	<h2>Licensing Sub-Committee</h2> <h3>Wednesday 21st June 2017</h3>
Title	Review of Premises Licence – Costcutter, 7-10 Silkstream Parade, Watling Avenue, London, HA8 0EJ
Report of	Trading Standards & Licensing Manager
Wards	Burnt Oak
Status	Public
Enclosures	Report of the Licensing Officer Annex 1 – Review Application Annex 2 – Current Premises Licence Annex 3 – Representations Annex 4 – Additional information Annex 5 – Extract from Guidance under section 182 Licensing Act 2003 Annex 6 – Matters for decision
Officer Contact Details	Mariesa Connolly 020 8359 7443 Licensingadmin@barnet.gov.uk

<h3>Summary</h3>
This report asks the Sub-Committee to consider the application to Review a premises licence under section 51 of the Licensing Act 2003.

<h3>Recommendations</h3>
1. This report asks the Sub-Committee to consider the application to Review a premises licence under section 51 of the Licensing Act 2003 for Costcutter, 7-10 Silkstream Parade, Watling Avenue, London, HA8 0EJ

1. WHY THIS REPORT IS NEEDED

- 1.1 The licensing authority having received valid review application for an existing premises licence must hold a hearing to consider that application and any valid representations that may have been submitted.

2. REASONS FOR RECOMMENDATIONS

- 2.1 Where an application is submitted under section 51 of the Licensing Act 2003, the authority must hold a hearing to consider it.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 N/A

4. POST DECISION IMPLEMENTATION

- 4.1 The decision will have immediate effect

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 Members are referred to the Council's Licensing Policy for consideration

- 5.1.2 Timely legal and fair decisions support objectives contained within the Corporate Plan. In particular in relation to a "successful London borough" by ensuring that only legal, well regulated licensable activities occur within the borough.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 N/A

5.3 Legal and Constitutional References

- 5.3.1 The Licensing Act 2003 sets out how applications for premises licences should be dealt with where valid representations have been submitted.

- 5.3.2 Under the Constitution, Responsibility for Functions (Annex A), the Licensing Act 2003 and associated regulations, as delegated to it by the Licensing Committee, including the determination of review applications.

5.4 Risk Management

- 5.4.1 N/A

5.5 Equalities and Diversity

5.5.1 Licence applications are dealt with according to the provisions of the Licensing Act 2003 and associated Regulations which allow both applications and representations to applications to be made by all sectors of the

5.6 Consultation and Engagement

5.6.1 The statutory consultation process that has been followed in accordance with the Licensing Act 2003

6. BACKGROUND PAPERS

9.1 The review application and report of the Licensing Officer are and necessary appendices are attached to this report.

Officers Report

LICENSING ACT 2003
REPORT FOR PUBLIC HEARING

Review of the premises licence:

Costcutter, 7-10 Silkstream Parade, Watling Avenue, Burnt Oak HA8 0EJ

1. The Applicant

An application was submitted by PC John Akers on behalf of the Metropolitan Police.

2. The Application

This application has been made under Section 51 of the Licensing Act 2003 to review the Premises Licence held by Umit Demirbas.

Licensing objectives to which the review application relates is:

- The protection of children from harm.
- Public safety.

PC John Akers has made the following statements within Metropolitan polices application:

- The premises sold alcohol to a person under the age of 18 on two separate test purchase operations. Seizure were made by HMRC of 4.2 litres of Whiskey and 312 litres of beer which were all found to be non-duty paid.

A full copy of the Review application is attached to this report in **Annex 1**.

3. Premises Licence History

This premises licence was first applied and granted in 2005. Since the first application there have been no other applications. Since that application there have been 2 applications to transfer the licence and 2 applications vary the DPS. The last transfer on the 21st February 2017 placed Umit Demirbas the premises licence holder and DPS.

4. Current Premises Licence

The current licence allows the following licensable activities:

Sale by retail of alcohol off the premises only

Standard Days & Timings

Monday to Saturday	08:00hrs - 23:00hrs
Sunday	10:00hrs - 22:30hrs

Non Standard timings

Good Friday	08:00hrs to 22:30hrs
Christmas Day	12:00hrs to 15:00hrs 19:00 to 22:30

The current premises licence showing the above stated hours and all of the conditions attached to the premises licence can be found in full attached to this report as **Annex 2**

5. Representations

Responsible Authorities

The Licensing Team have received a representation from Michelle Rudland on behalf of the London Borough of Barnet Licensing team and Jack Dowler on behalf of the London Borough of Barnet Trading standards team. Both representations relate to crime and disorder, protection of children from harm and public safety.

Other representations

The Licensing Team have not received any other representations.

The representation can be seen attached to this report in **Annex 3**.

6. Additional information

The applicants legal representative has emailed a list of proposed conditions and supplied a number of supporting documents. These can be found in full in **Annex 4**

7. Guidance

A Section from the Guidance issued under Section 182 Licensing Act 2003 (June 2013) regarding Reviews Is attached to this report in **Annex 5**.

8. Determination

The sub-committee shall determine the application in accordance with Section 52 of the Licensing Act 2003.
S 52 (3);

“The authority must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.

4. The steps are-

- (a) to modify the conditions of the licence;
- (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;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

5. Subsection (3) is subject to sections 19, 20 and 21 (requirement to include certain conditions in premises licences).

6. Where the authority takes a step mentioned in subsection (4) (a) or (b), it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

Full Copies of the Councils Statement of Licensing Policy and the Statutory Guidance to the Act will be available at the Licensing Sub Committee hearing or in advance if required.

A matters for decision sheet is attached at **Annex 6**

Mariesa Connolly
Licensing Officer
Monday, 05 June 2017

Annex 1 – Review Application
Annex 2 – Current Premises Licence
Annex 3 – Representations
Annex 4 – Additional information
Annex 5 – Guidance issued under Section 182 Licensing Act 2003 (June 2013)
Annex 6 – Matters for Decision

Review Application



**METROPOLITAN
POLICE**

TOTAL POLICING

Metropolitan Police Service

London Borough of Barnet Trading Standards,
Barnet House,
1255 High Road,
Whetstone,
N20 0EJ

Licensing Team
Barnet Police Station
26-32 High Street
Barnet
EN5 5RU

Telephone: 02087335147
Email:
john.akers2@met.police.uk
www.met.police.uk
Tuesday 21st April 2017

To whom it may concern

Please find enclosed a copy of a review application for Costcutter, 7-10 Silkstream Parade, Watling Avenue, Burnt Oak, HA8 0EJ.

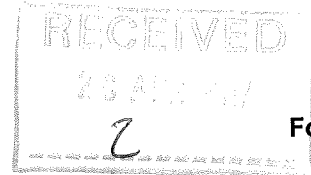
Outlined on the enclosed application form are the grounds that have led to this licence review being brought against the premises.

