

Agenda

Licensing Sub Committee 3

Tuesday, 24 October 2023 at 10.00 am
At Committee Room 2 - Sandwell Council House, Oldbury

This agenda gives notice of items to be considered in private as required by Regulations 5 (4) and (5) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

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| 3 | Application for the grant of a New Premises Licence at Hyper Top International, Ground Floor 74-76 Capehill, Smethwick B66 4PB | 9 - 48 |



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Councillors E M Giles and Khan

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Licensing Sub Committee 3

Apologies for Absence

To receive any apologies for absence from the members of the Committee.



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Licensing Sub Committee 3

Declarations of Interests

Members to declare any interests in matters to be discussed at the meeting.



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Report to Licensing Sub Committee 3

24th October 2023

Subject:	Application for the grant of a New Premises Licence at Hyper Top International, Ground Floor 74-76 Capehill, Smethwick B66 4PB
Director:	Director – Borough Economy – Alice Davey
Contact Officer:	Makhan Singh Gosal Senior Licensing Officer licensing_team@sandwell.gov.uk

1. Recommendations

1. To consider the application for the grant of a new premises licence under section 17 of the Licensing Act 2003 in respect of Hyper Top International, Ground Floor 74-76 Capehill, Smethwick B66 4PB
2. Each application must be considered on its merits taking into account the evidence presented at the hearing, and the Guidance issued under Section 182 of the Licensing Act 2003 and the Council’s Licensing Policy. The options that can be considered once evidence has been heard are detailed at section 5.


2. Reasons for Recommendations

- 2.1 The Licensing Sub Committee is asked to make a decision on the application based on any evidence presented at the hearing taking into account the Guidance issued under Section 182 of the Licensing Act 2003 and the Council’s own Statement of Licensing Policy and to give reasons for their decision.



2.2 To consider an application for the grant of a new premises licence in respect of Hyper Top International, following receipt of representations from The Police, Trading Standards and Licensing Enforcement objecting to the grant of the application due to Crime and Disorder, Public Safety.

3. How does this deliver objectives of the Corporate Plan?

	<p>A strong and inclusive economy Investing in people and jobs. Licensed premises provide employment in the Borough and help to support the Borough's economy.</p> <p>It is the Authority's aim to offer a wide choice of high quality and well managed entertainment and cultural venues within a safe, orderly and attractive environment; valued by those who live here, work here and come to visit. We want to ensure that businesses operate responsibly and safely so that our residents live in decent neighbourhoods and have a good quality of life.</p>
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4. Context and Key Issues

- 4.1 Under the Licensing Act 2003, a responsible authority or any other person may make representations in respect of the application which must be relevant to one or more of the four licensing objectives, namely:
- The Prevention of Crime and Disorder
 - Public Safety
 - The Prevention of Public Nuisance
 - The Protection of Children from Harm
- 4.2 Representations has been received from The Police, Trading Standards and Licensing Enforcement. Copies of the representations are attached at Appendix 4.

CURRENT POSITION

- 4.3 An application has been made by Hyper Top International Limited, for the grant of a new premises licence.
- 4.4 A copy of the full application and plan is attached at Appendix 1.



- 4.5 The application is for Supply of alcohol (Off the premises) Monday – Sunday 07:00 – 23:00.
- 4.6 The proposed hours the premises will be open to the public is Monday – Sunday 07:00 – 23:00.
- 4.7 **Operating Schedule/Proposed Conditions**

General

Personal Licence holder will be on premises at all times. Sufficient staff on premises to cover busy periods and staff to be regularly trained on licensing responsibilities. Maintain an incident log-book. Work with local authorities, Police and community groups to address any issues or complaints.

The prevention of crime and disorder

If need arises to employ sufficient trained and qualified door supervisors, request photographic ID to control under-age drinking, install CCTV system, maintain incident log-book.

Public Safety

Annual gas safety check, electrical check (once every 5 years), PAT testing (portable electrical appliance testing) up to date health and safety policy and risk assessments, employers and public liability insurance in place with reputable insurer, sufficient lighting, regular fire safety checks and servicing of fire detection and extinguishing equipment, emergency procedures in place, good housekeeping procedures in place including hygiene and cleanliness.

