	<h2>Licensing Sub-Committee</h2> <h3>Tuesday 23<sup>rd</sup> October 2018</h3>
<b>Title</b>	<b>Review of Premises Licence – Euro Express, 23 Queens Parade, 22 Friern Barnet Road, Barnet, N11 3DA</b>
<b>Report of</b>	Trading Standards & Licensing Manager
<b>Wards</b>	Coppetts
<b>Status</b>	Public
<b>Enclosures</b>	Report of the Licensing Officer Annex 1 – Review Application Annex 2 – Current Premises Licence Annex 3 – Trading Standards Representation Annex 4 – Extract from Guidance under section 182 Licensing Act 2003 Annex 5 – Matters for decision
<b>Officer Contact Details</b>	Daniel Pattenden 0208 359 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>
<b>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 Euro Express, 23 Queens Parade, 22 Friern Barnet Road, Barnet, N11 3DA.</b>

## **1. WHY THIS REPORT IS NEEDED**

- 1.1 The licensing authority having received a 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 under section 52 will not have effect until the end of the period given for appealing against the decision, or if the decision is appealed against, until the appeal is disposed of.

## **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 a review of a premises licence should be dealt with, where a valid application for review has been submitted and valid representations have been submitted.
- 5.3.2 Under the Council's Constitution, Article 7, the licensing sub-committee has responsibility delegated to it (from the Licensing Committee) for licensing hearings concerning all licensing matters.

### **5.4 Risk Management**

- 5.4.1 There is a right of appeal of the decision of the Licensing Sub-Committee to the Magistrates Court on grounds set out in the Licensing Act 2003.

## **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.

## **5.6 Consultation and Engagement**

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

## **6. BACKGROUND PAPERS**

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

# Officers Report

**LICENSING ACT 2003**  
**REPORT FOR PUBLIC HEARING**

**Review of the premises licence:**

**Euro Express, 23 Queens Parade, 22 Friern Barnet Road, London, N11 3DA**

**1. The Applicant**

An application was submitted by PC Kirby Beresford 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 Mr Etem Kurtul.

Licensing objectives to which the review application relates is:

- The Prevention of Crime and Disorder

PC Downes has made the following statements within licensing application:

- *“The premises licence holder for Euro express, 23 Queens Parade, 22 Friern Barnet Road, London, N11 3DA is failing to promote the licensing objective, prevention of crime and disorder. On Thursday 16th August 2018, the Barnet Police licensing team along with HMRC and trading standards conducted a joint operation in the N11 area. The premises were found to have a quantity of alcohol and tobacco on the premise that was suspected to be non-UK duty paid (smuggled) therefore a breach of section 112 of the customs and excise management act 1979 and S144 of the licensing act 2003 which makes it an offence to store non duty paid goods. one of the staff members was also arrested and later received a police caution for handling stolen goods as stolen alcohol was found behind the till area.”*

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 for and subsequently granted on 28th August 2006. Since then there has been 2 applications to vary the designated premises supervisor, 2 applications to transfer the premise licence and 1 minor variation application. The last transfer and DPS variation on the 3<sup>rd</sup> November 2015 placed Etem Kurtul as the premises licence holder and DPS.

#### **4. Current Premises Licence**

The current licence allows the following licensable activities:

##### **Sale by retail of alcohol**

##### Standard Days and Timings:

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

The full licence with its conditions can be seen attached to this report in **Annex 2**.

#### **5. Representations**

##### Responsible Authorities

The Licensing Team have received a representation from Mr Jack Dowler on behalf of the London Borough of Barnet Trading Standards Department. Trading standards concerns relate to prevention of Crime and Disorder and Public Safety.

##### Other representations

The Licensing Team have not received any other representations.

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

#### **6. Guidance**

A Section from the Guidance issued under Section 182 Licensing Act 2003 (April 2018) regarding Reviews Is attached to this report in **Annex 4**.

