

Reference: 2011/01620/01SRAP

Hearing:

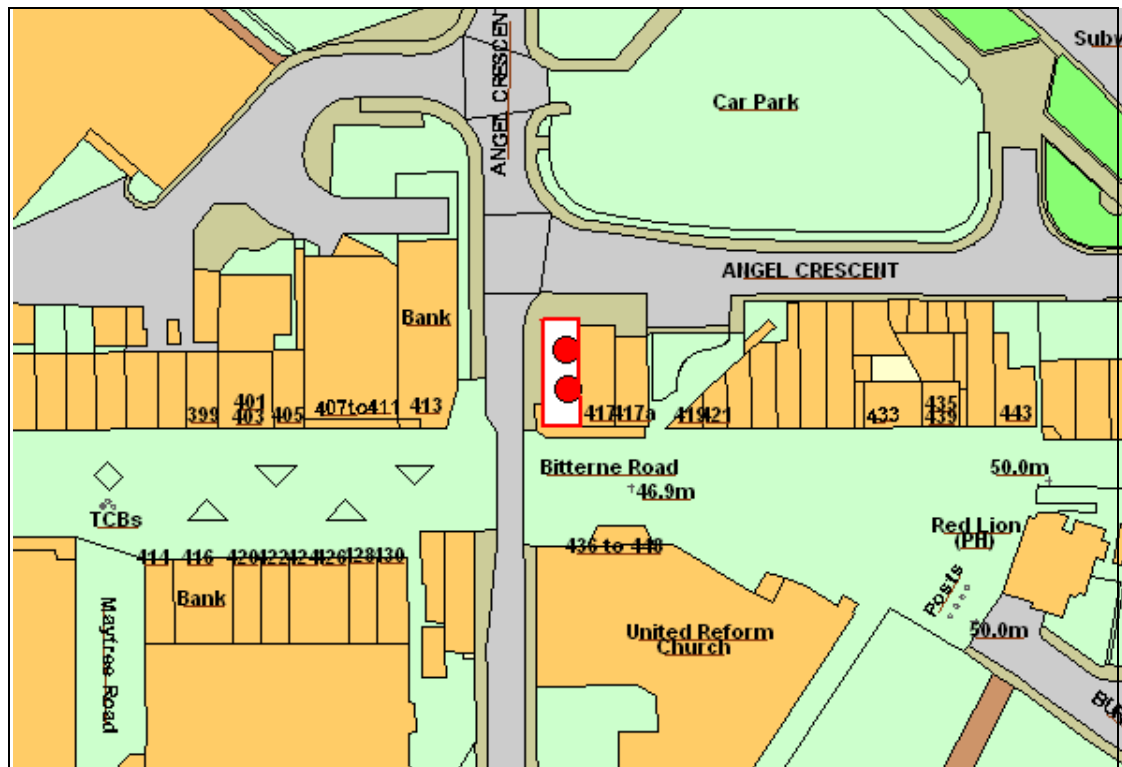
11th August 2011

Application for Review of Premises Licence

Premises Name: Bitterne Village - Premier Express Application Date: 23rd June 2011

Premises Address: 415 Bitterne Village Application Received Date: 23rd June 2011
 Bitterne Road
 Bitterne
 Southampton
 SO18 5EE

Application Valid Date: 23rd June 2011



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Representation From Responsible Authorities

Responsible Authority	Satisfactory?	Comments
Child Protection Services - Licensing	No response received	

Hampshire Fire And Rescue - Licensing	Yes	
Environmental Health - Licensing	No response received	
Planning & Sustainability - Building Control - Licensing	No response received	
Planning & Sustainability - Development Control - Licensing	No response received	
Hampshire Constabulary - Licensing	No response received	
Trading Standards - Licensing	No	

