

Report of: Service Director, Public Protection

Meeting of	Date	Agenda Item	Ward(s)
Licensing Sub-Committee	3 rd October 2011	B7	Junction

Delete as appropriate	Non-exempt
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**Subject: PREMISES LICENCE REVIEW APPLICATION
RE: HOLLOWAY FOOD STORES, 535 HOLLOWAY ROAD, LONDON, N19 4BT**

1. Synopsis

- 1.1 This is an application by Islington Councils 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; and
 - ii) The 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 currently holds a licence allowing:
- i) The sale by retail of alcohol, off supplies only, Monday to Sunday 24 hours a day, granted following acceptance of conditions put forward by the Health and Safety Officer contained in Annexe 2 of the licence;
- 3.2 Papers are attached as follows:-
- Appendix 1: application form;
 - Appendix 2: current premises licence;
 - Appendix 3: representations;
 - Appendix 4: suggested conditions and map of premise location.

- 3.3 The Licensing Authority has received 2 letters of representation, 1 of which is from the Islington Police.

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

6/9/11

Received by

Head of Scrutiny and Democratic Services

Date

Report author: Anthony Baptiste

Tel: 020 7527 3014

Fax: 020 7527 3430

E-mail: Anthony.baptiste@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:

**Holloway Food Stores
535 Holloway Road**

Post town: **London**

Post code: **N19 4BT**

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

Celal Gul

Number of premises licence or club premises certificate: **86897**

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

I am 18 years old or over

Please tick ✓ yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address	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

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

This application to review relates to the objectives to prevent crime & disorder and Licensing Policy 39 and also the protection of children from harm and Licensing Policy 32. It particularly relates to the supply by the business of smuggled goods and the doubt that the described events introduce about the standard of management evident at the premises.

On 23rd March 2011, a letter was sent to the premises, addressed to 'The Licensee and Proprietor', that introduced attached guidance about smuggled alcohol and tobacco and warned that businesses found with smuggled goods in future were likely to have their licences reviewed.

On 11th May 2011, officers from Trading Standards and HMRC visited Holloway Food Store in order to check for illicit tobacco and alcohol. 28.5 litres of spirits were identified as illicit and seized. No invoices for the spirits has been produced as requested by the HMRC officers.

The spirits seized were:

Glens vodka – 18 litres (18 x 1l): Wrong style of '4' on bar-code; self-adhesive back label; duty stamp does not fluoresce properly.

Claymore whisky – 4.9 litres (7 x 70cl): Duty stamp does not fluoresce.

High Commissioner whisky – 2.8 litres (4 x 70cl): Duty stamp does not fluoresce.

VIP vodka – 2.8 litres (4 x 70cl): Duty stamp does not fluoresce.

The total duty that would have been evaded had the illicit goods been sold totals approximately £279.

Trading Standards are concerned at the possession for supply of illicit alcohol for the following reasons:

- Counterfeit spirits, particularly vodka, may be unsafe to consume.
- Illicit spirits are smuggled into the country and / or produced by organised crime. It is believed that the profits are frequently used to fund other types of serious crime.
- Smuggling causes huge losses to the UK's tax revenues.

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

23/03/11 TS advice TS sent the business guidance on smuggled alcohol as part of a mailshot to all independent off licences.

11/05/11 HMRC seizure 28.5 litres of spirits seized as identified as illicit.

Recommendations:

As no evidence of legitimate purchase or other explanation has been provided, it is unlikely that the goods came from a reputable supplier. Although it is not unknown for cash and carry businesses to deal in smuggled goods, it would be particularly unfortunate for a trader to innocently buy a variety of brands that were illicit. It is more likely that the goods were bought from an irregular supplier – such as a person calling to the shop and selling out of the back of a van – although there is no hard evidence to support this contention.

Had the simple precautions detailed in the guidance letter sent to the business in March 2011 been followed, all the illicit spirits found at the premises would have been very easy to spot.

