

**Application for a review of a Premises Licence at Maxxi Food & Wine, 42  
Topsfield Parade, London N8 (Crouch End)  
30 May 2023**

The Licensing Sub-Committee (“the Committee”) carefully considered the application for a review of the premises licence pursuant to Section 51 of the Licensing Act 2003 at Maxxi Food & Wine, 42 Topsfield Parade, London N8 8PT (Crouch End) (“the Premises”). In considering the application, the Committee took account of the report pack, the written and verbal representations made by Trading Standards, Public Health, the representations made on behalf of Ms Yengin the licence holder and Designated Premises Supervisor (“DPS”) at the time of the review application, Mr Karagoz the current interim licence holder and the other parties including Councillors. The Committee had regard to the Council’s Statement of Licensing Policy, the Licensing Act 2003 and the Licensing Act 2003 s.182 guidance.

Having had regard to all the representations the Committee decided that in response to the issues raised it was appropriate and proportionate to revoke the premises license for the promotion of the licensing objectives.

### **Reasons**

The Committee resolved that at the Premises there had been a failure to promote the licensing objectives of the Prevention of Crime and Disorder, the Prevention of Public Nuisance and the Protection of Children from Harm.

Applications dated 26 April 2023 were made to vary the licence to specify Mr Ahmet Karagoz as DPS and to transfer the licence to him.

The Committee were satisfied that unlawful activity has taken place at the premises since Ms Aylin Yengin has been the premises licence holder and despite previous advice from Trading Standards it has continued, even after Mr Karagoz became the interim licence holder and interim DPS pending the determination of his applications of 26 April 2023.

The Committee were satisfied that the following unlawful activity was occurring at the premises:

- stocking for sale non-compliant Electronic cigarettes (vapes)
- stocking for sale and Sildenafil and Kamagra gel (“Viagra”) without a medical registration from Medicines and Healthcare
- selling Nitrous Oxide gas (“NOS”) knowing or failing to have regard to the psychoactive effects and the risks for misuse and in the knowledge that their customers consumed the substance outside the premises.

The Committee noted the complaints history relating to the premises and all other relevant information:

The Committee accepted representations from Councillor Luke Cawley-Harrison who had submitted a complaint on behalf of residents on 28 September 2022 regarding activities related to breaches of the conditions of the licence.

The Committee noted there was a visit to the premises from Trading Standards on 11 January 2023 ("the Visit") and several items were found at the premises including electronic cigarettes and controlled medication in breach of the Prevention of Crime and Disorder licencing condition. The Committee had regard to Ms Yengin's email response to the letter issued to her by Trading Standards on 12 January 2023. The Committee concluded that she would have been aware of relevant matters at the premises as she had confirmed that she was the sole owner of the business trading as the licenced premises spent 40 hours per week at the premises. Ms Yengin confirmed that Altun Asya and Maxxi Stores were the same business and that she was previously the owner of Maxxi Stores, 38 Chase side, London N14 5PA ("38 Chase side"). The Committee accepted the Police's representations that the licence for that premises was reviewed in January 2023 and had been revoked due to unlawful activity including a breach of the licence conditions, selling non-compliant vapes and e-cigarettes; selling Viagra and Sildenafil without a medical registration from Medicines and Healthcare products Regulatory Agency ("MHRA") and selling drug paraphernalia and NOS. The revocation had not been disputed.

It was noted by the Committee that Ms Yengin confirmed that Mr Uygur Altun formerly/aka Kemal Altun was her partner and that he has been the main point of contact throughout the proceedings. The Committee had regard to the evidence of the history of Mr Altun's involvement including that in 2006 he had operated from 495 Hertford Road, Enfield and his licence had been revoked in 2015 for breach of Licence conditions and on the ground of the Prevention of Crime and Disorder as the premises had been found to be selling non duty paid tobacco and alcohol. The Committee accepted the evidence to be credible.

