

LICENSING ACT 2003 SUB COMMITTEE MEETING

Date: Thursday 16 November 2017
Time: 10.00 am
Venue: Town Hall, High Street, Maidstone

Membership: Councillors Newton, Mrs Robertson and Springett

AGENDA

Page No.

1. Disclosures by Members and Officers
2. Disclosures of Lobbying
3. To consider whether any items should be taken in private because of the possible disclosure of exempt information
4. Application for Review of a Premises Licence - Capitol Express, 11 Snowden Parade, Vinters Park, Maidstone, Kent, ME14 5NS 1 - 70

PART II

To move that the public be excluded for the items set out in Part II of the Agenda because of the likely disclosure of exempt information for the reasons specified having applied the Public Interest Test.

Head of Schedule 12 A and Brief Description

- | | | |
|--|---|---------|
| 5. Licensing Act 2003 - Application for the Revocation of a Personal Licence | 1- Information relating to any individual
2- Information which is likely to reveal the identity of an individual.
3- Information relating to the financial or business affairs of any particular person (including the authority holding that information). | 71 - 93 |
|--|---|---------|

ALTERNATIVE FORMATS

The reports included in Part I of this agenda can be available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, please contact committeeservices@maidstone.gov.uk or **01622 602743**. To find out more about the work of the Committee, please visit www.maidstone.gov.uk

Issued on Wednesday 8 November 2017

Alison Broom

Alison Broom, Chief Executive

Agenda Item No: 1 – Summary of Report

Licence Reference 17/03584/REVIEW
Report To: LICENSING SUB – COMMITTEE
(UNDER THE LICENSING ACT 2003)

Date: 26th OCTOBER 2017
Report Title: CAPITOL EXPRESS, 11 SNOWDEN PARADE, VINTERS PARK,
MAIDSTONE, KENT, ME14 5NS

Application for Review of a Premises Licence

Report Author: Lorraine Neale

- Summary:**
1. The Applicant for Review – Oliver Jewell on behalf of Kent County Council Trading Standards
 2. Type of application applied for: Review of a Premises Licence.
 3. Grounds for Review

PREVENTION OF CRIME AND DISORDER PROTECTION OF CHILDREN FROM HARM

The licence holders of Capitol Express are believed to have failed in the Licensing Act objectives of crime and disorder and protection of children from harm, in that the sale of a single can of beer on 27th February 2017 was made to a volunteer aged 15 years old on a test purchase operation (Appendix A). A DVD showing the details of the incident has also been provided and can be viewed if required. The sale comes after a long history of complaints and a review application made in June 2013 where the Licensing Sub Committee imposed a three month suspension of the licence which was lifted in October 2013 and the addition of conditions designed to prevent a repeat of the incidents that had been highlighted. The details of that review can be seen at <https://services.maidstone.gov.uk/meetings/ieListDocuments.aspx?CIId=397&MIId=2020>

The Police have also submitted representations received on 6th October 2017 in support of the review application made by Kent County Council Trading Standards (Appendix B).

Affected Wards: East Ward

Recommendations: **The Committee is asked to determine the application and decide whether to take such steps as members consider appropriate for the promotion of the licensing objectives.**

Policy Overview: The decision should be made with regard to the Secretary of State's Guidance and the Licensing Authority's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from Policy or Guidance the departure must be directed solely at the attainment of the licensing objectives, and that such departure be supported by proper reasons.

Other Material Implications: **HUMAN RIGHTS:** In considering this application it is **appropriate** to consider the rights of both the licenceholder and the applicant together with other parties, such as **“responsible authorities” and/or “interested parties”** (objectors). The hearing procedure for reviewing premises licences has been formulated to ensure a fair hearing for all parties.

LEGAL: Under the Licensing Act 2003 the **Licensing Authority** has a duty to exercise licensing control of relevant premises.

Background Papers: Licensing Act 2003 **1**
Home Office Guidance Document issued under section 182 of The Licensing

Act 2003 as amended
Maidstone Borough Council Statement of Licensing Policy

Contacts:

Mrs Lorraine Neale at: lorraineneale@maidstone.gov.uk – tel: 01622 602028

**Report Title: CAPITOL EXPRESS, 11 SNOWDEN PARADE, VINTERS PARK,
MAIDSTONE, KENT, ME14 5NS**

Application for Review of a Premises Licence

Purpose of the Report

The report advises Members of an application for the review of a premises licence, brought by Oliver Jewell on behalf of Kent County Council Trading Standards in respect of the premises Capitol Express, 11 Snowden Parade, Vinters Park, Maidstone, Kent, ME14 5NS.'