We have sent copies of this application to the other responsible authorities as required in the act.

My details are above should you wish to contact us to discuss the matter.

Yours sincerely,

Pc John Akers 369sx



**METROPOLITAN
POLICE**

TOTAL POLICING

**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 John Akers

apply for the review of a premises licence under Section 51 of the Licensing Act 2003
for the premises described in Part 1 below

Part 1 – Premises or club premises details

Postal address of premises or club premises, or if none, ordnance survey map reference or description:

Costcutter, 7-10 Silkstream Parade, Watling Avenue, Burnt Oak, Edgware, Middlesex

Post town:	Burnt Oak	Post code: (if known)	HA8 0EJ
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Name of premises licence holder or club holding club premises certificate (if known):

Emrah Dogan

Number of premises licence or club premises certificate (if known):

LN/199906805

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)	<input type="checkbox"/>
	a) a person living in the vicinity of the premises	<input type="checkbox"/>
	b) a body representing persons living in the vicinity of the premises	<input type="checkbox"/>
	c) a person involved in business in the vicinity of the premises	<input type="checkbox"/>
	d) a body representing persons involved in business in the vicinity of the premises	<input type="checkbox"/>
2	a responsible authority (please complete (C) below)	<input checked="" type="checkbox"/>
3	a member of the club to which this application relates (please complete section (A) below)	<input type="checkbox"/>

PROTECTIVE MARKING

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

Mr	<input type="checkbox"/>	Mrs	<input type="checkbox"/>	Miss	<input type="checkbox"/>	Ms	<input type="checkbox"/>	Any other title (e.g. Rev)	<input type="checkbox"/>	n/a
Surname:	n/a					First Names:	n/a			
I am 18 years old or over			<input type="checkbox"/>							
Current postal address if different from premises address:										
n/a										
Post town:	n/a					Post code:	n/a			
Daytime Tel. No.:						Email: (optional)				

(B) DETAILS OF OTHER APPLICANT (fill in as applicable)

Name and Address:	
n/a	
Telephone Number (if any):	n/a
Email address: (optional)	n/a

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT (fill in as applicable)

Name and Address:	
PC John Akers, Licensing Office Room, Barnet Police Station, 26-32 High Street Barnet, EN5 5RU	
Telephone Number (if any):	
Email address: (optional)	sx_licensing@met.pnn.police.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 type="checkbox"/>
2	Public safety	<input checked="" type="checkbox"/>
3	The prevention of public nuisance	<input type="checkbox"/>
4	The protection of children from harm	<input checked="" type="checkbox"/>

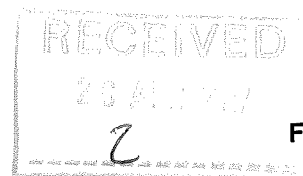
Please state the ground(s) for review: (please read guidance note 2)

Public safety
Prevention of public nuisance

The venue first came to the attention of Barnet Licensing Team when on WEDNESDAY 21ST OCTOBER 2016 the venue during a test purchase operation with the Barnet licensing team and Barnet Police cadets, failed a test purchase operation.

A second test purchase operation was then conducted on MONDAY 23RD JANUARY 2017 where again the venue failed a test purchase operation.

On a visit by HMRC to the venue on TUESDAY 24TH JANUARY 2017 4.2 litres of High commissioner whisky and 312 litres of Desperados Beer were seized by HMRC for non duty pay on tax.



**METROPOLITAN
POLICE**

TOTAL POLICING

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 **John Akers**

apply for the review of a premises licence under Section 51 of the Licensing Act 2003
for the premises described in Part 1 below

Part 1 – Premises or club premises details

Postal address of premises or club premises, or if none, ordnance survey map reference or description:

Costcutter, 7-10 Silkstream Parade, Watling Avenue, Burnt Oak, Edgware, Middlesex

Post town:	Burnt Oak	Post code: (if known)	HA8 0EJ
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Name of premises licence holder or club holding club premises certificate (if known):

Emrah Dogan

Number of premises licence or club premises certificate (if known):

LN/199906805

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)	<input type="checkbox"/>
	a) a person living in the vicinity of the premises	<input type="checkbox"/>
	b) a body representing persons living in the vicinity of the premises	<input type="checkbox"/>
	c) a person involved in business in the vicinity of the premises	<input type="checkbox"/>
	d) a body representing persons involved in business in the vicinity of the premises	<input type="checkbox"/>
2	a responsible authority (please complete (C) below)	<input checked="" type="checkbox"/>
3	a member of the club to which this application relates (please complete section (A) below)	<input type="checkbox"/>

PROTECTIVE MARKING

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

Mr	<input type="checkbox"/>	Mrs	<input type="checkbox"/>	Miss	<input type="checkbox"/>	Ms	<input type="checkbox"/>	Any other title (e.g. Rev)	<input type="checkbox"/>	n/a
Surname:	n/a					First Names:	n/a			
I am 18 years old or over			<input type="checkbox"/>							
Current postal address if different from premises address:										
n/a										
Post town:	n/a					Post code:	n/a			
Daytime Tel. No.:						Email: (optional)				

(B) DETAILS OF OTHER APPLICANT (fill in as applicable)

Name and Address:	
n/a	
Telephone Number (if any):	n/a
Email address: (optional)	n/a

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT (fill in as applicable)

Name and Address:	
PC John Akers, Licensing Office Room, Barnet Police Station, 26-32 High Street Barnet, EN5 5RU	
Telephone Number (if any):	
Email address: (optional)	sx_licensing@met.pnn.police.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 type="checkbox"/>
2	Public safety	<input checked="" 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)

Public safety
Prevention of public nuisance

The venue first came to the attention of Barnet Licensing Team when on WEDNESDAY 21ST OCTOBER 2016 the venue during a test purchase operation with the Barnet licensing team and Barnet Police cadets, failed a test purchase operation.

A second test purchase operation was then conducted on MONDAY 23RD JANUARY 2017 where again the venue failed a test purchase operation.

On a visit by HMRC to the venue on TUESDAY 24TH JANUARY 2017 4.2 litres of High commissioner whisky and 312 litres of Desperados Beer were seized by HMRC for non duty pay on tax.

PROTECTIVE MARKING

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

On WEDNESDAY 21ST OCTOBER 2016 the venue was subject of a joint test purchase operation between Barnet licensing team and Barnet Police cadets. During the course of the test purchase operation the venue sold a combined case of four (4) fosters for £4.49 to a Barnet Police cadet who was aged fifteen (15) at the time of the test purchase operation.

On WEDNESDAY 26TH OCTOBER 2016 a notification of failed test purchase was sent to both the venue and the home address of the designated premises supervisor for the venue, this was in addition to form 694 - Notification of alleged offences under the Licensing Act 2003 - Section 146 (1) Selling alcohol to an individual under 18.

