



Report of: **Service Director, Public Protection**

Meeting of	Date	Agenda Item	Ward(s)
Licensing Sub-Committee	15 MAY 2014	BS	Barnsbury

Delete as appropriate		Non-exempt
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**Subject: PREMISES LICENCE REVIEW APPLICATION
MARUTHY'S, 69 HOLLOWAY ROAD, LONDON, N7 8JZ**

1. Synopsis

- 1.1 This is an application by Islington Council's Trading Standards service for a Review of the Premises Licence under Section 51 of the Licensing Act 2003. A copy of the review application is attached as Appendix 1.
- 1.2 The grounds for review is related to the licensing objective:
 - i) The protection of children from harm.

2. Relevant Representations

Licensing Authority	No
Metropolitan Police	Yes
Pollution Team	No
Health and Safety	No
Trading Standards	No
Public Health	No
Safeguarding Children	No

London Fire Brigade	No
Local residents	None
Other bodies	No

3. Background

3.1 The premises currently holds a licence allowing:

- i) The sale by retail of alcohol, off supplies only, Mondays to Sundays from 07:00 until 23:00 the following day.

3.2 The premises licence was previously reviewed by the Trading Standards service on 8th June 2011. The premises licence was suspended for a period of four weeks and licence conditions proposed by the Trading Standards officer were imposed as a result of this application.

3.3 Papers are attached as follows:-

- Appendix 1: application form;
- Appendix 2: current premises licence
- Appendix 3: representations;
- Appendix 4: suggested conditions and map of premises location.

3.4 The Police have submitted a representation in support of the review.

4. Planning Implications

4.1 The Planning Service has reported that there are no restrictive conditions in force.

5 Recommendations

5.1 To determine the application to review the premises licence under Section 52 of the Licensing Act.

5.2 The Committee must have regard to the application and any relevant representations. The Committee must take such steps as necessary for the promotion of the four licensing objectives.

5.3 The steps stated in Sections 52(4) of the Act are as follows:

- a) to modify the conditions of the licence; and for this purpose the conditions of the licence are modified if any of them are altered, omitted or any new condition is added;
- b) to exclude a licensable activity from the scope of the licence;
- c) to remove the designated premises supervisor;
- d) to suspend the licence for a period not exceeding three months;
- e) to revoke the licence;
- f) the Committee also have the option to leave the licence in its existing state;
- g) the Committee also has the power in relation to steps a) and b) to provide that the modification and exclusion only has effect for a limited period not exceeding three months.

6 Conclusion and reasons for recommendations

6.1 The Council is required to consider this application in the light of all relevant information, and if approval is given, it may attach such conditions as appropriate to promote the licensing objectives.

Background papers:

The Council's Statement of Licensing Policy
Licensing Act 2003
Secretary of States Guidance

Final Report Clearance

Signed by


Service Director – Public Protection

Date

6/5/14

Received by

Head of Scrutiny and Democratic Services

Date

Report author: Licensing Service

Tel: 020 75027 3031

E-mail: licensing@islington.gov.uk

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

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

I David Fordham, Service Manager Trading Standards

(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 on 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:

**Various Mini Market
(a. k. a. Maruthy's)
69 Holloway Road**

Post town: **London**

Post code: **N7 8JZ**

Name of premises licence holder or club holding club premises certificate:
Sundareswaran Keethananthapillai

Number of premises licence or club premises certificate: **LN / 12832 - 070911**

Part 2 - Applicant details

I am

Please tick ✓ yes

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

a person living in the vicinity of the premises

a body representing persons living in the vicinity of the premises

a person involved in business in the vicinity of the premises

a body representing persons involved in business in the vicinity of the premises

a responsible authority (please complete (C) below)

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

Please tick ✓ yes

I am 18 years old or over

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	David Fordham Service Manager (Trading Standards) Public Protection Division 222 Upper Street London N1 1XR
Telephone number:	020 7527 3458
E-mail:	<u>david.fordham@islington.gov.uk</u>

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

Please tick one or more boxes

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

This application to review relates to the objective to protect children from harm and licensing policies 25 & 10. It particularly relates to the sale of alcohol to underage volunteers working with Trading Standards and a failure to exhibit a high standard of management at the business.