Issue to be Decided and Options

1. Members must, having regard to the application and any relevant representations, take such steps mentioned below as members consider appropriate for the promotion of the licensing objectives.
2. The steps are:
 - To modify the conditions of the licence (including for a period not exceeding 3 months);
 - To exclude a licensable activity from the scope of the licence (including for a period not exceeding 3 months);
 - To remove the designated premises supervisor;
 - To suspend the licence for a period not exceeding 3 months;
 - To revoke the licence.
 - To issue a warning or caution.
 - To take no action.

Background

3. The relevant statutory provisions are sections 51 to 53 inclusive of the Licensing Act 2003. the Licensing Objectives are as follows:
 - The prevention of crime and disorder;
 - Public Safety;
 - The prevention of public nuisance; and
 - The protection of children from harm
4. The current premises licence was granted on 20th June 2013 a copy is attached as Appendix C.
5. The application has been correctly advertised with a notice displayed on the premises and at the Council offices for the required period.
6. The applicant is requesting that the Sub-Committee:-
 - 1) Revoke the premise licence.

7. Members are advised that they may only modify premises licences if it is appropriate to **promote the licensing objectives.**
8. Relevant sections of **The Guidance issued under section 182 of The Licensing Act 2003;**
 - Chapter 2 Licensing Objectives –Para 2.1 to 2.6 crime and disorder and para 2.22 onwards, protection of children from harm.**
 - Chapter 10 Conditions attached to Premises Licences**
 - Chapter 11 Reviews**
9. Relevant policy statements **contained in The Licensing Authority’s Statement of Licensing Policy (Jan 2016);**

17.9 CONDITIONS TO PROMOTE THE PREVENTION OF CRIME AND DISORDER.

Under the Act the Licensing Authority has a duty to promote the licensing objectives, and, a further duty under the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the borough.

17.10 The applicant will be expected to detail in their operating schedule how they will prevent crime and disorder on and close to the premises. Such detail should reflect the licensable activities on offer, location and character of the area, the nature of the premises use and the range of customers likely to use the premises.

These may include, but are not limited to, the following:

- Prevention of disorderly conduct and anti-social behaviour
- Prevention of underage drinking
- Prevention of sales of alcohol to intoxicated customers
- Prevention of drunkenness both on and in the vicinity of the premises
- Prevention of drug use and drug dealing
- Restriction to responsible drinks promotions
- Use of safety glass
- Inclusion of a wind-down time following alcohol sales period
- Adequate seating to discourage “vertical drinking”
- The offer of food and snacks or other entertainment or occupation to discourage persistent drinking

17.11 In busier premises the Licensing Authority would usually expect to see a short (e.g.30 mins) ‘wind down’ or ‘drinking up’ period allowed for after the cessation time of entertainment and alcohol sales as this is effective in assisting in a reduction in noise and exuberance of customers before leaving the premises.

17.12 Applicants will be expected to seek advice from the Police and the Licensing Authority will give appropriate weight to requests by the Police for premises to be protected by SIA registered door staff subject to the provision of relevant evidence. Where the Licensing Authority determines after consultation with the police that a premises is one that warrants additional security and monitoring it would expect applicants to include the provision of SIA approved door staff at the premises at appropriate times. Relevant premises are usually those used mainly for drinking alcohol, have later opening hours and are situated within the Town Centre night time economy area.

17.13 Where appropriate, applicants for licences in the Town Centre areas providing mainly alcohol, music and dancing would be expected to consider inclusion of a provision of safety glasses to prevent a risk of injury on the rare occasion that a glass may be used as a weapon.

17.14 The use of CCTV should be considered where appropriate or on the advice and recommendations of the Police and to a quality and standard approved by the Police for evidential purposes. Licensees will be expected to fully comply with the requirements of the Information Commissioners Office and the Data Protection Act 1998 in respect of any surveillance equipment installed at a premises.

17.15 In any application resulting in hearing the sub-committee will consider each application on its individual merits and determine the imposition of conditions that are appropriate to promotion of the licensing objectives.

17.23 **CONDITIONS TO PROMOTE THE PROTECTION OF CHILDREN FROM HARM.** Applicants will be expected to detail any appropriate and proportionate steps to protect children at the premises from any harm. The Licensing Authority recognises the right of licensees (serving alcohol) to allow accompanied children into their premises. The Licensing Authority would not seek to restrict access by children (above that specified in the Act) unless it is necessary for the prevention of physical, moral or psychological harm.