The prevention of public nuisance

To keep a close eye on noise nuisance. Keep doors and windows closed, instal quiet equipment with noise reduction, have signage in place asking people t leave quietly, make regular sound checks inside and outside the premises. Make sure litter and odours are kept in control. Train staff in respect of all nuisance control measures in place and ensure they follow them.



The Protection of children from harm

Restrict children's access to area where alcohol stored/sold where possible, check age ID of children seeking to purchase alcohol.

4.8 A location map of the premises is attached at Appendix 3.

4.9 Consultation (customers and other stakeholders)

A notice has been published in a local paper and a public notice has been displayed at the premises outlining the application and inviting comments/representations to be sent to the Licensing Authority, detailing a closing date for these to be received. Details of the application were also published on the Council's website.

5. Alternative Options

5.1 The options available to the Licensing Sub-Committee having considered all the relevant information are as follows:

- to grant the licence subject to conditions consistent with the operating schedule accompanying the application, and any mandatory conditions which must be included in the licence
- to exclude from the scope of the licence any of the licensable activities to which the application relates;
- to refuse to specify a person in the licence as the premises supervisor;
- to reject the application

5.2 Conditions may be altered or omitted, or any new condition added.

5.3 Additional conditions or restrictions to licensable activities and/or times should only be imposed if considered appropriate for the promotion of the licensing objectives. If other law already places certain statutory responsibilities on a premise, it would not be appropriate to impose similar duties.



5.4 Members of the Sub Committee should be advised that the applicant, or any other person who made relevant representations in relation to the application, may appeal against the decision made to the Magistrates' Court within 21 days of the date on which they were notified.

6. Implications

Resources:	<p>There are no direct strategic resource implications associated with this application.</p> <p>In respect of premises licence applications, we do not foresee any issues in respect of sustainability of proposals.</p> <p>The application relates to a privately owned property.</p>
Legal and Governance:	<p>Members of the Licensing Sub Committee when making their decision on the application must take into account the four licensing objectives, the Guidance issued under Section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy. The applicant and those who have made relevant representations have the right to appeal the decision made by the Licensing Sub Committee to the Magistrates Court, so the Committee are asked to give reasons for their decision wherever possible.</p> <p>Members of the Sub-Committee should not allow themselves to predetermine the application or to be prejudiced in favour or opposed to the applicant and/or the licence holder and shall only determine the application having had an opportunity to consider all relevant facts.</p>
Risk:	<p>The Police are a statutory consultee for all Licensing Act 2003 applications. Prevention of Crime and Disorder is one of the four licensing objectives and applicants have to demonstrate how they will achieve this objective by volunteering measures in the operating schedule submitted with the Licence application.</p>



	<p>The Police have made a representation to this application.</p> <p>Whilst full details of the application and any representations have been shared with the committee members, only information that is in the public domain has been made available for the reports that have been made public online, in line with data protection protocols.</p>
Equality:	<p>The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society.</p> <p>The operators of this premises are responsible for complying with all relevant legislation.</p>
Health and Wellbeing:	<p>This is not applicable to applications for premises licences submitted under the Licensing Act 2003.</p>
Social Value	<p>This is not applicable to applications for premises licences submitted under the Licensing Act 2003.</p>

7. Appendices

- Appendix 1 – Application Form
- Appendix 2 – Consent form
- Appendix 3 – Location Plan
- Appendix 4 – Representations

8. Background Papers

- Sandwell Metropolitan Borough Council Licensing Policy
- Guidance issued under Section 182 of the Licensing Act 2003
- The Licensing Act 2003 (Hearings) Regulations 2005



[Insert name and address of relevant licensing authority and its reference number (optional).]

**Application for a 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 Hyper Top International Limited

(Insert name(s) of applicant)

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description Ground Floor, 74-76 Capehill,			
Post town	Smethwick	Postcode	B66 4PB
Telephone number at premises (if any)	XXXXXXXXXX		
Non-domestic rateable value of premises	£15,500		

Part 2 - Applicant Details

Please state whether you are applying for a premises licence as

Please tick as appropriate

- a) an individual or individuals * please complete section (A)
- b) a person other than an individual *
 - i. as a limited company please complete section (B)
 - ii. as a partnership please complete section (B)
 - iii. as an unincorporated association or please complete section (B)
 - iv. other (for example a statutory corporation) 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) a person 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 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 <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
I am 18 years old or over				<input type="checkbox"/> Please tick yes	
Current postal address if different from premises address					
Post town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
I am 18 years old or over				<input type="checkbox"/> Please tick yes	
Current postal address if different from premises address					
Post town				Postcode	
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 Hyper Top International Limited
Address 74-76 Capehill, Smethwick B66 4PB
Registered number (where applicable) 14673886
Description of applicant (for example, partnership, company, unincorporated association etc.) INCORPORATED COMPANY
Telephone number (if any) xxxxx
E-mail address (optional) xxxxxxxxxxxxxx

Part 3 Operating Schedule

When do you want the premises licence to start?

