

Statutory Licensing Sub-Committee

18 November 2022

Time 10.30 am Public Meeting? YES Type of meeting Regulatory

Venue Council Chamber - 4th Floor - Civic Centre

Membership

Chair Cllr Phil Page (Lab)

Labour

Cllr Gillian Wildman Cllr Rashpal Kaur

Quorum for this meeting is two Councillors.

Information for the Public

If you have any queries about this meeting, please contact the Democratic Services team:

Contact Donna Cope, Democratic Services Officer

Tel/Email Tel: 01902 554452 Email: donna.cope@wolverhampton.gov.uk **Address** Democratic Services, Civic Centre, 1st floor, St Peter's Square,

Wolverhampton WV1 1RL

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Agenda

Title

Item No.

Part 1 – items open to the press and public

1	Apologies for absence
2	Declarations of interest
3	Licensing Act 2003 - Application for a Review of a Premises Licence in respect of Phoenix Express and International Food, 715 Parkfield Road, Wolverhampton, WV4 6EE (Pages 3 - 32)

Agenda Item No: 3

CITY OF WOLVERHAMPTON C O U N C I L

Statutory Licensing Sub-Committee

18 November 2022

Report title Licensing Act 2003 - Application for a Review of a

Premises Licence in respect of Phoenix Express and International Food, 715 Parkfield Road, Wolverhampton,

WV4 6EE

Wards affected Blakenhall

Accountable director John Roseblade, Director of City Housing and Environment

Originating service Licensing

Accountable employee Debra Craner Section Leader Tel 01902 556055

Email Debra.craner@wolverhampton.gov.uk

Recommendation for decision:

1. To submit for consideration by the Statutory Licensing Sub-Committee an application for a review of a premises licence.

1.0 Purpose

1.1 To submit for consideration by the Statutory Licensing Sub-Committee an application for a review of a premises licence.

2.0 Background

2.1 The current premises licence is attached at Appendix 1.

3.0 Review Application

- 3.1 An application was received from Trading Standards on 29 September 2022 for a review of a premises licence in respect of Phoenix Express and International Food, 715 Parkfield Road, Wolverhampton, WV4 6EE.
- 3.2 The premises is located within the Blakenhall ward, and a location plan is attached at Appendix 2.
- 3.3 A copy of the review application is attached at Appendix 3. The review has been brought in support of the Prevention of Crime and Disorder and Protection of Children from Harm Licensing Objectives.
- 3.4 Representations have been received from the Licensing Authority, West Midlands Police, Home Office and Public Health. These representations can be found at Appendices 4 7 respectively.
- 3.5 The notice of review has been properly served on all Responsible Authorities. The Council has complied with the legislative process and displayed the appropriate notice at the premises and on the website as required when the application for review was made.
- 3.6 The applicant for review, the current premises licence holder and those who have made representations have all been invited to attend the hearing.

4.0 Financial Implications

4.1 There is no fee for the application of a review and there are no direct financial implications arising from this report. The fees and charges in relation to the Licensing Act 2003 are set by the Secretary of State. This was noted by the Licensing Committee on 19 January 2022. [SB/16122021/X]

5.0 Legal Implications

- 5.1 Section 51 of the Licensing Act 2003, as amended, states that a responsible authority or any other person may apply to the relevant Licensing Authority for a review of a licence
- 5.2 The Licensing Sub-Committee when determining an application for review, pursuant to Section 52 of the Licensing Act 2003 has the power to take any, or none, of the following steps as it considers appropriate for the promotion of the "licensing objectives" which are listed at 5.3.

- (a) Modify the conditions of the licence.
- (b) Exclude a licensable activity from the scope of the licence.
- (c) Remove the designated premises supervisor.
- (d) Suspend the licence for a period not exceeding 3 months.
- (e) Revoke the licence.
- 5.3 The four Licensing Objectives are:
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 5.4 In addition, regards shall be had to guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003 and Wolverhampton Council's Licensing Policy Statement. [AB/03-11-2022/104]

6.0 Equalities Implications

- 6.1 This report has human rights implications for both the premises licence holder and the residents from the local neighbourhood. Any of the steps outlined in Section 4 of this report may have financial implications for a licensee's business and livelihood and/or may have impact on the day to day lives of residents living in close proximity to the premises.
- 6.2 Article 8(i) of the European Convention of Human Rights provides that everyone has the right to respect for his/her private family life and his/her home (which includes business premises). This right may be interfered with by the Council on a number of grounds including the protection of rights and freedoms of others. The First Protocol Article 1 also provides that every person is entitled to peaceful enjoyment of his possessions and shall not be deprived of his possessions except in the public interest and conditions provided for by law. Members must accordingly make a decision which is proportionate to the hearing and endeavour to find a balance between the rights of the applicant, residents and the community as a whole.