Other Representations

Name	Address	Contributor Type
None		

Legal Implications

1. Part 3 of the Licensing Act 2003 provides that a responsible authority of a resident or business in the vicinity (interested party) may apply for review of a premises licence.
2. The grounds of review applications must relate to one or more of the licensing objectives.
3. In such circumstances, the applicant for the review must serve a copy of the review application on the holder of the premises licences, the City Council and each of the responsible authorities.
4. On receipt of the application for review, the officers will consider its validity, under delegated powers. Reasons for rejection, in whole or in part, include:
 - that the grounds for review are not relevant to one or more of the licensing objectives and;
 - (in the case of an application not made by a responsible authority), that the application is frivolous, vexatious or repetitious.
5. The City Council must, within one day of receiving the application for review, display a prescribed notice of the review application on the outside or adjacent the premises; the notice must remain on display for 28 days and any interested party in the vicinity

6. Unless the applicant, licence holder, interested parties and responsible authorities agree that a hearing is unnecessary, the City Council is then required to hold a hearing to consider the review.
7. The sub-committee, in considering the application for review, must have regard to the adopted Statement of Licensing Policy and evidence before it at the hearing.
8. The Licensing Act 2003 provides that, in determining an application for review, the sub-committee may take any (or none) of the following steps, as it considers necessary:
 - modify the conditions of the licence;
 - exclude a licensable activity from the scope of the licence;
 - remove the designated premises supervisor;
 - suspend the licence for a period not exceeding three months;
 - revoke the licence.
9. The Licensing Act 2003 makes provision for appeal to the Southampton Magistrates' Court against the sub-committee's decision in relation to an application for review.
10. In considering this application the sub-committee will sit in a quasi-judicial capacity and is thus obliged to consider applications in accordance with both the Licensing Act 2003 (Hearings) Regulations 2005, and amending secondary legislation and the rules of natural justice. The practical effect of this is that the sub-committee must make its decision based on evidence submitted in accordance with the legislation and give adequate reasons for reaching its decision.
11. Copies of the application for review and the Police objection are annexed to this report.
12. The sub-committee must also have regard to:-
13. *Crime and Disorder Act 1998*

Section 17 of the Crime and Disorder Act 1998 places the Council under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.
14. *Human Rights Act 1998*

The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible (or fail to act in a way that is compatible) with the rights protected by the Act. Any action undertaken by the Council that could have an effect upon another person's Human Rights must be taken having regard to the principle of proportionality - the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the Council which affects another's rights must be no more onerous than is necessary in a democratic society. The matters set out in this report must be considered in light of the above obligations.

SOUTHAMPTON CITY COUNCIL

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 Southampton City Council Trading Standards Service

(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 Premier Express, 415 Bitterne Village, Bitterne Road, Southampton,	
Post town Southampton	Post code (if known) SO18 5ND

Name of premises licence holder or club holding club premises certificate (if known) Kalwant Singh
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Number of premises licence or club premises certificate (if known) 2008/02230/01SPRN
--

Part 2 - Applicant details

I am

Please tick yes

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

- a) a person living in the vicinity of the premises
- b) a body representing persons living in the vicinity of the premises
- 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
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

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

Please tick

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

Surname

First names

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Lucas Marshall Trading Standards Service Southampton City Council Civic Centre Road Southampton SO14 7LY
Telephone number (if any) 02380 834930
E-mail address (optional) lucas.marshall@southampton.gov.uk

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

Please tick one or more boxes

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

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

The Prevention of Crime and Disorder
The Prevention of Public Nuisance
The Protection of Children from Harm

Southampton Trading Standards Service carries out routine test purchasing exercises at retailers within Southampton to ensure that age restricted products, including alcohol and cigarettes, are not being sold to persons under the age of 18.

On 18th April 2011 a 16 year old girl acting under the instructions of an Inspector of Weights and Measures purchased alcohol and cigarettes from Premier Express, 415 Bitterne Village, Bitterne Road, Southampton. It is an offence under Section 146 of the Licensing Act 2003 to supply alcohol to a person under the age of 18, and Section 7(1) of the Children and Young Persons Act 1933 (as amended) to sell cigarettes to a person under the age of 18.

It is considered that the holder of the premises licence has not fulfilled the duty under the Licensing Act 2003 to prevent crime and disorder and public nuisance, and to protect children from harm. We are therefore applying to review the licence.

In the supporting information we give more details and state the conditions we would wish to see added to the licence in order to promote the above licensing objectives.