DD	MM	YYYY
01	10	2023

If you wish the licence to be valid only for a limited period, when do you want it to end?

DD	MM	YYYY

Please give a general description of the premises (please read guidance note 1)
Ground floor shop on high street,

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

What licensable activities do you intend to carry on from the premises?

(Please see sections 1 and 14 of the Licensing Act 2003 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment

Please tick any that apply

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

Provision of late night refreshment (if ticking yes, fill in box I)

Supply of alcohol (if ticking yes, fill in box J)

In all cases complete boxes K, L and M

A

Plays Standard days and timings (please read guidance note 6)			<u>Will the performance of a play take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<u>Please give further details here</u> (please read guidance note 3)		
Tue					
Wed			<u>State any seasonal variations for performing plays</u> (please read guidance note 4)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 6)			Will the exhibition of films take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon					
Tue			State any seasonal variations for the exhibition of films (please read guidance note 4)		
Wed					
Thur			Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 5)		
Fri					
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 6)			<u>Please give further details</u> (please read guidance note 3)
Day	Start	Finish	
Mon			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 4)
Tue			
Wed			<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 5)
Thur			
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 6)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)		
Mon					
Tue					
Wed					
Thur					
Fri					
Sat					
			<u>State any seasonal variations for boxing or wrestling entertainment</u> (please read guidance note 4)		
			<u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sun					

E

Live music Standard days and timings (please read guidance note 6)			Will the performance of live music take place indoors or outdoors or both – please tick (please read guidance note 2)	
			Indoors	<input type="checkbox"/>
			Outdoors	<input type="checkbox"/>
			Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)	
Mon				
Tue				
Wed			State any seasonal variations for the performance of live music (please read guidance note 4)	
Thur				
Fri			Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list (please read guidance note 5)	
Sat				
Sun				

F

Recorded music Standard days and timings (please read guidance note 6)			<u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u> (please read guidance note 2)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)			
Mon						
Tue						
Wed			<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 4)			
Thur						
Fri			<u>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</u> (please read guidance note 5)			
Sat						
Sun						

G

Performances of dance Standard days and timings (please read guidance note 6)			Will the performance of dance take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon					
Tue					
Wed			State any seasonal variations for the performance of dance (please read guidance note 4)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat					
Sun					

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 6)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	Will this entertainment take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			Please give further details here (please read guidance note 3)		
Wed					
Thur			State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 4)		
Fri					
Sat			Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sun					

I

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 2)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)			
Mon						
Tue			<u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 4)			
Wed						
Thur			<u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u> (please read guidance note 5)			
Fri						
Sat						
Sun						

J

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption – please tick (please read guidance note 7)	On the premises	<input type="checkbox"/>
				Off the premises	<input checked="" type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 4) N/A		
Mon	07:00	23:00			
Tue	07:00	23:00			
Wed	07:00	23:00			
Thur	07:00	23:00			
Fri	07:00	23:00			
Sat	07:00	23:00			
Sun	07:00	23:00			
			Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 5) N/A		

State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor:

Name Asgar Khanoie	
Address xxxxxxxxxxxxxxxxxx,	
Postcode	xxxx
Personal licence number (if known)	
Issuing licensing authority (if known)	

K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8).

