

[Insert name and address of relevant licensing authority and its reference number (optional)]

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

WILMINGTON COUNCIL
LICENSING
RECEIVED

25 JUN 2019

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 L. B. Haringey Trading Standards (Responsible Authority)

(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 in 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 Tilson Store, 40 Tilson Road, Tottenham, N17 9UY.	
Post town London	Post code (if known) N179UY

Name of premises licence holder or club holding club premises certificate (if known) Zeynel GUNDUZ

Number of premises licence or club premises certificate (if known) LN/000008629

Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)

2) a responsible authority (please complete (C) below)

3) 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 ✓ yes

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)

fro

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address L.B. Haringey Trading Standards Service 1 st Floor, River Park House, 225 High Road London N22 8HQ
Telephone number (if any) 020 8489-5158
E-mail address (optional) Felicia.Ekemezuma@haringey.gov.uk

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

- | | |
|-----------------------------------------|-------------------------------------|
| | Please tick one or more boxes ✓ |
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 2)

Introduction

This application to review relates primarily to the objective To Prevent Crime and Disorder but also relates to the objective relating to the Protection of Children From Harm.

It primarily concerns the discovery of non Duty paid beer and wine on the Licensed Premises on 1st April 2019 following a visit by officers of Trading Standards and Her Majesty's Revenue and Customs (HMRC). The total amount of UK excise duty evaded from the seizure is £1,124.82. This relates to 162 litres of wine and 504 litres of beer.

The application also deals with the breach of specific Licence Condition's applied by way of Minor Variation at the request of Trading Standards on 21st September 2016, namely the requirement to keep valid invoices on the premises for alcohol purchases and to make them available on request. This Minor Variation was agreed with the Premises Licence Holder following a prosecution of the Licensee for stocking illegal products. This prosecution took place on 8th June 2016.

There is also evidence of a breach of the following Licence Condition relating to The Protection of Children namely:-

- A register of refused sales shall be kept and maintained on the premises.

As a recent inspection on 10th January 2019 under the Councils Responsible Trader Scheme revealed that this register was not being properly maintained.

Specific Details of Actions:

At approximately 10:15 hours on the 01/04/2019, Trading Standards carried out an inspection of the Licenced premises in partnership with officers of Her Majesty's Revenue and Customs (HMRC). The purpose of the visit was to inspect the alcohol and tobacco products on the premises.

A witness statement is attached as Appendix 1 from Ruth STRAUSS of HMRC which gives full details of the visit.

The Premises Licence Holder and Designated Premises Supervisor Mr. Zeynel GUNDUZ was not present during the visit and was apparently out of the country. A man who identified himself as Zeynel GUNDUZ was contacted by an employee and was available by telephone during the visit

A male who identified himself as Matin ARDA appeared to be in charge of the premises on the day of the visit.

During the visit officers discovered a display of beers in the fridge in the shop. Officers found various brands of Polish beer in 50cl cans that were not priced. When asked about the beer

prices the shop assistant confirmed that there was no scanner in the shop and all the Polish beers were priced at £1.29.

Where goods are offered for sale to consumers they must have their price clearly indicated and be inclusive of VAT. This is controlled by the Price Marking Order 2004. To fail to do this can be a criminal offence.

HMRC have stated that UK excise duty on a 500ml can of Perla Black a Polish beer found on the premises at 7.6% ABV is 0.94 pence plus VAT which totals £1.11 a can. this price does not factor in the cost of manufacturing the beer, transport costs, buying from a Cash & Carry who would sell to make a profit. It also does not include the traders profit whilst selling to a retail customer. Officers were, therefore, suspicious that Perla black priced at £1.29 was too low to be economically viable and was therefore and an indicator that the beer was not Duty Paid.

HMRC were also concerned about the wine (RSA Cimarosa) found on the premises and were informed that this was being sold for £5.99 a bottle.

During the visit here were various telephone conversations with the man who identified himself as Mr Zeynel GUNDUZ the Licensee and Designated Premises Supervisor. These are detailed in Ruth STRAUSS's witness statement and I have summarised them below.