7.0 All other Implications

- 7.1 There are no other direct implications associated with this report.
- 8.0 Schedule of background papers
- 8.1 None

9.0	Appendices
9.1	Appendix 1 - Current premises licence
9.2	Appendix 2 - Location plan
9.3	Appendix 3 - Copy of review application
9.4	Appendix 4 - Licensing Authority Representation
9.5	Appendix 5 – West Midlands Police Representation
9.6	Appendix 6 – Home Office Representation
9.7	Appendix 7 - Public Health Representations

Premises Licence

Issued in accordance with The Licensing Act 2003

Name of Premises: Phoenix Express and International Food

Address of Premises: 715 Parkfield Road

Wolverhampton West Midlands

WV4 6EE

Premises Licence Number: 22/08081/PREDPS – Variation of Premises DPS

Date of Last Update: 7th March 2022

1. Opening hours of the premises

Normal Hours: Monday to Sunday 08:00 to 23:00

Seasonal Variations: None Non Standard Hours: None

2. Licensable Activities authorised by the licence and the times the licence authorises the carrying out of these activities:

Activity: Sale/Supply of alcohol off the premises
Normal Hours: Monday to Sunday 0800 to 2230 Hours

Seasonal Variations: None **Non Standard Hours:** None

3. Name of the Designated Premises Supervisor if the sale of alcohol is involved

Kerry Joanne Eskandari Personal Licence Number – WS/PEL/2641 Issued by – Walsall Council

4. Is access to the premises by children restricted or prohibited

Provision only as prohibited or restricted under the Licensing Act 2003

5. Name, (registered) address of the holder of the premises licence

Idris Hamid 715 Parkfield Road Wolverhampton WV4 6EE

Mandatory Licensing Conditions (Licensing Act 2003)

Mandatory conditions as required by the Act will apply to the licence.

It is the responsibility of the Premises Licence Holder and the Designated Premises Supervisor to ensure that they are conversant and compliant with all current mandatory conditions in relation the Licensing Act 2003.

Conditions consistent with the Operating Schedule

General

Nothing beyond existing health & safety/Fire safety etc requirements.

The Prevention of Crime and Disorder

See above: The premises will have their own internal and external CCTV. The CCTV will be installed and fully operational to the specifications and recommendations of local police. The CCTV images will be retained for thirty-one days and downloadable on request. CCTV will also be recording at all times the premises is open for licensable activity. CCTV times and dates are to be both visible and accurate. The premises will be fully alarmed and has frontage and rear roller shutters. The designated Premises Supervisor will ensure that any staff involved in the sale of alcohol will have fully recorded and documented training, including three monthly refresher courses. This is to include any changes of legislation and also similar training in the usage and chronicled storage of CCTV. All training records will be retained and available on site for inspection at any time.

DPPO (Designated Public Place Order) notice provided by the Licensing Authority shall be displayed prominently on the premises visible from outside the store advising police have the powers to seize alcohol.

Public Safety

See above: also, Internal and external CCTV etc.

Premises will have a fire alarm and the fire-fighting equipment, will be covered by a maintenance contract.

Both emergency lighting and smoke detectors are also to be installed.

The Prevention of Public Nuisance

See above: internal and external CCTV in particular, is a proven deterrent in terms of any antisocial activities and potential proxy sales.

No sales of single cans or bottles of beer, lager or cider with an ABV above 6.5% are to be permitted from the premises.

The Designated Premises Supervisor and his staff will at all times be vigilant in relation to any litter issues within the immediate vicinity of the premises.