#### **7. Determination**

The sub-committee shall determine the application in accordance with Section 52 of the Licensing Act 2003. S 52(3) and S 52(4) states:

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 5**

Daniel Pattenden  
Licensing Officer  
Thursday, 27 September 2018

- Annex 1 – Review Application
- Annex 2 – Current Premises Licence
- Annex 3 - Representation
- Annex 4 – Guidance issued under Section 182 Licensing Act 2003 (April 2018)
- Annex 5 – Matters for Decision

# Review Application





**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 **PC Kirby BERESFORD 330SX**

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:**

EURO EXPRESS, 23 QUEENS PARADE, 22 FRIERN BARNET ROAD

<b>Post town:</b>	BARNET	<b>Post code:</b> <small>(if known)</small>	N11 3DA
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**Name of premises licence holder or club holding club premises certificate (if known):**

Etem KURTUL

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

LAPRE1/07/25912

### Part 2 – Applicant details

**I am:**

Please tick Yes

<b>1</b>	an individual, body or business which is not a responsible authority <small>(please read guidance note 1 and complete (A) or (B) below)</small>	<input type="checkbox"/>
<b>2</b>	a responsible authority (please complete (C) below)	<input checked="" type="checkbox"/>
<b>3</b>	a member of the club to which this application relates (please complete section (A) below)	<input type="checkbox"/>

**PROTECTIVE MARKING**

<b>(A) DETAILS OF INDIVIDUAL APPLICANT</b> (fill in as applicable)										
<b>Mr</b>	<input type="checkbox"/>	<b>Mrs</b>	<input type="checkbox"/>	<b>Miss</b>	<input type="checkbox"/>	<b>Ms</b>	<input type="checkbox"/>	<b>Any other title</b> (e.g. Rev.)	<input type="checkbox"/>	
<b>Surname:</b>						<b>First Names:</b>				
<b>I am 18 years old or over</b>				<input type="checkbox"/>						
<b>Current postal address if different from premises address:</b>										
<b>Post town:</b>					<b>Post code:</b>					
<b>Daytime Tel. No.:</b>					<b>Email: (optional)</b>					

<b>(B) DETAILS OF OTHER APPLICANT</b> (fill in as applicable)	
<b>Name and Address:</b>	
<b>Telephone Number (if any):</b>	
<b>Email address: (optional)</b>	

<b>(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT</b> (fill in as applicable)	
<b>Name and Address:</b>	
PC Kirby BERESFORD - Barnet Police station – Licensing Team	
<b>Telephone Number (if any):</b>	0208 7334195
<b>Email address: (optional)</b>	barnet.licensing@met.police.uk

<b>This application to review relates to the following licensing objective(s)</b>		
Please tick one or more boxes		
<b>1</b>	<b>The prevention of crime and disorder</b>	<input checked="" type="checkbox"/>
<b>2</b>	<b>Public safety</b>	<input type="checkbox"/>
<b>3</b>	<b>The prevention of public nuisance</b>	<input type="checkbox"/>
<b>4</b>	<b>The protection of children from harm</b>	<input type="checkbox"/>
<b>Please state the ground(s) for review:</b> (please read guidance note 2)		
<p>The premises licence holder for Euro express, 23 Queens Parade, 22 Friern Barnet Road, London, N11 3DA is failing to promote the licensing objective, prevention of crime and disorder.</p> <p>On Thursday 16th August 2018 the Barnet Police licensing team along with HMRC and trading standards conducted a joint operation in the N11 area. The premises was found to have a quantity(detailed below) of alcohol and tobacco on the premise that was suspected to be non-UK duty paid (smuggled) therefore a breach of section 112 of the customs and excise management act 1979 and S144 of the licensing act 2003 which makes it an offence to store non duty paid goods. one of the staff members was also arrested and later received a police caution for handling stolen goods as stolen alcohol was found behind the till area (detailed below).</p>		

