

Harrow Council, Licensing Section, P O Box 18, Station Road, Harrow.

Making a Representation against an Application (New or variation) for 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 Ash Waghela..... make this representation under
 (Insert name of applicant)
 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 club premises, or if none, ordnance survey map reference or description	
The Shaftesbury 3 Shaftesbury Parade Shaftesbury Avenue	
Post town South Harrow	Post code (if known) HA2 0AJ

Name of premises licence holder or club holding club premises certificate (if known)
Mr Anton Van Niekerk
Number of premises licence or club premises certificate (if known)
LN/000000605/2016/17

Part 2 - Applicant details

I am	Please tick ✓ yes
1) an interested party (please complete (A) or (B) below)	<input type="checkbox"/>
a) a person living in the vicinity of the premises	<input type="checkbox"/>
b) a body representing persons living in the vicinity of the premises	<input type="checkbox"/>

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- c) a person involved in business in the vicinity of the premises
- d) a body representing persons involved in business in the vicinity of the premises

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

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

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

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

Surname

First names

I am 18 years old or over

Please tick yes

Current address

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Post Town

Post Code

Daytime contact telephone number

Email address

(optional)

(B) DETAILS OF OTHER APPLICANT

Name and address
Telephone number (if any)
E-mail (optional)

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(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Ash Waghela Licensing Officer Licensing Department Harrow Council PO Box 18 Civic Centre Harrow HA1 2UT
Telephone number (if any) 020 8736 6257
E-mail (optional) licensing@harrow.gov.uk

This representation relates to the following licensing objective(s)

Please tick one or more boxes

- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input checked="" type="checkbox"/> |
| 3) the prevention of public nuisance | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |

Please state the ground(s) for review (please read guidance note1)

I make this representation on behalf of the licensing authority and include the following exhibits:

- Exhibit AW/1: Warning letter to Craig Daniel dated 25 July 2016
- Exhibit AW/2: Letter from Acumen Investigation Services Limited dated 16 September 2016
- Exhibit AW/3: Photographs of damaged toilets
- Exhibit AW/4: Watford Borough Council Licensing Sub-Committee Minutes of 6 September 2010
- Exhibit AW/5: Letter from Hodders solicitors to Metropolitan Police licensing officer dated 11 November 2009

Fact

On 6 October 2009 a personal licence was issued by the licensing authority to Craig Andrew Daniel.

On 3 June 2013, the Authority received an application to transfer the premises licence for The Shaftesbury public house to Surf the Seas Ltd for which the director was Matthew Labbett.

On 7 December 2015, Companies House records showed that the sole director of Surf the Seas Ltd was Craig Andrew Daniel.

On 14 December 2015, the licensing authority received an application to vary the designated premises supervisor from Sally Margaret Keating to Craig Andrew Daniel.

Mr Daniel's address on the personal licence is quoted as Moat Drive, however, he is confirmed as living in a flat near the Shaftesbury Pub. The personal licence should state the address where the person normally resides. When the DPS variation was submitted, his address was at Butterwick, Watford, Hertfordshire. He has failed to advise the licensing authority of a change of address for his personal licence which is an offence under section 127 of the Licensing Act 2003.

On 23 January 2015, two people were witnessed by Peter Coates (the Licensing Team Leader at the time) and I smoking in the doorway of the pub. A verbal warning was given by Peter Coates to Mr Daniel.

On 30 January 2016, the licensing authority received a complaint about the landlord smoking in

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the pub:

*I was recently in the Shaftesbury public house and the landlord was blatantly smoking at the corner of the bar and speaking to regulars of this pub he does this all of the time he is in the bar. The landlord's name is Craig and the pub is on Shaftesbury parade I believe. I think this is blatant poke in the eye to the smoking ban.
Thanking you*

The complaint was investigated by the licensing authority as a possible contravention of the Health Act 2006 and again Mr Daniel was verbally warned. Mr Daniel said that no-one smoked inside the premises and that he had banned some people recently and they may have done this in reprisal for being banned.

On 19 July 2016 a compliance visit was carried out by Jeffrey Leib (the Principal Licensing Officer). At the time of the visit, Mr Daniel and another member of staff were present on the premises. Mr Daniel claimed to be a Mr Andrew Paver and that Mr Daniel was not present or contactable. No evidence was provided in writing or verbally that "Mr Paver" had been authorised or the other staff member to sell alcohol. There were no notices displayed in compliance with the conditions of the premises licence.

On 25 July 2016 a warning letter was sent to the premises addressed to Mr Daniel (Exhibit AW/1).

On 16 September 2016, the licensing authority received an enquiry from Acumen Investigation Services Limited regarding Sky exclusive programming being shown in the public areas of a licensed premise without a commercial viewing agreement (Exhibit AW/2). A visit was carried out to the premises by Jeffrey Leib, PC Moran (the police licensing officer) and a representative from Acumen. Mr Daniel was not present and so an arrangement was made with the bar person to return the following week. Mr Daniel was not present on the second occasion either.