It was noted by the Committee from the Companies' House excerpts that Mr Altun continues to be a director and a person with significant control of the business of Altun Asya at the premises. This was not denied.

The Committee concluded that Ms Yengin was aware that the electronic cigarettes offered for sale were not lawful prior to the visit, noting that similar products were seized from 38 Chase side on 4 August 2022 whilst Ms Yengin was DPS there. The Committee also noted that it had not been disputed that erectile dysfunction tablets were being offered for sale prior to the visit.

It was noted that Ms Yengin stated in her email following the visit that she had removed the erectile dysfunction tablets from display for sale, however the Committee failed to accept this version of events. The Committee accepted following a second visit from Trading Standards on 24 January 2023 ("24 Jan Visit") the Police's representations that the fact that the medicines had been removed from their original packaging and displayed in small quantities along the shelf edge was evidence of the licence holder's intention for them to be sold at the premises at affordable prices without controls. The Committee concluded that Ms Yengin was aware that erectile dysfunction tablets were illegal to sell over the counter especially since similar products had been seized by Enfield Council on 4 August 2022 from the other shop trading as Maxi Stores where Ms Yengin had also been the DPS.

The Committee was satisfied on all the evidence that there had been a breakdown in due diligence in respect of sourcing legitimate products to be sold by the business and a general lack of adherence to the licence conditions. The Committee was satisfied that this was due to both poor management by Ms Yengin but also poor company practice/policy over a number of years.

The Committee accepted the evidence of Ms Maria Ahmad the Health Improvement officer from the Public Health department and of the serious risk to the health of members of the public related to the unlawful sale of erectile dysfunction tablets. The Committee acknowledged that there had been an admission that the erectile dysfunction tablets should not have been on display for sale by the Licence holder's representative.

The Committee accepted evidence from Ms Ahmad that the psychoactive substance, NOS is a serious public health concern.

The Committee concluded on the basis of the evidence provided by Trading Standards and the representations made on behalf of the Licence Holder that NOS was being sold at the premises and it was likely that the business could be seen to be indicating to customers that the business has a tolerant attitude towards the sale of these and other psychoactive substances. The Committee concluded that evidence in support of this was the photographic evidence of NOS canisters discarded in the street that matches the brand of canisters sold on the licenced premises. Further, the "TikTok" page associated with the business, named "maxxifoodwine" which had photographs of the shop that clearly marketed NOS alongside electronic cigarettes using imagery and music which would promote NOS and electronic cigarettes could be appealing to young people. The Committee noted that the licence holder's representative acknowledged that videos displaying NOS had been uploaded to TikTok by a member of staff. The Committee decided that regardless of whether the videos and photographs had been uploaded by the Licence holder or a member of their staff it provided evidence that the licencing objective of Protecting Children from Harm was undermined.

The Committee did not accept Ms Yengin's assertion that her staff are trained and informed of every detail of each product given the evidence of the employee at the visit who did not appear to be aware of the psychoactive effects of NOS. They found that the lack of sufficient training was contrary to the Licensing objective of the Prevention of Crime and Disorder and a breach of the licensing conditions.

The Committee was unconvinced by the explanation given regarding the alternative uses for NOS and concluded that the Licence holder was aware that NOS was being bought from the premises to be misused for their psychoactive effects.

The Council's Statement of Licensing Policy at paragraph 16.6 and 16.7 on page 27 states:

*"This Authority is concerned over the frequently observed practice of an application for a transfer of a premises licence being made following an*

*application for a review of that same licence being lodged. Where, such applications are made, this Authority will require documented proof of transfer of the business / lawful occupancy of the premises (such as a lease), to the new proposed licence holder to support the contention that the business is now under new management”*

The Committee accepted the Police’s unchallenged representations put to Mr Karakov in their email of 2 May 2023 that this was a family business and that as he was a part of the family run business it was not credible that Ms Yengin and Mr Altun would be removed from the business completely and Mr Karakov himself had given no such assurances to the Police.