17.24 Steps to protect children from harm must be carefully considered for inclusion where:

- (i) There is entertainment or services of an adult nature provided.
- (ii) There have been previous convictions for under age sales of alcohol.
- (iii) There has been a known association with drug taking or dealing.
- (iv) There is a significant element of gambling on the premises.
- (v) There is a presumption that children under 18 should not be permitted entry such as to nightclubs (apart from when specific events are held for under 18's).
- (vi) Outcomes of discussions with relevant Responsible Authorities suggest such steps are applicable.

17.25 Nothing in the Licensing Act prevents licensees from excluding children from a licensed premises and no condition can be added to require the admission of children.

17.26 Where there are no matters that give rise to concern in respect of children at premises the Licensing Authority would expect to see the relevant box on an application form completed to specify NONE.

Implications Assessment

- 10 The decision should be made with regard to the Home Office Guidance and the Licensing Authority's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from either the Guidance or the policy clear and cogent reasons must be given. Members should be aware that if such a departure is made the risk of appeal / challenge is increased.
- 11 **Human Rights:** While all Convention Rights must be considered, those which are of particular relevance to the application are:
 - Article 8 - Right to respect for private and family life
 - Article 1 of the First Protocol - Protection of Property
 - Article 6(1)- Right to Fair Hearing
 - Article 10 – Freedom of Expression

The full text of each Article is given in the attached Appendices.

Conclusion

Members must ensure that the application is considered on its merits, as well as against the relevant guidance, policy and statutory framework.

List of Appendices

- 12 Appendix A Application for Review
- Appendix B Police representation
- Appendix C Premises Licence
- Appendix D Plan of the premises
- Appendix E Plan of the area
- Appendix F Human Rights Article
- Appendix G Order of Proceedings

Appeal

13. The applicant, any interested party and the licence holder may appeal the Licensing Act 2003 Sub Committee's decision within 21 days beginning with the day on which the Appellant is notified. All any appeals must be lodged with the Magistrates' Court.

Contact:	Senior Licensing Officer
Email:	lorraineneale@maidstone.gov.uk

Kent County Council Trading Standards

**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 Oliver Jewell – Principal Trading Standards Officer – Kent County Council

(Insert name of applicant)

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description 11 Snowdon Parade Snowdon Avenue	
Post town Maidstone	Post code (if known) ME14 5NS

Name of premises licence holder or club holding club premises certificate (if known) Mr Ferhat OK & Mrs Olcay OK
--

Number of premises licence or club premises certificate (if known) 13/01249/REVIEW
--

Part 2 - Applicant details

I am

Please tick ✓ yes

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

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

3) a member of the club to which this application relates (please complete (A) below)

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

Please tick ✓ yes

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Mr Oliver Jewell Kent County Council Trading Standards Ashford Highways Depot Javelin Way Ashford Kent TN24 8AD
Telephone number (if any) 03000419327
E-mail address (optional) Oliver.jewell@kent.gov.uk

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

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

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

This application is in relation to the licensing objectives of prevention of crime and disorder and the protection of children from harm following a failed test purchase of alcohol on 21st March 2017 as per the information set out below.

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

The premises at 11 Snowden Parade, known as Capitol Express has been in the ownership of the Ok family since taking over from One Stop around 2004. The Designated Premises Supervisor at time of writing is Mr Ferhat Ok and the licence is held by both Mr Ferhat Ok and his sister Ms Olcay Ok. From both previous enquiries and those made during this investigation, it is understood that Ms Olcay Ok no longer has any part of the business. At the incident leading to this review the legal entity behind the business was Kensho Express Ltd, a company still to this day listed on Companies House with one director, namely Bulent Ok, brother of Ferhat. Both Ferhat and Bulent Ok are listed as 'persons of significant control' both holding an equal share in the company.

Following the incident, Bulent advised that he was in the process of taking over the shop and as such had setup a new limited company, namely Snowden Food Store Ltd, to which he is in sole control. A subsequent request to transfer the premises licence to Bulent was objected to by Kent Police earlier this year and as such the licence has remained with Ferhat and Olcay Ok.

This application for review is made in the knowledge that the business has been put up for sale, but until such time a sale is completed and transfer of the premises licence made to an **unconnected** third party, then the ownership could at any time remain with the current holders of the premises licence especially if the sale were to fall through. At the time of writing Trading Standards have not been made aware of or received contact from any proposed new owner.

