

Report of: Service Director, Public Protection

Meeting of:	Date:	Ward(s):
Licensing Sub-Committee - C	21/11/2019	Finsbury Park

		Non-exempt
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SUBJECT: PREMISES LICENCE REVIEW APPLICATION
RE: Kale Food and Wine, 169 Hornsey Road, London, N7 6RE

1. Synopsis

- 1.1 This is an application by **London Borough of Islington 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 is related to the following licensing objectives:
 - i) The prevention of crime and disorder

2. Relevant Representations

Licensing Authority	Yes
Metropolitan Police	No
Noise	No
Health and Safety	No
Trading Standards	No
Public Health	No
Safeguarding Children	No

London Fire Brigade	No
Local residents	No:
Other bodies	Yes: Local Councillor

3. Background

3.1 The premises currently hold a licence allowing:

- i) The sale by retail of alcohol, off supplies only Mondays to Saturday from 08:00 to 23:00, and on Sunday from 10:00 – 22:30.
- ii) The premises have no specified opening hours.

3.2 Licensing History:

- The premise licence holder transferred on to the licence in May 2017.
- The licence holder was invited into an officer panel in November 2018 for selling alcohol to a plain clothed Police officer outside its permitted hours (sale took place at 00:55).
- 30th September 2019, premises licence review application sought;
- 25th October 2019, licensing compliance check, notes at Appendix 3.

3.3

4. Planning Implications

4.1 There is no planning conflict in terms of established use or conditions or planning enforcement cases that relate to this premises, which has a long established retail use.

5. Recommendations

5.1 To determine the application to review the premises licence under Section 52 of the Licensing Act.

5.2 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.

5.3 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.

6. Reasons for recommendations

- 6.1 The Council is required to consider this application in the light of all relevant information, and if approval is given, it may attach such conditions as appropriate to promote the licensing objectives.

Appendices:

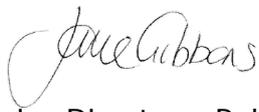
- Appendix 1: application form; including copy of current premises licence;
Appendix 2: representations;
Appendix 3: note of licensing officer visit on 25 October 2019
Appendix 4: suggested conditions and map of premises location.

Background papers:

None.

Final report clearance:

Signed by:


Service Director – Public Protection

11/11/19

Date

Report author: Licensing Service

Tel: 020 75027 3031

E-mail: licensing@islington.gov.uk

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 **Alonso Ercilla**

(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:

Rainbow Newsagents / Kale Food & Wine

169 Hornsey Road

Post town: **London**

Post code: **N7 6RA**

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

Nevruz Kale

Number of premises licence or club premises certificate: **LN/3343-040119**

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)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Alonso Ercilla Trading Standards Manager Public Protection Division 222 Upper Street London N1 1XR	
Telephone number:	020 7527 4028
E-mail:	alonso.ercilla@islington.gov.uk

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 a premises licence relates to the objective to prevent crime and disorder. In particular, it relates to the seizure of a quantity of illicit tobacco. A copy of the premises licence is attached as item 1.

Background

On Wednesday 17th April 2019, Trading Standards officers visited the premises as part of an illicit tobacco operation along with the licensing Police and a tobacco search dog and handler.

The premises licence holder, Mrs Nevruz KALE was present on the premises along with her husband, Mr KALE, and one other employee who refused to provide any details. Some loose packets of Mayfair cigarettes and L&M Red Label cigarettes were found by the search dog inside a black handbag behind the counter of the shop. These were thought to be illicit as they were not in plain packaging as required by the Tobacco and Related Products Regulations 2016. A photo of these cigarettes within the bag is attached as item 2. A total of 120 Mayfair cigarettes and 160 L&M Red label cigarettes were discovered behind the counter.

A larger quantity of cigarettes was then found inside a carrier bag behind the settee in the rear store room. These are illicit as they were not in plain packaging as required by the Tobacco and Related Products Regulations 2016. A photo of these cigarettes is attached as item 3. A total of 400 Mayfair cigarettes and 80 L&M Red label cigarettes were discovered in the rear storeroom.

A total of 760 illicit cigarettes were found on the premises. These were seized by Trading Standards officers who then submitted samples of the cigarettes to the relevant trade mark holders for examination.

On 3rd July 2019, the Mayfair cigarettes were confirmed to be counterfeit by the trade mark holder. A statement from them confirming this is attached as item 4.