The supply of illicit alcohol puts public health at risk. Counterfeit vodka often contains methanol – a type of alcohol that is not suitable for human consumption - and is responsible for many deaths worldwide each year. It would not be possible for a retailer to tell the difference between smuggled and counterfeit vodka or to assess how dangerous any illicit alcohol is.

Fortunately, the spirits seized in this case are believed to be genuine, but smuggled.

Although, there is no evidence of the business currently selling alcohol to underage consumers, the licence was reviewed in 2008 after two sales of alcohol to underage test purchasers working with Trading Standards. The Licence was suspended for 1 month, but no conditions were added. Two test purchases since the suspension resulted in the test purchaser being refused, but it is a concern that a willingness to stock illicit alcohol indicates that the standard of management at the premises is not satisfactory. This increases the possibility that the approach to all consumer laws may be less rigorous than is desirable.

It is for the Committee to consider the appropriate remedy for these facts. Should the licence continue, Trading Standards wish to recommend the following conditions are added to the licence:

1. No alcoholic goods will ever be purchased or taken from persons calling to the shop.
2. The licensee will immediately report to Trading Standards any instance of a caller to the shop attempting to sell alcohol.
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 alcoholic 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.
7. The licensee shall adopt the Challenge 25, the Retail of Alcohol Standards Group's advice for off-licences.

8. 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.
9. 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.
10. 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.

No conditions have previously been attached by the Licensing Authority.

Have you made an application for review relating to this premises before Please tick ✓ yes

If yes please state the date of that application

Day		Month		Year			
1	5	1	2	2	0	0	8

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

N/A

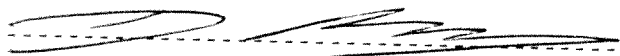
I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate Please tick ✓ yes

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 2nd August 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)

Post town	Post Code
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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	86897		
Postal address of premises, or if none, ordnance survey map reference or description			
HOLLOWAY FOOD STORES 535 HOLLOWAY ROAD			
Post town	London	Post code	N19 4BT
Telephone number	020-7281-6015		

Where the licence is time limited the dates
Not Applicable

Licensable activities authorised by the licence
The sale by retail of alcohol

The times the licence authorises the carrying out of licensable activities																																			
<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><td>the following day</td></tr> <tr><td>Tuesday</td><td>00:00</td><td>to</td><td>24:00</td><td>the following day</td></tr> <tr><td>Wednesday</td><td>00:00</td><td>to</td><td>24:00</td><td>the following day</td></tr> <tr><td>Thursday</td><td>00:00</td><td>to</td><td>24:00</td><td>the following day</td></tr> <tr><td>Friday</td><td>00:00</td><td>to</td><td>24:00</td><td>the following day</td></tr> <tr><td>Saturday</td><td>00:00</td><td>to</td><td>24:00</td><td>the following day</td></tr> <tr><td>Sunday</td><td>00:00</td><td>to</td><td>24:00</td><td>the following day</td></tr> </table> 	Monday	00:00	to	24:00	the following day	Tuesday	00:00	to	24:00	the following day	Wednesday	00:00	to	24:00	the following day	Thursday	00:00	to	24:00	the following day	Friday	00:00	to	24:00	the following day	Saturday	00:00	to	24:00	the following day	Sunday	00:00	to	24:00	the following day
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Saturday	00:00	to	24:00	the following day																															
Sunday	00:00	to	24:00	the following day																															

The opening hours of the premises:
Not specified

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
Celal Gul 30 Joints Avenue Edmonton London N18 2TP 020-7281-6015



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**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**

Celal Gul
30 Joints Avenue
Edmonton
London N18 2TP

**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 3031/3803
Email: licensing@islington.gov.uk

Assistant Director - Public Protection

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) CCTV system shall be installed and maintained inside 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.
- 4) The licensee shall ban any customers who behave in an anti-social manner.
- 5) The licensee shall ensure there are adequate arrangements for the storage and removal of refuse.
- 6) Emergency lighting, fire exits, fire signs, automatic smoke detectors and fire extinguishers shall be installed and maintained.
- 7) The licensee shall put arrangements in place to ensure that when staff are dealing with young people they ask for valid proof of age e.g. Portman Proof of Age card, National Passport or Photo Drivers Licence before selling alcohol to them and signs shall be displayed to this effect.

