

Report of: Service Director, Public Protection

Meeting of	Date	Agenda Item	Ward
Licensing Sub-Committee	27 March 2013	B4	Bunhill

Delete as appropriate		Non-exempt
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**Subject: PREMISES LICENCE REVIEW APPLICATION
RE: MONTANA WINE, 136 WHITECROSS STREET, LONDON EC1Y 8QJ**

1. Synopsis

- 1.1 This is an application by Trading Standards 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) Prevention of Crime and Disorder
 - ii) Protection of Children from Harm

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 is currently licensed for the sale of alcohol for consumption off the premises Monday to Saturday from 08:00 to 23:00 and on Sunday from 10:00 to 22:30. Following substantiated complaints regarding public nuisance outside the premises, a warning letter was sent to the Licensees on 29 August 2012.
- 3.2 Papers are attached as follows:-
 - Appendix 1: application form and Trading Standards;
 - Appendix 2: current premises licence;
 - Appendix 3: Warning letter sent by Licensing Manager on 29 August 2012
 - Appendix 4: Representations from Health & Safety, the Police, a Ward Councillor and a local resident;
 - Appendix 5: suggested conditions and map of premise location.
- 3.3 The Licensing Authority has received a representation from Health & Safety, the Police, a Ward Councillor and a local resident.

1. Planning Implications

The lawful use of this property appears to be retail (A1).

2. 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 11 March 2013

Received by

Head of Scrutiny and Democratic Services

Date

Report author: The Licensing Team

Tel: 020-7527-3031

Fax: 020-7527-3057

E-mail: Licensing@islington.gov.uk

WFK/201302707

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:

Montana Wine

136 Whitecross Street

Post town: **London**

Post code: **EC1Y 8QJ**

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

Deniz Karakas

&

Murat Karakas

Number of premises licence or club premises certificate: **87238**

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
<p style="text-align: center;">David Fordham Service Manager (Trading Standards) Public Protection Division 222 Upper Street London N1 1XR</p>
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

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>

This application to review relates to the objectives to protect children from harm and to prevent crime and disorder and licensing policies 25, 26 & 10 (in the 2013-17 Licensing Policy). It particularly relates to the sale of alcohol to a 15 year old volunteer working with Trading Standards, a seizure of illicit vodka and the implied failure to exhibit a high standard of management at the business.

Montana Wine is a family business, which is believed to have been run by the Karakas family for about 13 years. The principals are Ismet Karakas, the father of the family and the owner of the business and one of his sons, Deniz Karakas, the co-licensee and designated premises supervisor. Other sons include Murat Karakas (co-licensee, but not particularly active in the business) and Cengiz Karakas who helps out when necessary.

On 16th September 2011 Deniz Karakas sold alcohol to a 16 year old girl assisting trading standards. Mr Love of Trading Standards noted that he was distracted at the time as he was in the middle of a lively discussion with other people in the shop. On that evening, Mr Love also asked Mr Karakas about some Italian wine in the shop. Mr Karakas stated that he had invoices for it and Mr Love asked him to have them available for Mr Love to view when he returned to the shop.

On 21st October 2011, Mr Love returned to the shop to undertake a full inspection of the alcohol and tobacco in stock. No issues other than the wine were detected and Mr Karakas provided invoices for the wine from a Linx Cash & Carry. The invoices were entirely handwritten, with no VAT or company number shown and Mr Love suspected immediately that they were false. Subsequent investigation showed that there was a business of this name who used to have premises at the address shown, but they stated that they never used door-to-door sellers and denied the deal had anything to do with them.

The business was invited to an Officer Panel meeting to discuss these matters. Deniz Karakas attended the meeting on 15th May 2012 and a letter giving detailed advice about avoiding underage sales and warning him about ever buying alcohol from callers to the shop in future was sent out on 31st May.

On June 30th 2012 a test purchase was attempted by an underage volunteer and the business refused to sell.