On 12th August, Louise Smedley of Trading Standards hand delivered a letter to the PLH requesting that she attend the Council offices for an interview, at the premises address. The PLH was not present on the premises at the time, so the letter was handed to a male that was working behind the counter. A copy of this letter is attached as item 5. No response was ever received from Nevruz KALE.

On 23rd August 2019, the L&M cigarettes were confirmed to be genuine by the trade mark holder. A copy of their email confirming this is attached as item 6. However, as the cigarettes are not contained within plain packaging in accordance with the Tobacco and Related Products regulations 2016, they are still not to be legally sold in the UK and are therefore illicit.

Recommendations

We believe that a short to medium term suspension is appropriate in this instance, assuming that the licensee can persuade the committee that illegal tobacco will not be found in possession for sale at the premises again. We would also ask that the following conditions be added to the licence:

- 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 instructions 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 require staff to note any refusals to sell to young people in a refusals log. The refusals log shall be made available for inspection upon request by the licensing team, police or trading standards.
- The licensee shall keep invoices for its purchase of all age restricted products from its suppliers, which should be made available for inspection upon request by the licensing team, police or trading standards.

Finally, we cannot ask for conditions to be added to the licence concerning the possession and sale of illicit tobacco as, by definition, these products are illegal. We would therefore simply ask the committee to consider the extent to which the PLH, that has not cooperated with our investigation, can be considered to be fit to hold a premises licence.

Please tick ✓ yes

Have you made an application for review relating to this premises before No

If yes please state the date of that application

Day Month Year

Grid for date entry: Day, Month, Year (each with 2 boxes)

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

Handwritten signature

Date

Handwritten date: 25-9-19

Capacity Trading Standards Manager

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)



Premises Licence Summary

Licensing Act 2003

Premises licence number	LN/3343-040119	Date of original grant*	24 November 2005
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**An annual fee associated with this licence is to be paid on the anniversary of the original grant date.*

Postal address of premises, or if none, ordnance survey map reference or description RAINBOW NEWSAGENTS 169 HORNSEY ROAD			
Post town	London	Post code	N7 6RA
Telephone number			

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: Monday 08:00 to 23:00 Tuesday 08:00 to 23:00 Wednesday 08:00 to 23:00 Thursday 08:00 to 23:00 Friday 08:00 to 23:00 Saturday 08:00 to 23:00 Sunday 10:00 to 22:30 Except on: Good Friday: 08:00 to 22:30 Christmas Day: 12:00 to 15:00 and 19:00 to 22:30

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 of holder of premises licence

Nevruz Kale



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

N/A

Name of designated premises supervisor where the premises licence authorises the supply of alcohol

Nevruz Kale

State whether access to the premises by children is restricted or prohibited

It is an offence to allow persons under the age of 16 years to be on the premises whilst it is open exclusively or primarily for the supply of alcohol for consumption on the premises unless they are accompanied by a person aged 18 or over. No unaccompanied person under the age of 16 years shall be permitted on the premises between 12 midnight and 5am if alcohol is supplied for consumption on the premises.

No restrictions

Islington Council
Public Protection Division
222 Upper Street
London
N1 1XR
T: 020 7527 3031
E: licensing@islington.gov.uk

Summary

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.
3. All door supervisors shall be licensed by the Security Industry Authority.
4. The admission of children to the exhibition of a film shall be restricted in accordance with the recommendation of a film classification body as defined in the Video Recordings Act 1984 or Islington Council acting as the licensing authority where it has given notice in section 20(3) of the Licensing Act 2003.

There are further 'Mandatory conditions' applicable to licences authorising the supply of alcohol. A full list of the current mandatory conditions is available from the licensing pages on Islington's web site, www.islington.gov.uk. This list is subject to change by order of the Secretary of State and licensees and other responsible persons are advised to ensure they are aware of the latest conditions.

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) **) In the event that crime or serious disorder** is, or appears to have been, committed on the premises, the management will immediately ensure that:
- 4) (a) The police and, where appropriate, the London Ambulance Service, are called immediately;
- 5) (b) As far as is safe and reasonable practicable, all measures will be taken to apprehend any identified suspects pending the arrival of the police;
- 6) (c) As far as is safe and reasonable practicable, all measures will be taken to preserve any identified crime scene pending the arrival of the police;
- 7) (d) Any and all appropriate measures are taken to fully protect the safety of all persons present on the premises at all times during operating hours.
- 4) **An incident log shall be kept at the premises**, and made available on request to the police or an authorised officer, which will record:
 - (a) Any and all allegations of crime or disorder reported at the venue
 - (b) Any and all complaints received by any party
 - (c) Any faults in the CCTV system

- (d) Any visit by a relevant authority or emergency service
- (e) Any and all ejections of patrons
- (f) Any and all seizures of drugs or offensive weapons
- (g) Any refusal of the sale of alcohol

5) A proof of age scheme, such as Challenge (25), shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as: a driving license or passport / holographical marked PASS scheme identification cards.