The Committee had regard to the fact that on 23 May 2023 photographs were taken outside the premises showing a large delivery of Fastgas NOS canisters to the premises. The Committee accepted the representations made by Councillor Cawley Harrison that the Licence holder had intended for the items from the large delivery to be made available for sale and that there does not appear to be any other supplier of NOS in the area.

Councillor Lester Buxton and Councillor Cawley-Harrison residents and the London Borough of Haringey’s Noise and Nuisance officer Jennifer Barrett who gave evidence of the nuisance being caused by the activities in the premises in the locality. The Committee preferred their evidence over that of the Ms Yengin and Mr Karagoz who said that since the review was commenced in February, there had been no sale of NOS from this premises to persons who will have taken it outside and will have consumed it. The Committee considered a number of reports from various residents by email. Despite hearing evidence on behalf of the licence holder that the anti-social behaviour was not outside their premises and that the litter/debris from the NOS cannisters had not originated from their premises, the Committee concluded that the sales of NOS from the premises had caused a significant increase in anti-social behaviour outside the premises especially at unsociable hours including; littering, loud noise played from cars, noisy gatherings and shouting at unsociable hours which had resulted in anxiety, interference with enjoyment for local residents. The Committee concluded that the sale of NOS from the premises had led to anti-social behaviour and nuisance in the vicinity and that it was continuing.

The Committee did not consider that the licensing conditions would be adhered to if conditions were imposed. They also did not consider that it would be able to monitor a condition that Ms Yengin or her partner Mr Altun would not be involved in the running of the business. It therefore concluded that continuing the licence with Mr Karakov as licence holder and a condition that Ms Yengin and/or Mr Altun have no involvement in the licensable activities, would not prevent the licensing objectives from being undermined.

Further, the Committee did not consider that the Licence Holder’s representative’s suggestion to impose a condition preventing the storage and sale of NOS would be sufficient to prevent the Licence holder from doing so, in light of the continuing sales despite advice being provided by Trading Standards.

The Committee considered whether there would be a difference if Mr Karagoz were the Licence holder and DPS. Since he had become interim licence holder and DPS photographs were taken on 23 May 2023 of a large delivery being made to the premises of NOS gas. Residents also informed the Committee that a delivery of NOS gas had been made to the premises on the evening of 29 May 2023. The Committee concluded the NOS was intended to be made available for sale at the premises. The Committee accepted the Police's reasons why Mr Karagoz would not be a suitable Licence holder and that the licencing objectives of the Prevention of Crime and Disorder, Prevention of Public Nuisance and the Protection of Children from harm would continue to be undermined under him.

The Licence holder proposed a suspension of up to three months and to modify the conditions. The Committee considered suspending the licence as a deterrent to the licence holder and to others to prevent future breaches of the licensing conditions whilst recognising that a suspension of the licence could have a serious financial impact on the licence holder's business. However, it concluded that as previous action taken at the premises had not acted as a deterrent to the licence holder, there having been non-compliance with the law and their obligations as a licence holder, suspension would not be sufficient to promote the licensing objectives.

In reaching its decision, the Committee considered paragraph 11.28 of the s182 Guidance which encourages licensing authorities to seriously consider revocation where the crime prevention objective is being undermined. The Committee decided that given the significant health risks confirmed by the Public Health officer relating to the sale of controlled drugs and the wider interests of the community, the nuisance and anti-social behaviour caused by activities at the premises along with the risk of harm to children. Revocation, whilst not being imposed as a punishment, was the only appropriate and proportionate response to the issues giving rise to the need for this review, that would promote the` licensing objectives.

### **Appeal Rights**

This decision is open to appeal to the Magistrates Court within the period of 21 days beginning on the day upon which the appellant is notified of the decision. This decision does not take effect until the end of the appeal period or, in the event that an appeal has been lodged, until the appeal is dispensed with.

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