On 6th October 2012, Doug Love of Trading Standards was leading a test purchasing operation, primarily in the Bunhill Ward. Ismet Karakas, who was alone in the shop, sold Smirnoff Ice to a 15 year old girl. After the girl left the shop Mr Karakas came out in the street to look for her and Katherine Forrest, the officer who observed the sale, intervened and spoke with him. He stated that he thought the girl was 20 and, initially, that she was with Miss Forrest. His son, Deniz, later said that he realised he had made a mistake selling the alcohol and was hoping to get the alcohol back. CCTV footage shows that Mr Karakas had been eating lunch (spread out near the counter) at the time of the sale.

On 25th October 2012, Mr Love revisited the shop with Miss Forrest and Police Licensing Sergeant Robin Clark. Another inspection of the alcohol and tobacco was carried out and 47 x 70cl bottles of Glens vodka were identified as illicit and seized. Most of them were in four boxes under the spirits shelves behind the counter, but two or three were on the shelves with other bottles of Glens that appeared legitimate. The illicit Glens came from re-sealed boxes that did not carry the 'UK duty paid' stamp that should have been present; the duty stamp did not fluoresce properly; the back labels were self-adhesive and some were poorly affixed.

No other goods were thought to be suspect on this occasion. The only person in the shop at this time was Murat Karakas, who was unsure where the Glens had come from.

During this visit, Mr Love also checked that a refusals book was being kept, as advised in the letter sent after the Office Panel meeting. There was one, with 19 refusals recored (all by Deniz Karakas) since 05th July 2012. There were also 'Under 25?' posters displayed in the shop saying that buyers who appear to be under 25 will be challenged for proof of age. Mr Love also requested that CCTV footage from the time of the sale was provided.

A few days later Deniz Karakas bought the CCTV footage to the Council Offices. He and Mr Love spoke and it was clear that was very upset at what had happened. He stated that the Glen's vodka had been bought shortly before it was seized by another of his brothers, Cengiz Karakas from a Turkish person calling to the shop. He said that Cengiz, who did not normally work in the shop (although he was an experienced checkout operator in other businesses) was filling in as Deniz was away. He had bought the vodka without checking with anyone ("because it was cheap").

Mr Karakas requested that I visit the shop and give him full advice about how he could ensure that the business minimised the chance of offending in the future. I did this, talking with him and his father, Ismet, about precautions to take to prevent underage sales and recognising illicit alcohol. Both Deniz and Ismet also said they would come to the training being organised by Trading Standards as part of the Bunhill Community Alcohol Project.

This training took place in January and Ismet and Deniz attended different sessions. Deniz, in particular, engaged enthusiastically in the training, which covered avoiding underage sales; illicit alcohol; and the responsibilities of a licensee.

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

16/09/11	Sale of alcohol	Deniz Karakas sold alcohol to a girl, 16y & 0m, working with Trading Standards. Italian wine noted.
21/10/12	Illicit alcohol check	No concerns other than the Italian wine, for which an invoice (subsequently shown to be false) was provided
15/05/12	Officer Panel	Deniz Karakas attended. Sale and Italian wine discussed and advice / warning letter sent.
30/06/12	Test purchase – no sale	The business refused to sell alcohol to a boy, aged 15y & 2m, working with Trading Standards.
06/10/12	Sale of alcohol	Smirnoff Ice sold by Ismet Karakas to girl, 15y & 10m, working with Trading Standards
11/10/12	Seizure of alcohol	47 bottles of Glens seized. Nothing else caused concern.
January 2013	Bunhill CAP training	Ismet Karakas and Deniz Karakas attended training organised by TS.

Recommendations

There have been two sales of alcohol to underage people and two discoveries of illicit alcohol at the business since September 2001. The second example of each came after Deniz Karakas had appeared at an Officer Panel meeting where he had been fully advised.

Normally in these circumstances, I would be recommending the licence be revoked, but there are some mitigating circumstances:

- At the time of the first sale, Deniz Karakas was in the middle of an argument with relatives and the observing officer noted that he was distracted.
- There was an invoice provided for the wine discovered in September 2011, albeit a handwritten one that turned out to be false. The price that seems to have been paid is not excessively cheap. (Note, the business was not sent the advice about illicit alcohol in March 2011, as the vast majority of independent off licences were).
- After the second sale, Ismet Karakas clearly realised that he had made a mistake and came out of the shop to speak with the purchaser. Miss Forrest, the observing officer, said that he was quite agitated when she spoke with him.
- The purchase of the Glens vodka has been blamed upon Cengiz Karakas, a member of the family, but one who does not often work at the business and was covering only because Deniz was away. It has been claimed that the vodka was not going to be sold, after it was established where it had come from (although there were two or three bottles of the illicit Glens found on the shelves).