6) CCTV shall be installed, operated, and maintained, to function all times that the premises is open for licensable activities. Said CCTV will comply with the following criteria:

- (a) The licensee will ensure that the system is checked every two weeks to ensure that the system is working properly and that the date and time are correct.
- (b) A record of these checks, showing the date and name of the person checking, will be kept and made available to the police or other authorised officer on request;
- (c) The Police will be informed if the system will not be operating for longer than one day of business for any reason;
- (d) One camera will show a close-up of the entrance to the premises, to capture a clear, full length image of anyone entering;
- (e) The system will provide full coverage of the interior of the premises and any exterior part of the premises accessible to the public;
- (f) The system will record in real time and recordings will be date and time stamped;
- (g) At all times during operating hours, there will be at least 1 member of staff on the premises who can operate the system sufficiently to allow Police or authorised Council officers to view footage on request.
- (h) Recordings will be kept for a minimum of 31 days and downloaded footage will be provided free of charge to the police or other authorised officers on request (subject to the Data Protection Act 1998) within 24 hours of any request

7) No high strength beer, lager or cider of 6.5% ABV or above shall be sold other than premium beer, lager or cider priced at £1.95 or above per 500ml.

8) The licensee shall ensure that staff are trained on relevant matters including the conditions on the premises licence; age restricted products; and (if they are ever left in charge of the shop) the operation of the CCTV system and how to deal with visits from authorised officers. The licensee shall keep records of training and instructions given to staff, detailing the areas covered, and make them available for inspection upon request by authorised officers. Staff shall sign to confirm that they have received and understood the training

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

N/A

Annex 4 – Plans

Ref: 88585Plan

Item 2



Item 3



Item 4



Louise Smedley,
Islington Trading Standards,
Public Protection Division,
222 Upper Street,
London,
N1 1XR

18 June 2019

Dear Louise

Your ref: WK/190011667, JTI Ref: 19/TS204 CE

I refer to your letter dated 31 May 2019 containing 2 x 20 Mayfair King Size cigarettes for examination.

Analysis of the sample has been conducted and the cigarettes have been found to be counterfeit. A witness statement is enclosed as requested.

Please note one Mayfair King Size cigarette was destroyed during the examination process.

The sample is returned herewith in sealed evidence bag numbered M13471086.

JTI would appreciate if you could share any additional information on any subsequent prosecution arising from this seizure. This information can be emailed to me at Kathryn.Sweeney@jti.com.

In case you wish to discuss please let me know.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'K. Sweeney', is written over the typed name and title. The signature is fluid and cursive, with a large loop at the end.

Kathryn Sweeney
DSI Seizures Manager
Anti-Illicit Trade

Encl.

JTI UK

JTI's UK trading company is Gallaher Limited
Virginia House, Weston Road, Crewe, Cheshire, CW1 6GH, UK
Telephone +44(0)1270 504500
Registered in England: Number 01501573
Registered Office: Members Hill, Brooklands Road, Weybridge, Surrey, KT13 0QU, UK
Telephone +44(0)1932 372000

jti.com/uk



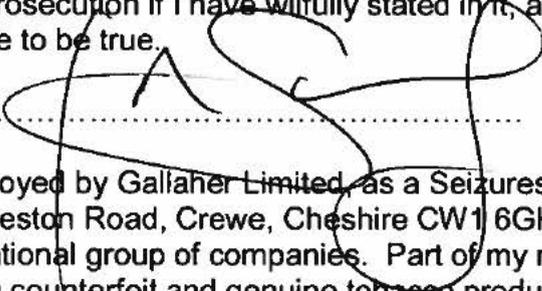
WITNESS STATEMENT
(CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B;
MC Rules 1981, r.70)

Statement of:Kathryn Sweeney.....

Age if under 18:over 18..... (if over 18 enter "over 18")

Occupation:.....Seizures Manager.....