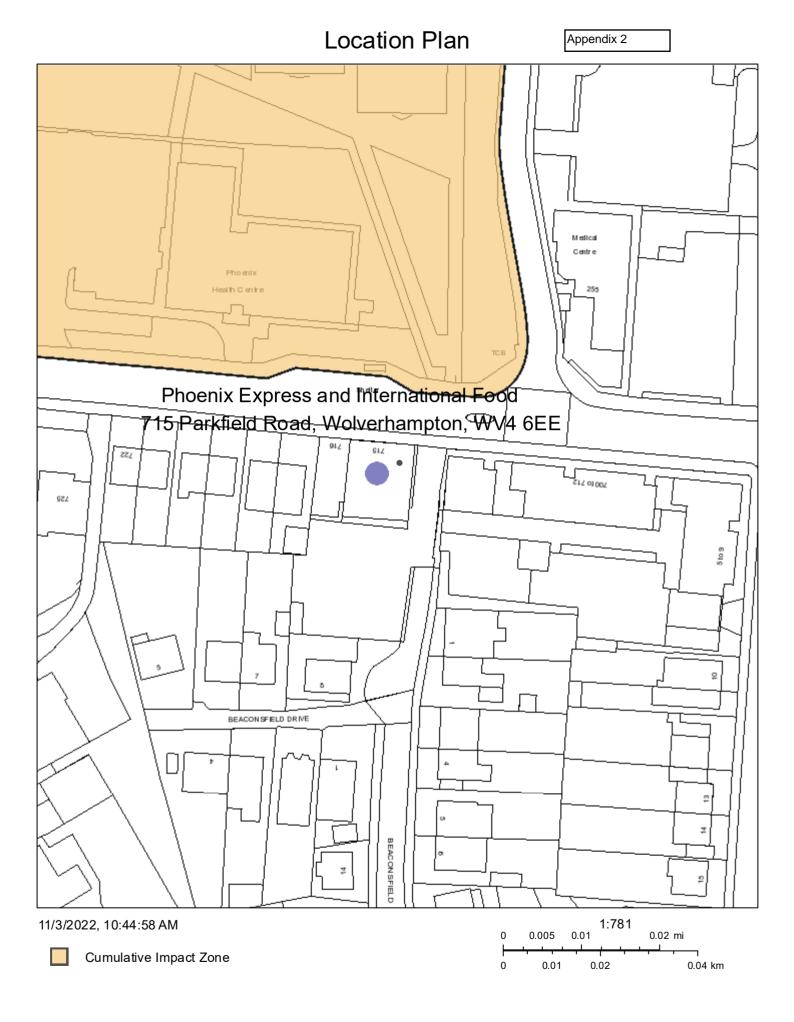
Protection of Children from Harm

Layout of the shop gives consideration to the prevention of children's access to alcohol and any alcohol displayed will not be obstructed from the view of the sales assistants. Premises will operate a proof of age scheme via acceptable forms of identification and incorporating 'The Challenge 25' Policy. All staff will be fully trained in its use before being allowed to sell alcohol. A sales refusal and incident book will be fully maintained and available for inspection at any time. It will also be signed off weekly by the Designated Premises Supervisor. A written record of all persons authorised to sell alcohol shall be kept at the premises and be made immediately available for inspection if requested, by any of the Responsible Authorities. Non – alcoholic/soft drinks, crisps and confectionary will be situated away from the alcohol display area.

Plans

As submitted with application dated 03.06.2016 and retained by City of Wolverhampton Council.





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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

l Nicola Biddle		P884 888 5 111 111 11 11 11 11 11 11 11 11 11 11
(Insert name of applicant) Apply for the review of a premises lie	cence under section 51	
-	sence under section of	
(delete as applicable)		
Part 1 – Premises or club premises d	etails	
Postal address of premises or, if non description	e, ordnance survey map reference o	or
Phoenix Express and International Food	t	
715 Parkfield Road		
Post town Wolverhampton	Post code (if known) WV4 6EE	
T doc town Workermanipton	1 OSt GOGE (II KIIOWII) VVV4 OLL	
Name of premises license helder and	duck hadding about a second of the second	41.0
Name of premises licence holder or o known)	ciub noiding ciub premises certificat	e (If
Idris Hamid		
Number of premises licence or club p	premises certificate (if known	
22/080	02/PREDPS	
Part 2 - Applicant details		
l am		_
1) an interested party (please complete	Please tic (A) or (B) below)	k yes
a) a person living in the vicinity of th	e premises	
•	•	
b) a body representing persons livin		
c) a person involved in business in t	he vicinity of the premises	
 d) a body representing persons invo premises 	lved in business in the vicinity of the	
2) a responsible authority (please comp	lete (C) below)	\boxtimes

