



Report of: Service Director, Public Protection

Meeting of	Date	Agenda Item	Ward(s)
Licensing Sub-Committee	2 February 2012	B8	Highbury East

Delete as appropriate		Non-exempt
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Subject: PREMISES LICENCE REVIEW APPLICATION
RE: YOUR LOCAL SUPERMARKET, 274 Highbury New Park, London, N5 2LH

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 protection of children from harm.
 - ii) 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 Sunday from 07:00 – 23:00.
- 3.2 The licence for the premises was subject a review by Trading Standards heard by Licensing Sub Committee on 3 November 2011. This review was in relation to the seizure of smuggled good at the premises and the decision of the Sub Committee was to add conditions to the premises licence.
- 3.3 Papers are attached as follows:-
 - Appendix 1: application form;
 - Appendix 2: current premises licence;
 - Appendix 3: police representation
 - Appendix 4: suggested conditions and map of premise location.
- 3.4 The Licensing Authority has a representation by way of a witness statement from the Police.
- 3.5 The Councils Trading Standards Team has recommended that the licence be revoked as it is hard to have confidence in the licensees on going ability to fulfil his responsibility to promote the licensing objectives or to exhibit the highest standards of management.

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



ISLINGTON

Environment and Regeneration

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

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

T 020 7527 3874
F 020 7527 3038
E doug.love@islington.gov.uk
W www.islington.gov.uk

Please reply to: Doug Love
Our ref:
Your ref:

Date: 19/12/11

Dear Sir or Madam

S51 LICENSING ACT 2003: Application for review of premises licence

Eren Local Market, 274 Highury New Park, N5 2LH

Islington Trading Standards wishes to apply to have the premises licence of the business trading as Eren Local Market reviewed. On 02/12/11, the premises sold alcohol to a 14 year old volunteer working with Trading Standards.

The enclosed document is our formal application for the review. Copies have also been submitted to the people and agencies listed below.

Please contact **Doug Love** (details above) in relation to this matter.

Yours faithfully

David Fordham
Service Manager Trading Standards

The Licence holder for the business
Licensing Office of Islington Police
London Fire and Emergency Planning Authority
Health & Safety Team (G Weaver)
Development Control Team, Islington Council
Noise & Pollution Team, Islington Council
The Child Protection Team, Islington Council
Licensing Team, Islington Council

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:

**Your Local Mini Market
(also known as Eren Local Market)
274 Highbury New Park**

Post town: **London**

Post code: **N5 2LH**

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

Number of premises licence or club premises certificate: **137191 / 3785**

Part 2 - Applicant details

I am

Please tick ✓/yes

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

a person living in the vicinity of the premises

a body representing persons living in the vicinity of the premises

a person involved in business in the vicinity of the premises

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

a responsible authority (please complete (C) below)

a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick

Mr

Mrs

Miss

Ms

Other title
(for example, Rev)

Surname

First names

Please tick ✓/yes

I am 18 years old or over

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

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

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

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

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

Please tick one or more boxes

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

This application to review relates to the objective to protect of children from harm and Licensing Policies 32 and 28. It particularly relates to the sale of alcohol by the business to a 14 year old volunteer assisting Trading Standards and the failure to take the required precautions to prevent this sale. Further, there is evidence that the highest standards of management have not been exhibited by the business.

On 3rd October 2011 a review of this licence was heard by the Licensing Sub-Committee after a seizure of illicit alcohol was made at the shop in June 2011. The Sub-Committee decided to add several conditions to the licence including four relating to the precautions the licence-holder was required to make to help prevent underagesales. These conditions were added to Annex 3 of the licence and read:

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.

On 02nd December 2011, Trading Standards undertook an operation to test business' compliance with the law prohibiting the sale of alcohol to persons under 18. Two female volunteers - 14 year old accompanied by a 17 year old - were asked to enter the shop and buy an alcoholic product. Mehmet Aksoy sold the 14 year old volunteer one 275ml bottle of Smirnoff Ice (abv 4.0%) and one 275ml bottle of WKD Vodka Blue (abv 4.0%). The volunteers were under observation from an officer from Trading Standards, who witnessed the sale. Mr Aksoy was the only person working in the shop at the time of the sale.

Katherine Forrest of Trading Standards and a Turkish speaking police officer spoke to Mr Aksoy after the sale. His English was very poor, but it was confirmed that he didn't work at the shop, but was only 'helping out'; that he had only been 'helping out' since 5pm that evening (the sale was at approximately 7.30pm); that he knew very little about the law relating to age-restricted goods; and that he was unsure of the age limit for alcohol - he 'thought' it was 17 or 18.

Mr Aksoy said he had received no training and he was unaware of any refusals book.

A poster advising customers they would be asked for proof of age if they appeared under 21 was displayed in the shop. This was an old poster from when 'Challenge 21' was the accepted standard.