## PROTECTIVE MARKING

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

36 Packets of 20pk of Marlborough Gold Original (non-duty paid)  
6.95Kg Shisha (non-duty paid)  
160g Rolling Tobacco (Non-duty Paid)  
Two bottles of 70cl High Commissioner Whisky (Counterfeit Duty label)

Selling non duty paid items allows the trader to sell alcohol and tobacco products at a reduced rate, thereby undercutting and undermining responsible retailers. This is not the behaviour we expect or tolerate from premises licence holders on the borough of Barnet and therefore respectfully request that the licence be reviewed.

Three 1L bottles of Smirnoff Vodka were found within the shop with Security Caps on them, these were behind the till in a Sainsbury's bag for life. These were easy to see for anyone who was working behind the till, the member of staff stated that he had no way of removing these security caps and there was no other security caps like this in the shop. Police have then questioned the staff member on these bottles and he has admitted to buying them from someone who walked into the shop for £30 this staff member was then arrested and later received an adult police caution for handling stolen goods.

Statements from HMRC officers are to follow.

### Previous History

05/07/2018 – Female well known for theft offences seen exiting Euro Express by a Ward Officer

27/03/2018 – Intel report from a member of the public stating Euro Express premises is buying stolen goods

26/01/2018 – Intel from a member of the public relating to a male and female well known for shoplifting have offered stolen goods for cash to a shop nearby. Has previously seen them in Euro Express.

18/07/2017 – Intel from a member of the public relating to a male member of staff at the Euro Express is known by local young people to serve young women alcohol who are underage if they expose their underwear or flash themselves at him.

June 2017 – Licensing Officer (PC Akers) has carried out a number of visits to ensure that the premises is operating in accordance with the premises licence. Issues that had to be rectified were; CCTV storing for the required 31 days and correctly displaying the premises licence.

24/12/2015 – due to the test purchase fails police licensing had meetings with the shop and it was decided that instead of the police taking the shop to review they would be given another opportunity if a variation to the premises licence was made with the new condition of Mr Cebraïl Imrek wasn't allowed to be involved in any licensable activity in the shop.

30/11/2015 – Information given to police by a parent that their 14 year old daughter along with friends had purchased Vodka from Euro Express. A video of the group of friends was seen by the parent of the youths in a park drunk and vomiting.

30/10/2015 – Test Purchase Operation. Police Cadets successfully purchased 4 bottles of Carlsberg beer without being asked for proof of age. The sale was witnessed by a police officer and trading standards officer. Seller Cebraïl Imrek was PCR'd for the offence having already received a PND for the same offence on 24/07/18 at a shop in EN5. The courts fined him £900 (+£85 costs and £90 victim surcharge)

24/07/2015 – Test Purchase Operation. Police Cadets successfully purchased two bottles of beer without being asked for any proof of age.

26/03/2015 – Intel relating to the shop keeper of Euro Express stating he is selling cigarettes from underneath the counter. Apparently he has just returned from TURKEY and is selling duty free cigarettes.

09/01/2015 - Intel from a member of the public relating to EURO EXPRESS stating they buy stolen alcohol from thieves and also sell counterfeit cigarettes from under the counter.

PROTECTIVE MARKING

Have you made an application for review relating to this premises before?

(Please tick yes)

Day	Month	Year
0		

If yes, please state the date of that application:

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"/>
<b>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.</b>	

<b>Part 3 – Signatures</b> (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.			
<b>Signature:</b>		<b>Date:</b>	22/08/2018
<b>Capacity:</b>	Licensing Officer - Metropolitan Police		
<b>Contact name</b> (where not previously given) <b>and postal address for correspondence associated with this application:</b> (please read guidance note 6)			
<b>Post town:</b>		<b>Post code:</b>	
<b>Telephone Number (if any):</b>			
<b>If you would prefer us to correspond with you using an e-mail address, your e-mail address (optional):</b>			