Mr GUNDUZ stated he had run the business for seven years. He stated he was in Turkey at the time of the visit and would return the following week. Mr GUNDUZ stated he had purchased the beer and wine from a shop that had closed down called Dem's in Thakaray Avenue, Tottenham a month previously. This was later confirmed by him to be an Off Licence known as Cansu.

When questioned Mr GUNDUZ initially stated the invoice for the alcohol was with him in Turkey and that he had paid for them in Cash.

Mr GUNDUZ was asked to send a photo of the invoice via mobile phone so that the goods in the shop which were suspected of being non Duty Paid could be checked against the invoice. At this point Mr GUNDUZ confirmed the invoice was in fact in the UK.

Mr GUNDUZ confirmed that the beer and wine which was suspected of being non Duty paid had all come from Dems/Cansu which was a shop he had bought which was currently closed for refurbishment.

Trading Standards spoke with Mr. Gunduz over the phone and asked him to provide the invoices for all the alcohol currently in the shop to HMRC as the requirement to provide invoices on request was part of specific Licence conditions for the premises. At this point invoices which were stored in the shop were provided to Trading Standards and HMRC by the shop staff.

When examining the invoices which were available HMRC found one invoice dated 01/02/ 2019 from Abra Wholesale Ltd which shows that 5 cases of Tyskie and 5 cases of Lech had been purchased. A case contains 24 x 50 c/s cans. HMRC found no other invoices for purchases of Polish beer and no invoices for RSA Cimarosa wine.

It is our submission that it is a breach of specific Licence Conditions detailed below to fail to

produce invoices on request for all the alcohol at the premises.

- The Premises Licence Holder and Designated Premises Licence Holder shall ensure alcohol is only purchased from an authorised wholesaler and shall produce receipts for the same upon request for inspection. (An authorised wholesaler means an established warehouse or trade outlet with a fixed address and not a van or street trader, even if they claim they are part of, or acting on behalf of, an authorised wholesaler who provides full itemised VAT receipts).
- The Premises Licence Holder shall ensure all receipts for alcohol goods purchased include the following details:
 - I. Seller's name and address
 - II. Seller's company details, if applicable
 - III. Seller's VAT details, if applicable
 - IV. Vehicle registration detail, if applicable
- Legible copies of the documents referred to in Condition 3 above shall be retained on the premises and made available for inspection by Police and authorised Council Officers on request.

In previous visit to the premises on 29th September 2018 by the Food and Trading Standards Team, officers had discovered 66 Cases of Polish beer in a storeroom in the rear yard of the premises. Mr GUNDUZ was not at the premises and on that day. On that occasion Staff were unable on request to provide an invoice for the beer in the shop.

24/5/2018 A routine visit by a Licensing Officer had led to the officer noting the presence of large stocks of Polish beer in a storeroom in the rear yard.

It is therefore, believed for the reasons above that Polish beers have been stocked and sold by the shop for an extended period and were not a one off transaction of stock from a closed business.

As the visit continued Officers were then informed via a third party speaking to Mr Gunduz that in fact there were no invoices available for the beer and wine which was suspected of being non Duty paid as they had been destroyed by the owner of the shop from which they had been purchased. (See statement of Ruth Strauss: Appendix 1)

The beers and wines which were suspected of being non Duty Paid were seized by HMRC. HMRC have stated that the seizure was not appealed within the time limit and as such the goods were condemned. The total amount of UK excise duty evaded from the seizure is £1,124.82. This equates to 162 litres of wine and 504 litres of beer.

It is normal practice for HMRC to issue an assessment to the trader to pay the Duty owed and I understand that Mr GUNDUZ has contacted HMRC in this respect to pay the Duty.

It can be an offence under Section 144 of The Licensing Act 2003 to keep Non Duty Paid goods on a Licenced Premises.

On 8th June 2016 Zeynel GUNDUZ was previously fined £6,000 with Costs of £894.80 in relation to offences relating to illicit tobacco and alcohol in a case brought by Trading Standards.