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

Nil

Annex 4 – Plans

Reference Number: LBI 86897 Date 23 June 2005

**Premises Licence Summary
Licensing Act 2003**

Premises licence number 86897

Premises details

Postal address of premises, or if none, ordnance survey map reference or description

**HOLLOWAY FOOD STORES
535 HOLLOWAY ROAD**

Post town London

Post code N19 4BT

Telephone number 020-7281-6015

Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence

The sale by retail of alcohol

The times the licence authorises the carrying out of licensable activities

The times the licence authorises the carrying out of licensable activities

- The sale by retail of alcohol:

Monday	00:00	to	24:00	the following day
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Thursday	00:00	to	24:00	the following day
Friday	00:00	to	24:00	the following day
Saturday	00:00	to	24:00	the following day
Sunday	00:00	to	24:00	the following day

The opening hours of the premises:

Not specified

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

Off Supplies



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Name, (registered) address of holder of premises licence

Celal Gul
30 Joints Avenue
Edmonton
London N18 2TP

**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**

Celal Gul

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 3031/3803
Email: licensing@islington.gov.uk

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:

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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: **05.08.2011**

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 Holloway Food Stores, 535 Holloway Rd.N19 4BT.

I have read the information provided by the Council officials in this matter. The sale of counterfeit and smuggled goods is in my view a very serious matter and having assisted the council officials in seizing such goods it is apparent that it is becoming more widespread. If there was no market for the goods the trade would not flourish and as such the licensed trade does not need operators who are willing to break the law as readily as in this case buying goods from an illegal supplier. It is 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 or at least a long suspension and addition of the conditions proposed by the officers of Islington Trading Standards Office. I would also point out that the Home office guidance on this offence is revocation of the licence on the first offence and that the Licensing Authorities should seek to support business 's that operate within the law by removing those that trade illegally.

I also note the lack of engagement by the owners/management of the premises in this matter, by choosing not to engage with the police or the council in this matter we have been unable to act on any information that may have been forthcoming re the source of this potentially dangerous alcohol.

Signature: Signature witnessed by:

RESTRICTED (when complete)





**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	Holloway Food Stores 535 Holloway Road N19 4BT
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 16 August 2011 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.



Suggested conditions of approval recommended by Health and Safety Officer

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) The smoke alarms should be linked so that detection of smoke by one unit operates the alarm signal in all of them. Smoke alarms should be wired in compliance with BS 7671.
- (3) Copies of the inspection and test certificates specified below, certified by an approved competent person, should be submitted to the responsible authority for health and public safety.

Emergency lighting

Fire fighting extinguishers

An approved competent person for the testing and certification of electrical installations and emergency lighting should be one of the following:

A contractor enrolled with the National Inspection Council for Electrical Installation Contracting, or a member of the Electrical Contractors Association, or a competent person from an appropriate approved organisation.