On 12th December 2011, Miss Forrest and Doug Love, also of Trading Standards, revisited the shop. On this occasion Mr Erdogan was present and with the help of one of his employees, Mr Cefa Karabag, who translated, the officers asked about training and the recording of refusals. It was confirmed that training was given verbally to staff, but that no records being kept and that no records were made of any occasions on which sales of alcohol or other age-restricted goods were refused.

There has only been one other attempted test purchase of age-restricted goods recorded at this premises - an attempt to buy cigarettes was refused in July 2009.

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

03/10/11	Review	Conditions added to licence when TS application to review licence after discovery of illicit alcohol was heard
02/12/11	Alcohol sale	Two 'alcopop' bottles sold to 14 year old volunteer
12/12/11	TS visit	Confirmation that no training records or refusals log existed.

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, but illicit alcohol which could have been easily spotted was found in June 2011.

This resulted in a review of the licence at which some of the advice previously available about preventing underage sales was added to the licence in the form of conditions. Less than two months later, there was a sale of alcohol to a child.

Conditions 8 (training staff) and 10 (refusals log) were not being complied with and it would be hard for the Licensee to argue that conditions 7 (adopting 'Challenge 25') and 9 (requiring proof of age) have been effectively implemented.

I believe on the facts described in this application that this licence should be revoked as the licensee has been involved in two serious breaches of the law within less than 6 months. If he will not comply with the clear licence conditions even two months after they have been added to the licence, it is hard to have confidence in his ongoing ability to fulfil his responsibility to promote the licensing objectives or to exhibit the highest standards of management.

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	8	0	8	2	0	1

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

N/A

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

19th December 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

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 Eren Local Market, 274 Highbury New Park, N5 2LH.

Having read the information provided by the Council officers I have very grave concerns about the management of this premise. Having been brought before the sub-committee recently and been advised about the conduct of the business the management have paid no heed to this and as such have sold alcohol to two girls aged fourteen years and seventeen years. As such they have clearly failed to meet the required level of management expected for a licensed premise and they have failed to uphold the licensing objectives, as such on behalf of Islington Police I strongly support the request to revoke this license.

Signature: Signature witnessed by:



PREMISES LICENCE LICENSING ACT 2003

Premises licence number	137191/3785		
Postal address of premises, or if none, ordnance survey map reference or description			
YOUR LOCAL MINI MARKET 274 HGHURY NEW PARK			
Post town	London	Post code	N5 2LH
Telephone number			

Where the licence is time limited the dates
Not Applicable

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

The times the licence authorises the carrying out of licensable activities																												
Delete any that do not apply																												
<ul style="list-style-type: none"> The sale by retail of alcohol: <table border="0" style="margin-left: 20px;"> <tr><td>Monday</td><td>07:00</td><td>to</td><td>23:00</td></tr> <tr><td>Tuesday</td><td>07:00</td><td>to</td><td>23:00</td></tr> <tr><td>Wednesday</td><td>07:00</td><td>to</td><td>23:00</td></tr> <tr><td>Thursday</td><td>07:00</td><td>to</td><td>23:00</td></tr> <tr><td>Friday</td><td>07:00</td><td>to</td><td>23:00</td></tr> <tr><td>Saturday</td><td>07:00</td><td>to</td><td>23:00</td></tr> <tr><td>Sunday</td><td>07:00</td><td>to</td><td>23:00</td></tr> </table> 	Monday	07:00	to	23:00	Tuesday	07:00	to	23:00	Wednesday	07:00	to	23:00	Thursday	07:00	to	23:00	Friday	07:00	to	23:00	Saturday	07:00	to	23:00	Sunday	07:00	to	23:00
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Saturday	07:00	to	23:00																									
Sunday	07:00	to	23:00																									

The opening hours of the premises:			
Monday	07:00	to	23:00
Tuesday	07:00	to	23:00
Wednesday	07:00	to	23:00
Thursday	07:00	to	23:00
Friday	07:00	to	23:00
Saturday	07:00	to	23:00
Sunday	07:00	to	23:00

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

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

Mr Orhan Erdogan
Flat 1
138 Queen's Drive
London
N4 2BF

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

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

Mr Orhan Erdogan
Flat 1
138 Queen's Drive
London
N4 2BF

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

LPH-PER-N-0413 London Borough of Hackney

Islington Council

Public Protection Division

222 Upper Street

London

N1 1XR

Tel: 020 7527 3031

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. A "redcare" alarm system shall be installed and maintained at all times with a panic button linked to a monitored centre for emergencies
2. CCTV television shall be installed and maintained with one camera scanning the front door of the premises.
3. No noise shall be allowed to emanate from the premises.
4. 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.

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

1. No alcoholic goods will ever be purchased from sellers 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, to 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.

Annex 4 – Plans

Reference Number: January 2007

Suggested conditions

As per current licence