None

L

Hours premises are open to the public Standard days and timings (please read guidance note 6)			State any seasonal variations (please read guidance note 4) N/A
Day	Start	Finish	
Mon	07:00	23:00	<p>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 5) N/A</p>
Tue	07:00	23:00	
Wed	07:00	23:00	
Thur	07:00	23:00	
Fri	07:00	23:00	
Sat	07:00	23:00	
Sun	07:00	23:00	

M Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 9)

Personal Licence holder will be on premises at all times. Sufficient staff on premises to cover busy periods and staff to be regularly trained on licensing responsibilities. Maintain an incident log-book. Work with local authorities, police and community groups to address any issues or complaints.

b) The prevention of crime and disorder

If need arises to employ sufficient trained and qualified door supervisors, request photographic ID to control under-age drinking, instal CCTV system, maintain incident log-book.

c) Public safety

Annual gas safety check, electrical check (once every 5 years), PAT testing(portable electrical appliance testing) up to date health and safety policy and risk assessments, employers and public liability insurance in place with reputable insurer, sufficient lighting, regular fire safety checks and servicing of fire detection and extinguishing equipment, emergency procedures in place, good housekeeping procedures in place including hygiene and cleanliness.

d) The prevention of public nuisance

To keep a close eye on noise nuisance. Keep doors and windows closed, instal quiet equipment with noise reduction, have signage in place asking people to leave quietly, make regular sound checks inside and outside the premises. Make sure litter and odours are kept in control. Train staff in respect of all nuisance control measures in place and ensure they follow them.

e) The protection of children from harm

Restrict children's access to area where alcohol stored/sold wherever possible, check age ID of children seeking to purchase alcohol.

Checklist:


Please tick to indicate agreement

- I have made or enclosed payment of the fee.
- I have enclosed the plan of the premises.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable.
- I understand that I must now advertise my application.
- I understand that if I do not comply with the above requirements my application will be rejected.

IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING 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 4 – Signatures (please read guidance note 10)

Signature of applicant or applicant’s solicitor or other duly authorised agent (see guidance note 11).
If signing on behalf of the applicant, please state in what capacity.

Signature	
Date	24 AUGUST 2023
Capacity	Director

For joint applications, signature of 2nd applicant or 2nd applicant’s solicitor or other authorised agent (please read guidance note 12). **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) Asghar Khanoie, 74-76 Capehill,			
Post town	Smethwick	Postcode	B66 4PB
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			

Notes for Guidance

1. Describe the premises, for example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.
2. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
3. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
4. For example (but not exclusively), where the activity will occur on additional days during the summer months.
5. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
6. Please give timings in 24 hour clock (e.g. 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.
7. If you wish people to be able to consume alcohol on the premises, please tick 'on the premises'. If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off the premises'. If you wish people to be able to do both, please tick 'both'.
8. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or the presence of gaming machines.
9. Please list here steps you will take to promote all four licensing objectives together.
10. The application form must be signed.
11. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
12. Where there is more than one applicant, each of the applicant or their respective agent must sign the application form.
13. This is the address which we shall use to correspond with you about this application.

Consent of individual to being specified as premises supervisor

Asghar Khanoie

[full name of prospective premises supervisor]

of

XXXXXXXXXXXXXXXXXXXXXXXXXX

[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

Premises Licence

[type of application]

by

Hyper Top International Limited

[name of applicant]

relating to a premises licence

TBC

[number of existing licence, if any]

for

Hyper Top International Limited, 74-76 Capehill, Smethwick, B66 4PB

[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

Hyper Top International Limited

[name of applicant]

concerning the supply of alcohol at

74-76 Capehill, Smethwick, B66 4PB

[name and address of premises to which 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

TBC

[insert personal licence number, if any]

Personal licence issuing authority

[insert name and address and telephone number of personal licence issuing authority, if any]