On FRIDAY 4TH NOVEMBER 2016 Barnet licensing team conducted a inspection at the venue. Upon Police attendance at the venue the DPS for the venue was not present and as such Police spoke with the manager on duty. The manager on duty is a personal licence holder, of which the personal licence was issued by WALTHAM FOREST COUNCIL. It was also noted that the personal licence holder who was also the manager on duty was the same person who had sold alcohol to the Barnet Police cadets on WEDNESDAY 21ST OCTOBER 2016. It was however unfortunate that the manager on duty was unable to produce to Police a copy of his personal licence stating that he had lost the personal licence and was currently in the process of obtaining a new one from WALTHAM FOREST.

As a result of the inspection it was identified by attending officers that whilst it is not a condition of the premises licence Camera five (5) was defective of which it was believed that this camera covered the store entrance and exit venue. It became apparent that the reason for the camera not working was because of water damage that had caused the camera to become defective a year prior to this coming to the attention of the Police. It was further apparent that footage on the camera was only stored between one (1) week to ten (10) days of which the reliability of available CCTV has hindered Police in enquires relating to non dwelling burglaries at the venue on SUNDAY 26TH JUNE 2016 and SATURDAY 9TH JULY 2016. As a result both of these reports have since been closed. Strong words of advice were offered to the manager on duty to rectify the issues in relation to the reliability of CCTV cameras, particularly given the fact that the manager was trying to use the excuse of the store not being particularly busy and the financial implication of undertaking CCTV repairs.

In addition to the above issues with CCTV the venue were also unable to produce a copy of either PART A or PART B of the premises licence for which the venue were issued with form 694 - Notification of alleged offences under the Licensing Act 2003 - Section 57 (4) Failure to secure a premises licence or a certified copy at the premises or to prominently display a summary of the licence and 57 (7) Failure to produce a premises licence or a certified copy.

There was no incident log book for the premises. This is not a condition of the premises licence, however advice was given to consider implementing such a incident book and refusals register due to the fact that the manager stated they regularly turn away street drinkers who attend the premises drunk. There was cheap high strength alcohol on sale at the venue at the time of the inspection.

On MONDAY 23RD JANUARY 2017 as part of a long term project to tackle crime and anti-social behaviour within the vicinity of WATLING AVENUE a second test purchase operation was conducted on the venue. Once again the venue sold one (1) bottle of strawberry koppaberg priced at £2.75 to a Barnet Police cadet who was aged seventeen (17) at the time of the test purchase operation. Whilst the person responsible for the sale was a different employee to that who had sold alcohol in OCTOBER 2016, the manager on duty at the time of the offence was the same manager who had sold alcohol in OCTOBER 2016. Whilst the manager was not present within the venue at the time of the sale, due to the fact he was taking his car to be fixed, the manager was contacted and duly attended the venue a short time later.

The person who was responsible for the sale of the koppaberg was dealt with by way of the issuing of a penalty notice for disorder - sale of alcohol anywhere to a person under 18 c(section 146(1) of the licensing act 2003. This offences carries a fine of £90.00. During questioning under caution in relation to the offence the suspect had committed the suspect stated that she had not checked for I.D. because it was busy and that she did not realise it was an offence to sell alcohol to a person under 18, despite being told otherwise by a colleague.

On TUESDAY 24TH JANUARY 2017 as part of the project to tackle ASB and crime within the vicinity of WATLING AVENUE, Police in partnership with HMRC, EHO, Trading standards and licensing re-attended the venue. Whilst Police were present at the venue it once again became apparent that PART B of the premises licence was still not available at the venue. The camera which in November 2016 had been identified by Police as being defective was still in fact defective. During the course of the inspection it was also identified by HMRC that within the venue and specifically the storage area at the rear of the venue was a quantity of 4.2 litres of High Commissioner Whisky in addition to 312 litres of Desperados Beer. Both of these quantities of alcohol were seized by HMRC as a result of management being unable to produce evidence that these have been brought via the correct channels. The venue was issued with a warning of liability to prosecution in relation to the seizure.

PROTECTIVE MARKING

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

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

N/A

PROTECTIVE MARKING

	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.	<input checked="" type="checkbox"/>
I understand that if I do not comply with the above requirements my application will be rejected.	<input checked="" type="checkbox"/>

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 (see guidance note 5). If signing on behalf of the applicant please state in what capacity.

Signature:		Date:	01/03/2017
Capacity:	Police Officer		

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

PC Akers, Licensing Office Room, Barnet Police Station, 26-32 High Street Barnet, EN5 5RU			
Post town:	Barnet	Post code:	EN5 5RU
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.

Current Premises Licence

Licensing Act 2003 Part A Premises Licence Premises Licence Number : LAPRE1/06/21684	Licensing Authority: London Borough of Barnet, Community Protection (Regulation) Barnet House 1255 High Road Whetstone London N20 0EJ <div style="text-align: right;">23/02/2017</div>
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Part 1 – Premises details

Postal address of premises, or if none, ordnance survey reference or description
7-10 Silkstream Parade, Watling Avenue

Post Town London	Post Code HA8 0EJ
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Telephone number
None Given

Where the licence is time limited the dates
This premises licence is not time limited.

Licensable activities authorised by the licence
The sale by retail of alcohol

The times the licence authorises the carrying out of licensable activities

Sale or supply of Alcohol -

<u>Standard Days & Timings</u>	
Monday to Saturday	08:00hrs - 23:00hrs
Sunday	10:00hrs - 22:30hrs
 <u>Non Standard timings</u>	
Good Friday	08:00 to 22:30
Christmas Day	12:00 to 15:00 19:00 to 22:30

The hours that the premises are open to the public
Not restricted

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

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Mr Umit Demirbas
26 Fenton Road
Tottenham
London
N17 7JR

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

n/a

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

Mr Umit Demirbas

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

Personal Licence number:
Personal Licence Issuing Authority:

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. 1.A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1 -

(a)"duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979

(b)"permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

(i)P is the permitted price

(ii)D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii)V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

(i) The holder of the premises licence

(ii)The designated premises supervisor (if any) in respect of such a licence, or

(iii)The personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e)"value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3.Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from the paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4.(1)Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 – Conditions consistent with the operating schedule

4. Alcohol shall not be sold or supplied except during permitted hours
5. In this condition, permitted hours means:
 - a. On weekdays, other than Christmas Day, 8 a.m. to 11 p.m.
 - b. On Sundays, other than Christmas Day, 10 a.m. to 10.30 p.m.
 - c. On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.
 - d. On Good Friday, 8 a.m. to 10.30 p.m.
6. The above restrictions do not prohibit:
 - a. During the first twenty 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 the alcohol so ordered;
 - c. The sale of alcohol to a trader or club for the purposes of the trade or club;
 - d. The sale or 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 or air forces;
7. Alcohol shall not be sold in an open container or be consumed in the licensed premises.