**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

<b>Licensing Act 2003</b>  <b>Part A</b> <b>Premises Licence</b>  <b>Premises Licence Number :</b> <b>LAPRE1/07/25912</b>	<b>Licensing Authority:</b> London Borough of Barnet, Community Protection (Regulation) Barnet House 1255 High Road Whetstone London N20 0EJ  15/01/2016
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**Part 1 – Premises details**

<b>Postal address of premises, or if none, ordnance survey reference or description</b> Mert Supermarket , 23 Queens Parade, 22 Friern Barnet Road	
<b>Post Town</b> London	<b>Post Code</b> N11 3DA
<b>Telephone number</b> None given	
<b>Where the licence is time limited the dates</b> This premises licence is not time limited.	
<b>Licensable activities authorised by the licence</b> The Sale by Retail of Alcohol	
<b>The times the licence authorises the carrying out of licensable activities</b> <u><b>Sale or supply of Alcohol</b></u> <u>Standard Days &amp; Timings</u> Monday to Saturday                      08:00hrs - 23:00hrs Sunday    10:00hrs - 22:30hrs	
<b>The hours that the premises are open to the public</b> <u>Standard Timings</u> Not Restricted	
<b>Where the licence authorises supplies of alcohol whether these are on and/or off supplies</b> Off the premises only	

## Part 2

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

Mr Etem Kurtul  
17 Tudor Road,  
Edmonton,  
London,  
Enfield,  
N9 8PA

etemkurtul@gmail.com

**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 Etem Kurtul

**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) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.  
  
(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

## **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.
8. A CCTV system will be installed that complies with the following specifications:
- a. Digital recording colour CCTV comprising of a multi camera system
  - b. The head unit (recorder) for storing the images will store such data on a hard drive or a similar quality medium
  - c. If the head unit (recorder) is kept on the premises it must be located in a secure cabinet or other secure area, preferably out of the sight and reach of the public. (The unit must be further secured by physical means to prevent anyone from merely picking up and removing the unit, e.g. a secure metal boot, or metal case strap, bolted to an immovable object like a wall or floor)
  - d. A CD, DVD burner or USB type device will also form part of the system to facilitate making copies of the footage
  - e. The quality of the images must be of a sufficiently high standard to allow identification of the subject matter
  - f. Cameras will cover key areas identified by the operator and Police. These will include clear head shots of persons entering the shop area, the till area and areas where alcohol are displayed for sale
  - g. Images must be retained for a minimum period of 31 days before overwriting
  - h. The images will be made available in reasonable time on demand by the Police and authorised officers of the London Borough of Barnet
  - i. At all times when the premises are open there shall be at least one person who is capable of operating the CCTV system if required to do so by the Police or authorised officers of the London Borough of Barnet
  - j. This system will be fully maintained at all times to ensure correct operation

