

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

Meeting of	Date	Agenda Item	Ward(s)
Licensing Sub-Committee	2 February 2012	B7	Highbury West

Delete as appropriate		Non-exempt
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**Subject: PREMISES LICENCE REVIEW APPLICATION**  
**RE: MEDITERRANEAN FOOD CENTRE, UNIT 2, MARQUEES ESTATE, ST PAULS ROAD, N1 2RH**

**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 until 23:00, and on Sunday 10:00 – 22:30.

3.2 Papers are attached as follows:-

Appendix 1: application form;

Appendix 2: current premises licence;

Appendix 3: police representations;

Appendix 4: suggested conditions and map of premise location.

3.3 The Licensing Authority has also received two representations one by way of a witness statement from the Police and one from the Council Health and Safety officer.

3.4 The Councils Trading Standards Team has recommended that the licence be revoked as there is evidence that the licensee has been knowingly involved in serious breaches of the law.

### 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 23/1/12

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

WR/111239167.

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:

**Mediterranean Food Centre**

**Unit 2, Marquess Estate**

**St. Paul's Road**

Post town: **London**

Post code: **N1 2RH**

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

**Beytullah Er**

Number of premises licence or club premises certificate: **123587/ 3341**

**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	
<b>David Fordham Service Manager (Trading Standards) Public Protection Division 222 Upper Street London N1 1XR</b>	
Telephone number:	<b>020 7527 3458</b>
E-mail:	<u><a href="mailto:david.fordham@islington.gov.uk">david.fordham@islington.gov.uk</a></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 and disorder and Licensing Policies 39 and 28. It particularly relates to the discovery of illicit alcohol and tobacco in the shop, which indicates that the highest standards of management have not been exhibited by the business.

On 23<sup>rd</sup> 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 11<sup>th</sup> November, 2011, officers from Trading Standards and HMRC visited the premises to inspect the stock of alcohol and tobacco, following information received by HMRC that the business was dealing in illicit tobacco. The Licensee and owner of the business, Mr Er, was present. The officers seized the following as they were believed to be non-duty paid.

- 102 bottles (16.5 litres) of Italian wine: The wine was recognised by HMRC officers as brands that have regularly been smuggled and supplied in the region without duty being paid. Mr Er stated that he had bought the wine from a 'man in a van' and that he had no receipts. He said he had paid £17 for 12 (£1.42 per bottle). The duty payable on a bottle of wine is £1.81.
- 35 x 20 packs of Marlboro Gold Original cigarettes: All packs carry Polish language warnings and what appears to be a Polish tax marker was visible on the five loose packs.
- 3 x 50g packs of Golden Virginia hand rolling tobacco: All pouches carry Belgian warnings and tax markers. The pouches will be examined by the trademark hold before the review hearing.

The hand rolling tobacco and 5 packs of the cigarettes were found near the counter in a chocolate box. The remaining 30 packs of cigarettes (three sleeves of 200) were found inside a sofa bed that was folded up in the storage area of the shop.

The total duty that would have been evaded had the goods confirmed to have been illicit been sold is approximately £353.

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

- Counterfeit spirits, particularly vodka, may be unsafe to consume.
- The willingness to intentionally or recklessly break one law indicates the business is less likely to be compliant with other laws.
- The sale by retailers of illicit goods gives them an unfair advantage over law abiding businesses.
- Illicit goods are often 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.
- The trade in illicit alcohol and tobacco 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.
11/11/11	Seizure	102 bottles of wine; 700 cigarettes; and 0.15kg hand rolling tobacco seized by HMRC

Recommendations:

This licensee has clearly demonstrated that he is unconcerned with legal compliance, let alone fulfilling his responsibility to promote the licensing objectives.

Clear advice on how to avoid stocking illicit alcohol was sent to the shop in March 2011. One piece of advice given was "Never buy alcohol, cigarettes or tobacco from anyone who brings the goods to the shop", yet this is exactly what Mr Er has admitted doing.

The guidance also said that warning on tobacco products had to be in English and that if they were not, the product "is illegal for sale in the UK and is almost certain to be smuggled". The fact that the illicit tobacco was hidden is a clear indication that Mr Er knew it to be illegal.

I believe on the facts described in this application that this licence should be revoked as there is evidence that the licensee has been knowingly involved in serious breaches of the law. This gives me no confidence in his willingness to fulfil his responsibility to promote the licensing objectives or to exhibit the highest standards of management.

No conditions 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

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

N/A

Please tick ✓ yes

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


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

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

**Part 3 – Signatures** (please read guidance note 3)

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

Signature



Date

19/12/11

Capacity

Service Manager (Trading Standards)

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

Post town

Post Code

Telephone number (if any)

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



#### Notes for Guidance

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

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

The application form must be signed.

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

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

### 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: **12.01.2012**.....

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 Mediterranean Food Centre, Unit 2, Marquess Estate, St Paul's Road, N1 2RH.