In August 2010 the business sold alcohol to an underage volunteer. At this stage the licence was out of date. Mr Sundareswaran Keethanathapillai owned the business (then trading as Kumaran's Late Night Food Shop), but the licensee / DPS, Kumarasamy Mageswaran, was no longer connected with the business. After the sale, the licence was surrendered by Mr Mageswaran.

Mr Keethanathapillai applied for a new licence, which was granted in January 2011. Conditions relating to underage sales offered with the application were included on the licence.

Mr Keethanathapillai is the sole owner, licensee and designated premises supervisor (DPS) of the business trading as Maruthy's at 69 Holloway Road. The business is a small shop selling alcohol, tobacco and other groceries.

In March 2011, a check of the alcohol and tobacco stock revealed five bottles of Glens vodka to be non-duty paid. Counterfeit condoms were also seized from the shop at this time and breaches of the underage sales conditions and others were noted. Mr Keethanathapillai failed to engage with Trading Standards about these incidents.

Later in the same month, the business refused to sell alcohol an underage volunteer – a boy aged 15 years and 6 months.

In May 2011, a check by Dan Whitton, the Licensing Officer for the premises, revealed continuing breaches of conditions.

As a result of these issues I made an application to review his licence. This review was heard on 4 August 2011. This review resulted in the licence being suspended for four weeks and conditions being added.

In December 2011, the business sold again to an underage volunteer – this time a girl who had just passed her 15th birthday. Mr Keethanathapillai was able to show that he was complying with his licence conditions and had trained the seller, Sairam Sarveson, and on this occasion he just received a verbal warning.

On 9th November 2013, the business sold again to a Trading Standards underage volunteer. This was the third sale under Mr Keethanathapillai's ownership. On this occasion Kumar Raj sold a bottle of Stella Artois to a female volunteer who was 15 years and 11 months. The volunteer reported that as he completed the transaction, he said "Do you want that opened?".

After the sale, Mr Raj said that he believed the volunteer to be 20. His English was not strong, but in Mr Love's view he was clearly aware that it was illegal to sell alcohol to anyone under 18 years. When asked, he did not mention a specific age that he considered when deciding whether to challenge a customer for proof of age, so he did not show that he was aware of Challenge 25.

Mr Raj was able to show comprehensive refusals records: 39 entries had been made since February 2013, 16 of which were made by Mr Raj himself.

Mr Raj said that Mr Keethanathapillai was away for a two weeks.

On 16 January 2014 Mr Keethanathapillai attended the Council offices for a PACE interview. An interpreter had been offered prior to the interview, but Mr Keethanathapillai did not indicate he wanted one. Unfortunately, it transpired that the interviewee's English was still very poor and there were communication difficulties. However, Mr Love is confident that the following is a fair summary of what Mr Keethanathapillai said:

- Only Kumar Raj and Sundareswaran Keethanathapillai work in the shop currently – Mr Raj typically does four 7-hour days.

- They had previously worked at Malar Supermarket in Wembley together, so Mr Keethananthapillai only felt the need to train him verbally. No records of Mr Raj's training had been kept.
- It is far from certain that Mr Keethananthapillai had told Mr Raj to use Challenge 25. Although there were contradictions, he seemed to say that people he thought were under 18 should be asked for proof of age.
- Two completed refusals books were produced and an A4 pad currently used (which I saw on the day of the sale) were produced. These showed consistent refusals records – 123 since July 2011 with no obvious gaps.
- Mr Keethananthapillai said that Mr Raj had not told him about the sale, even though he was not away and was in the shop later that day. It was not until he received the invitation to interview that he realised there had been a sale. Then, he reviewed the CCTV, but could not find it. He provided no explanation why he did not contact Mr Love (or ask someone else to do so) to clarify this before the interview.

Section 13(4) of Licensing Act 2003 and Regulation 7 of The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 makes a local weights and measures authority a responsible authority for the purposes of the legislation. Islington Council is a local weights and measures authority and that function is carried out by the trading standards team.