The business has engaged with Trading Standards, requesting an advice visit to the shop and attending the training put on as part of the Bunhill Community Alcohol Partnership project. At the advice visit, Deniz Karakas took a copy of the conditions that Trading Standards regularly ask for and agreed to start complying with these conditions, even though there is currently no legal requirement on him to do so.

If the licensee can show that the business is complying with these conditions, shown below, and can also show that he has learnt from the training, then the Committee may consider that a revocation of the licence is not appropriate in the circumstances. If that is the case, then I do believe, that as an alternative, a suspension of the licence should be considered as a deterrent. I would also request that the conditions listed below are added to the licence.

Proposed conditions:

- No alcoholic goods will ever be purchased or taken from persons calling to the shop.
- No spirits shall be purchased in a resealed box.
- The licensee will immediately report to Trading Standards any instance of a caller to the shop attempting to sell alcohol.
- 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.
- A stock control system will be introduced, so that the licensee can quickly identify where and when alcoholic goods have been purchased.
- 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.
- If any spirits bought by the business 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.
- 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 instruction 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.
- 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 upon request by the licensing team, police or trading standards.

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

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

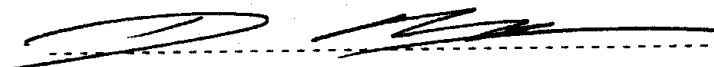
I understand that if I do not comply with the above requirements my application will be rejected

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

31st January 2013

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)	



Trading Standards Service
Public Protection Division
222 Upper Street
London N1 1XR

Tel: 020 7527 3874
E-mail: doug.love@islington.gov.uk

Website: www.islington.gov.uk

Our ref: OP 150512

Date: 31/05/12

Deniz Karakas
Montana Wine
136 Whitecross Street
London
EC1Y 8QJ

Dear Mr Karakas,

WARNING LETTER

Thank you for attending the Licensing Officer Panel on 15th May. You were asked to attend the panel after you made a sale of alcohol to an underage girl.

On 16th September 2011, you sold a bottle of Bacardi Breezer to a 16 year old girl who was assisting Trading Standards. You did not ask her anything before selling, although it is noted that you were distracted by arguing with your brother at the time of the sale.

The Panel suggested that this was an example of how easy it is for someone to make a mistake and encouraged you to follow our advice, so that you can show you are taking all reasonable effort to comply with the law.

The standards Trading Standards advice on avoiding underage sales includes:

- **Adopt a 'Challenge 25' policy** and instruct your staff to require anyone they think may be younger than 25 to produce proof of age. This gives you a margin of error, so adopting this should prevent you inadvertently selling to someone under 18 without checking for proof of age. There is an "u25?" poster in the advice pack that I have given to you previously that it is advisable to display.
- **Ensure all staff are thoroughly trained** about the law and how to avoid sales of age-restricted goods to children and that **records are kept** of their training. The DVD and the Training Record Book in the guidance pack will help you do this. It is advisable to do this even with relatives who work in the shop.
- **Regularly remind staff of their training** and record these reminders in the book, also.
- **Make sure everyone serving customers knows what is acceptable proof of age.** A passport; driving licence (but beware – these can be held from the age of 17); and any proof of age card with the 'PASS' hologram and a photograph should be accepted. Always examine the proof of age closely to ensure it appears genuine and belongs to the person showing it.
- **Ensure that refusals are recorded.** There is a 'Refusals book' in the pack which should be used to record brief details every time a sale is refused.
- **Monitor the use of the Refusals records.** If it is not being used by one of your staff, you will know they are either ignoring the instruction to use it, or not following their training.

challenging young buyers properly. Regular and obvious monitoring of the book may also provide regular reminders to your employees of the requirements to challenge for proof of age and refuse sales where appropriate.