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

Signature.....  Date..... 18/6/19

I am employed by Gallaher Limited, as a Seizures Manager, at their office at Virginia House, Weston Road, Crewe, Cheshire CW1 6GH. Gallaher Limited is a member of the JT International group of companies. Part of my role as a Seizures Manager includes identifying counterfeit and genuine tobacco products bearing trademarks owned by the JT International Group of companies, including Gallaher Limited. As part of my employment responsibilities, my employer has directed me to assist regulatory and enforcement bodies, upon their request, in matters relating to the supply of tobacco products by Gallaher Limited and its affiliate companies by providing technical analysis of suspected counterfeit products. I liaise frequently with regulatory and enforcement bodies advising on how to identify counterfeit tobacco products.

From my experience as a Seizures Manager, I am familiar with tobacco products produced by the JT International group of companies, including the methods of manufacture and packaging of those products and the trademarks that are applied to them. I am therefore able to examine and identify counterfeit tobacco products from genuine tobacco products manufactured by the JT International group of companies.

The JT International group of companies marks their products at the time of manufacture for commercial purposes.

I have been provided with a sample for examination by Louise Smedley, Islington Trading Standards. I received the sample on 3 June 2019. The sample was contained in a sealed evidence bag numbered M13471082. The contents were as follows:

 (Signature of Witness)

JTI UK
JTI's UK trading company is Gallaher Limited
Virginia House, Weston Road, Crewe, Cheshire, CW1 6GH, UK
Telephone +44(0)1270 504500
Registered in England: Number 01501573
Registered Office: Members Hill, Brooklands Road, Weybridge, Surrey, KT13 0QU, UK
Telephone +44(0)1932 372000

Page No.....2....of....2.....

Continuation of Statement of:Kathryn Sweeney.....

Evidence Bag Number: M13471082 Exhibit: LS/1/1
2 x 20 Mayfair King Size cigarettes

The sample was held in secure storage at Gallaher Limited Crewe until I examined it on 18 June 2019.

Evidence Bag Number: M13471082 Exhibit: LS/1/1
2 x 20 Mayfair King Size cigarettes
Pack Code: No Code

Based on my examination of the sample, I can confirm that the product in question was not manufactured by or with the authorisation of JT International SA or Gallaher Limited and that Gallaher Limited did not authorise its sale or importation into the United Kingdom.

Further, having conducted a number of examinations of the product, including a comparison of the construction of the cigarettes and packaging, I can confirm that these packs do not conform to genuine Mayfair product.

The product in question is therefore counterfeit.

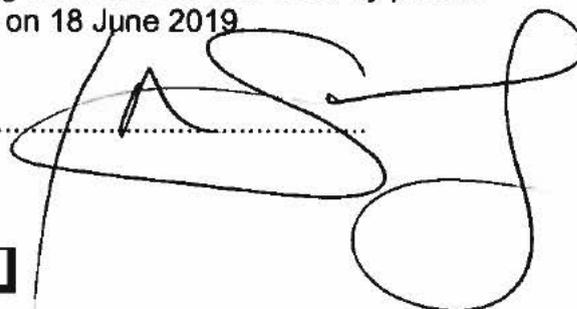
I can state that the Trade Mark **MAYFAIR** for cigarettes and tobacco products is owned in the UK by Gallaher Limited and used extensively in the UK by Gallaher Limited or its associated companies.

Extracts of the following UK Trade Mark Registrations: 2216236, 2521137 and 3065809 are attached as exhibits 19/TS204/KS1, 19/TS204/KS2 and 19/TS204/KS3.

In the process of analysing this sample I destroyed one Mayfair King Size cigarette.

On completion of my examination, I returned the sample and opened evidence bag numbered M13471082 in sealed evidence bag numbered M13471086 by post to Louise Smedley, Islington Trading Standards on 18 June 2019.

(Signature of witness)



Intellectual Property Office

Trade mark number

UK00002216236

Status
Registered

Historic case details

Trade mark

MAYFAIR

Dates

Filing date

03 December 1999

Date of entry in register

16 June 2000

Renewal date

03 December 2019

Goods and services

Classes and terms

Class 34

Tobacco, smoking substances; snuff; smokers' articles; cigarette papers; cigarette tubes; matches.