Annex 3 – Conditions attached after hearing by the licensing authority

n/a

Annex 4 – Plan

As submitted to the Council with the application for the grant of a premises licence under schedule 8 of the Licensing Act 2003. Reference LAPRE1/06/21684

Representations

The London Borough of Barnet
Community Protection (Regulation)
Licensing – Responsible Authority
Barnet House
1255 High Road
Whetstone
London
N20 0EJ

**Licensing Team
Barnet House
1255 High Road
Whetstone
London
N20 0EJ**

contact: Michelle Rudland
tel: 020 8359 7443
e-mail: michelle.rudland@barnet.gov.uk
date: **24th May 2017**
our reference: Review – Costcutter

RE: Review application: Licensing Authority acting as Responsible Authority

Premises: Costcutter, 7 – 10 Silkstream Parade, Watling Avenue, Burnt Oak, HA8 0EJ

As the Licensing Authority (acting as a Responsible Authority in this case) I am making formal representation in support of the Review Application submitted by the Police in relation to the above mentioned premises. The reason for submitting this representation is that the Licensing Authority has concerns arising from the premises licence holders failure to promote the licensing objective of prevention of crime and disorder and the protection of children from harm.

The concerns mentioned arise from the joint operation highlighted by the Police within their Review Application. The Licensing Authorities Licensing Officer Mr Daniel Pattenden, was part of the team working alongside the Police Licensing Team. Mr Pattenden's statement which outlines the details of his involvement in this joint operation is attached to this representation.

Following a failed test purchase operation undertaken by the Police in October 2016 we joined a further operation that took place Monday 23rd January 2017. This visit was part of a larger operation that was being undertaken around the Watling Avenue area. This premises was visited and a test purchase undertaken which resulted in 1 bottle of strawberry Kopparberg (Cider) being sold to a 17 year old Police Cadet.

A further visit was made to the premises Tuesday 24th January 2017 with officers from the Police, Trading Standards and HMRC. Whilst at the premises it was noted that the Premises Licence Summary (Part B) was not displayed on the premises which is a requirement of the Licensing Act 2003. It was at this visit that our colleagues from HMRC found and seized 4.2 litres of High Commissioner Whisky, and 312 litres of Desperados beer with the belief that it may be non duty paid.

As a result of the above information and that details contained within Mr Pattenden's statement the Licensing Authority respectfully requests that the Licensing Sub Committee consider either taking steps to ensure that the licence holder does not negatively affect the licensing objectives or if this is not possible, consider the revocation of the premises licence.

Michelle Rudland (acting as the Licensing Authorities Responsible Authority)
Team Leader, Licensing & Antisocial Behaviour
Community Protection (Regulation)

STATEMENT OF WITNESS

(CJ Act 1967, s9; MC Act 1980, ss 5A (3) (a) & 5B: MC Rules 1981, r70)

STATEMENT OF: Daniel Pattenden

Age of Witness (if over 18, enter "over 18"): Over 18

Occupation of Witness : Licensing officer.

The following statement, consisting of 1 page(s) 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 willfully stated in it anything which I know to be false or do not believe to be true.

Dated the 24th May 2017 (signed) _____

On Monday 23rd January 2017 Licensing and the Police conducted a night of test purchasing as part of a week of action in Burnt Oak to tackle issues such as ASB.

On the night one of the premises that was tested was Costcutter, 7-10 Silkstream Parade, Watling Avenue, Burnt Oak, London, HA8 0EJ. A cadet who was aged 17 (confirmed at the beginning of the night) entered the premises and was able to purchase a Bottle of Koppaberg Strawberry Cider. At this point myself and PC John Akers entered the premises, PC Akers issued the person who made the sale a fixed penalty and cautioned them, when questioned why she didn't check the cadets identification she stated she was too busy and did not realise.

We spoke to the manager when he arrived at the venue, this was a second failure in 4 months and he had been the one who previously sold to underage and explained what had happened, it was also explained that being a second occasion was not acceptable and steps needed to be taken to improve the situation.

On Tuesday 24th January 2017 we attended the premises with officers from the Police, Trading Standards and HMRC. The Part B of the premises licence was not on display or available. Whilst searching the store area HMRC found and seized 4.2 litres of High commissioner Whisky, which is well known for being non duty paid or counterfeit, also seized was 312 litres of Desperados beer. HMRC served a warning of liability to prosecution following the seizures.

(Signed) _____

(Witnessed by) _____

MG11

(Name in Capitals) _____

Pattenden, Daniel

From: Dowler, Jack
Sent: 24 May 2017 16:30
To:
Cc: Phasey, Emma; Connolly, Mariesa
Subject: Review - Costcutters, 7-10 Silkstream Parade, Watling Avenue, HA8 0EJ
Attachments: image001.jpg; image002.jpg

Trading Standards are satisfied that allowing these premises to continue being used in accordance with the current permissions of their premises licence could have further negative impact on the licensing objectives of the Prevention of Crime and Disorder, Public Safety and The Protection of Children from Harm.

The venue have been subject to two test purchases by the Police (21.10.16 & 23.1.17) and have failed both times. On the 23rd January 2017, the employee that sold to the underage Police cadet actually claimed that they were unaware that it was an offence to sell alcohol to somebody under the age of 18. Due to this, Trading Standards believe there is a clear lack of training for individuals being trusted to serve alcohol. The first failed test purchase clearly did not deter the premises from selling to underage individuals and this seriously undermines the licensing objective of The Protection of Children from Harm.

On the 24th January 2017, Trading Standards were present on an inspection to the Premises where alcohol was seized for being non-uk Duty paid and it is possible that as the goods were coming from an unscrupulous source, they could also be purchasing counterfeit alcohol and I have attached the health risks associated with this.

Regards

Jack Dowler
Trading Standards Enforcement Officer, Community Protection (Regulation)
Development & Regulatory Services
London Borough of Barnet, 2nd Floor Barnet House, 1255 High Road, Whetstone, N20 0EJ
Tel: 020 8359 7575
Mob: 07951 985 176
Email: Jack.Dowler@barnet.gov.uk
Barnet online: www.barnet.gov.uk
www.re-ltd.co.uk



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Additional Information

Subject : PASS - Serve Legal visit to: Costcutter, Silkstream Parade
Date : 19 May 2017 13:34
Linked to: Ed Hampton-Matthews
From : Serve Legal <info@servelegal.co.uk>
To : <licensing@narts.org.uk>



Hi,

The visit to **Costcutter, Silkstream Parade** at 6:30 pm on 18th May 2017 was a **PASS**.