The premises licence was reviewed by Trading Standards in 2013 following a failed test purchase where Bulent sold alcohol and cigarettes to minors. Information surrounding that review and the background information can be found in the Maidstone Council Licensing Sub Committee minutes of 11th June 2013 found at:

<http://services.maidstone.gov.uk/meetings/documents/g2020/Printed%20minutes%2013th-Jun-2013%2010.00%20Licensing%20Act%202003%20Sub%20Committee.pdf?T=1>

That review led to a suspension of the premises licence for three months and the addition of conditions designed to prevent a repeat. The suspension was lifted in October 2013 after which an officer from Trading Standards attended the premises to ensure the new conditions were being met. Conditions including the implementation of Challenge 25, training records and refusals books were being met. It was noted that the condition to provide till prompts when alcohol was scanned in the Electronic Point of Sale (EPoS) system was not at that time active, but was remedied during the visit to display 'ID required' a measure which apparently could easily be implemented without specialist knowledge.

Information was received in March 2015 regarding the possibility of counterfeit spirits on sale in the premises. A customer had noted the levels of liquid in bottles of Teachers were not equal, a common sign that the content could be counterfeit and not subject to the usual strict quality control and filling measures. Teachers is a brand that around 2015 was commonly counterfeit or smuggled and therefore the information appeared credible, however at the time of the visit the officers were unable to find the same inconsistencies and therefore the report could not be verified.

In June 2015 a member of the public reported to Trading Standards that Capitol Express was known to local children to sell alcohol and tobacco to those underage who would be instructed to wait out the back to receive their purchase. At the time of that report the information was passed to Kent Police.

In February 2017 a report detailed four separate complainants who had in recent weeks reported that the Snowden Parade area was experiencing high levels of anti-social behaviour. These were linked to young people drinking alcohol, with the reports alleging that young people were travelling to the area because it had become known that they would be served alcohol from

Capitol Express.

As an existing condition of the premises licence was to 'Challenge 25' a test purchase was arranged whereby a male under the age of 25 would attempt to purchase alcohol to identify whether he would be properly challenged. The test purchaser advised that a male who met the description of Ferhat Ok had served him when trying to buy a single can of beer on 27th February 2017. The volunteer was asked 'are you old enough?' to which he replied he had no ID. The male behind the counter then asked if he was over 18 to which the volunteer stated that he was and the sale proceeded without further challenge.

It is acknowledged that the wording of the current premises licence imposes a condition to implement a policy, but does not spell out how the Challenge 25 policy should be enacted. Challenge 25 is a national scheme found in most off-licensed premises and is something to which Mr Ok had received numerous advisory visits from Trading Standards in previous years and had confirmed he understood what was required. The information from this sale was to be used to direct the 'under 18' test purchase to be carried out in March. Information from the Challenge 25 test purchase and previous test purchases carried out by Trading Standards indicated similar patterns whereby simple questions like 'are you old enough' which if answered truthfully would result in a refusal, but in any real situation would be answered to suggest they are over 18 and potentially receive no further challenge. Likewise prior to the 2013 review it was believed that sales were avoided when other adults were in the store to avoid detection.

As such the decision was made to authorise the young person to lie about his age and wear covert recording equipment during the test purchase to be carried out on 21st March 2017. This activity was court authorised under the Regulations of Investigatory Powers Act, including the proposed tactics with their reasons.

Prior to attempting the test purchase the volunteer, aged 15 was advised that if asked his age to state that he was 18, but if subsequently asked for ID to say that he had none. At the time of the test purchase, it would transpire that Ferhat Ok was working in the shop alone. There were no other customers except for the volunteer who entered alone wearing the covert recording equipment. What follows is a transcript of conversation between Ferhat Ok and the 15 year old volunteer and should be read in conjunction with viewing the footage from OJ/CE/1 a DVD disc of footage to accompany the review documentation.

Ferhat Ok (FO) Hiya

Volunteer (V) Hiya

FO You ok?

V Yeah

FO Inaudible

V Pardon

FO What do you need?

V I'm just waiting for you to finish with this one

FO Say again please?

V I'm just waiting for you to finish with this one, that's all

FO Oh the fridge, ok go for it..... I just put that in. How many do you want?

V Just one

FO Just one? What do you drink?

V Uhhh Fosters Blue

FO Inaudible

V Ok

FO What's your age please?

V Uhhh 18

FO Can you prove it?

V No I don't have any ID with me today

FO No ID?

V No

FO I can't sell to you without ID. You have to prove it.

V Uhhh, no I don't have any

FO No?

V No

FO You got no ID?

V No

FO You're not doing any spy work are you?

V Uhhh no

FO Do you have cameras in your specs?

V No

FO Sure?

V Sure

FO Ok. But can I see your ID next time? {money is handed over}

V Uhhh.... possibly

FO Yeah. Where do you live anyway?... You're not from round here?

V {Shakes head}

FO Where do you live?