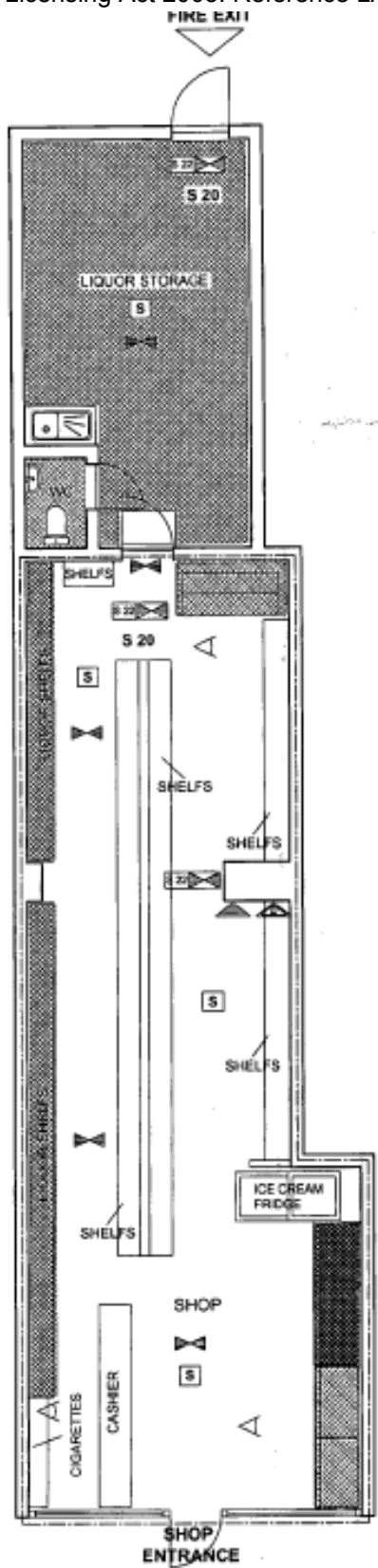
9. Mr Cebrail Imrek shall be excluded from the involvement in any licensable activities at the premises at all times.
10. Before any member of staff is permitted to sell alcohol, they shall be trained on their responsibility in selling alcohol, compliance with the licence and age verification policy. A training record shall be kept for all staff concerned in the sale of alcohol. Such training will be refreshed at least every 6 months.
11. An incident log shall be kept at the premises, and made available on request to an authorised officer of the Council or the Police, which will record the following:
  - a. all crimes reported to the venue
  - b. any faults in the CCTV system
  - c. any visit by a relevant authority or emergency service
12. A refusals Book shall be kept containing the following information:
  - a. Date and time
  - b. Description of person attempting the purchase
  - c. Description of the items seeking to purchase
  - d. Reason for refusal
  - e. Signature of person refusing the sale
  - f. confirmation that the book has been checked by the licence holder weekly basis.
13. All staff involved in the sale of alcohol shall be trained in the use of the refusals book. the refusal book shall be made available for inspection by an authorised Local Authority Officer or Police Officer

### **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 LAPRE1/07/25912



## LEGEND

- LIQUOR STORAGE AREA
- LIQUOR FRIDGES AREAS
- PASSAGeways,WC'S,ETC.
- LIQUOR SHELFs AREAS
- SOFT DRINKS & FOODS FRIDGES AREAS
- AMBIT OF LICENSED PREMISES
- SAFETY LIGHTS
- SMOKE DETECTOR
- CARBON DIOXIDE FIRE EXTINGUISHER
- 9 LT. WATER FIRE EXTINGUISHER
- FIRE ESCAPE KEEP CLEAR
- CCTV
- INTERNALLY ILLUMINATED FIRE ESCAPE SIGN (BS 5266)

<b>MERT SUPERMARKET</b>	23A QUEENS PARADE ,LONDON N11 1NE
<b>PROPOSED GROUND FLOOR PLAN</b>	
SCALE : 1/100	DATE : 01/07/05
REF. NO : 21654401-01	
	276 Highbury New Park Islington London - N6 2LH
	Tel : 020 7226 3313 <a href="http://www.tsba.org.uk">www.tsba.org.uk</a>

# Representations

## Pattenden, Daniel

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**From:** Dowler, Jack  
**Sent:** 18 September 2018 14:57  
**To:** Pattenden, Daniel  
**Subject:** RE: Review – Euro Express, 23 Queens Parade, 22 Friern Barnet Road, London, N11 3DA  
**Attachments:** Health Risks from Fake Alcohol.docx

Dear Mr Pattenden,

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 and Public Safety.