Here is a summary of events supporting this application

04/08/11	Review	Called after a small seizure of illicit vodka; continuing breaches of conditions; and non-engagement with Trading Standards.
17/12/11	Sale of alcohol	Evidence that appropriate precautions had been taken, so no action other than a verbal warning
09/11/13	Sale of alcohol	Kumar Raj sold to a female volunteer, aged 15 years and 11 months
16/01/14	PACE interview	Mr Keethananthapillai did not seem clear about Challenge 25 and had no training records for Mr Raj.

Recommendations

I believe that the licence should be revoked.

Under Mr Keethananthapillai's ownership, there have been three sales from four test purchases since August 2010. The most recent was by a member of staff for whom no training records existed and whose admission that he thought the buyer was 20 is proof that he was not operating Challenge 25 as required by the licence.

In the PACE interview, it appeared that Mr Keethananthapillai did not understand / operate Challenge 25, although it is hard to say this with absolute certainty, because of his poor English.

If Members are of the view that a suspension is more appropriate then I request the following condition is added to the licence:

- The Licensee must ensure that he fully understands his licence conditions and any correspondence sent to him by the Responsible Authorities and is able to demonstrate this understanding.

Conditions 9, 10 & 11 in Annex 2 would benefit from improvements to the wording:

- The licensee shall adopt 'Challenge 25', the Retail of Alcohol Standards Group's advice for off-licences, and promote it through the display of posters.
- The licensee shall ensure that staff are trained about age restricted products and ensure that they sign to confirm that they have understood the training. The training shall include the assessment of age; making a challenge; acceptable proof of age; and recording refusals. The licensee shall keep records of training and instructions given to staff, detailing the areas covered, and make them available for inspection upon request by the licensing team, police or trading standards.
- The licensee shall put arrangements in place to ensure that before serving alcohol to persons they believe to be less than 25, staff ask to see accredited proof of age: that is, proof of age cards carrying the 'PASS' logo (and no others), a Passport, or UK Driving Licence bearing the photograph and date of birth of the bearer.

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		
0	4	0	8	2	0	1

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 read guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature



Date

12th March 2014

Capacity

Service Manager (Trading Standards)

Contact name (where not previously given) and postal 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 e-mail address your e-mail address (optional)

Notes for Guidance

The ground(s) for review must be based on one of the licensing objectives.

Please list any additional information or details for example dates of problems which are included in the grounds for review if available.

The application form must be signed.

An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.

This is the address which we shall use to correspond with you about this application.



**PREMISES LICENCE
LICENSING ACT 2003**

Premises licence number	LN/12832-070911		
Postal address of premises, or if none, ordnance survey map reference or description			
VARIOUS MINI MART 69 HOLLOWAY ROAD			
Post town	LONDON	Post code	N7 8JZ
Telephone number			

Where the licence is time limited the dates
Not Applicable

Licensable activities authorised by the licence
Ground Floor

- The sale by retail of alcohol

The times the licence authorises the carrying out of licensable activities

- The sale by retail of alcohol:

Monday	07:00	to	23:00
Tuesday	07:00	to	23:00
Wednesday	07:00	to	23:00
Thursday	07:00	to	23:00
Friday	07:00	to	23:00
Saturday	07:00	to	23:00
Sunday	07:00	to	23:00

Gaming Machine Provision:
Not authorised

The opening hours of the premises:

Monday	00:00	to	24:00
Tuesday	00:00	to	24:00
Wednesday	00:00	to	24:00
Thursday	00:00	to	24:00
Friday	00:00	to	24:00
Saturday	00:00	to	24:00
Sunday	00:00	to	24:00

Where the licence authorises supplies of alcohol whether these are on and/or off supplies
Off supplies

Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence

Mr Sundareswaran Keethananthapillai
69 Holloway Road
London
N7 8JZ

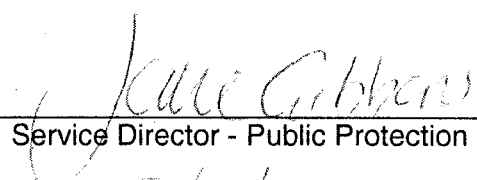
Registered number of holder, for example company number, charity number (where applicable)