Names and addresses

Owner(s) name

Gallaher Limited

Members Hill, Brooklands Road, Weybridge, Surrey, KT13 0QU, United Kingdom

Country of Incorporation

United Kingdom

View owner's other trade marks

IPO representative name

CMS Cameron McKenna Nabarro Olswang LLP

Cannon Place, 78 Cannon St, London, EC3N 6AF, United Kingdom

Publications

First advert

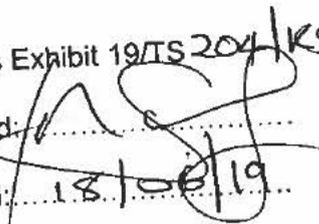
Journal

6317

Date of publication

01 March 2000

Intellectual Property Office is an operating name of the Patent Office

This is Exhibit 19/TS 204/KS1
Signed: 
Dated: 18/06/19
Referred to in my Statement

Intellectual Property Office

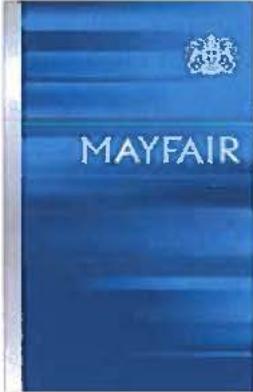
Trade mark number

UK00002521137

Status
Registered

[Historic case details](#)

Trade mark



Mark details

Mark Description/Limitation

MARK DESCRIPTION: blue, light blue, silver

Dates

Filing date

16 July 2009

Date of entry in register

23 October 2009

Renewal date

16 July 2019

Goods and services

Classes and terms

Class 34

Tobacco; whether manufactured or unmanufactured; smoking tobacco, pipe tobacco, hand rolling tobacco, chewing tobacco, snus tobacco; cigarettes, cigars, cigarillos; substances for smoking sold separately or blended with tobacco, none being for medicinal or curative purposes; snuff; smokers' articles included in class 34; cigarette papers, cigarette tubes and matches.

Names and addresses

Owner(s) name

Gallaher Limited
Members Hill, Brooklands Road, Weybridge, Surrey, KT13 0QU, United Kingdom
Country of Incorporation
United Kingdom

[View owner's other trade marks](#)

IPO representative name

Haseltine Lake Kempner LLP
Fountain House, 4 South Parade, Leeds, LS1 5QX, United Kingdom

Publications

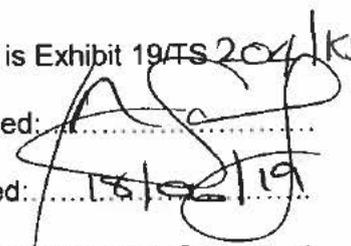
First advert

Journal
6798

Date of publication
14 August 2009

Intellectual Property Office is an operating name of the Patent Office

This is Exhibit 19/TS 204/KS2

Signed: 

Dated: 16/08/19

Referred to in my Statement

Intellectual Property Office

Trade mark number

UK00003065809

Status
Registered

[Historic case details](#)

Trade marks



Mark details

Number of marks in series

4

Dates

Filing date
25 July 2014

Date of entry in register
23 January 2015

Renewal date
25 July 2024

Goods and services

Classes and terms

Class 34

Tobacco, whether manufactured or unmanufactured; smoking tobacco, pipe tobacco, hand rolling tobacco, chewing tobacco, snus tobacco; cigarettes, electronic cigarettes, cigars, cigarillos; snuff; smokers' articles; cigarette papers, cigarette tubes and matches.

Names and addresses

Owner(s) name

Gallaher Limited
Members Hill, Brooklands Road, Weybridge, Surrey, KT13 0QU, United Kingdom
Country of Incorporation
United Kingdom

[View owner's other trade marks](#)

IPO representative name

CMS Cameron McKenna Nabarro Olswang LLP
Cannon Place, 78 Cannon St, London, EC3N 6AF, United Kingdom

Publications

First advert

Journal
2014/047

Date of publication
14 November 2014

Intellectual Property Office is an operating name of the Patent Office

This is Exhibit 19/TS 204/KS3

Signed

Dated

Referred to in my Statement

Item 5

Ms Nevruz Kale
Kale Food & Wine
169 Hornsey Road
London
N7 6RA

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

T 0207 527 2235
F 0207 527 3038
E louise.smedley@islington.gov.uk
W www.islington.gov.uk

Our ref: WK/190011667

Date: 23 September, 2019

This matter is being dealt with by:
Louise Smedley

Dear Ms Kale,

**THE TOBACCO AND RELATED PRODUCTS REGULATIONS 2016
THE TRADE MARKS ACT 1994**

On 17th April 2019, officers from Islington Council Trading Standards Service conducted a visit of your premises, Kale Food & Wine at 169 Hornsey Road, London, N7 6RA, of which you are the premises licence holder and designated premises supervisor. The visit was conducted as part of an illicit tobacco operation involving a tobacco detection dog during which a consignment of illicit cigarettes was seized from your premises, both from behind the counter and in the rear stock room.