3) a member of the club to which this application relates (please complete (A) below)					
(A) DETAILS OF	(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)				
Please tick Mr		Miss	Ms		Other title (for example, Rev)
Surname			F	irst nam	es
I am 18 years o	ld or ove	er			Please tick yes
Current postal address if different from premises address					
Post town				Post 0	Code
Daytime contact telephone number					
E-mail address (optional)					
(B) DETAILS O	F OTHE	R APPLICAN	IT		
Name and addre	ess				
Telephone numb	per (if an	y)			
E-mail address (optional)			

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address
Nicola Biddle
Senior Officer - Trading Standards
Trading Standards Service
City of Wolverhampton Council
Civic Centre
St Peter's Square
Wolverhampton
WV1 1RP
VVV IRP
Telephone number (if any)
Tolophone number (ii any)
E-mail address (optional)
E-man address (optional)
This application to review relates to the following licensing objective(s)
Please tick one or more boxes
1) the prevention of crime and disorder
2) public safety
3) the prevention of public nuisance
4) the protection of children from harm
The protection of children from hairi
Please state the ground(s) for review (please read guidance note 1)
The level of the second of the
The local weights and measures authority has "responsible authority" status under
the Licensing Act 2003 by virtue of the Licensing Act 2003 (Premises Licences and
Club Premises Certificates) Regulations 2005.
In December 2024, the level weights and measures outhority (clearly nave on the
In December 2021, the local weights and measures authority (also known as the
Trading Standards Service) received a complaint alleging that illegal cigarettes are
being sold from Phoenix Express and International Food on Parkfield Road.
On 23rd September 2022, officers from Trading Standards, supported by officers
from West Midlands Police, officers from Home Office Immigration Enforcement, and
a detection dog handler, inspected the licensed premises for the presence of illicit
tobacco under powers afforded by the Consumer Rights Act 2015.
tobacco under powers anorded by the consumer rights Act 2010.
Upon arrival, as asylum seeker without entitlement to work in the UK was behind the
shop counter. This matter was addressed by colleagues from Home Office
Immigration Enforcement. A male was also found to be living in the retail premises.
Neither the Designated Premises Supervisor nor the Premises Licence Holder were
present, but the owner, and the state of the
, annual daming the morpostum
Illicit tobacco products and nicotine containing vapes were discovered in the shop,
concealed behind a mirror in makeshift living quarters, and in a car registered at the
premises being used as a storage container.
Consequently, more than 8,000 cigarettes and a kilo of hand-rolling tobacco were
seized for various reasons, including: suspicion of being counterfeit, duty evasion,
and failure to bear statutory health warnings. In addition, 44 disposable vapes were

seized as the tanks held more than the permitted amount of e-liquid.

Collectively, the products seized breach various pieces of legislation including:

- Trade Marks Act 1994
- Tobacco and Related Products Regulations 2016
- Standardised Packaging of Tobacco Products Regulations 2015

Furthermore, to knowingly keep or allow to be kept on relevant premises, goods such as cigarettes and hand rolling tobacco, which have been imported without payment of duty or which had otherwise been unlawfully imported is a criminal offence as per section 144(1) and (3) of the Licensing Act 2003.

During the inspection it was also noted that neither the Licence Summary nor the statutory tobacco notice were displayed, contrary to Section 57(4) Licensing Act 2003 and Section 4 Children and Young Persons (Protection from Tobacco) Act 1991 respectively.

Separate consideration will be given by the Trading Standards Service as to whether legal proceedings should be instituted for the breaches identified.

By virtue of his role as Premises Licence Holder, Idris HAMID, has engaged in activities which have breached the licensing objectives namely 'the prevention of crime and disorder' and 'the protection of children from harm'.

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

The Home Office has published guidance under section 182 of the Licensing Act 2003, with the following paragraphs being particularly relevant:

11.27 "There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These [include] the use of the licensed premises for the sale or storage of smuggled tobacco and alcohol."

