and Mrs Smart and Sgt Curtis were satisfied with the content of this book.

Mrs Smart and Sgt Curtis also looked at the Staff Training book. This did not contain any entries. This matter was drawn to the attention of Mr Shukir who stated that as Mr Abdullah had recently taken over at the premises he was very busy with everything that needed to be put into place and therefore he had not had time to complete the training book.

Mrs Smart explained to Mr Shukir that as some of the conditions on the Premises Licence were not being complied with, every time that alcohol is sold from the premises offences under Section 136 of the Licensing Act 2003 are being committed.

As Sgt Curtis was not satisfied that all of the conditions were being complied with he issued Mr Shukir with a Closure Notice under Section 19 of the Criminal Justice and Police Act 2001. He advised Mr Shukir that the premises have 7 days in which to address the matters outlined and Mr Shukir confirmed that he understood and would discuss the matter with Mr Abdullah. Mr Shukir volunteered to cease the sale of alcohol until the issues identified had been resolved. Mrs Smart thanked him for his assistance and gave him the Section 19 Closure Notice (copy attached).

I would take this opportunity to advise you that in relation to the Incident Book and Barred Customer Log not containing any entries, Mrs Smart was aware at the time of the visit that an incident had occurred at the premises in 2018 and she therefore expected to see details of this recorded within these books.

The incident occurred on Thursday 23 August 2018 between 1800 and 1825 hours, when Mr Wali Khader was assaulted at the premises (Crime CR/077562/18 refers). The crime complaint indicates that the male offender was known to Mr Khader and, after having been banned from the premises, refused to leave. A fight ensued and Mr Khader was pushed by the offender prior to Mr Khader forcibly removing the

offender from the shop. This incident was reported to the police by a member of the public. On police attendance Mr Khader told officers that the offender had been a nuisance in the shop in the past and had been banned, and that on this occasion he was arguing with his girlfriend and smoking in the store and refused to leave when requested.

When the Section 19 Closure Notice was completed, Mrs Smart had forgotten that Transfer and Vary DPS applications had been received 'with immediate effect' and therefore the fact that the incident book and barred customer log contained no entries were included within the Section 19 Closure Notice in error. However, in relation to these books it demonstrates that Mr Khader has again failed to comply with the conditions of the Premises Licence.

In relation to the condition which states "The premises are secured with roller shutters at the front and rear and alarmed when closed", at the time of the visit Mrs Smart was concerned about a fire door being fitted with roller shutters. However Mrs Smart and Sgt Curtis have now discussed this matter and as a result of those discussions, Sgt Curtis is not satisfied that the condition is being complied with. However, as the door in question is a fire exit, the police recommend that the Premises Licence Holder seeks the advice of the Fire Service in relation to this matter.

In respect of the Transfer and Vary DPS applications received in relation to Mr Abdullah, my Licensing Department have until the end of the 14 day consultation period, which ends on Friday 25 January 2019, in which to deal with these applications and make representation, if appropriate.

Should you require any further information or assistance, please do not hesitate to contact my Licensing Officer, Mrs Julie Smart, on telephone number 01803 218900.

Yours faithfully



Superintendent J Hawley
Head of Prevention Department
Devon & Cornwall and Dorset Police Alliance



File No.:	Computer URN:	Minute No.:
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Closure Notice

Section 19 Criminal Justice and Police Act 2001

Section 19 of the Criminal Justice and Police Act 2001 empowers a constable or local authority to serve a closure notice on a person having control of, or responsibility for, any premises that are being, or have been used within the last 24 hours, for the sale or consumption of alcohol on or in the vicinity of the premises, without a licence. (Where such a closure notice is served it must also be served on any other occupier of the premises whose access may be impeded if the part involved in the unlicensed sale of alcohol was to be closed.) Where a constable is satisfied that any premises are being, or within the last 24 hours have been, used for the unauthorised sale of alcohol for consumption on, or in the vicinity of, the premises, he may serve a notice in respect of the premises.

Date and time of the Closure Notice: 11.20am 14/01/19

Person making the Notice: SGT DAVE CURTIS
Signature: [Signature]

Name (if applicable) and address of the affected premises:
ZAKOPANE, 16 MARKET STREET, TORQUAY.

Alleged unauthorised use of the premises:
NO CCTV WEEKLY CHECK BOOK, INCIDENT BOOK
PRODUCED BUT NO ENTRIES; BARRED CUSTOMER LOG NO ENTRIES,
STAFF TRAINING RECORDS - BOOK PRODUCED BUT NO ENTRIES

Steps which may be taken to end the alleged unauthorised use of the premises, or to prevent it from re-occurring:
ADDRESS ISSUES ABOVE - IN PARTICULAR STAFF TRAINING

The person (if applicable) on whom the Closure Notice has been served:
Name: ALI OMAR SHUKIR
Signature: [Signature]

Explanatory Notes

A police officer, or an authorised officer from the local authority has decided to issue this Closure Notice under the terms of Section 19 of the Criminal Justice and Police Act 2001 ('The 2001 Act').

Section 19 of the 2001 Act – Closure Notices

Where a police officer or an authorised officer from the local authority is satisfied that any premises are being, or within the last 24 hours have been used for the unlicensed sale of alcohol, including being in breach of its licence conditions, he may serve under Sub Section (3) a notice in respect of the premises.

Section 20 of the 2001 Act – Closure Orders

Your attention is drawn to Section 20 of the 2001 Act. This provides that the police, or as the case may be the local authority, can take action against the said premises by applying to a Justice of the Peace at the local Magistrates' Court for a closure order if the unlicensed sale of alcohol (as alleged in this Closure Notice) is continuing, or there is a reasonable likelihood that the premises will be so used in the future. The application for a Closure Order must be made not less than 7 days, and not more than 6 months after the date on which this closure notice was served.

After an application for the Closure Order is made the Justice of the Peace may issue a summons requiring the applicant and also the persons or persons on whom the Closure Notice was served to attend a hearing at the court on a specified date and time. At the hearing the court will consider the applicant's complaint against the said premises and decide whether a Closure Order should or should not be made.

In accordance with the Magistrates' Court Act 1980 and under the law on human rights, you are entitled to be legally represented at the hearing and to make representations to the court before any decision is taken.

Appeals – Section 24 of the 2001 Act

An appeal against a decisions by the Magistrates' Court to grant a Closure Order, or a decision to refuse an application for a Closure Order can be made by an affected person to the Crown Court within 21 days.

Enforcement Powers and Offences - Section 24 of the 2001 Act

It is an offence for a person, without reasonable excuse, to permit a premises to open in contravention of a Closure Order made by the Magistrates Court. Any person found guilty of such an offence will be liable to a fine not exceeding £20,000 or to imprisonment for a term not exceeding three months, or to both.

It is also an offence for a person who, without reasonable excuse fails to comply with any other terms of a Closure Order made by the court, or does an act, which contravenes those other terms. Any person convicted of this offence is liable to a fine not exceeding £5,000 or to three months imprisonment, or to both.

Police officers and authorised officers from the local authority have the power to enter the said premises at any reasonable time, and to do anything reasonably necessary to secure compliance with the Closure Order (for example, to board up the premises). However when exercising this power the constable or the officer must produce evidence of his authority to enter and also his identity before entering the premises, if asked to do so by the owner (or the occupier or the person in charge of the premises).

It is an offence for a person to intentionally obstruct police officers or authorised local authority officer from exercising these powers. Any persons convicted of obstructing a police officer is liable to a fine not exceeding £5,000, or to three months imprisonment, or to both. Any person convicted of obstructing an authorised local authority officer is liable to a fine not exceeding £5,000.