Please provide as much information as possible to support the application

(please read guidance note 2)

On 18th April 2011 a 16 year old girl acting under the instructions of an Inspector of Weights and Measures purchased alcohol and cigarettes from Premier Express, 415 Bitterne Village, Bitterne Rd, Southampton.

On 16th May 2011 I interviewed Kalwant Singh, the Premises Licence Holder and owner of the business regarding the alleged offences. During interview it became clear that basic systems to prevent underage sales were lacking: there was not a Challenge 21 or 25 policy in place; records of training of staff were not kept; records of refused sales were not routinely recorded.

Kalwant Singh has considerable history with Southampton Trading Standards Service: he was prosecuted in March 2010 regarding under age sales of alcohol and cigarettes at another business which he owns, Spring Road News Food & Wine, Spring Rd, Southampton. He has previously accepted a caution regarding sale of cigarettes which occurred at that business in May 2008. His son, Gurvinder Singh, who is the Designated Premises Supervisor at this Premier store, has also accepted a Simple Caution regarding sale of fireworks to a 15 year old, which took place in October 2006. Advice regarding prevention of under age sales, including verbal advice, fact sheets, training resources, posters, and refusals logs has been provided by this Service to Kalwant Singh's businesses on at least 8 occasions, however he has consistently failed to heed that advice.

Trading Standards Officers are not confident that reasonable precautions are being taken at Premier to prevent the sale of alcohol and cigarettes to persons under the age of 18 and would therefore request that the following conditions are imposed on the premises licence so as to assist the licence holder and the designated premises supervisor in the effective management of the premises, and to promote the licensing objectives:

- "The holder of the premises licence shall ensure that every individual who appears to be under 25 years of age seeking to purchase or be supplied with alcohol at or from the premises shall produce means of identification acceptable to the Licensing Authority proving that individual to be 18 years of age or older. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person. Notices regarding the store's "Challenge 25" policy must be displayed"

- "All staff who sell alcohol will be trained to NCPLH (National Certificate of Personal Licence Holder) level. All sales of alcohol must be directly supervised and authorised by a Personal Licence Holder until such staff have achieved training to NCPLH level."

- "That staff are trained regarding appropriate precautions to prevent the sale of alcohol to persons under the age of 18; that records are kept of such training, which are signed and dated by the member of staff who has received the training; that staff receive refresher training every six months as a minimum and that records, signed and dated by the member of staff, are kept of this refresher training. Records of training will be available for inspection by Hampshire Constabulary, the Licensing Authority, Trading Standards and other Responsible Authorities on request."

- "The holder of the premises licence shall keep a written record, namely a refusals book, of those incidents where a person who a member of staff believes to be under the age of 18, and is unable to produce acceptable means of identification proving that they are of 18 years or more, attempts to purchase alcohol and is refused. The

record shall include details, in English, of the date, time, a brief description, including estimated age, of the person who attempted to purchase the alcohol, the type of alcohol and the name of the person who refused the sale. Staff shall be trained in the use of the refusals book and it should be kept in a readily accessible place known by all members of staff. The record will be regularly checked by the premises licence holder or the designated premises supervisor to ensure that all staff are completing records, and this person will sign and date the record as evidence that they have checked it. The refusals book will be immediately available for inspection at the premises by Hampshire Constabulary, the Licensing Authority and Trading Standards, on request."

- "A CCTV system shall be installed and maintained in the licensed premises. As a minimum, it shall enable surveillance of both external and internal areas of the premises including entrances and exits. Recordings from the system shall be of a quality acceptable as evidence in a court of law and shall be securely retained at the licensed premises for a minimum period of 30 days after the recording, and shall be surrendered to Hampshire Constabulary, the Licensing Authority, or Trading Standards immediately on request."

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

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

N/A

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

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

Part 3 – Signatures (please read guidance note 3)

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

Signature

.....

Date 23rd June 2011

.....

Capacity Trading Standards Officer

.....

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

Lucas Marshall
Trading Standards Service
Southampton City Council
Civic Center Rd

Post town

Southampton

Post Code

SO14 7LY

Telephone number (if any) 02380 834930

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) lucas.marshall@southampton.gov.uk

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.
6. See separate guidance for responsible authorities' details.