On 30 September 2016 at 22:30 hours, I visited the premises with PC Moran. At the time of the visit, Mr Daniel was not available – the third occasion when the DPS was not available or the fourth occasion if the inspection by Jeffrey Leib is included. There was only one member of staff at the premises - Michelle Raynor.

On inspection of the premises, it was found that the cubicle doors inside the ladies toilet were broken (Exhibit AW/3). There were broken tiles inside the gent's toilets and the cubicle inside the gent's toilet was out of order. At 22:43, the staff member came back to us and said that Mr Daniel was in the flat and we could go and talk to him if necessary. However we did not as this was a licensing inspection of the premises.

When the staff member was questioned about the state of the toilets, she said that they had some travellers come in on 24 September 2016 and kicked off the door in the ladies toilet. She did not know of any incident log in which the incident should have been recorded. She also could not show us any CCTV as the hard drive was in a box in a locked cupboard.

On 19 October 2016 a suspension notice regarding the non-payment of the annual fee was issued to the premises. This was hand delivered by myself at 21.27 to Mr Daniel. The annual fee had been due on 1 July 2016. During the visit, I noticed a strong smell of cigarettes and mentioned this to Mr Daniel. I said that the smell was too strong for it to be entering into the premises from people who would be smoking outside of the premises. Mr Daniel said that sometimes people sneaked the odd cigarette inside.

In officers' view of enforcing the Act, this is not something that occurs within other licensed premises and that all premises management and the general public are aware that smoking is not permitted inside commercial premises such as pubs and shops.

On 21 October 2016 I received a phone call from Mr Daniel advising that Michelle, one of the barmaids had been to the Civic Centre to pay the annual fee. He could not give me a reference or receipt number for the payment. The annual fee is still showing as unpaid.

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Previous history

Mr Daniel previously held the lease for the now-demolished Goodwill to All pub in Harrow. During his tenure the police had cause to investigate several incidents at the pub and objected to three Temporary Event Notices submitted by him (see highlighted text in Exhibit AW/4, pp 17 and 18). In November 2009 the Metropolitan Police had sufficient cause about the management of the premises that they requested his removal from the post which was agreed to voluntarily without review proceedings (Exhibit AW/5).

Licensing officers are also aware that Mr Daniel was the DPS of Champions Public House in Watford. Following an application by Hertfordshire Constabulary for that premises licence to be reviewed in September 2010 arising from his poor management of the premises (see particularly highlighted text in pp 3, 8, 12, 23, 24 of Exhibit AW/4) the premises licence was suspended for a period of three months, additional conditions were imposed and an alternative DPS was proposed to succeed him.

Prior communication with the DPS

It is recommended in the statutory guidance and as good practice for problems at premises to be communicated early with the DPS to allow them to be addressed. The above evidence demonstrates and in the police representation (which the licensing authority has seen in advance) that despite attempts to do so, such attempts have not been successful.

Removal as DPS

Paragraph 2.5 of the statutory guidance to licensing authorities states, inter alia:

The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder.

Paragraph 4.19 of the guidance states, inter alia:

The Government considers it essential that police officers, fire officers or officers of the licensing authority can identify immediately the DPS so that any problems can be dealt with swiftly.

In light of the unavailability of the DPS when requested, the potential breaches of the Health Act and failure to comply with the premises licence conditions, and the disorder evidenced in the police representation, it is the licensing authority's view that the current DPS is not capable of upholding the licensing objective in running a public house and that he should be removed from being DPS in such a premises.

It is also noted that Mr Anton Van Niekerk (the current premises licence holder) has not made any contact with the licensing authority or the police regarding any of the issues at the premises or given a response to the review application to date.

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

**Please tick
yes**

Have you made a representation relating to this premises before

If yes please state the date of that representation, Day Month Year

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

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

Part 5 – Signatures (please read guidance note 3)

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

Signature Ash Waghela

.....
Date...21 November 2016

.....
Capacity Licensing Officer

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 5)

Post town

Post code

Telephone number (if any)

If you would prefer us to correspond with you using an email address your e mail address (optional)

Notes for Guidance

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

Relevant Representations means;

- a) are about the likely effect of the grant of the premises licence or club premises certificate on the promotion of the licensing objectives,
- b) that the representation were made by an interested party or responsible authority within the period prescribed, 28 days from the application was advertised.
- c) in the case of representations made by an interested party (who is not also a responsible authority) that they are not, in the opinion of the relevant Licensing Authority, frivolous or vexatious.

Further restrictions apply relating to Police Representations on DPS's and representations on provisional statements. Please check with the Licensing Section.