V Uhhh..... can't say

FO Can't say?

V No

FO I'm not sure about this..... I'm not sure about this.

V Ok {puts hand out to take money back}

FO But what I can do. I'll put it back, I'll charge for it and then I'll bring it to you. *Inaudible*

V Ok

FO Pretend that you're buying something, because on camera. So bring pot, pot noodle. I'll type you for this. Bring one pot noodle. Then I'll charge you for beer. Then you go, you know where Pepsi fridge is.... {coins rattling} £3.59

V Thank you

FO You take it to the pepsi fridge. Take the pot noodle too. And I'll bring the beer... By the pepsi fridge

V Ah {both parties move to fridge adjacent to main entrance}

FO There, there's no camera. Put it in your pocket when you go out. We've had troubles here.

V Yeah ok. See ya.

The actions of Ferhat Ok clearly demonstrated he was aware that the volunteer was young and if a Challenge 25 policy had been properly followed through he would have refused the sale having not been able to see ID. Instead, Ferhat questioned the volunteer in what appeared to be an effort to decide the level of risk he was putting himself in, and having eventually decided he would sell (at a point where the volunteer is visibly prepared to walk away) he then comes up with a solution to avoid detection of the CCTV cameras.

Trading Standards Officers and PC Neil Barnes, Licensing Officer for Kent Police attended the premises soon after and spoke to Ferhat Ok. During that conversation photographs were taken of all refusals book and training records which were spread over three Kent County Council Trading Standards folders provided previously to the business. Those photographs included the most recent refusal being made on 7th May 2016, suggesting the condition of the licence to maintain a refusals book was no longer being complied with. Photographs were also taken around the store to show that Challenge 25 posters were no longer on display, again in contravention of the licence.

While in the shop attention was drawn to a number of bottles of spirits which showed signs of duty evasion due to labelling inconsistencies or extremely poor print quality on other labels. Duty evasion tends to occur where a product is produced for the export market and therefore has no UK duty applied to it. Criminal gangs have in the past managed to obtain these products, remove the export label and apply an illegally produced label giving the product the appearance of a UK duty paid product including the pink UK Duty Paid stamp. The inconsistencies found were noted with the naked eye, with no specialist tools required, purely comparison except in the case of the Smirnoff which was identified purely down the poor quality of the label.

Often in cases of duty evasion, the outer cardboard box is a clear indicator of duty evasion; however in this case these outer boxes were no longer on the premises despite a search being made of the recycling, therefore no inference could be made from those. A total of 28 bottles of spirits were seized as evidence at this time. The matter of duty evasion in other words is smuggled goods. Duty and VAT on that duty alone account for over £9 in the cost of a 70cl bottle of spirits at 37.5

ABV. This demonstrates that there is clear incentive for those criminally minded to avoid the payment of duty.

A follow up visit was made by Trading Standards accompanied by Police Licensing Co-ordinator Ellen Shaw on 18th April 2017. Once again Ferhat was in the premises at the time of the visit. The purpose of this visit was to check compliance with the conditions of the current premises licence. The following points were noted in relation to conditions of the licence:

- There was no evidence of regular maintenance of the CCTV – when questioned, Ferhat stated his brother looked after maintenance
- There were four CCTV cameras which recorded internally only (contrary to requirement for internal and external)
- Challenge 25 posters were present above the till (as they were during the March visit) however not at the entrance or near the alcohol display as required. Ferhat stated these had been removed during redecoration, although could not account for why other posters had been replaced.
- The EPoS system did not produce till prompts for any alcohol scanned (including a can of Fosters similar to that test purchased). A number of items did not scan at all through the EPoS which Ferhat stated was because they had not yet been added due to not having enough time, although when questioned he admitted the range in question had been stocked for several months.
- A 'new' refusal folder was presented which Ferhat advised had not been identified during the previous visit and contained the most up to date training and refusals records. Photos were taken of the contents of this folder for later analysis.

In interviews, cost was cited as the reason why the EPoS system did not make the required till prompts, despite this having previously been activated on the existing till system at no cost. In his interview, Ferhat also admits that the Challenge 25 posters required by the licence and the external CCTV cameras, also required have been missing or non-operational for approximately six months.

Appendix A shows comparisons of pages from the refusal book. It is noted that the page appears to have been falsified subsequent to the March visit. During interviews Bulent would claim that the new refusal book contained entries copied over from other loose pages, however this does not account for the fact that entries that were originally dated 2015 had been altered to read 2017 and the initials of the person making the refusal had changed from F.Ok to B.Ok. On face value it appeared that someone had falsified the refusals register to make it appear as though regular refusals were being made, and checks were being made against that register where in reality no such refusals or checks had been recorded since approximately 2016.

