



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

Meeting of	Date	Agenda Item	Ward(s)
Licensing Sub-Committee	4 July 2011	B3	Highbury East

Delete as appropriate		Non-exempt
-----------------------	--	------------

Subject: PREMISES LICENCE REVIEW APPLICATION

RE: CANONBURY FOOD AND WINE, 244 ST PAULS ROAD, LONDON, N1 2LJ

1. Synopsis

- 1.1 This is an application by David Fordham of Islington Council's Trading Standards team 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 are related to the licensing objectives:
 - i) The prevention of crime and disorder.

2. Recommendations

- 2.1 To determine the application to review the premises licence under Section 52 of the Licensing Act.
- 2.2 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.
- 2.3 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.

3. Background

3.1 The premises currently holds a licence allowing:

- i) The sale by retail of alcohol, off supplies only, Monday to Saturday from 08:00 – 23:00, and Sunday from 10:00 until 22:30.

3.2 The licence for the premises was subject a review by Trading Standards on 1 November 2010. This review was in relation to two sales of alcohol to test purchase volunteers under the age of 18 the decision of the Sub Committee was to suspend the licence for two weeks.

3.3 In addition this review application received a supporting representation from the Councils Health and Safety officer. This representation set out a schedule of works that needed to be completed and approved in writing by the responsible authority for Health and Safety prior to the licence being used for the sale of alcohol. The sub committee gave the licence holder 30 days to complete the works. On 22 June 2011 the Health and Safety Officer visited the premises, and reported that all the works on the schedule were still outstanding.

3.4 On 22 June 2011 Licensing Officers wrote to the premises advising them that they have to close until the works have all been completed and cleared in writing, or face enforcement action. A copy of this letter is contained in Appendix 4 of this report.

3.5 Papers are attached as follows:-

Appendix 1: application form;

Appendix 2: current premises licence;

Appendix 3: police and health and safety representations;

Appendix 4: warning letter;

Appendix 5: suggested conditions and map of premise location.

3.6 The Licensing Authority has received two letters of representation by way of a witness statement from the police and a representation from the Council Health and Safety officer.

4. Conclusion and reasons for recommendations

4.1 The Council is required to consider this application for review in the light of all relevant information from the applicant and the licence holder. It may attach such conditions necessary 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 22/6/11

Received by

Head of Scrutiny and Democratic Services

Date

Report author: Niall Forde

Tel: 020 7527 3227

Fax: 020 7527 3430

E-mail: niall.forde@islington.gov.uk

24/11/22 3902

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:

Canonbury Food & Wine
244 St. Paul's Road

Post town: London

Post code: N1 2LJ

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

Salih Gunes

Number of premises licence or club premises certificate: LN03003-23-11-2010

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 prevent crime & disorder. It particularly relates to the supply by the business of smuggled goods.

On 25th February 2011, officers from HMRC and Trading Standards performed a joint visit to look for illicit alcohol and tobacco. The following products were seized as they were suspected to be smuggled: 227 bottles of wine; 20.3 litres of vodka (two brands); 11.9 litres of whisky (two brands). No evidence of legitimate purchase was provided to HMRC within the required 30 days.

Most of the whisky which was seized was in a box found in the storage cellar. The box was not one that was used for either of the brands and two brands were mixed. All bottles were identified as smuggled. It struck the officers as unusual, given that other goods were in their original packing cases and may be an indication that these bottles came from an illegitimate supplier.

In view of the large quantity of the goods seized and that the premises had their licence suspended in 2010 it was not felt appropriate that this matter was dealt with by an Officers Panel though there is no record that the business had been warned about smuggled goods by council officers prior to this visit.

The premises had their licence suspended and conditions added in 2010 after 2 sales to volunteer children under eighteen. Since reopening, there have been two further test purchase attempts since then which resulted in the volunteers being refused.

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.

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

Here is a summary of events supporting this application

Nov 2010 Licence Review Licence suspended and conditions added for two sales to child volunteers in March 2009 and August 2010.

25/02/11 HMRC seizure 227 bottles of smuggled wine and 32.2 litres of various spirits seized by HMRC.

Recommendations:

No invoices or other evidence was produced by the business to support the argument that the illicit goods were purchased in good faith by the trader. The number of products – the wine and four brands of spirits (Glens and Smirnoff vodka; Bells and High Commissioner whisky) makes it less likely that the trader has been caught out innocently buying smuggled goods from a cash and carry.

However, the trader may well not have been advised on smuggled goods and attempted test purchases in January and February of 2011 indicate that the business may be capable of improving its business processes.