Having read the information provided by Islington Trading Standards I have very grave concerns about the management of these premises and cannot see how they can continue to be trusted to meet the necessary standard of management for the licensed trade. Not only have they failed to meet the licensing objectives but by hiding the goods in a sofa they have shown criminal intent to avoid detection and to thwart the efforts of the Council officials and Police. As such on behalf of Islington Police I strongly support the request for revocation of this licence.

Signature: ..... Signature witnessed by: .....

**Witness contact details**

Home address: .....  
..... Postcode: .....  
Home telephone number ..... Work telephone number .....  
Mobile/pager number ..... Email address: .....  
Preferred means of contact: .....  
**Male** / ~~Female~~ (delete as applicable) Date and place of birth: .....  
Former name: ..... Ethnicity Code (16+1): ..... Religion/belief: .....

**Dates of witness non-availability** .....

**Witness care**

- a) Is the witness willing and likely to attend court? **No.** If 'No', include reason(s) on **MG6.**
- b) What can be done to ensure attendance?
- c) Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness?  
**No.** If 'Yes' submit **MG2** with file.
- d) Does the witness have any specific care needs? **No.** If 'Yes' what are they? (Disability, healthcare, childcare, transport, language difficulties, visually impaired, restricted mobility or other concerns?)

**Witness Consent (for witness completion)**

- a) The criminal justice process and Victim Personal Statement scheme (victims only) has been explained to me Yes  No
- b) I have been given the Victim Personal Statement leaflet Yes  No
- c) I have been given the leaflet 'Giving a witness statement to police — what happens next?' Yes  No
- d) I consent to police having access to my medical record(s) in relation to this matter: (obtained in accordance with local practice) Yes  No  N/A
- e) I consent to my medical record in relation to this matter being disclosed to the defence: Yes  No  N/A
- f) I consent to the statement being disclosed for the purposes of civil proceedings e.g. child care proceedings, CICA Yes  No
- g) The information recorded above will be disclosed to the Witness Service so they can offer help and support, unless you ask them not to. Tick this box to decline their services:

Signature of witness: ..... Print name: .....  
Signature of parent/guardian/appropriate adult: ..... Print name: .....  
Address and telephone number if different from above: .....

Statement taken by (print name): **PS45NI 181475 Robin CLARK** ..... Station: **Islington** .....

Time and place statement taken: .....

REP 2.



ISLINGTON

Building Control Service  
Planning and Development  
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: 13 January 2012

Mr Beytullah Er  
Mediterranean Food Centre  
Unit 2, Marquess Estate  
St Paul's Road  
London  
N1 2RH

Dear Sir

**Licensing Act 2003  
Representation from Responsible Authority for Health and Public Safety  
Mediterranean Food Centre Unit 2, Marquess Estate St Paul's Road N1 2RH**

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 13 January 2012 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**

<b>Name</b>	Geoff Weaver
<b>Job title</b>	Senior Building Surveyor (Licensing Health and Safety)
<b>Postal address</b>	Islington Council, Building Control Service 222 Upper Street, London N1 1XR
<b>email</b>	geoff.weaver@islington.gov.uk
<b>Contact telephone number</b>	020 7527 5986
<b>Name and address of the premises concerning the representation</b>	Mediterranean Food Centre Unit 2, Marquess Estate St Paul's Road N1 2RH
<b>Public Safety</b>	The arrangements at the premises are insufficient for health and safety. See attached requirements schedule.
<b>Suggested conditions that could be added to the licence to remedy the public safety representation</b>	The premises shall not be used under the licence until the requirements specified in the schedule dated 13 January 2012 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](mailto: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 13 January 2012 for  
Mediterranean Food Centre Unit 2, Marquess Estate St Paul's Road N1 2RH**

- (1) Two additional emergency lighting luminaires in compliance with BS 5266 – 1 should be provided in the trading area of the shop.

The two new emergency lighting luminaires should be equally spaced between the existing emergency lighting luminaires in the trading area of the shop.

**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) Remove the green stick on signs attached to the existing emergency lighting luminaires within the premises.
- (3) The existing emergency lighting luminaires in the shop and basement stairway should be cleaned, inspected and tested to ensure that each luminaire is 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.
- (4) Mains operated smoke 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:
- Trading area of the shop.
  - Basement stairway.

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

Smoke alarms should be interlinked 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 to a single independent circuit at the main distribution board. The circuit should be clearly labelled **Fire Alarm do not isolate**.

- (5) 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. Air inlet to the toilet should be provided, e.g. 10mm gap under the door.
- (6) Graphic symbol exit sign in compliance with the Health and Safety (Safety Signs and Signals) Regulations should be fixed over the entrance/exit door and graphic symbol exit route signs indicating the escape route to the entrance/exit door should be suspended from the ceiling within the trading area of the shop.
- (7) Fire extinguishers should be sited in staffed areas adjacent to the exits from staffed areas.

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.

Note: The next inspection/service date for the fire extinguishers is March 2012.

(8) 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.

- Electrical installation for the smoke alarm system
- Emergency lighting

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.

**Suggested conditions**

As per current licence

**Suggested conditions of approval recommended by health and safety**

1. The premises shall not be used under the licence until the requirements specified in the schedule dated 13 January 2012 have been completed and approved in writing by the responsible authority for health and safety.