Site Review

Premises Details

Premises Name	Costcutter, Silkstream Parade
Address 1	7-10 Silkstream Parade
Address 2	Watling Avenue
Address 3	EDGWARE
Premises City	London
Post Code	HA8 0EJ

Site Details

Store Code	HA8 0EJ
-------------------	----------------

Visit Details

Actual Date of Visit	18/05/2017
Actual Time of Visit	6:30 pm
Visit Result	PASS

Report

Question	Response
What type of alcohol did you purchase?	Cider
Please give details of the alcohol purchased (brand and size):	Bulmers 500ml
Did the person who served you ask your age?	No
Did the person who served you (or their supervisor) ask you for ID?	Yes
Did the person who served you make eye contact with you?	Yes
If eye contact was made, when was it FIRST made?	Before the transaction
What was the gender of the person who served you?	Male
Did the person who served you call another member of staff or supervisor for any help/advice whilst serving you?	No
Was there any generic "Think 25" material visible from the till?	No
Was there any generic "Think 25" material visible in the aisles where alcohol is stocked?	No
Please use this space to explain anything unusual about your visit or to clarify any detail of your report:	

Subject : PASS - Serve Legal visit to: Costcutter, Silkstream Parade
Date : 20 May 2017 16:00
Linked to: Ed Hampton-Matthews
From : Serve Legal <info@servelegal.co.uk>
To : <licensing@narts.org.uk>



Hi,

The visit to **Costcutter, Silkstream Parade** at 3:00 pm on 19th May 2017 was a **PASS**.

Site Review

Premises Details

Premises Name	Costcutter, Silkstream Parade
Address 1	7-10 Silkstream Parade
Address 2	Watling Avenue
Address 3	EDGWARE
Premises City	London
Post Code	HAS 0EJ

Site Details

Store Code	HAS 0EJ
-------------------	----------------

Visit Details

Actual Date of Visit	19/05/2017
Actual Time of Visit	3:00 pm
Visit Result	PASS

Report

Question	Response
What type of alcohol did you purchase?	Other
Please give details of the alcohol purchased (brand and size):	Budweiser Union black cider
Did the person who served you ask your age?	Yes
Did the person who served you (or their supervisor) ask you for ID?	Yes
Did the person who served you make eye contact with you?	Yes
If eye contact was made, when was it FIRST made?	Before the transaction
What was the gender of the person who served you?	Female
Did the person who served you call another member of staff or supervisor for any help/advice whilst serving you?	No
Was there any generic "Think 25" material visible from the till?	Yes
Was there any generic "Think 25" material visible in the aisles where alcohol is stocked?	Yes
Please use this space to explain anything unusual about your visit or to clarify any detail of your report:	N/A

Subject : PASS - Serve Legal visit to: Costcutter, Silkstream Parade
Date : 22 May 2017 03:00
Linked to: Ed Hampton-Matthews
From : Serve Legal <info@servelegal.co.uk>
To : <licensing@narts.org.uk>



Hi,

The visit to **Costcutter, Silkstream Parade** at 3:55 pm on 20th May 2017 was a **PASS**.

Site Review

Premises Details

Premises Name	Costcutter, Silkstream Parade
Address 1	7-10 Silkstream Parade
Address 2	Watling Avenue
Address 3	EDGWARE
Premises City	London
Post Code	HA8 0EJ

Site Details

Store Code	HA8 0EJ
-------------------	----------------

Visit Details

Actual Date of Visit	20/05/2017
Actual Time of Visit	3:55 pm
Visit Result	PASS

Report

Question	Response
What type of alcohol did you purchase?	Other
Please give details of the alcohol purchased (brand and size):	Malibu and Cola Can
Did the person who served you ask your age?	Yes
Did the person who served you (or their supervisor) ask you for ID?	Yes
Did the person who served you make eye contact with you?	Yes
If eye contact was made, when was it FIRST made?	During the transaction
What was the gender of the person who served you?	Female
Did the person who served you call another member of staff or supervisor for any help/advice whilst serving you?	No
Was there any generic "Think 25" material visible from the till?	Yes
Was there any generic "Think 25" material visible in the aisles where alcohol is stocked?	Yes
Please use this space to explain anything unusual about your visit or to clarify any detail of your report:	

Subject : PASS - Serve Legal visit to: Costcutter, Silkstream Parade
Date : 22 May 2017 08:00
Linked to: Ed Hampton-Matthews
From : Serve Legal <info@servelegal.co.uk>
To : <licensing@narts.org.uk>



Hi,

The visit to **Costcutter, Silkstream Parade** at 12:15 pm on 21st May 2017 was a **PASS**.

Site Review

Premises Details

Premises Name	Costcutter, Silkstream Parade
Address 1	7-10 Silkstream Parade
Address 2	Watling Avenue
Address 3	EDGWARE
Premises City	London
Post Code	HAS 0EJ

Site Details

Store Code	HAS 0EJ
-------------------	----------------

Visit Details

Actual Date of Visit	21/05/2017
Actual Time of Visit	12:15 pm
Visit Result	PASS

Report

Question	Response
What type of alcohol did you purchase?	Bitter
Please give details of the alcohol purchased (brand and size):	Guinness Original. Can of 500ml.
Did the person who served you ask your age?	Yes
Did the person who served you (or their supervisor) ask you for ID?	Yes
Did the person who served you make eye contact with you?	Yes
If eye contact was made, when was it FIRST made?	During the transaction
What was the gender of the person who served you?	Female
Did the person who served you call another member of staff or supervisor for any help/advice whilst serving you?	No
Was there any generic "Think 25" material visible from the till?	No
Was there any generic "Think 25" material visible in the aisles where alcohol is stocked?	No
Please use this space to explain anything unusual about your visit or to clarify any detail of your report:	

Subject : PASS - Serve Legal visit to: Costcutter, Silkstream Parade
Date : 23 May 2017 09:11
Linked to: Ed Hampton-Matthews
From : Serve Legal <info@servelegal.co.uk>
To : <licensing@narts.org.uk>



Hi,

The visit to **Costcutter, Silkstream Parade** at 3:55 pm on 22nd May 2017 was a **PASS**.