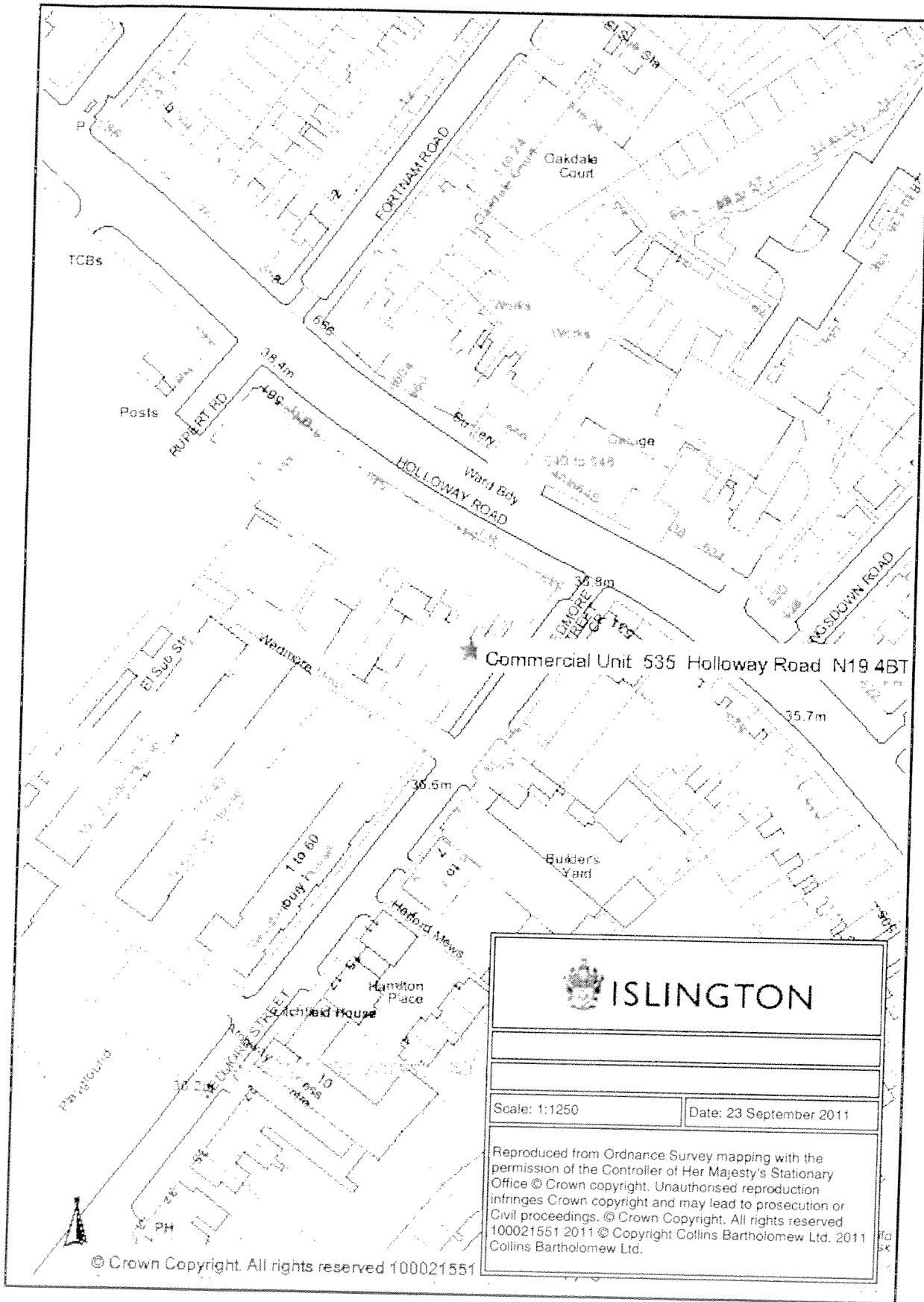
Inspection and service certificates for fire fighting extinguishers should be obtained from an organisation certified by the British Approvals for Fire Equipment (BAFE), or a competent person from an appropriate approved organisation.


Suggested conditions of approval recommended by Trading Standards Officer

1. No alcoholic goods will ever be purchased or taken from persons calling to the shop.
2. The licensee will immediately report to Trading Standards any instance of a caller to the shop attempting to sell alcohol.
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 alcoholic 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.
7. The licensee shall adopt the Challenge 25, the Retail of Alcohol Standards Group's advice for off-licences.
8. 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.
9. 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.

10. 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.



 ISLINGTON	
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