It is for the Committee to decide whether the appropriate remedy for these facts is a revocation or suspension of the licence, but, in any case, Trading Standards wish to recommend the following conditions are added to the licence:

1. No alcoholic goods will ever be purchased from sellers calling to the shop.
2. 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.
3. A stock control system will be introduced, so that the licensee can quickly identify where and when alcoholic goods have been purchased.
4. 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.
5. 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.

No conditions relating to non duty paid or counterfeit goods have previously been attached by the Licensing Authority.

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	8	0 9 2 0 1 0

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

The premises had their licence suspended and conditions added at a Licensing Committee hearing on 1st November 2010. The review was in relation to the protection of children from harm and concerned two sales of alcohol made to volunteer children under eighteen years of age during test purchasing exercises.

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

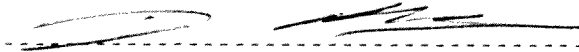
I understand that if I do not comply with the above requirements my application will be rejected

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

3rd May 2011

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)

David Fordham

Service Manager (Trading Standards)

Public Protection Division
222 Upper Street

Post town London

Post Code N1 1XR

Telephone number (if any)

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

**ISLINGTON**

Building Control Service
Public Protection Division
222 Upper Street
London
N1 1XR

T 020 7527 5986

F 020 7527 5998

E geoff.weaver@islington.gov.uk

W www.islington.gov.uk

Our ref : GW

Your ref:

Date: 23 May 2011

Mr Salih Gunes
Canonbury Food & Wine
244 St Paul's Road
London
N1 2LJ

Dear Sir

**Licensing Act 2003
Representation from Responsible Authority for Health and Public Safety
Canonbury Food & Wine 244 St Paul's Road N1 2LJ**

With reference to the recent application for review of the premises licence under the Licensing Act 2003 at the above named premises, as the health and safety consultant for the responsible authority I will be making a representation to this application.

The following condition is on the premises licence:

The premises shall not be used under the licence until the requirements specified in the schedule dated 6 October 2010 have been completed and approved in writing by the responsible authority for health and safety. This condition shall not take effect until the 1 December 2010.

To date I have not been informed that the works specified in the schedule dated 6 October 2010, copy attached, have been completed.

This communication is without prejudice to the necessity of complying with any other statutory controls which may be applicable, whether administered by the council or by any other authority.

Please give notification of the commencement and completion of the works.

Should you require any advice or information please contact me at the above address.

Yours faithfully

Geoff Weaver
Building Surveyor (Licensing Health and Safety)



**Licensing Act 2003 – Requirements schedule dated 6 October 2010 for
Canonbury Food & Wine 244 St Paul's Road N1 2LJ**

- (1) In addition to the lighting, emergency lighting in compliance with BS 5266 – 1 should be provided in the parts of the premises specified below:

Ground floor shop (at least two luminaires equally spaced along the length of the shop).
Basement (bottom of basement stairs and kitchen /storage area).

Note: Non-maintained emergency lighting should be wired to the local lighting circuit in such a manner as to operate not only in the event of failure of the mains supply but also on failure of the supply to the local lighting circuit.

- (2) Mains operated smoke and heat alarms with a standby power supply such as a rechargeable or replaceable battery or capacitor in accordance with BS 5839 – 6 should be provided in the parts of the premises specified below:

Ground floor shop (at least two smoke alarms equally spaced along the length of the shop).
Basement kitchen (one heat alarm).

Smoke alarms should be sited so that no point is further than 7.5m from the nearest smoke alarm. Heat alarms should be sited so that no point is further than 5.3m from the nearest heat alarm. Smoke and heat alarms should not be mounted within 500mm of any walls or obstructions.

Smoke and heat alarms should be linked so that detection of smoke or heat by one unit operates the alarm signal in all of them. Smoke and heat alarms should be wired in compliance with BS 7671 to a single independent circuit at the main distribution board. The circuit should be clearly labelled **Fire Alarm do not isolate**.

- (3) Mechanical extract ventilation should be installed in the basement toilet extracting direct to external air at a rate of not less than 6 litres/second. The extract fan should have a 15 minute over-run controlled by the light switch or occupant detecting sensor.
- (4) Long flexible electrical cables and multi-socket outlet electrical adaptors within the premises should not be used. An independent electrical socket outlet should be provided adjacent to each item of electrical apparatus using an approved protected system of wiring in compliance with BS 7671.
- (5) Guardings to resist a horizontal force of 0.74 kN/m should be provided to all exposed edges of the stairways at a height of not less than 900mm above the pitch line and to the landing at a height of 1100mm from the floor. Guardings should be so constructed that 100mm diameter sphere cannot pass through any opening.
- (6) A continuous handrails should be provided to all stairways at a height of not less than 900mm and not more than 1000mm above the pitch line or floor.
- (7) A secured gate or barrier at least 900mm high should be provided between the public area of the shop and the stairways to prevent the public entering the stairways and the staff only areas of the premises. A notice word **Staff only** should be fixed on the gate or barrier.
- (8) The water and carbon dioxide fire extinguishers should be located behind or adjacent to the cashiers/sales counter.