Site Review

Premises Details

Premises Name	Costcutter, Silkstream Parade
Address 1	7-10 Silkstream Parade
Address 2	Watling Avenue
Address 3	EDGWARE
Premises City	London
Post Code	HA8 0EJ

Site Details

Store Code	HA8 0EJ
-------------------	----------------

Visit Details

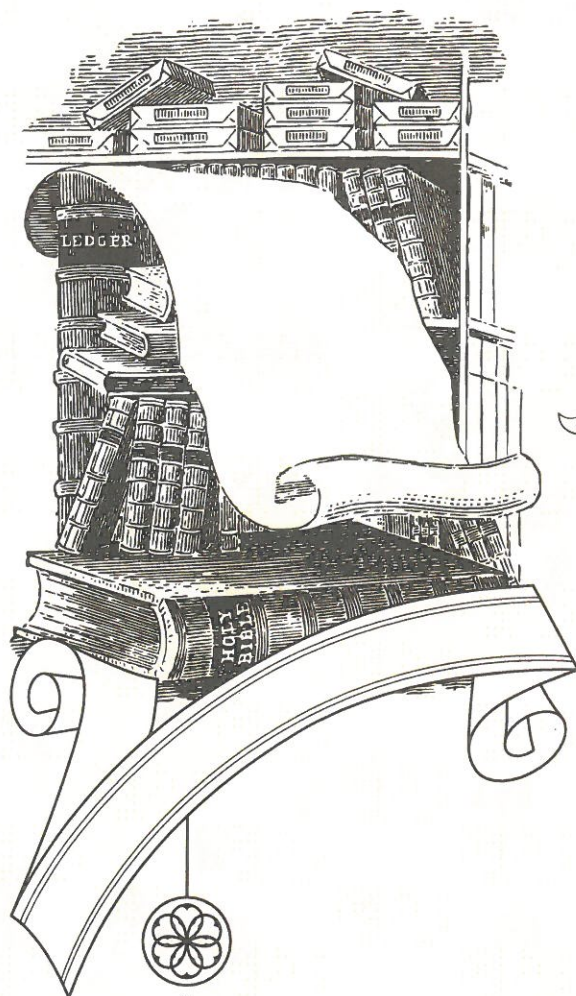
Actual Date of Visit	22/05/2017
Actual Time of Visit	3:55 pm
Visit Result	PASS

Report

Question	Response
What type of alcohol did you purchase?	Spirit
Please give details of the alcohol purchased (brand and size):	Smirnoff and Cranberry 250ml Can
Did the person who served you ask your age?	Yes
Did the person who served you (or their supervisor) ask you for ID?	Yes
Did the person who served you make eye contact with you?	Yes
If eye contact was made, when was it FIRST made?	Before the transaction
What was the gender of the person who served you?	Female
Did the person who served you call another member of staff or supervisor for any help/advice whilst serving you?	No
Was there any generic "Think 25" material visible from the till?	Yes
Was there any generic "Think 25" material visible in the aisles where alcohol is stocked?	No
Please use this space to explain anything unusual about your visit or to clarify any detail of your report:	

Saint Peter's College

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Certificate

This is to certify that **Mr. Justin Wong**
has successfully completed
Prevention of Underage Sales training course

The candidate has attended the course in respect of the following elements that comprise the course:

Introduction and Legislation	Age verification policy
Know how to prevent unlawful sales	Proof-of-age documentation
Regular staff training and updates	Preventing proxy sales
How to keep refusal register	Displaying legal and other notices

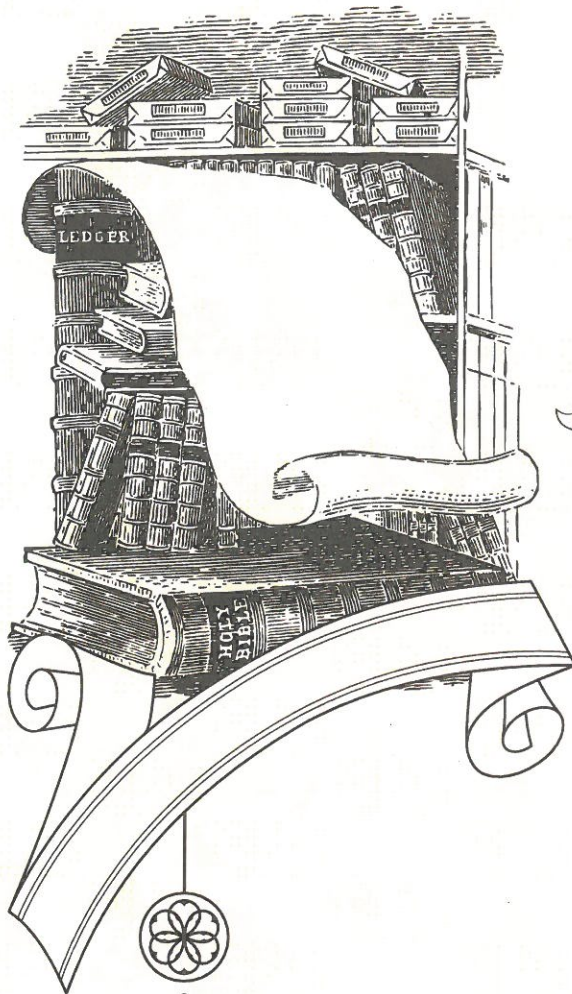
Signature of Director

Certificate Number: **PUS1015**

Issued on: **23/05/2017**

Saint Peter's College

MMXII



Certificate

This is to certify that **Mr Umit Demirbas**
has successfully completed
Prevention of Underage Sales training course

The candidate has attended the course in respect of the following elements that comprise the course:

Introduction and Legislation	Age verification policy
Know how to prevent unlawful sales	Proof-of-age documentation
Regular staff training and updates	Preventing proxy sales
How to keep refusal register	Displaying legal and other notices

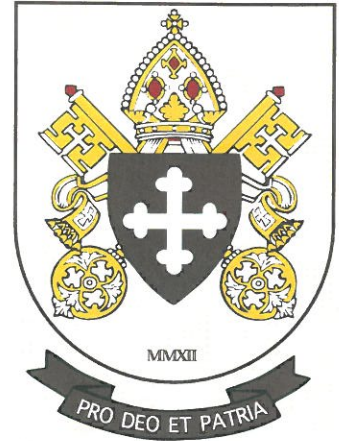
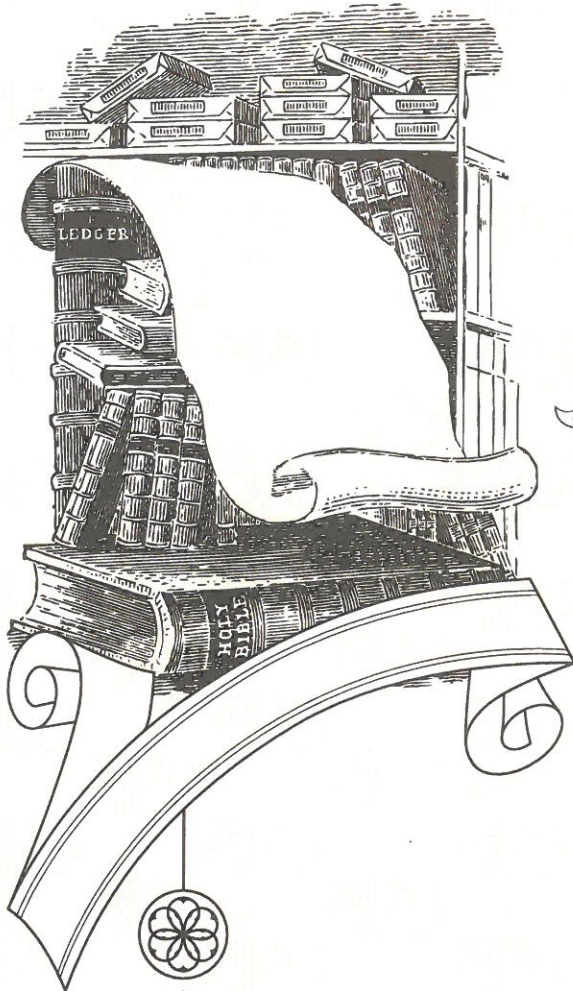
Signature of Director