The guidance goes on to state that:

11.28 "... Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that suspension or revocation of the licence — even in the first instance - should be seriously considered."

Additionally, it is acknowledged, that the sale of illicit tobacco:

- contributes to the shadow economy
- undermines the City's public health activity which aims to deter residents from smoking, especially young people
- drives down the cost of tobacco to pocket money prices, thereby counteracting Central Government's attempts to use price as a disincentive
- poses a safety risk to the consumer.

To clarify the latter point, legitimate cigarette brands are required to comply with British Standard EN 16156 which relates to ignition propensity. In short, legitimate brands have a band of fire-retardant chemical added to the cigarette paper during manufacture to slow down the burn rate at the point where the retardant chemical has been added. If a smoker were, for example, to fall asleep whilst holding a genuine cigarette, the reduced burn rate would increase the likelihood of the cigarette simply going out. Counterfeit and illicit cigarettes, such as those seized from Phoenix Express and International Food, would not comply with the burn rate safety requirement imposed by the British Standard.

With regards to vapes, Part 6 of the Tobacco and Related Products Regulations 2016:

- sets minimum standards for the safety and quality of all e-cigarettes and refill containers (otherwise known as e-liquids)
- ensures that information is provided to consumers so that they can make informed choices
- promotes an environment that protects children from starting to use these products.

Please tick yes	
Have you made an application for review relating to this premises before	
If yes please state the date of that application Day Month Year	
If you have made representations before relating to this premises please state what they were and when you made them	
what they were and when you made them	

 I have sent copies of this form and authorities and the premises licence premises certificate, as appropriate I understand that if I do not comply my application will be rejected 	e holder or club holding the club
IT IS AN OFFENCE, LIABLE ON CONVIC THE STANDARD SCALE, UNDER SECTI TO MAKE A FALSE STATEMENT IN OR APPLICATION	ON 158 OF THE LICENSING ACT 2003
Part 3 – Signatures (please read guidane	ce note 3)
Signature of applicant or applicant's sol (See guidance note 4). If signing on beha capacity. Signature Date 29/09/2022	
Capacity (rading stader) S-	Team Leader.
Contact name (where not previously giv correspondence associated with this ap	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond wit mail address (optional)	h you using an e-mail address your e-

Please tick ves

Notes for Guidance

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



CITY OF WOLVERHAMPTON COUNCIL

Debra Craner
Licensing Services
City of Wolverhampton Council
Civic Centre
St Peters Square
Wolverhampton
WV1 1SH

26 October 2022

Your reference: PRE1306

Dear Mrs Craner,

Application for a review of a Premises Licence under the Licensing Act 2003 - PRE1306 - Phoenix Express and International Food, 715 Parkfield Road, WV4 6EE

I write on behalf of the Licencing Authority, as a responsible authority, in support of the above review application made by Trading Standards. Representations are made in relation to the licensing objective of 'Prevention of Crime and Disorder, Protection of Children from Harm and the failure of the current management of the premises to promote and uphold these objectives.

On 29 September 2022, Trading Standards submitted an application to review the Premises Licence. The issues raised by Trading Standards relate to the prevention of crime and disorder and the protection of children from harm.

The Licensing Authority has concerns over the Premises Licence Holder, Mr Hamid Idris and Designated Premises Supervisor, Kerry Joanne Eskandari, as the evidence provided by Trading Standards within their application indicates that they are not upholding the licensing objective of 'Prevention of Crime and Disorder, Protection of Children from Harm and therefore putting the public at risk.

The evidence shows a blatant disregard of the law and for public safety by the Premises Licence Holder, Designated Premises Supervisor and the management.

If Councillors are satisfied that illegal activities have taken place at the premises, in breach of upholding the licensing objectives, the Licensing Authority requests that the Statutory Licensing Sub-Committee ensure these issues are addressed in accordance with Section 52 of the Licensing Act 2003 and guidance issued by the Secretary of State under 182 of the Act, together with City of Wolverhampton Council's Statement of Licensing Policy.

Councillors may conclude from the evidence, given within the review application and at the hearing, that in order to promote the licensing objectives it is not a suitable option to remove

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@WolvesCouncil

WolverhamptonToday

the current management of the premises and that there is no alternative but to revoke the Premises Licence.