TRADING STANDARDS SERVICE WITNESS STATEMENT

C J Act 1967 S.9; MCA 1980 ss5A(3)(a) and 5B; Criminal Procedure Rules 2010 (Rule 27)

STATEMENT OF: **Rebecca Adams**

AGE IF UNDER 18: **OVER 21**

This statement (consisting of 1 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 20th day of June 2011 Signature: ..

..... being unable to read the statement,

I..... of

.....read it to him/her before he/she signed it.

Dated the day of 2011 Signature:

A My name is Rebecca Adams. I am employed by Southampton City Council as a Fair Trading Officer.
 On 18th April 2010 I was involved in an underage sales operation in Southampton. The volunteer who
 we used for the operation was called Roseanne and was 16 years old. I produce a sanitised copy of her
 B passport as Exhibit RA/1. I produce 2 photos of Roseanne as Exhibits RA/2 and RA/3. In the photos she
 is wearing the same clothes as she wore for the exercise. I can confirm that these photos are an
 accurate representation of Roseanne and have not been enhanced or amended in any way. At
 C approximately 9:45 Roseanne entered Premier, 415 Bitterne Village, Bitterne Road, Southampton. I
 entered shortly after and, acting as a customer, I witnessed Roseanne purchase a bottle of Blue WKD
 D drink and a packet of 10 Mayfair cigarettes, from a female of Asian appearance. The seller did not ask
 Roseanne to show any identification, or her age. Roseanne then left the shop with the alcohol and
 E cigarettes. I purchased some sundry items and left the shop shortly after Roseanne. Shortly after the
 sale I returned to the shop with Trading standards Officer Lucas Marshall. I announced myself to the
 female who had sold the alcohol to Roseanne and told her that she had sold alcohol to a 16 year old girl.
 The seller identified herself as Jaswar Kaur, date of birth 22-04-1956, address: 1 St Elizabeth Avenue,
 Southampton, SO18 5ND.

Signature: ...



TRADING STANDARDS SERVICE WITNESS STATEMENT

C J Act 1967 S.9; MCA 1980 ss5A(3)(a) and 5B; Criminal Procedure Rules 2010 (Rule 27)

STATEMENT OF: **LUCAS MARSHALL**

AGE IF UNDER 18: **OVER 21**

This statement (consisting of 1 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the *22* day of *JUNE* 2011 Signature:

..... being unable to read the statement,

I..... of

.....read it to him/her before he/she signed it.

Dated the ___ day of _____ 2011 Signature:

- A My name is Lucas Marshall. I am employed by Southampton City Council as a Trading Standards Officer. On 18th April 2011 I was involved in an underage sales operation in Southampton. At approximately 9:45 am I witnessed 16 year old volunteer Roseanne enter Premier Express, 415 Bitterne
- B Village, Bitterne Road, Southampton, followed by Fair Trading Officer Rebecca Adams. Shortly after Roseanne came out of the shop and gave a bottle of Blue WKD and a packet of 10 Mayfair cigarettes to me, which I produce as exhibits LM/1 and LM/2. Ms Adams and I then entered the store. Ms Adams
- C identified the seller, who have her name as Jaswar Kaur. I asked to see the store's refusals book, which she gave to me. It appeared to have been used sporadically, and there had been no entries in February and March 2011. On 16th May 2011 I interviewed Kalwant Singh, the Premises Licence Holder of the
- D business, in accordance with the Police and Criminal Evidence Act 1984 and associated Codes of Practice. The interview was conducted in the interview room at Trading Standards Service, 7 Civic Centre Road, Southampton. I produce the CD of the interview as Exhibit LM/3.
- E Signature: ...