- **Do anything else you can to remind staff of the requirements.** Displaying the posters, or attaching the badge in the pack to the till, for example, may provide regular reminders to staff and keep the issue at the front of their minds. All sales we discover are the result of staff not thinking 'Challenge 25', even where they have been well trained.

Further test purchasing will take place and any more sales will put your licence at risk of being reviewed. If this happens your licence may be either suspended, meaning you will not be able to sell alcohol for a specified period of up to three months, or revoked, preventing you from selling alcohol again.

We also discussed illicit alcohol and I gave you another copy of our latest guidance. This follows me noticing and asking about some Italian wine that was present in the shop. You said that you had bought the wine from someone who called at the shop. They left a handwritten invoice (not on headed paper) in the name Linx Cash and Carry of River Road, Barking.

It is very important that you do not buy alcohol in this manner again as any alcohol bought in this way is certain to be illegal in some way – non-duty paid, counterfeit or even stolen. Legitimate businesses will not sell door-to-door (although reps from legitimate companies may well visit) and will have proper headed paperwork. There is a Linx Cash & Carry in that area (they used to have premises in River Road), but they have said that they do not use door-to-door sellers and have provided samples of their invoices and delivery notes, which are on printed forms.

I had checked the spirits in stock and found no issues with any of that, but you should make some basic checks (outlined in the guidance) even on alcohol you buy from cash and carry businesses.

Please provide any information to us that may help us identify anyone who tries to sell you illegal alcohol or tobacco – for example, telephone numbers, vehicle registrations; CCTV recordings may all be useful. I'd also be happy to receive information about other shops selling these goods. This will help us find them and help protect honest businesses from unfair competition. Any information we receive will, of course, be treated in complete confidence – we will never say who it came from.

If anything in this letter requires further explanation or you would like further advice, please contact me. We can also supply uv lights (at a cost price of £5) or extra copies of the contents of the advice pack if you require them.

Yours sincerely,

Doug Love
Islington Trading Standards

**PREMISES LICENCE
LICENSING ACT 2003**

Premises licence number	87238		
Postal address of premises, or if none, ordnance survey map reference or description			
MONTANA WINE 136 WHITE CROSS STREET			
Post town	LONDON	Post code	EC1Y 8QJ
Telephone number	020 7253 6889		

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

<ul style="list-style-type: none"> The sale by retail of alcohol: <table> <tr><td>Monday</td><td>00.00</td><td>to</td><td>24.00</td></tr> <tr><td>Tuesday</td><td>00.00</td><td>to</td><td>24.00</td></tr> <tr><td>Wednesday</td><td>00.00</td><td>to</td><td>24.00</td></tr> <tr><td>Thursday</td><td>00.00</td><td>to</td><td>24.00</td></tr> <tr><td>Friday</td><td>00.00</td><td>to</td><td>24.00</td></tr> <tr><td>Saturday</td><td>00.00</td><td>to</td><td>24.00</td></tr> <tr><td>Sunday</td><td>00.00</td><td>to</td><td>24.00</td></tr> </table>	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
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Sunday	00.00	to	24.00																									

The opening hours of the premises:		
Monday	to	the following day
Tuesday	to	the following day
Wednesday	to	the following day
Thursday	to	the following day
Friday	to	the following day
Saturday	to	the following day
Sunday	to	the following day

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



ISLINGTON

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

Deniz Karakas and Murat Karakas
4c Abbotsford Avenue
Tottenham
N15 3BP
[REDACTED]

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

Deniz Karakas
[REDACTED]
[REDACTED]
[REDACTED]

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
159 Upper Street
London
N1 1RE
Tel: 020 7527 3031/3803
Email: licensing@islington.gov.uk

J. J. Gibbon
Assistant Director - Public Protection
2nd March 2006
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.

Annex 2 - Conditions consistent with the Operating Schedule

1. The restrictions on hours during which the sale of alcohol is authorised does not prohibit:
 - a) during the first 20 minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;
 - b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of alcohol so ordered;
 - c) the sale of alcohol to a trader or club for the purposes of the trade or club;
 - d) the sale of supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval military.
2. Alcohol shall not be sold in an open container or be consumed in the licensed premises.
3. Alcohol will not be sold or supplied to intoxicated persons.
4. The premises shall enforce a proof of age scheme, which is approved by the authorised officer of the Council and by the Local Police.