Fire fighting appliances should be on brackets or stands and located so as not to obstruct exit routes or cause a hazard to persons in and about the premises.

Appropriate signs should be fixed adjacent to the fire fighting appliances indicating the type of fire fighting appliance and the class of fire covered.

- (9) A copy of the inspection and service certificate for fire fighting appliances obtained from an organisation certified by the British Approvals for Fire Equipment (BAFE), or competent person from a similar approved organisation, should be submitted to the responsible authority for health and public safety.

RESTRICTED (when complete)

MG 11 (T)

WITNESS STATEMENT

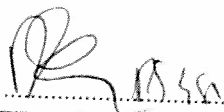
CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

Statement of **Robin CLARK**..... URN:

--	--	--	--

Age if under 18 **Over 18**..... (if over 18 insert 'over 18') Occupation: **Police Officer 181475**


This statement (consisting of: **2**..... pages 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 anything in it which I know to be false, or do not believe to be true.

Signature: ..... Date: **05.05.2011**.....

Tick if witness evidence is visually recorded (supply witness details on rear)

My name is Robin Clark and I am a Police Sergeant with the Metropolitan Police Service. I currently work as a Licensing officer at Islington Police Station. I have been given this specific responsibility by the Borough Commander who is acting under the written delegated authority of the Commissioner of Police for the Metropolis. A copy of this authority has been lodged with Islington Council Legal Department.

This statement is submitted in response to the review application made by the Mr David Fordham of Islington Council Trading Standards Service regarding the premises Canonbury Food & Wine 244 St. Paul's Rd, N1 2LJ. I have read the information provided by the officers of the Trading standards office of Islington council. In light of the recent suspension of the licence I feel the finding of a large quantity of smuggled goods reflects very poorly on the management and owners of the premises. By avoiding paying duty on the goods they are depriving the Government of much needed revenue at a time when the economy is in such a state and the public sector needs all the revenue it can collect. It is also well documented that there is a strong link between organised crime groups and the trade in counterfeit and smuggled goods and therefore this type of crime is also supporting other types of crime such as the drug trade, people trafficking and even terrorism. As such I would support revocation of the licence as I feel they have been given a chance to show they are able to run a licensed shop properly and this they have failed to do.

Signature: ..... Signature witnessed by:

2006-07(T); MG 11(T)

RESTRICTED (when complete)

Licensing Team
Public Protection Division
222 Upper Street
London N1 1XR

Mr Salih Gunes
Canonbury Food & Wine
244 St Paul's Road
London
N1 2LJ

T 020 7527 3227
F 020 7527 3057
E niall.forde@islington.gov.uk
W www.islington.gov.uk

This matter is being dealt with by:
Niall Forde

Date: 22 June, 2011

Dear Mr Gunes,

**LICENSING ACT 2003 (HEARING REGULATIONS) 2005
NOTICE OF HEARING**

Canonbury Food & Wine, 244 St Paul's Road, London, N1 2LJ

I am writing to you, as the licensee for the above premises.

At the review hearing on the 1 November 2010, the Licensing Committee imposed the following condition on your licence following a representation from the Council's Health and Safety Officer.

The premises shall not be used under the licence until the requirements specified in the schedule dated 6 October 2010 have been completed and approved in writing by the responsible authority for health and safety. This condition shall not take effect until the 1 December 2010.

An inspection of the premises today 22 June 2011 by Geoff Weaver the Council Health and Safety Officer revealed that all of the works specified in this schedule are still outstanding.

I am therefore advising you to stop selling alcohol at the premises until these works have been completed.

As the responsible person at the premises, you are liable for prosecution if the premises continue to contravene current licence conditions. A person found guilty of such an offence is liable to a maximum fine of £20,000 and or 6 months imprisonment.

I must inform you that if you continue to sell alcohol at the premises without complying with the licence conditions it will result in enforcement action being taken against the license and any responsible person involved in unlicensed activity at the premises.

If you have any questions regarding this matter please do not hesitate to contact Niall Forde on 0207 527 3227.