Appendix B shows the training records made available during the April inspection. These papers show two former employees who received training in 2013, but as advised in interview were no longer working in the shop. A second page was presented, not previously available in March documenting training for both Ferhat and Bulent.

In interview both Ferhat and Bulent advised that they were the only members of staff. Immediately after the interviews, Bulent provided paperwork of Serve Legal test purchases. Serve Legal are a company who carry out independent Challenge 25 style test purchases for companies to assess if their staff members are correctly asking for age verification. The papers included in **Appendix C** point to one of the refused sales being made by a female employee. A request was made for CCTV at the time and date of this refusal. CCTV footage from which the still frame in **Appendix D** has been produced shows a female member of staff on site prior to the statements made in interview by both brothers that there are no other members of staff, and therefore no other training records.

Appendix E contains statements received from two of the manufacturers of spirits drinks seized during the March visit. The statement from Diaego regarding Smirnoff products concludes that labels were counterfeit and the lot codes identified were not produced for the UK market. The

statement in relation to the Famous Grouse product identifies several labelling errors and considers the production to be **criminal deception**.

To be clear the products seized were smuggled and not counterfeit, however, when buying from un reputable sources, it would be impossible to know if the product being bought was 'simply' smuggled product or counterfeit product. Counterfeit spirits, particularly vodkas are known to contain industrial alcohols which have been associated on repeat consumption with blindness and even fatalities. Whilst this was not the case at Capitol Express on this occasion, it is a distinct possibility where a licence holder is willing to buy from un reputable sources and should be treated accordingly.

When questioned on the source of the suspect bottles, Ferhat advised they were bought from a cash and carry in Maidstone during his one and only visit to that business in November 2016. A Data Protection Act request was made to Maidstone Borough Council regarding the status of the business identified as the alleged source to which a response was received that the company in question ceased to be liable for rates at the premises in January 2016. Neither brother could produce invoices for the suspect bottles of alcohol, at one time suggesting they were misplaced and then subsequently advising they were never provided. While the source cannot be verified, the fact these bottles were confirmed as smuggled corroborates the intelligence from 2015 regarding the Teachers in so much as it would appear the company was prepared to buy alcohol from illegitimate suppliers.

Appendix F – additional photographs are included to demonstrate issues found as follows:

- (i) Challenge 25 posters above the till but missing at the entrance as found in March and April
- (ii) Famous Grouse bottle showing glue residue adjacent to rear label, indicative of label removal and replacement
- (iii) Genuine and duty evaded High Commissioner rear label comparison making note of poor print alignment on UK duty stamp and differing order of logos under UK duty stamp
- (iv) Five pages of refusals ranging from March 2013 to May 2016 as presented in March visit.

Paragraph 11.27 of the April 2017 Section 182 Licensing Act 2003 Guidance refers to the 'sale or storage of smuggled tobacco or alcohol' as a matter in connection with a licensed premises that should be treated 'particularly seriously' and continues in paragraph 11.28 that reviews where the **prevention of crime and disorder** objective is undermined, should be considered for **revocation**, even in the first instance.

The covert footage along with the transcript above demonstrates that Ferhat Ok is simply unwilling to uphold the licensing objective to protect children from harm. Despite intentions to take over the business, Bulent too has previously shown himself to be unsuitable. This investigation has shown that during periods when he, as owner of the business should have exercised closer supervision, has not done so and furthermore appears to have been complicit with the falsification of records intended to form part of the system to assist in preventing sales to minors. Despite having previously been reviewed and subject to a suspension, this incident has shown that under the current ownership young people can be readily sold age restricted products with the only concern being for whether they can get away with it.

On Monday 11th September 2017 in Medway Magistrates Court, Ferhat Ok, Bulent Ok and Bulent on behalf of Kensho Express Ltd entered guilty pleas in relation to the sale of alcohol to a minor on 21st March 2017. The review of this licence is not to seek additional penalty but to address the very real and ongoing concerns about the suitability of the holders of the current premises licence and the risk they pose to the licensing objectives.

On the basis of the guidance in relation to the smuggled alcohol and the untenable situation where it comes to the protection of children from harm, the only suitable recommendation is that the premises licence be revoked. It has already been proven that conditions alone are not enough to remedy the situation here and unless there is a complete and wholesale change in ownership, the

mere change of DPS will not be enough to satisfy the concerns addressed in this review. Should suitable new owners be in place, then the re-wording of the existing conditions would be requested with input from Kent Police in order to assist the new owners to establish themselves in what is known to be a challenging trading area.