The cigarettes were submitted to the trade mark holders for examination. Some have now been confirmed as counterfeit, which is an offence under s.92 of the Trade Marks Act 1994. The others failed to contain adequate health warnings, which may constitute offences under the Tobacco and Related Products Regulations 2016. Having considered this evidence, I would now like to invite you to attend a meeting, where you will be questioned about these alleged offences on:

Monday 19th August 2019 at 14:00 at 222 Upper Street, London, N1 1XR

Following the interview, a report will be submitted to the Trading Standards Head of Service for his opinion on what action should be taken. This could result in a review of your premises licence.

If you have any further queries regarding this matter, please do not hesitate to contact me using the details provided above.

Yours sincerely,

Louise Smedley
Senior Trading Standards Officer

Item 6

From: Sunil, Priya [<mailto:PSunil@marks-clerk.com>]

Sent: 23 August 2019 15:09

To: Waters, Emma <Emma.Waters@islington.gov.uk>

Cc: MCS-PMI <MCS-PMI@marks-clerk.com>

Subject: FW: PMI PI&S Analysis results: United Kingdom - UK-2019-SZ-0624 - London / Greater London - Kale Food & Wine | 190011667

Dear Emma

I am forwarding to you the results of the analysis undertaken by PMI of the samples referenced '190011667' (please see below). The information below makes express reference to your evidence bag number for the samples of the products seized. All samples were found to be genuine, i.e. not counterfeit.

Should you require any further information please do not hesitate to contact me on 020 7420 0272.