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

1. CCTV system shall be installed and maintained inside and outside the premises, including a CCTV unit, which monitors the immediate vicinity of the premises. All cameras shall continually record whilst the premises are open to the public and the video recordings shall be kept available for a minimum of 31 days with time and date stamping. Tape recordings shall be made available to an authorised officer or a police officer with 24 hours of any request.
2. From midnight to six am there shall be a minimum of two persons employed on the premises

Annex 4 – Plans

Reference Number: ISL87238

Building Control Service
Planning and Development
222 Upper Street
London
N1 1XR

Mr Deniz Karakas
Montana Wine
136 Whitecross Street
London
EC1Y 8QJ

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: 11 February 2013

Dear Sir

Licensing Act 2003
Representation from Responsible Authority for Health and Public Safety
Montana Wine 136 Whitecross Street EC1Y 8QJ

With reference to the recent application for the 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 for health and public safety I will be making a representation to this application.

At a survey of the premises on 7 February 2013 it was found that the requirements specified in the attached schedule are in need of urgent attention to ensure the existing arrangements at the premises are adequate for health and public safety.

The premises should be maintained in good condition. Staff should be trained in the health and safety measures applicable to the premises and the action to be taken in the event of an emergency or evacuation. Enclosed for your attention are **Health and Safety Standards for Places of Assembly, Shops and Commercial Premises**.

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
Senior Building Surveyor (Licensing Health and Safety)

**Islington Licensing Authority
Licensing Act 2003**

Representation form from Responsible Authority for Health and Public Safety

Name	Geoff Weaver
Job title	Senior Building Surveyor (Licensing Health and Safety)
Postal address	Islington Council, Building Control Service 222 Upper Street, London N1 1XR
email	geoff.weaver@islington.gov.uk
Contact telephone number	020 7527 5986
Name and address of the premises concerning the representation	Montana Wine 136 Whitecross Street EC1Y 8QJ
Public Safety	The arrangements at the premises are insufficient for health and safety. See attached requirements schedule.
Suggested conditions that could be added to the licence to remedy the public safety representation	The premises shall not be used under the licence until the requirements specified in the schedule dated 11 February 2013 have been completed and approved in writing by the responsible authority for health and public safety.

Signed: _____ Date: _____

Please return this form along with any additional sheets to: Applicant and Islington Council, Licensing Team, 222 Upper Street, London N1 1XR or email to licensing@islington.gov.uk This form must be returned within the statutory period. For more details please check with the Licensing Support Team on 020 7527 3031.

**Licensing Act 2003 – Requirements schedule dated 11 February 2013 for
Montana Wine 136 Whitecross Street EC1Y 8QJ**

- (1) In addition to the lighting, emergency lighting in compliance with BS 5266 – 1 should be provided in the trading area of the shop so all gangways are clearly illuminated.

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) Mechanical extract ventilation should be installed in the 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.

- (3) One foam fire extinguisher (rating 13A) and one carbon dioxide fire extinguisher (rating 34B) should be provided behind or adjacent to the cashiers/sales counter.

Fire extinguishers 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 extinguishers indicating the type of fire fighting appliance and the class of fire covered.

- (4) A graphic symbol exit sign in compliance with the Health and Safety (Safety Signs and Signals) Regulations should be provided over the entrance/exit door.

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:

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

This statement (consisting of: ... **1** 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: **08.02.2013**

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 Montana Wine, 136 Whitecross Street, EC1Y 8QJ

I have read the information provided by Mr David Fordham of Islington Council Trading Standards and indeed I was present when the last seizure was made. I am aware of the history of the premise having been involved in the officer panel and indeed with some of the enquires into the invoice provided in October 2011. I have serious concerns about this business as they still fail to comply with the law having been given help and advice on how to conduct their business.

At the time of the first seizure they were given the benefit over the false invoice but were advised as to the consequences of future purchases of goods from dubious suppliers. The business has then purchased what is quite a large quantity of Glens vodka which is non duty paid. There was no other brand held in such quantity in the shop. It is my contention that the management of the premise is very poor at best and at worst they have shown a total disregard for the law and for the well being of their customers as they were not in a position to know what exactly made up the contents of the bottles.