Please tick ✓ yes

Have you made an application for review relating to the premises before

If yes please state the date of that application

Day	Month	Year
	06	2013

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

As per the review hearing detailed above and found at:

<http://services.maidstone.gov.uk/meetings/documents/g2020/Printed%20minutes%2013th-Jun-2013%2010.00%20Licensing%20Act%202003%20Sub%20Committee.pdf?T=1>

Trading Standards initiated that review in response to a failed test purchase.

Please tick ✓

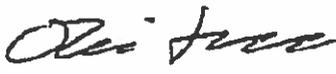
yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 3 – Signatures (please read guidance note 4)

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

Signature 

Date 26/09/2017

Capacity Principal Trading Standards Officer

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

PO Box 320

Post town
Ashford

Post Code
TN24 8AS

Telephone number (if any) 03000412020

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) oliver.jewell@kent.gov.uk

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.

Year 2017

Week commencing

Page

Date	Time	Sex	Approx Age	Product	Reason	Initials
17/01/2017	11.30	(M) F	Under 18 / 19-25	(A) T O	Under age	B.O.K
17/01/2017	1.45	(M) F	Under 18 / 19-25	(A) T O	Under age	F.O.K
18/02/2017	7.30	(M) F	Under 18 / 19-25	(A) T O	could not provide ID	B.O.K
13/02/2017	9.25	(M) F	Under 18 / 19-25	(A) T O	School kid	B.O.K
25/03/17	4.55pm	(M) F	Under 18 / 19-25	(A) T O	he was over 18 as I remember but was	B.O.K
25/03/17	6.50pm	(M) F				

Appendix B - Staff training records

For Licensee/Retailer

Please use this sheet to record training given to employees on the sale of age-restricted goods. Each employee should tick the products for which they have received training and include the date they were trained. Repeat this training regularly and keep the record of training sheets in your files.

Staff Member Declaration

I have been trained in the law with respect to the sale of the following age restricted goods. I have ticked and dated those products, which I have been trained in.

I understand that by signing this declaration I confirm that I am aware of the age restriction for the goods ticked and that it is an offence to sell age restricted goods to young people under these ages.

Product	Tick and date here if received training
Alcohol	<input checked="" type="checkbox"/> 26/3/13 12y
Tobacco	<input checked="" type="checkbox"/> 26/3/13 18y
Knives	<input checked="" type="checkbox"/> 26/3/13 16y
Lottery/ Scratch cards	<input checked="" type="checkbox"/> 26/3/13 16y
Solvents/ Lighter refills	<input checked="" type="checkbox"/> 26/3/13 16y
Fireworks/ Party poppers	<input checked="" type="checkbox"/> 26/3/13 16y
Spray paint	<input checked="" type="checkbox"/> 26/3/13 16y

Name Elia Gofman Signed [Signature] Date 26/3/13

Product

Product	Tick and date here if received training
Alcohol	<input checked="" type="checkbox"/> 19.6.15 18
Tobacco	<input checked="" type="checkbox"/> 19.6.15 18
Knives	<input checked="" type="checkbox"/> 19.6.15 16
Lottery/ Scratch cards	<input checked="" type="checkbox"/> 19.6.15 16
Solvents/ Lighter refills	<input checked="" type="checkbox"/> 19.6.15 16
Fireworks/ Party poppers	<input checked="" type="checkbox"/> 19.6.15 16
Spray paint	<input checked="" type="checkbox"/> 19.6.15 16

Name E. Gofman Signed [Signature] Date 19/6/15

Underage sales

For Licensee/Retailer

Please use this sheet to record training given to employees on the sale of age-restricted goods. Each employee should tick the products for which they have received training and include the date they were trained. Repeat this training regularly and keep the record of training sheets in your files.

Staff Member Declaration

I have been trained in the law with respect to the sale of the following age restricted goods. I have ticked and dated those products, which I have been trained in.

I understand that by signing this declaration I confirm that I am aware of the age restriction for the goods ticked and that it is an offence to sell age restricted goods to young people under these ages.