Signed

XXXXXXXX

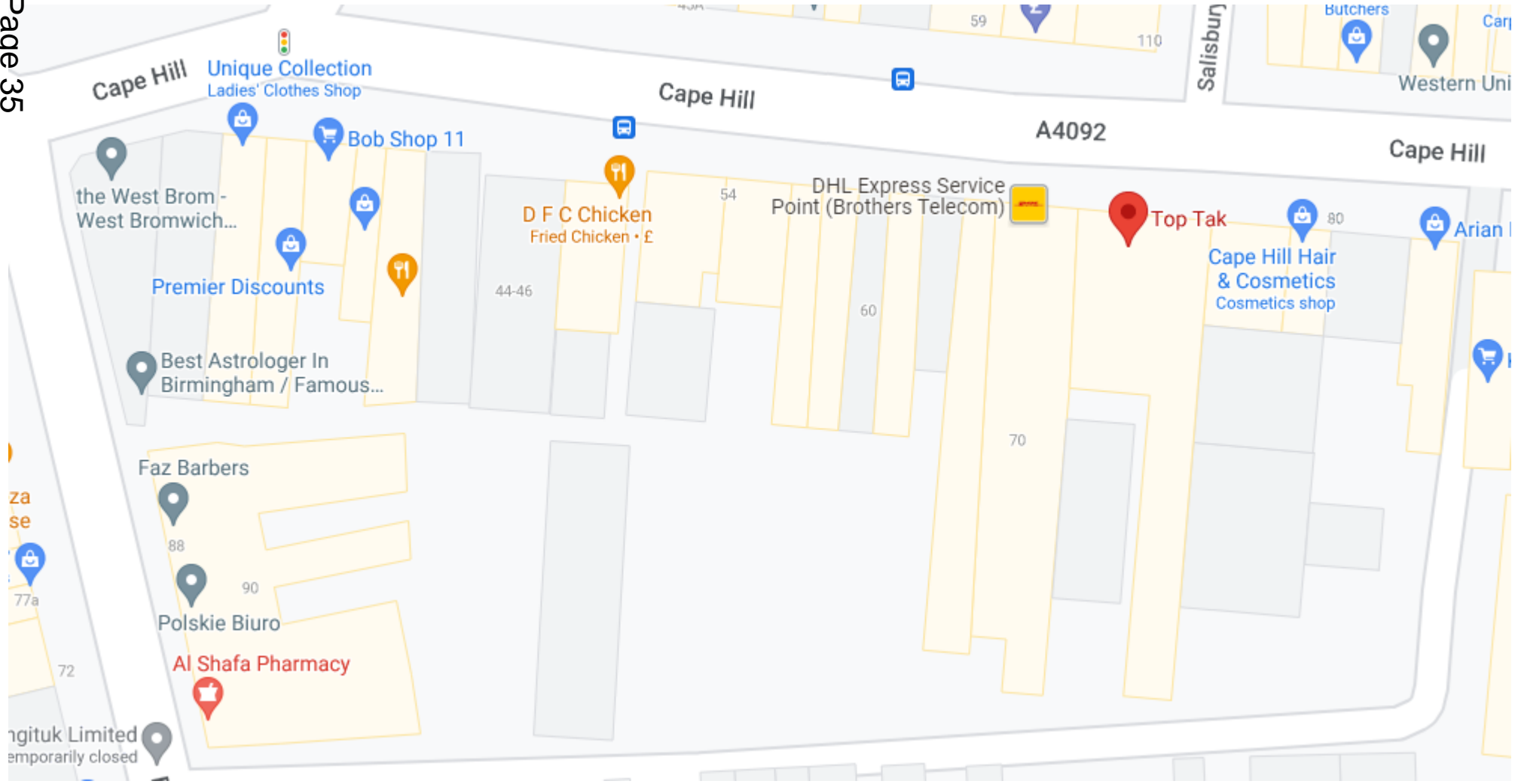
Name (please print)

Asghar Khanoie

Date

24 August 2023

74 – 76 Cape Hill, Smethwick B66 4PB



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Appendix 4 - Representations

From: Paul Franks
Sent: 28 September 2023 11:30
To: Licensing Team for Alcohol & Gambling
Subject: New Premises Application - Hyper Top International Limited, Ground Floor 74-76 Capehill, Smethwick B66 4PB

Categories:

I refer to the application for the grant of a Premises Licence under the Licensing Act 2003, for 74-76 Cape Hill, Smethwick, B76 4PB and confirm that the Licensing Enforcement Section object.

The premises was previously licensed, this licence was revoked by the Licensing Sub Committee on 4 July 2022 following an Application for a Review of the Licence submitted by the Trading Standards Department. They had carried out an inspection of the premises and found counterfeit alcohol and tobacco. The Licence Holder appealed against the decision to revoke the Licence to Magistrates' Court, the Appeal was dismissed on 13 January 2023. The Licence Holder did not appeal this decision to the Crown Court.

As part of my duties as a Licensing Enforcement Officer I visited the premises on 16 February 2023 to confirm that alcohol had been removed from the shop, in spite of the fact that no authorisation was in place, alcohol was exposed for sale in the premises. This is an offence under Section 137 of the Licensing Act 2003. I explained to the staff present that the alcohol should be removed urgently. A visit the next day confirmed that it had been.