Yours sincerely

Niall Forde
Licensing Officer

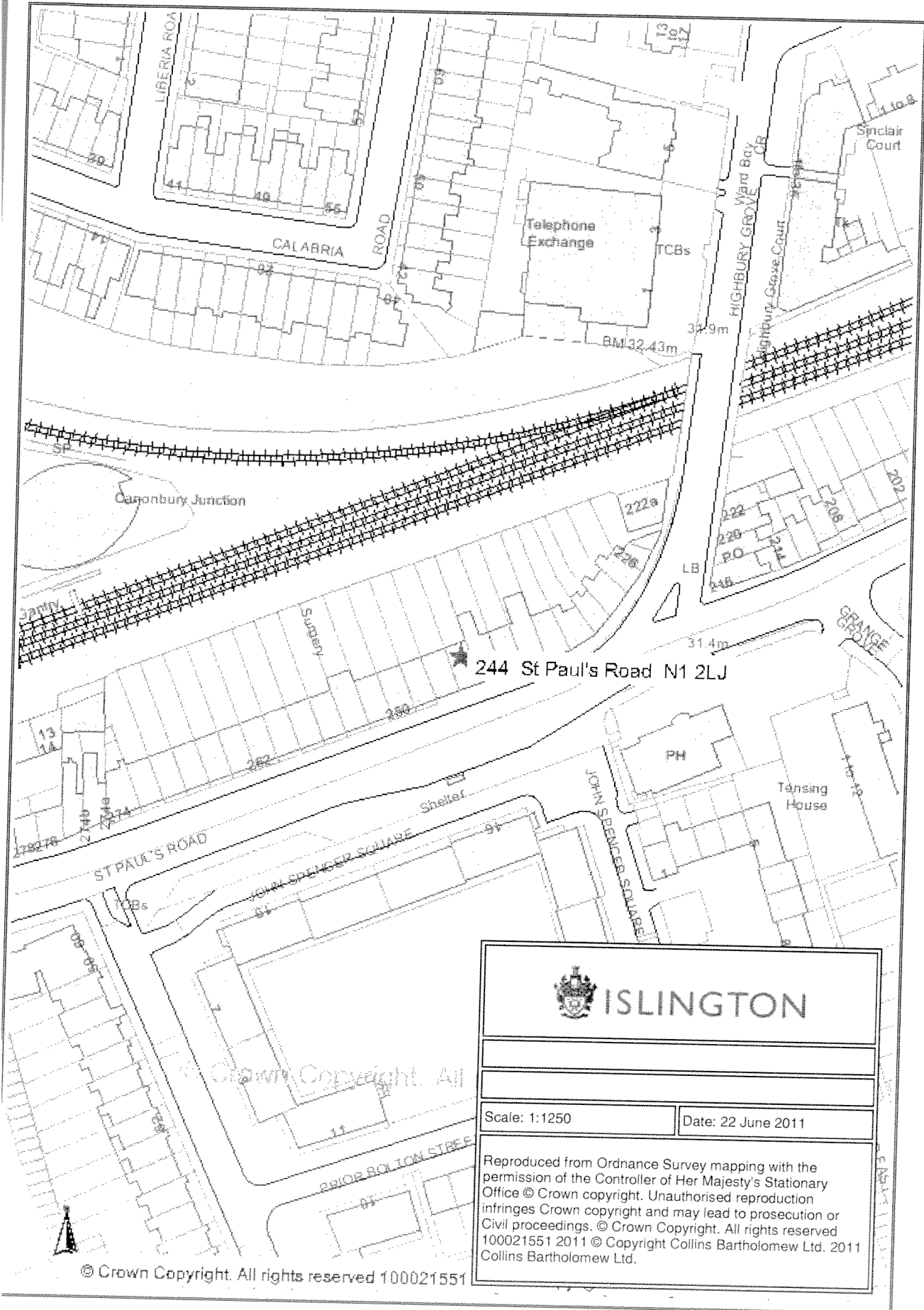
If you would like this document in large print or Braille, audiotape or in another language, please telephone 020 7527 2000.


Suggested conditions

As per current licence

Suggested conditions of approval recommended by Trading Standards

1. No alcoholic goods will ever be purchased from sellers calling to the shop.
2. 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.
3. A stock control system will be introduced, so that the licensee can quickly identify where and when alcoholic goods have been purchased.
4. 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.
5. 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.




ISLINGTON

Crown Copyright. All

Scale: 1:1250	Date: 22 June 2011
---------------	--------------------

Reproduced from Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. © Crown Copyright. All rights reserved 100021551 2011 © Copyright Collins Bartholomew Ltd. 2011 Collins Bartholomew Ltd.

© Crown Copyright. All rights reserved 100021551