This business has also been brought to the attention of police for other matters, in November 2011 when police attended in response to a 999 call a group of people were found on the premises with evidence of drug misuse (cannabis) having taken place. The person who appeared to be in charge of the shop gave his details as Umit KARAKAS. (NIRT00413506) Five other persons were present in the shop which was closed at the time.

It is the view of Islington Police that the management of these premise fails to meet the standard expected of licensed premises in Islington and that they have failed to meet the Licensing objectives of crime prevention and protecting the public from harm. As such I submit that the revocation of the license would be a proportionate response in this case as they have failed to meet the required standards on several occasions.

Signature: Signature witnessed by:

Review of Montana Wines

Dear Terri

As the ward Councillor for Bunhill, I wish to formally support the authority's review of Montana Wines premises License and to formally request to the committee, as one of the ward Councillors, to revoke the premises licence for Montana Wines.

The officers highlight the main issues in the paperwork which is (a) the sale of illegal alcohol that was bought on the premises with no Vat receipt and (b) the sale of alcohol to a Minor i.e. person that was underage.

The committee will be minded to remember that there has been an incident in the past year, also in Bunhill, where illegal alcohol was sold at an off licence nearby in Goswell road which also resulted in the license of that premises being revoked. Another premises on the corner of Whitecross street leading onto Old Street also had its license revoked. There is a very clear and worrying pattern here that is developing within Bunhill amongst off licenses that is worrying to the ward councillors and to the residents of our ward. If we revoke the license of one or more, then we must be consistent in our application and revoke the license of all that sell illegal alcohol irrespective of who they are.

This review is taking place in an area that is now an official saturation zone due to the high number of off licenses and licensed premises that operate within the Bunhill Ward and to which the licensees of Montana wines has failed to act responsibly within the statutory guidelines or within the key areas one would expect which is why they are being called to a review before the committee.

I further object on the grounds of prevention of Crime and Disorder

Old Street is an area which has seen an increase in crime due to related alcohol incidents as well as an increase in alcohol related disorder. The recent examples to which my colleagues have been a witness and have also been reported to us through casework was where one individual in a drunken state attacked a female reveller; another when refused entry sliced his hand with a samurai sword later. Whitecross Street has seen people buying alcohol from local licensed premises including Montana Wines and engaging in vertical drinking outside the premises, smoking illicit substances which has been noticed by residents and the smell emanates around disturbing passers by and residents themselves. This is highly prevalent in the summer when it is hot and windows are open. Montana has been approached by the TRA and by individual residents in the past to empty promises of improving and futile actions.

There have been a number of incidents in the past few weeks where those buying alcohol both from Montana and other premises were walking down Whitecross street and shouting between 12am – 3am screaming and arguing which lasts an average of 20 minute on the 4 instances identified in the past 3 weeks.

As stated above there have also been numerous incidents of urination on the street, urination against Coltash Court/ George Gillette/Royley including where people also sit on the small wall against the side of the wall on the forecourt of Coltash Court smoking illicit substances and drinking alcohol bought from Montana and make noise, shouting, swearing and other loud boisterous

behaviour of a non-pleasant nature. This is an ongoing noise and public nuisance problem for residents and for us as councillors and is a constant source of casework and complaint.

Public Nuisance

Again, the same points as before. Noise, urination, smoking of drugs which also accompanies some drinkers who buy alcohol at the early hours of the morning and carry on partying on the streets. This is also a problem on Old Street and Whitecross street/Banner Street on occasions during the week but mostly weekends.

I also reiterate the Noise and Anti Social behaviour issues which follows a 24 hour Licence.

I strongly urge you to revoke this license.

Cllr Robert Khan

Labour member for Bunhill Ward

Cc: Cllrs Gallagher and Webbe (Bunhill)

Please keep my details private..

I wish to Object to this off licence being allowed to stay open so late the people that run the place are allowing people to drink outside the shop until 01:00 - 01:30 hrs making noise and smoking cannabis (including the person running the shop smoking cannabis). It has nothing to do with the pub next door as he always claims as the pub shuts and clears outside areas by 23:00 hours.