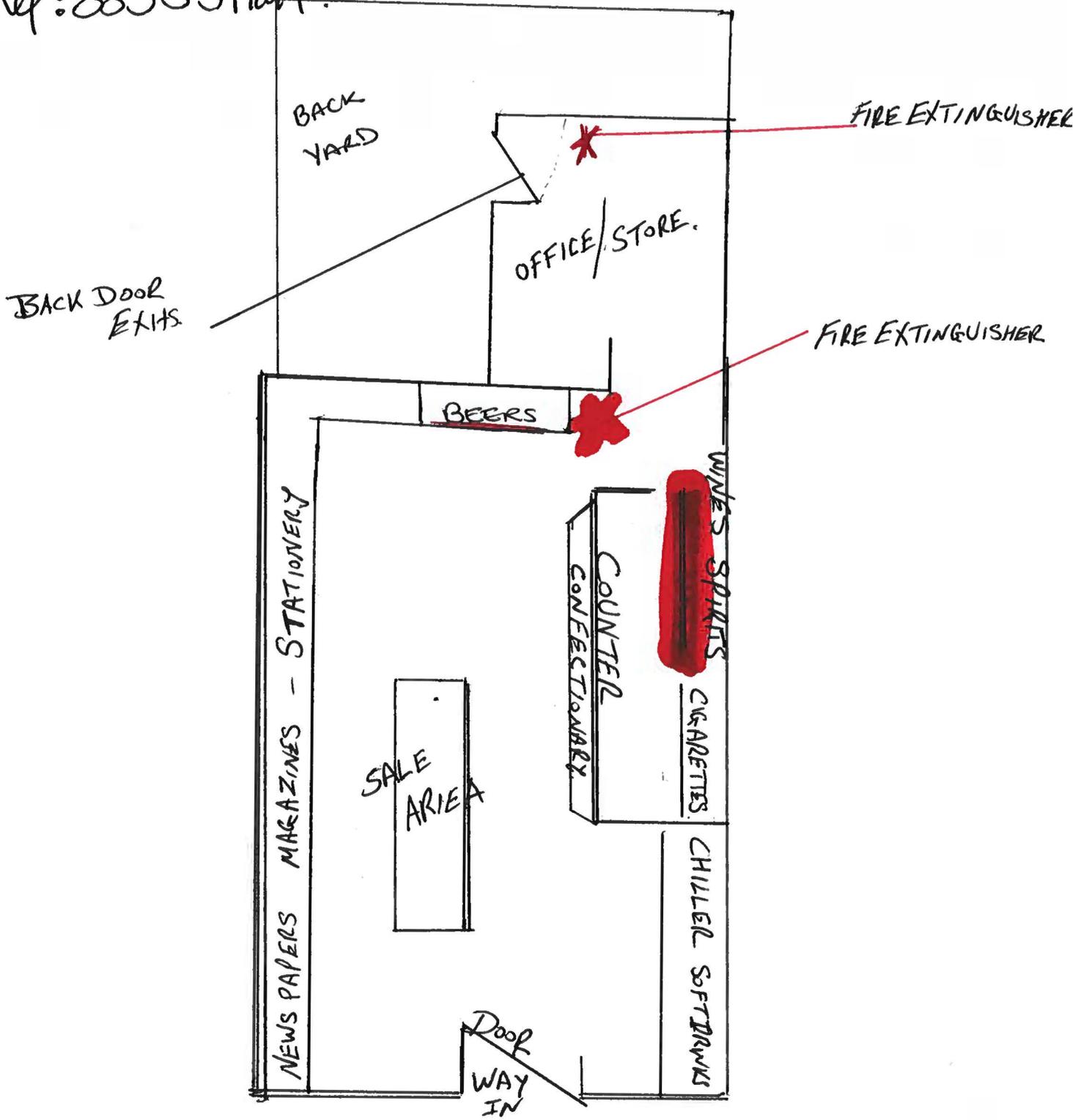
Kind regards
Priya

Priya Sunil | Paralegal
Marks & Clerk Law LLP

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Ref: 88585 Plan.



NEWSAGENTS & OFF LICENCE
169 HORNSEY ROAD N.7 6RA.

Licensing Act 2003

Licensing Authority Representation

Premises Licence Review Application:

Kale Food and Wine, 169 Hornsey Road N7 6RA

I am submitting a representation on behalf of the Licensing Authority with respect to the premises licence review application, submitted by Islington Council's Trading Standards team in relation to the above premises.

The premises currently benefits from a premises licence authorising:

- The sale by retail of alcohol, off supplies only, Mondays to Saturdays from 08:00 until 23:00, on Sundays 10.00 to 22.30.

The grounds for the representation are:

- Prevention of crime and disorder.

Licensing Policy Considerations

Licensing Policy 8 *Standards of Management;*

Licensing Policy 29 *Review of Premises Licences*

Issues of Concern

The Licensing Authority supports the Trading Standards team's application to review the premises licence as it believes the standards of management of the premises (LP8) are well below that which we would expect. This is of particular concern when dealing with a shop selling alcohol. The reported incidents of the sale of illicit and counterfeit cigarettes are very concerning and highlights the poor standard of management.

Nevruz Kale, the licensee and DPS attended a licensing officer panel on 25 September 2018 after an incident where they failed to challenge a person under 25 years of age when they bought alcohol. Ms Kale agreed to put more conditions on the licence to assist in managing the premises, to keep within the law and to ensure staff promote health and safety, prevent crime and protect children from harm. The licensee agreed to the conditions that are on the current licence and to attend training provided by Trading Standards.

On 1 November 2018 the licensee Ms Nevruz Kale attended the Council offices for a meeting and received a warning regarding selling alcohol after the permitted hours – at 00.55 on 5 October 2018, when the premises should have ceased sale of alcohol at 23.00. Further checks were carried out to ensure compliance with the hours.

On 25 October 2019 Licensing Officers visited the premises to carry out a premises licence compliance check, the licensee Mrs Nevruz Kale was present at the premises. During the visit it was found that there were breaches of the licence conditions.

Summary

When assessing the licensee's ability to demonstrate a commitment to high standards of management, the Licensing Authority recommends that the Licensing Sub Committee take into account whether the applicant or licensee:

can demonstrate comprehensive knowledge of best practice

has sought advice from the responsible authorities

has implemented any advice that been given by the responsible authorities

is able to understand verbal and written advice and legal requirements

can demonstrate knowledge of the licensing objectives, relevant parts of the Licensing Policy and their responsibilities under the Licensing Act 2003

is able to run their businesses lawfully and in accordance with good business practices

can demonstrate a track record of compliance with legal requirements

Licensing Policy 8 states "Where there is a history of non-compliance associated with the management of the premises the Licensing Authority is unlikely to grant a new or variation application, or permit premises to continue to operate without further restrictions on Review, unless there is evidence of significant improvement in management standards."