INVESTOR IN PEOPLE



Trading Standards Service

Incident reference

11/00703/475

Exhibit reference

GM/1

Description of article

BLU WND ALCOHOL

Signature of person originally identifying

Name of person originally identifying (block letters)

LUCAS MARSHALL

EH.126 07.10.22561



Trading Standards Service

Incident reference

11/00703/4AS

Exhibit reference

LM/2

Description of article

10 x MAFRAIR
CIGARETTES

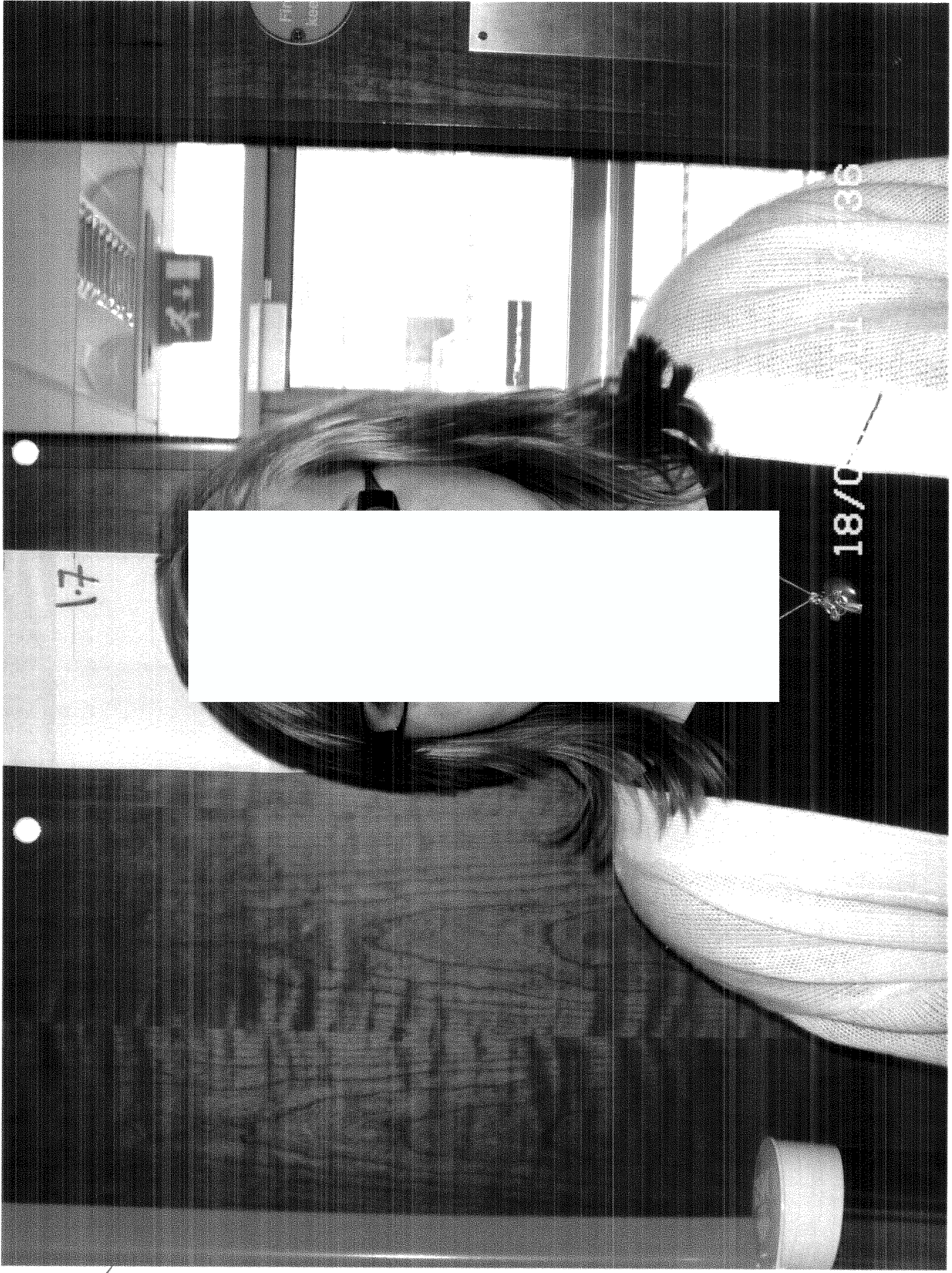
Signature of person originally identifying

L

Name of person originally identifying (block letters)

LUCAS MARSHALL

EH.126 0710.22561



7.1

18/0

11/13/36

RA/2



1 13:37

1

18

17

AA/3