The Licence holder of the revoked Licence was Azar Ebrahimi of xxxxxxx. The Designated Premises Supervisor was Nastaran Khanoie of the same address. The applicant for the Grant of the new Licence is Hyper Top International Limited, Asghar Khanoie is the Sole Director of this company and is also the proposed Designated Premises Supervisor, home address xxxxxxx. Publicly available records held by the Planning Department of Sandwell Metropolitan Borough Council show Asghar Khanoie since 2017 has submitted four Planning Applications for 74-76 Cape Hill, Smethwick, B76 4PB. The above information demonstrates that there is a clear connection between the previous Licence Holder, Designated Premises Supervisor and the Applicant for the new Licence and also that Asghar Khanoie has been involved with the Premises since at least 2017.

Taking into consideration all of the above, the Licensing Enforcement section has serious concerns that this premises being granted a licence will undermine the Licensing objective of Prevention of Crime and Disorder.

Paul Franks
Licensing Enforcement Officer



Sandwell Council...working for you

E: Licensing_Team@sandwell.gov.uk

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Council House
Oldbury
B69 3DE
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Date: 28th September 2023

To: The Licensing Committee

From: Claire Lilley – Sandwell Trading Standards

Subject: APPLICATION FOR PREMISES LICENCE –
Hyper Top International Limited, Ground Floor 74-
76 Cape Hill, Smethwick B66 4PB

.....

1. I am employed by Sandwell Metropolitan Borough Council as a Trading Standards Officer.
2. I am writing on behalf of Sandwell Trading Standards, a responsible authority as listed under section 13(4) of the Licensing Act 2003, and I wish to make representations in respect of an application for a premises licence at Hyper Top International Limited, Ground Floor 74-76 Cape Hill, Smethwick B66 4PB. This representation is made with regard to the licensing objectives - the prevention and detection of crime; and protection of children from harm.
3. On August 10th 2021, Sandwell Trading Standards conducted an inspection as part of an operation targeting the sale and supply of counterfeit alcohol.
4. During the inspection, we discovered five bottles of suspected counterfeit Yellowtail wine, which had been mixed in with genuine bottles on the shelves. These bottles were subsequently confirmed as counterfeit by the brand owner. In addition, while inspecting the shop, we seized a further 389 packets of counterfeit/illegal tobacco.
5. Subsequently, Trading Standards submitted an application for a review of the premises license under the Licensing Act 2003. A hearing was held on 4th July 2022 during which, based on the evidence presented, the licensing committee decided to revoke the alcohol licence.

6. Following this decision, the business lodged an appeal against the committee's ruling. On 13th January 2023, the appeal was heard at Dudley Magistrates where it was dismissed by the court.
7. In light of West Midlands Police's representation, there is evidence linking the new licence applicant, Mr. Asghar Khanoie to the previous offending business, namely Top Tak Limited. He simply created a new limited company and applied for a new licence under a different trading name.
8. On 7th September 2023, Sandwell Trading Standards conducted a test purchase at Hyper Top International, resulting in an undercover officer purchasing an illegal 'Crystal Legend 4000 puffs vape' for £9 and a packet of illegal 'Richmond Kingsize' cigarettes for £4. I now produce these two offending items as exhibits CL/1 and CL/2 respectively.
9. On 26th September 2023, Trading Standards carried out a joint operation with West Midlands Police and Licensing. Prior to the visit, a Trading Standards officer conducted an undercover test purchase, acquiring two packs of illegal Richmond cigarette for £8. These items are now presented as exhibit CL/3. During the course of the operation, approximately 400 illegal vapes were confiscated and are now marked as exhibit CL/4.
10. Considering the establishment's history, which demonstrates a consistent disregard for the licensing objectives and the law, our recommendation is for the panel to reject this application for a premises license.

Signed: *XXXX*

Dated: 28th September 2023

Claire Lilley

Trading Standards Officer (On behalf of Sandwell Trading Standards)