Due to the fact that such a large amount has been seized for being non-uk Duty paid and it is clear that the goods are coming from an unscrupulous source, it is possible that 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, 2<sup>nd</sup> Floor Barnet House, 1255 High Road, Whetstone, N20 0EJ  
**Tel: 020 8359 7575**  
**Mob: 07951 985 176**  
**Email: [Jack.Dowler@barnet.gov.uk](mailto:Jack.Dowler@barnet.gov.uk)**  
**Barnet online: [www.barnet.gov.uk](http://www.barnet.gov.uk)**  
[www.re-ltd.co.uk](http://www.re-ltd.co.uk)



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**From:** Pattenden, Daniel  
**Sent:** 29 August 2018 09:15  
**To:** Bull, Simon <[Simon.Bull@Barnet.gov.uk](mailto:Simon.Bull@Barnet.gov.uk)>; Barnet Safeguarding Children Partnership - BSCP <[BSCP@Barnet.gov.uk](mailto:BSCP@Barnet.gov.uk)>; Dowler, Jack <[Jack.Dowler@Barnet.gov.uk](mailto:Jack.Dowler@Barnet.gov.uk)>; Phasey, Emma

## What is fake alcohol?

Fake or illegally produced alcohol is alcohol that is produced in unlicensed distilleries or people's homes and intended for sale. It is illegal to distill and sell alcohol to the public in the UK without a licence from HM Revenue & Customs (HMRC)<sup>1</sup>.

The sale of illegal alcohol costs the UK around £1.2 billion per year<sup>2</sup>. Much of the fake or illegally produced alcohol contains potentially dangerous chemicals.

"We're very concerned about this trend in the availability of fake alcohol," says Ron Gainsford, Chief Executive of the Trading Standards Institute. "It's not just about false bargains, counterfeit spirits and wine could be lethal."

## Health risks from fake alcohol

Properly produced and certified alcoholic drinks are made with ethanol – alcohol that's safe to drink in moderation. But fake alcoholic drinks can be produced using other cheaper types of alcohol which can have serious adverse effects on your health.

Drinkaware's Chief Medical Advisor Professor Paul Wallace explains: "Commonly used substitutes for ethanol include chemicals used in cleaning fluids, nail polish remover and automobile screen wash, as well as methanol and isopropanol which are used in antifreeze and some fuels. These other types of alcohol can produce similar effects to ethanol in terms of making you feel tipsy. But they are also potentially very dangerous."

Drinking alcohol containing these chemicals can cause nausea and vomiting, abdominal pain, drowsiness and dizziness. It can also lead to kidney or liver problems and even coma. Methanol, a substance which can be used in fake vodka, may cause permanent blindness.

[Find out how alcohol can affect your body here... >](#)

"Drinking illegally produced alcohol should be avoided at all costs," says Dr Wallace. "You don't know what's in it in terms of the actual chemicals – and you don't know the strength of what you're drinking because it's not been produced to the standards of commercial alcohol."



# 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 that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. 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 or the sexual exploitation of children. 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 14 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 hard copy, unless the licensing authority waives this requirement.
- 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](http://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 promoting 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. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.
- 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)<sup>10</sup>;
- 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 to address the causes of concern that instigated the review.

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 or preventing illegal working. 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 and for the prevention of illegal working in licensed premises. 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.

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<sup>10</sup> See chapter 15 in relation to the licensing of live and recorded music.

## 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, the sale of firearms, or the sexual exploitation of children. 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 and the prevention of illegal working 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 drugs controlled under the Misuse of Drugs Act 1971 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 employing a person who is disqualified from that work by reason of their immigration status in the UK;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) 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 or illegal working compliance 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 under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or an illegal working compliance order under section 38 of and Schedule 6 to the Immigration Act 2016. 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;
- notice of the hearing must be given no later than five working days before the first hearing 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**

11.29 The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where 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 appropriate.

# Matters for Decision

# MATTERS FOR DECISION

## An application made under Section 51 of the Licensing Act 2003

**Euro Express, 23 Queens Parade, 22 Friern Barnet Road, Barnet, N11 3DA**

### **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.



<b>Steps taken (if any)</b>	<b>Reason(s)</b>