The Licensing Authority fully supports the review application brought by Trading Standards and concludes the above issues must be resolved in order to promote the licensing objectives of Prevention of Crime and Disorder, Protection of Children from Harm. I shall be in attendance at the hearing, should Councillors have any questions or require any further assistance.

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Yours sincerely,



Amitabh Singh
Section Leader - Licensing
On behalf of the Licensing Authority

Direct:		
Email:		







Subject: RE: [External]: Review - Phoenix Express and International Food, 715 Parkfield Road, WV4 6EE - PRE1306

CAUTION: This email originated from outside of the council. Do not click links or open attachments unless you are sure the content is safe.

Good morning All

West Midlands Police wish to place representations to support this review under the licencing objectives, the prevention of crime and disorder, and the protection of children from harm.

Kind regards Alison

PC 5223 Alison Oldfield

Wolverhampton Partnerships – Licensing and Regulatory Officer

Email Licensing email - k







Immigration representation in support of an application for the review of a premises licence

On behalf of the Secretary of State, Home Office (Immigration Enforcement) makes representations in support of the following application for the review of a premises licence, relating to the prevention of crime and disorder objective, including the prevention of illegal working and immigration crime in licensed premises.

IE wishes to make representations on an application for a review of a premises licence.

Details of Premises:			
Premises Licence Hole	der:		
Idris Hamid			
Name and Address of Premises:			
Phoenix Express and International Food, 715 Parkfield Road			
Post Town:	Wolverhampton	Post Code:	WV4 6EE

Representations are being made for the following reasons:

On Friday 23rd September 2022 a multi-agency operation led by officers from Trading Standards supported by officers from West Midlands Police and Immigration Enforcement visited Phoenix Express and International Food, 715, Parkfield Road, Wolverhampton, WV4 6EE.

On entry to premises one individual solely occupying the shop and was behind the counter. He confirmed he was illegally present in the UK and was therefore arrested. Following HO checks it confirmed he had outstanding asylum claim with no right to work.

Illegal working questions were completed, and he was asked to leave the premises.

Another individual was encountered sleeping in living accommodation at the back of the shop by police and referred to immigration. Home Office checks confirmed he had valid Leave to Remain in the UK.

The owner of the premises turned up and employer illegal working questions were completed. He stated the person arrested was covering for the member of staff who was sleeping at the back of the shop in living accommodation. The owner was informed that the individual found working illegally has no right to work in the UK.

An illegal working notice was served on site to

Signatures				
Signature of Respons	sible Authority			
Home Office Immigration Enforcement				
Date:	11/10/2022	Capacity:	Responsible Authority	

Details of Responsible Authority		
Name and Address:		
Home Office Immigration Enforcement		
	Email address (optional):	





From: Nilusha Sahni

Sent: 27 October 2022 13:12

To: Licensing

Subject: RE: Review - Phoenix Express and International Food, 715 Parkfield Road, WV4 6EE - PRE1306

Dear Licensing,

Please see attached supporting representations from Public Health.

Many thanks,

Nilusha Sahni Senior Public Health Specialist

City of Wolverhampton Council

Email: Tel:





Anita Chonk
Licensing Services
City of Wolverhampton Council
Civic Centre
St. Peter's Square
Wolverhampton
WV1 1SH

03 November 2022

Dear Anita,

Review - Phoenix Express and International Food, 715 Parkfield Road, WV4 6EE - PRE1306

Thank you for your email dated 29TH September 2022 in reference to the request made by Trading Standards to review the premises license for Phoenix Express and International Food.

I write on behalf of Public Health as a Responsible Authority to submit supporting formal representations to the above application under the licensing objectives of the Prevention of Crime and Disorder, and the Protection of Children from Harm.

Public Health have very serious concerns regarding the significant amount of illicit tobacco, vapes and cigarettes seized on 23 September 2022.

As a Responsible Authority we would expect any business licensed to sell alcohol to act responsibly at all times and promote the key objectives of the Licensing Act 2003.

With several breaches of the licensing conditions reported, Public Health is not reassured that the business is operating in adherence to the Licensing Act and therefore supports Trading Standards request to review the current licence.

I, or a suitable representative from Public Health, will be available to attend the hearing and provide further information as required.

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Yours sincerely,

Nilusha Sahni Senior Public Health Specialist City of Wolverhampton Council

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