Certificate Number: **PUS1013**

Issued on: **23/05/2017**

Saint Peter's College

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Certificate

This is to certify that **Ms. Minea Alexandra Loana** has successfully completed **Prevention of Underage Sales** training course

The candidate has attended the course in respect of the following elements that comprise the course:

Introduction and Legislation	Age verification policy
Know how to prevent unlawful sales	Proof-of-age documentation
Regular staff training and updates	Preventing proxy sales
How to keep refusal register	Displaying legal and other notices

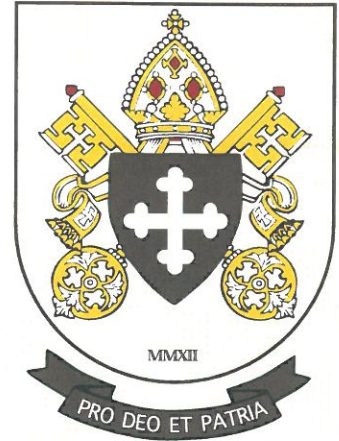
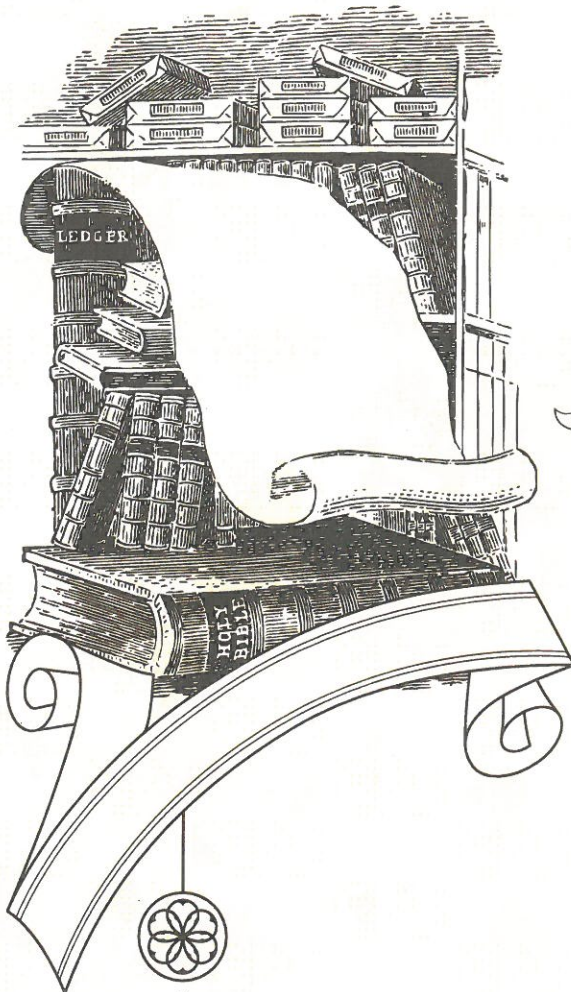
Signature of Director

Certificate Number: PUS1016

Issued on: 23/05/2017

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Certificate

This is to certify that **Ms. Hulya Demirbas**
has successfully completed
Prevention of Underage Sales training course

The candidate has attended the course in respect of the following elements that comprise the course:

Introduction and Legislation	Age verification policy
Know how to prevent unlawful sales	Proof-of-age documentation
Regular staff training and updates	Preventing proxy sales
How to keep refusal register	Displaying legal and other notices

Signature of Director

Certificate Number: **PUS1014**

Issued on: **23/05/2017**

Pattenden, Daniel

From: LicensingAdmin
Sent: 01 June 2017 14:35
To: Pattenden, Daniel
Subject: FW: Costcutter hearing
Attachments: Narts Social Address.png; Serve Legal Intro.pdf; Pass Report for the test purchase on 18th May 2017.pdf; Pass Report for the test purchase on 19th May 2017.pdf; Pass Report for the test purchase on 20th May 2017.pdf; Pass Report for the test purchase on 21st May 2017.pdf; Pass Report for the test purchase on 22nd May 2017.pdf; Test purchase on 7th April 2017 by the police - PASS.pdf; PofUnderage Sales Certificate- Mr Umit Demirbas.pdf; PofUnderage Sales Certificate- Ms Hulya Demirbas.pdf; PofUnderage Sales Certificate- Mr Justin Wong.pdf; PofUnderage Sales Certificate- Ms Alexandra Loana.pdf; image001.png

From: Mahir Kilic [mailto:licensing@narts.org.uk]
Sent: 30 May 2017 15:46
To: PC John Akers
Cc: LicensingAdmin
Subject: re: Costcutter hearing

Dear Licensing Team,

Thank you very much for the notification. I would like you to **please add the enclosed documents to the agenda in support of the Premises Licence holder.**

We are also proposing following conditions to be included on the premises licence as part of the review application:

- 1) An external agency to be employed to undertake quarterly test purchases with the reports sent directly by the agency to Trading Standards and Barnet Licensing.
- 2) An external agency to be employed to give all new staff appropriate training on induction and to give refresher training to all staff on a minimum 6 monthly basis. Copies of the training records provided by the agency are to be sent directly to Trading Standards and Barnet Licensing.
- 3) A personal licence holder is to be on duty in the shop at all times alcohol is available for sale.
- 4) No alcoholic goods will ever be purchased or taken from persons calling to the shop.
- 5) No spirits shall be purchased in a resealed box, without thorough checks being made to ensure it is legal to sell.
- 6) The licensee will immediately report to Trading Standards any instance of a caller to the shop attempting to sell alcohol.
- 7) Only alcoholic drinks which are detailed on invoices will be purchased or accepted as part of a 'free' offer. Invoices (or copies) for all alcoholic goods on the premises will be made available to officers from the council, police or HMRC upon request.

- 8) A stock control system will be introduced, so that the licensee can quickly identify where and when alcoholic goods have been purchased.
- 9) 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.
- 10) If any spirits bought by the business have UK Duty Stamps that do not fluoresce under ultraviolet light, or are otherwise suspicious, the licensee shall identify the supplier to Trading Standards as soon as possible.