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

Mr Sundareswaran Keethananthapillai
69 Holloway Road
London
N7 8JZ

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the supply of alcohol

Islington Council
Public Protection Division
222 Upper Street
London N1 1XR
Tel: 020 7527 3031
Email: licensing@islington.gov.uk



Service Director - Public Protection

7/9/11

Date of Issue

Annex 1 - Mandatory conditions

1. No supply of alcohol may be made under the premises licence:
 - a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

Annex 2 - Conditions consistent with the Operating Schedule

1. CCTV shall be installed at the premises.
2. The licensee shall ensure that all instances of crime and disorder as well as general incidents are recorded in an incident book.
3. Any staff at the premises who deal with alcohol will be trained on the appropriate aspect of licensing legislation and in particular on underage sales to the minimum BIIAB level 1 award in responsible alcohol retailing.
4. The licensee shall:
 - a) install movement activated lighting;
 - b) use mortice locks;
 - c) lock any private residence during trading hours;
 - d) ensure excess stock is stored away; and
 - e) install intruder alarms.
5. Notice to be displayed advising to consume alcohol responsibly.
6. Keep a bin outside the entrance of the premises.
7. Notice to be displayed advising customers not to park in residents' drive ways and not to block the public highway.
8. Regularly consult with local residents in regards to possible nuisance and how to rectify any problems.
9. The licensee shall adopt the Challenge 25, the Retail of Alcohol Standards Group's advice for off-licences.
10. The licensee shall ensure that staff are trained about age restricted products and ensure that they sign to confirm that they have understood the training. The licensee shall keep records of training and instruction given to staff.
11. The licensee shall put arrangements in place to ensure that before serving alcohol to young persons, staff ask to see accredited proof of age cards for example proof

of age cards carrying the 'PASS' logo (and no others), a Passport, or UK Driving Licence bearing the photograph and date of birth of the bearer.

12. The licensee shall require staff to note any refusals to sell to young people in a refusals log. The refusals log shall be checked and signed monthly by the designated premises supervisor. The refusals log shall be made available for inspection by the licensing team, police or trading standards.
13. The licensee will notify Islington Council Licensing Team of any change of his address within seven days of the change.

Annex 3 - Conditions attached after a hearing by the licensing authority

1. There should always be at least one person on the premises who has a proficient command of spoken English to operate Challenge 25 at the point of sale for all sales of alcohol.
2. No alcoholic goods will ever be purchased from sellers calling to the shop.
3. Invoices (or copies) for all alcoholic goods on the premises will be kept at the shop and made available to officers from the council, police or HMRC upon request.
4. A stock control system will be introduced, so that the licensee can quickly identify where and when alcohol goods have been purchased.
5. An ultra-violet light will be available at the premises for the purpose of checking the UK Duty Stamp on spirits as soon as practical after they have been purchased.
6. If any spirits bought by the company have UK Duty Stamps that do not fluoresce under ultra-violet light, or are otherwise suspicious, the licensee shall identify the supplier to Islington Trading Standards and HMRC as soon as possible.

Annex 4 – Plans

Reference Number: AD/10/HOL69/OL00 – 07/10/10

Premises Licence Summary

Licensing Act 2003

Premises licence number	LN/12832-070911		
Postal address of premises, or if none, ordnance survey map reference or description			
VARIOUS MINI MART 69 HOLLOWAY ROAD			
Post town	LONDON	Post code	N7 8JZ
Telephone number			

Where the licence is time limited the dates
Not Applicable

Licensable activities authorised by the licence
Ground Floor
<ul style="list-style-type: none">The sale by retail of alcohol

The times the licence authorises the carrying out of licensable activities																												
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Gaming Machine Provision:
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The opening hours of the premises:																												
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Sunday	00:00	to	24:00																									

Where the licence authorises supplies of alcohol whether these are on and/or off supplies
Off supplies

Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence
Mr Sundareswaran Keethanathapillai 69 Holloway Road London N7 8JZ

Registered number of holder, for example company number, charity number (where applicable)

Name of designated premises supervisor where the premises licence authorises the supply of alcohol