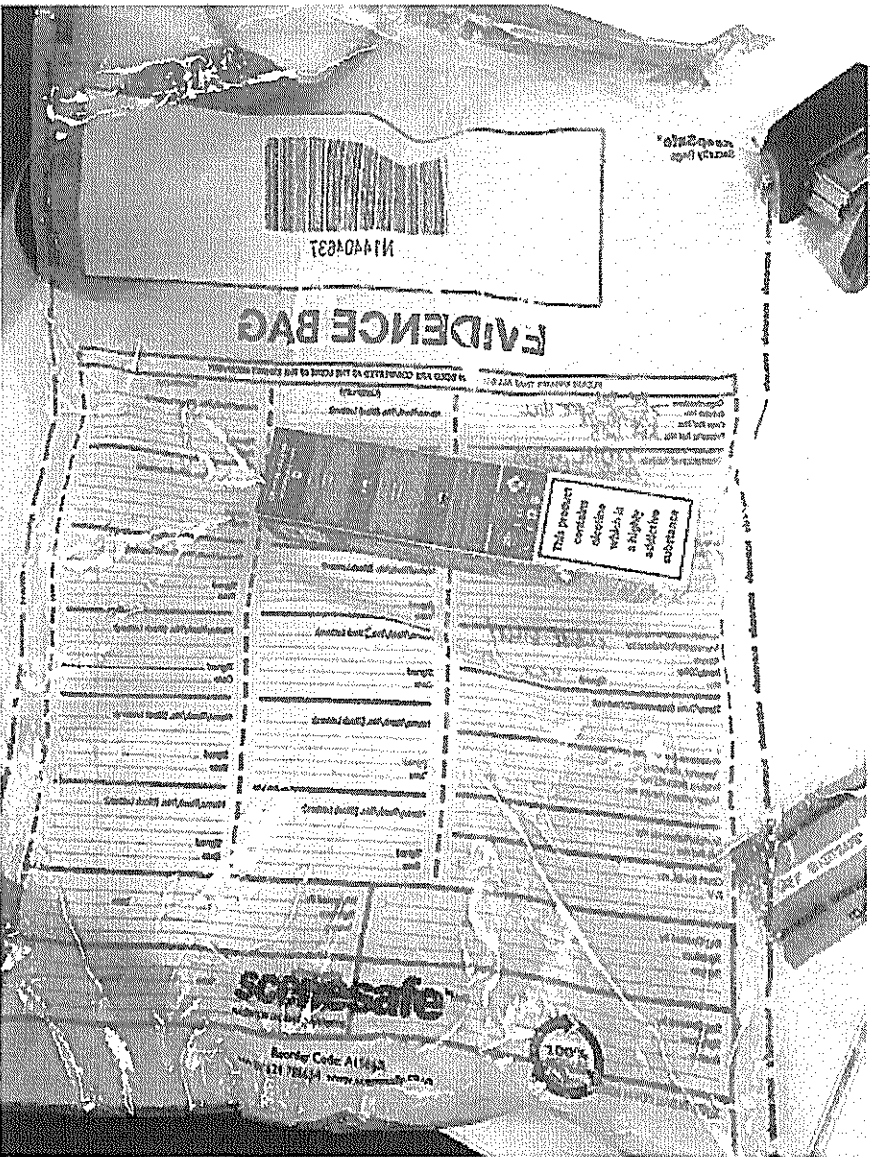




Exhibit CL/3

Exhibit CL/4



From: SW Licensing <xxxxxxx>
Sent:
To: 28 September 2023 18:02
Subject: Licensing Team for Alcohol & Gambling
Representation 74 - 76 Cape Hill
Importance: High

CAUTION: This email originated from outside of the Council / Children's Trust. Do not click links or open attachments.

West Midlands Police object to the granting of a new Premises Licence for 74 -76 Capehill, Smethwick, B66 4PB by Hyper Top International Limited.

As part of a Trading Standards visit, the Premises were found selling counterfeit/illicit tobacco and alcohol and as a result the Premises Licence was revoked by the Licensing Sub Committee on review in July 2022. At the time of the Trading Standards visit and review, the Premises Licence Holder was Azar Ebrahimi of xxxxxxxx. The Designated Premises Supervisor was Nastaran Khanoie of the same address.

Following the revocation of the Licence by the Licensing Sub Committee in July 2022, the Premises Licence Holder appealed the revocation to the Magistrates Court. As a result of lodging the appeal, the revocation did not take effect and allowed the Premises to continue to sell alcohol pending the outcome of the Appeal. The Appeal against the revocation was subsequently heard on 13th January 2023 and the appeal was dismissed by the Magistrates Court. I attended the Premises on 16th February 2023 with Paul Franks, Licensing Enforcement Officer to ensure the Premises were not selling alcohol. Despite the Appeal being dismissed, which the Premises will have been aware of as the appellants, alcohol remained on display in contravention of the Licensing Act 2003. Staff at the Premises were advised the alcohol needed to be removed immediately. A further visit the following day confirmed all alcohol had been removed.