There are never two people in the shop working it is either the father or his son at one time never two together.

I have children and the complain of the smell of the cannabis and all the noise especially during the warmer months when we have to have our windows open. this causes them considerable sleep deprivation and trouble getting them up for school in the mornings because they are so tired.

I plead and appeal to you to restrict the opening hours of this premises back to 11:00 - 23:00 hours to protect the local community from noise disorder and to protect my children from sleep deprivation.

There have also been a number of fights and arguments outside when the fights happen the person working pulls the shutters down like he is closed and once the police disappear he reopens again.

There is another 24 hour off licence at the top of the road on Old Street / Whitecross Street which is well run people never congregate Outside and there is never any noise or problems.

Therefore this shop will not be missed if it was to close at 23:00 hours as there is an alternative about 100 meters up the road.



ISLINGTON

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

Mr. Deniz Karakas and Murat Karakas

T 020 7527 3233
F 020 7527 3057
E terrie.lane@islington.gov.uk
W www.islington.gov.uk

This matter is being dealt with by:
Terrie Lane

Our ref:
Your ref:

Date: 29 August 2012

Dear Sirs,

**RE: ANTI SOCIAL BEHAVIOUR OUTSIDE MONTANA WINE 136 WHITECROSS STREET
LONDON EC1Y 8QJ**

Further to complaints received from local residents, the licensing team have carried out visits to Whitecross Street to assess the level of anti social behaviour outside your premises.

Officers visited on 20 July 2012 at 23.50 and found two people talking loudly, standing directly outside the shop drinking from bottles of alcohol and a group of five people sitting outside the shop in the gutter, drinking from cans and bottles of alcohol. Our officers spoke to them and they said they had bought the alcohol from Montana Wine. It was explained that they could be causing a nuisance to local residents and they moved away. At no time did a member of staff approach to ask them to move away.

On 24 September 2012 at 01.05 licensing officers drove past Montana Wine and noticed 4 people outside, one with a drink, and a white van parked immediately outside, with the driver's door open facing the shop door which was also open. The four people were talking loudly.

The officers returned at 1:10, the white van was still parked outside with door open. The shutters were drawn over the windows of Montana Wine, but the door was open and the lights were on. A male kept going from the van to the shop and spoke with another male who had appeared from a side street and stood outside the shop talking. There was very loud music clearly emanating from the van. The officers walked to the shop and saw a male was sitting in driver's seat of the van with door open. Music noise continued to be loud and was audible some distance away, over 50 metres further down Whitecross Street, which was otherwise very quiet. At 1.23am the lights were switched off at Montana Wine, 2 males closed the final shutter over the front door and locked up. The male sitting in the front of the van got out and climbed into the back with man who had come from the side street. The music continued to be played at a loud volume. The 2 males who closed the shop got into the front of the van and drove off with music continuing to play loudly at 1:26am.

On both occasions Montana Wine was the only premises open and selling alcohol in Whitecross Street.

I have to advise you that the licensing team will continue to monitor your premises and if you continue to allow your customers to congregate and drink outside your premises, and if your staff and customers continue to cause noise and disturbance to local residents, the Council will

have no option but to review your premises licence, where the licence could be revoked, suspended or the opening hours could be reduced.

Please contact me if you have any queries regarding this letter.

Yours sincerely

Terrie Lane
Licensing Manager

Suggested conditions

1. No alcoholic goods will ever be purchased or taken from persons calling to the shop.
2. No spirits shall be purchased in a resealed box.
3. The licensee will immediately report to Trading Standards any instance of a caller to the shop attempting to sell alcohol.
4. 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.
5. A stock control system will be introduced, so that the licensee can quickly identify where and when alcoholic goods have been purchased.
6. 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.
7. If any spirits bought by the business 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.
8. 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.
9. 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 instruction given to staff, detailing the areas covered and make them available for inspection upon request by the licensing team, police or trading standards.
10. 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.
11. 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 upon request by the licensing team, police or trading standards.
12. The premises shall not be used under the licence until the requirements specified in the schedule dated 11 February 2013 have been completed and approved in writing by the responsible authority for health and public safety.