Mr Sundareswaran Keethananthapillai

State whether access to the premises by children is restricted or prohibited

No restrictions

Islington Council
Public Protection Division
222 Upper Street
London N1 1XR
Tel: 020 7527 3031
Email: licensing@islington.gov.uk



Your
Our Licensing/NI
Date: 24/03/2014

PREMISES LICENSE REVIEW:
 Various Mini Market (Maruthy's)
 69 Holloway Road
 N7 8JZ

**METROPOLITAN POLICE
 SERVICE**
Islington Police Licensing Team
Islington Police Station
2 Tolpuddle Street
London
N1 0YY
 Telephone: 07799133204

Email:
 licensingpolice@islington.gov.uk

24th March 2014

Dear Sir

Re: Various Mini Market (Maruthy's): 69 HOLLOWAY ROAD N7 8JZ

With reference to the above application, we are writing to inform you that the Metropolitan Police, as a Responsible Authority, will be supporting this application for a review of a premises license under Section 51 Licensing Act 2003.

We have read the application submitted by Mr David Fordham Service Manager Trading Standards and we are in full agreement with his assessment of the premises. We believe that the management standards are far from reaching the high standards required and expected by all of the Responsible Authorities and the Council Licensing Policy.

The evidence put forward in Mr Fordham's report makes it clear that there have been a number of underage sales dating back to August 2010. Mr Keethananthapillai applied for a new license which was granted in January 2011 and attached to this license were conditions offered with the application relating to underage sales. Since the issue of this license there have been three underage sales and breaches of these conditions as detailed in Mr Fordham's application and the license was suspended for 4 weeks in August 2011 as a result of some of these issues. We consider persistent breaches to show that the management is failing to operate to the high standards expected in the licensing Policy 2013 - 2017.

Any underage sales are unacceptable but a continuous series of underage sales shows a pure disregard for the health and safety of children and a lack of commitment to the Licensing objectives.

In light of the evidence submitted in this comprehensive report we would fully support revocation of the license and feel that this is the only and proportionate course of action in the circumstances.

If the committee is minded not to revoke the license but to impose further conditions as put forward in Mr Fordham's report then we would ask that the following condition is also updated:

Annex 2 - Conditions consistent with the Operating Schedule.

1. CCTV shall be installed at the premises. To now read:

CCTV shall be installed, operated and maintained in agreement with the Police. The system will enable a frontal head and shoulders image of every person entering the premises. The system shall record in real time and operate whilst the premises are open for licensable activities. The recordings shall be kept available for a minimum of 31 days. Recordings shall be made available to an Authorised Officer or a Police Officer (subject to the Data Protection Act 1998) free of charge within 24 hours of any request.

The reason for this is that it will allow for Responsible Authorities to obtain evidence to prove or disprove any further suspected breaches of the license conditions and also to assist if underage sales continue.