This matter related to the seizure of 5,000 cigarettes 50 x 50g pouches of hand rolling tobacco which were bore incorrect health warnings and 9 bottles of High Commissioner Whisky which bore false UK Duty stamps. See Hearing Report Appendix 4.

As a result of this prosecution a Minor Variation was made to the Licence with the agreement of the Premises Licence Holder to incorporate requirements to keep relevant invoices on the premises and for them to be available to Council officers on request,

A visit under the Councils Responsible Trader Scheme was made on 10th January 2019 and it was discovered during the visit that the Refusals Register was not being maintained on the premises in accordance with the terms of the Scheme and the following Licence Condition relating to The Protection of Children.

- A register of refused sales shall be kept and maintained on the premises.

Attached is the follow up letter sent as a result of this inspection on 28th January 2019 see Appendix 3.

Tilson Stores membership of the Responsible Trader Scheme has now been suspended pending the outcome of this Review.

Trading Standards have made this application for Licence Review as they are concerned that:-

- 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 organised crime.
- The trade in illicit alcohol causes huge losses to the UK's tax revenues.
- The trade in illicit alcohol facilitates teen drinking
- The trade in illicit alcohol makes it harder to beat addiction
- Illicit goods may be harmful as they do not come from legitimate, legal and/or traceable suppliers. There is no guarantee that they are safe and comply with other legislation.
- Supplying alcohol at cheap prices undermines the effectiveness of measures designed to prevent anti social behaviour and undermines the public health message.

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. The London Borough of Haringey 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:-

Date	Event	Description
1 st April 2019	Visit to Licenced Premises by Trading Standards and HMRC	£1,124.82 of non Duty Paid Goods seized. This equates to 162 litres of wine and 504 litres of beer which were seized.
28 th January 2019	Letter sent re refusals register	Letter sent reminding premises to use their Refusals Register correctly
10 th January 2019	Responsible Trader Scheme Visit	Refusal Register Not being maintained properly.
29 th September 2018	Visit by Trading Standards and Food Officers	66 cases of Polish Beer discovered for which no invoices were available
24 th May 2018	Visit by Licensing Officer	Officer noticed large stocks of Polish beer
8 th June 2016	Prosecution at Highbury Magistrates Court	Zeynal GUNDUZ pleaded Guilty to three offences and was fined £6,000
25 th November 2015	Previous Seizure of Illicit Tobacco and alcohol	Trading Standards Seize 5,000 cigarettes, 50 pouches of hand rolling tobacco and 9 bottles of High Commissioner Whisky

Recommendations:

This licensee has clearly demonstrated that there has been a history of a breakdown in due diligence in respect to the sourcing of legitimate products to be sold by the business and a failure to pay Duty to HMRC.

There is also a general lack of adherence to Licence Conditions as specified in this application.

The scale of the Duty Evasion together with a previous conviction for stocking illegal tobacco and alcohol means that Trading Standards have severely reduced confidence in the Premises Licence Holder and Designated Premises Supervisor Zeynel GUNDUZ . Trading Standards therefore, recommend that the Committee seriously consider revoking the Licence.

If the Committee are not minded to revoke the Licence then Trading Standards recommend a period of suspension of the Licence for at least three months and would suggest the Committee require the Designated Premises Supervisor to undertake refresher training or instead be removed from the Licence as deemed appropriate.

Please provide as much information as possible to support the application (please read guidance note 3)

Attached Documents

Appendix 1: Statement of Ruth STRAUSS of HMRC

Appendix 2: Photos of Seized beer and wine from visit on 1st April 2019.

Appendix 3: Letter Sent to Tilson Stores dated 28th January 2019 in relation to the use of their Refusals Register.

Appendix 4: Hearing Report from Previous Conviction on 8th June 2016.

Please tick ✓ yes

Have you made an application for review relating to the 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 the 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 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature

.....


Date

.....
25th June 2019

Capacity

.....
TACTICAL TRADING STANDARDS OFFICER

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

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

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.