West Midlands Police supported colleagues from Trading Standards on 26th September 2023 in a joint visit to the shop. During that visit, officers seized 400 illegal vapes from the Premises and prior to the visit, a test purchase had been conducted where two packets of illicit tobacco was sold to an undercover officer.

The new application is made in the name of Hyper Top International Limited, company number 14673886 of which the sole director is Asghar Khanoie. Mr Khanoie is also to be the Designated Premises Supervisor and his home address is given as xxxxxxxx

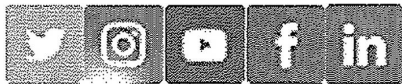
Our records show that officers spoke to the Premises on various occasions in 2019, 2020, 2021 and 2023 to deal with reports of crime and on each occasion dealt with Asghar Khanoie at the Premises who identified himself as the owner of the business. Our records also confirm that Azar Ebrahimi is the wife of Asghar Khanoie.

West Midlands Police contend that the current application made in the name of the Hyper Top International Limited is simply an attempt to circumvent the revocation of the Premises Licence by re-applying in the name of a newly formed company. The Licensing Act 2003 does not prevent venues from re-applying for a licence and this is a clear attempt to apply in a new company name to obtain a licence.

The Premises has shown a complete disregard for the licensing objectives by continuing to sell alcohol even when it was aware its appeal had been dismissed. The initial revocation occurred as a result of the venue selling illicit alcohol and tobacco and the latest test purchase and visit in September 2023, shows the business continues to flout the law and it is unsuitable to be granted a Premises Licence.

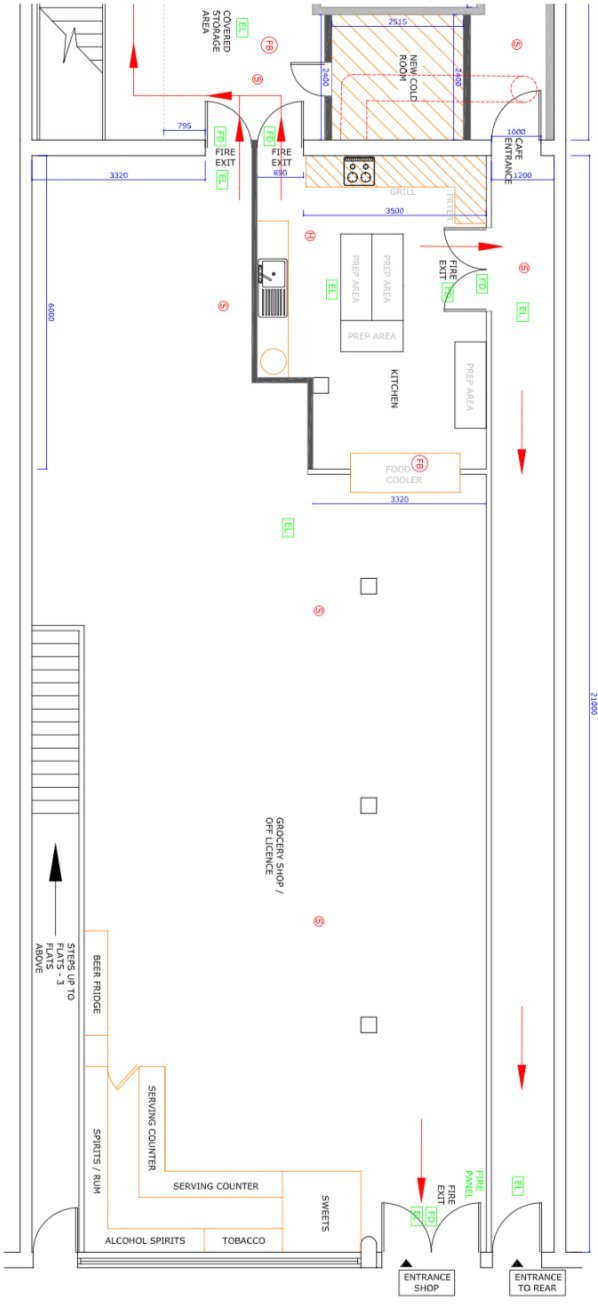


Nicola Stansbie Licensing Officer
Sandwell LPA | West Midlands Police
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