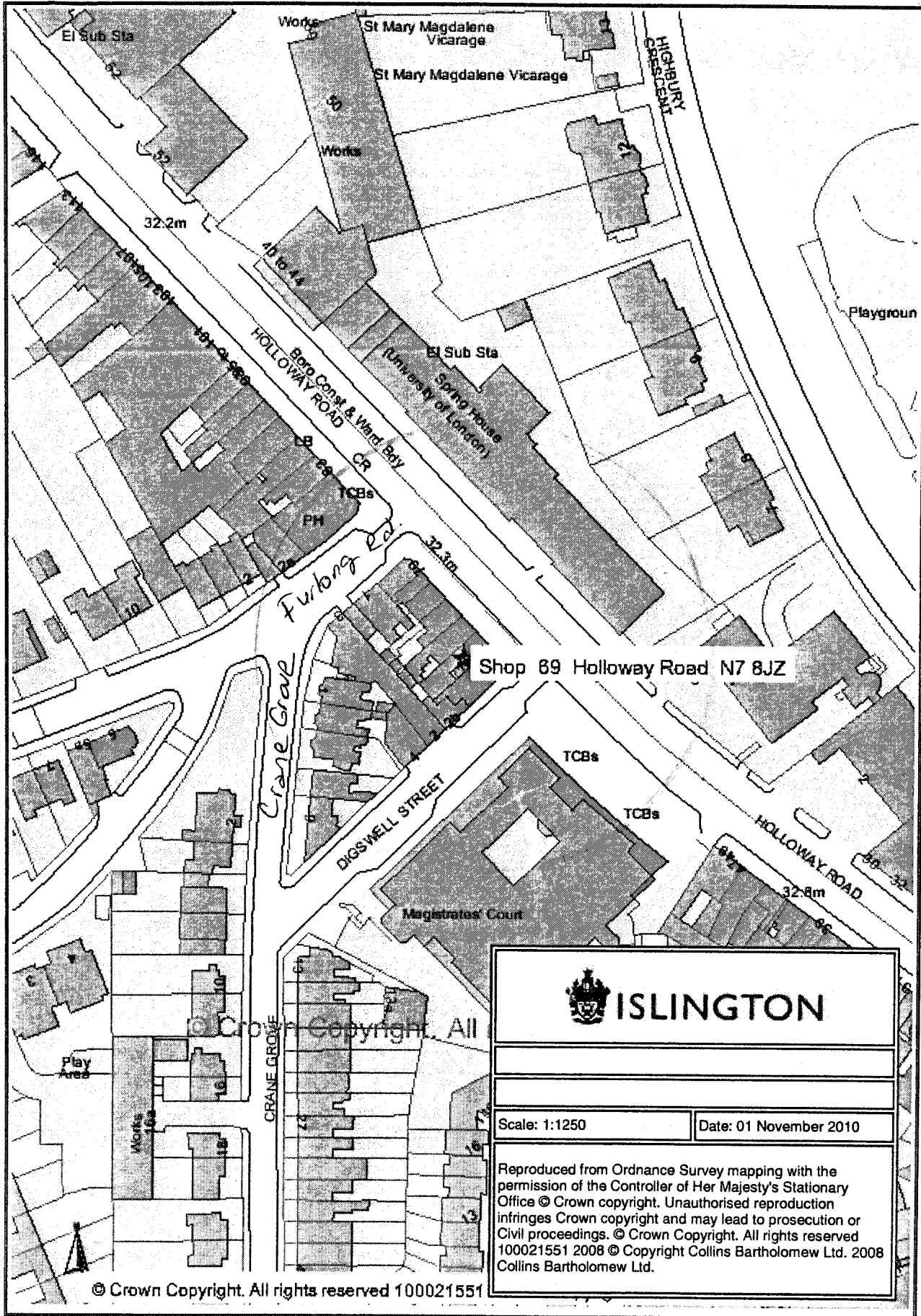
Islington Police Licensing Team
 Pc Steven Harrington
 Pc Paul Hoppe
 Pc Peter Conisbee

Suggested conditions recommended by the Police (if revocation not determined)

1. CCTV shall be installed, operated and maintained in agreement with the Police. The system will enable a frontal head and shoulders image of every person entering the premises. The system shall record in real time and operate whilst the premises are open for licensable activities. The recordings shall be kept available for a minimum of 31 days. Recordings shall be made available to an Authorised Officer or a Police Officer (subject to the Data Protection Act 1998) free of charge within 24 hours of any request.

Suggested conditions recommended by Trading Standards Officer (if revocation not determined)

1. The Licensee must ensure that he fully understands his licence conditions and any correspondence sent to him by the Responsible Authorities and is able to demonstrate this understanding.
Amendments to conditions 9, 10 & 11 in annex 2 of the premises licence to read as below:
9. The licensee shall put arrangements in place to ensure that before serving alcohol to persons they believe to be less than 25, staff ask to see accredited proof of age: that is, proof of age cards carrying the 'PASS' logo (and no others), a Passport, or UK Driving Licence bearing the photograph and date of birth of the bearer.
10. The licensee shall adopt 'Challenge 25', the Retail of Alcohol Standards Group's advice for off-licences, and promote it through the display of posters.
11. The licensee shall ensure that staff are trained about age restricted products and ensure that they sign to confirm that they have understood the training. The training shall include the assessment of age; making a challenge; acceptable proof of age; and recording refusals. The licensee shall keep records of training and instructions given to staff, detailing the areas covered, and make them available for inspection upon request by the licensing team, police or trading standards.



21
01/11
5/08