We will also be serving a copy of refusal register from the till prompt system which we couldn't manage head office to get it produced yet.

Kind regards,
Mahir Kilic



53 Stoke Newington High Street, London N16 8EL | Tel: 020 7241 3636 | Fax: 0871 661 5283

----- **Original Message** -----

From: LicensingAdmin <LicensingAdmin@barnet.gov.uk>
To: "licensing@narts.org.uk" <licensing@narts.org.uk>
Cc:
Date: Thu, 25 May 2017 08:05:28 +0000
Subject: **Costcutter hearing**

Dear Mr Kilic,

Please find attached the first acknowledgement letter for the upcoming hearing, this has been sent to your client in the post.

The paperwork will follow in due course.

Kind regards

**Trading Standards & Licensing Department
Community Protection (Regulation)**

London Borough of Barnet, Barnet House, 1255 High Road, Whetstone, London, N20 0EJ
Tel: 020 8359 2175
Barnet Online: www.barnet.gov.uk

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Serve Legal

protecting your business

Who we are?

Serve Legal are the UK's No. 1 age testing company, helping retailers to protect their business and support their staff from the daily threat of underage sales. The UK's leading retailers use Serve Legal to help minimise their risk and demonstrate to authorities that they are following best practice, by self testing their ID check polices.

What we do?

Serve Legal perform independent mystery test purchase visits to monitor if staff are checking ID of young customers, in line with company policy such as Think 21 or 25.

- ▶ Perform 50,000 visits a year across the UK and Ireland
- ▶ Testing across all age restricted products and retail sectors
- ▶ A fair test to staff using carefully vetted 18-19 year olds
- ▶ Recognised as robust due diligence by licensing authorities

How we help?

- ▶ Self test your ID policy as required by authorities
- ▶ Reduce legal and other costs from failing an authority test purchase
- ▶ Reduce risk before any issues occur
- ▶ Improve staff performance in checking ID
- ▶ Monitor other operational and compliance standards

How we deliver to our clients?

- ▶ All visits completed to deadline
- ▶ Site reports emailed to your business within 72 hours
- ▶ Benchmarking and analysis to enhance staff training
- ▶ Share best practice across retail sectors
- ▶ Account meetings and online access to all results

Who we help?

ASDA



vue

Ladbrokes

EAT SLEEP & DRINK
WHITBREAD

WELCOMEBREAK

Martin McColl

Waitrose

you're **M&S**

Sainsbury's



Poundland

wetherspoon



SPAR

BETFRED

t: 020 7091 1080

e: info@servelegal.co.uk; w: www.servelegal.co.uk

Serve Legal
protecting your business

Subject : RE: Costcutters Review
Date : 22 May 2017 12:41
Linked to : PC John Akers (Barnet Council)
From : <John.Akers2@met.pnn.police.uk>
To : <licensing@narts.org.uk>
Attachments : c:\programdata\goldmine\MailBox\Attach\MAHIR\2017\05\image002(13).png
 c:\programdata\goldmine\MailBox\Attach\MAHIR\2017\05\image003(12).png

Afternoon Mr Kilic

We conducted a test purchase on Friday 7th April 2017 whereby the sale of alcohol was refused. I have no details as to who refused the sale. All I can say is that we attended the premises at between 1100-12 noon

Regards

John

From: Mahir Kilic [mailto:licensing@narts.org.uk]
Sent: 22 May 2017 10:49
To: Akers John H - SX <John.Akers2@met.pnn.police.uk>
Subject: Costcutters Review

Dear John,

Thank you very much for providing copy of the review application.

I just would like to ask you to confirm if there are any other test purchases carried out that you aware of where the premises refused to serve. If there are any could you please provide us the date and information about who refused the sales.

Kind regards,
Mahir Kilic



53 Stoke Newington High Street, London N16 8EL | Tel: 020 7241 3636 | Fax: 0871 661 5283

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Twitter: [@metpoliceuk](https://twitter.com/metpoliceuk)

Guidance issued by Home Office on Reviews

11. Reviews

The review process

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent written application. The licensing authority may also agree in advance that the application need not be given in writing. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.

- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 13 of this Guidance.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent written representation. The licensing authority may also agree in advance that the representation need not be given in writing.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

Repetitious grounds of review

- 11.12 A repetitious ground is one that is identical or substantially similar to:
- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
 - representations considered by the licensing authority when the premises licence or certificate was granted; or
 - representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

Powers of a licensing authority on the determination of a review

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
 - exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
 - remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;

- suspend the licence for a period not exceeding three months;
 - revoke the licence.
- 11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response.
- 11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.
- 11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

Reviews arising in connection with crime

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, or the sale of firearms. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.
- 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
 - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
 - for prostitution or the sale of unlawful pornography;
 - by organised groups of paedophiles to groom children;
 - as the base for the organisation of criminal activity, particularly by gangs;
 - for the organisation of racist activity or the promotion of racist attacks;
 - for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
 - for unlawful gambling; and
 - for the sale of smuggled tobacco and alcohol.
- 11.28 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Review of a premises licence following closure order

- 11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order. The relevant time periods run concurrently and are as follows:
- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;

- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- day (there must be five clear working days between the giving of the notice and the start of the hearing).

Review of a premises licence following persistent sales of alcohol to children

11.30 Where persistent sales of alcohol to children have occurred at premises, responsible authorities should consider applying for a review of the licence, whether there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this outcome is appropriate. Responsible authorities should consider taking steps to ensure that a review of the licence is routine in these circumstances.

Matters for Decision

MATTERS FOR DECISION

An application made under Section 51 of the Licensing Act 2003

Costcutter, 7-10 Silkstream Parade, Watling Avenue, London, HA8 0EJ

Determination in accordance with Section 52(3) of the Licensing Act 2003.

S 52 (3);

“The authority must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.

4. The steps are-

- (a) to modify the conditions of the licence;
- (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;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

5. Subsection (3) is subject to sections 19, 20 and 21 (requirement to include certain conditions in premises licences).

6. Where the authority takes a step mentioned in subsection (4) (a) or (b), it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify”.

Notification in accordance with Section 52 (10) of the Licensing Act 2003.

10. Where a licensing authority determines an application for review under this section it must notify the determination and its reasons for making it to-

- (a) the holder of the licence,
- (b) the applicant,
- (c) any person who made relevant representations, and
- (d) the chief officer of police for the police area (or each police area) in which the premises are situated.

11. A determination under this section does not have effect-

- (a) until the end of the period given for appealing against the decision, or
- (b) if the decision is appealed against, until the appeal is disposed of.

Steps taken (if any)	Reason(s)