The Licensing Authority supports the Trading Standards recommendation for a suspension of the premises licence, if a credible and realistic action plan to address all areas concern is evidenced, if not, the Licensing Authority believes that revocation could be deemed appropriate in this case.

Terrie Lane
Licensing Manager

28th October 2019

Forde, Niall

From: Shaikh, Asima
Sent: 20 October 2019 11:30
To: Licensing; Heather, Gary; Osullivan, Michael
Cc: Forde, Niall
Subject: Re: Premises Licence Application: Kale Food & Wine, Shop, 169 Hornsey Road, Islington, London, N7 6RA.

Hi Niall

I support the actions being proposed here.

Thanks

Asima

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From: Burrell, Ryan <Ryan.Burrell@islington.gov.uk>
Sent: Friday, October 18, 2019 3:56:34 PM
To: Heather, Gary <Gary.Heather@islington.gov.uk>; Osullivan, Michael <Michael.Osullivan@islington.gov.uk>; Shaikh, Asima <Asima.Shaikh@islington.gov.uk>
Cc: Forde, Niall <Niall.Forde@islington.gov.uk>
Subject: Premises Licence Application: Kale Food & Wine, Shop, 169 Hornsey Road, Islington, London, N7 6RA.

Dear Sir/Madam,

We have received the following attached application for a **Review**

Premises name: Kale Food & Wine,

Address: 169 Hornsey Road, Islington, London, N7 6RA.

Application received: 30/09/2019

Last date for representations: 28/10/2019

Regards

Licensing Team
Public Protection Division
Environment & Regeneration
Islington Council

Licensing visits on 25/10/19 CJ and NO

19.36 JE Food and Wine (Waller's), 187 Blackstock Road

Review pending – compliance check of the licence conditions, Arrived at premises which is named Wallers, there were two staff members –one behind the counter and another lady on the shop floor. We introduced ourselves and stated the reason why we were visiting and what we were going to do. Premises Licence was on display, there was a Challenge 25 sign up above the counter but it was hidden behind other notices including and Xmas card which the staff member removed, she was advised that the notice should be clearly seen. There is a refusal book in premises and the last entry is dated 22/10/19. The lady behind the counter said her husband owned the business- he came into the store and spoke with us.

Going through the premises licence the conditions below do not appear to be complied with

Condition 5 - – there are No notices asking customers to leave quietly. Mr Emmanuel said there were notices up by the door/front windows – they may have been there previously but nothing on display at the time of our visit.

Condition 6 – There is no panic button installed at the counter, we were shown a button but after discussion transpires that is only for calling staff who are at the back of the store.

Condition 9-CCTV, -CJ asked to see the CCTV – Mr Emmanuel stated that his son can operate the CCTV he isn't able to. We went to the rear of the store and the CCTV is located in a tiny office, there was no time stamped on the CCTV.

CJ stated she had concerns – they seemed completely unaware that a review is pending and said they hadn't received any paperwork about it. Mrs Emmanuel said someone had come into the store a couple of days ago but she didn't know who it was.

We left the store and a just a little bit further up Blackstock Road we saw the review notice for 187 Blackstock Road displayed on the lamppost, we went back to the store and got Mr Emmanuel and his wife to come with us so we could show them, they kept stating that they didn't know anything about a review. CJ said to them it may be helpful for them to seek legal advice.

Suggested conditions put forward by Responsible Authorities in response to the application for review:

Conditions proposed by the Council's Trading Standards Service

1. 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 instructions given to staff, detailing the areas covered, and make them available for inspection upon request by the licensing team, police or trading standards.
2. The licensee shall require staff to note any refusals to sell to young people in a refusals log. The refusals log shall be made available for inspection upon request by the licensing team, police or trading standards.
3. The licensee shall keep invoices for its purchase of all age restricted products from its suppliers, which should be made available for inspection upon request by the licensing team, police or trading standards.



Layer Tools

SHOW LAYERS

Base Mapping

MASTERMAP +

VECTORMAP LOCAL +

Islington and surrounding Borough Boundaries

Islington Borough Boundary

LLPG Points (Postal)

LLPG Search

NLPG Points 100m Buffer to Islington (Postal)

LLPG Points (Non-postal and Postal)

Borough Wide +

Parking +

Housing +

LBI Organisations +

Planning - Policies Map +

Planning - Other Constraints +

Historical Maps +