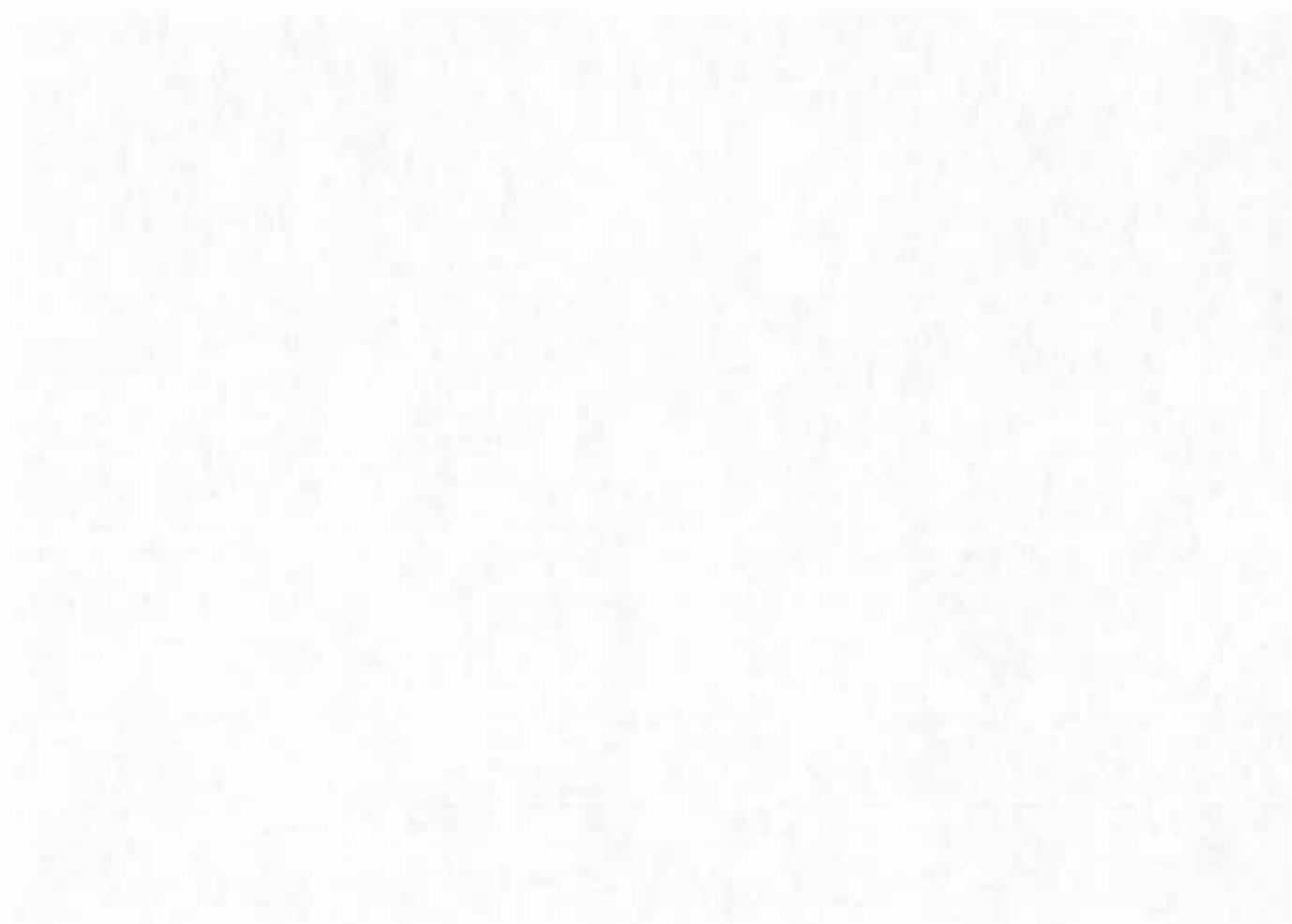
Product	Tick and date here if received training
Alcohol	<input checked="" type="checkbox"/> NOV 21st 2016
Tobacco	<input checked="" type="checkbox"/> " " " "
Knives	<input checked="" type="checkbox"/> " " " "
Lottery/ Scratch cards	<input checked="" type="checkbox"/> NOV 21st 2016
Solvents/ Lighter refills	<input checked="" type="checkbox"/> NOV 21st 2016
Fireworks/ Party poppers	<input checked="" type="checkbox"/> NOV 21st 2016
Spray paint	<input checked="" type="checkbox"/> JAN 13th 2017

Name BULENT OK Signed [Signature] Date JAN 2017

Product

Product	Tick and date here if received training
Alcohol	<input checked="" type="checkbox"/> JAN 23/01/2017
Tobacco	<input checked="" type="checkbox"/> JAN 23/01/2017
Knives	<input checked="" type="checkbox"/> JAN 23/01/2017
Lottery/ Scratch cards	<input checked="" type="checkbox"/> Feb 01/01/2017
Solvents/ Lighter refills	<input checked="" type="checkbox"/> Feb 01/01/2017
Fireworks/ Party poppers	<input checked="" type="checkbox"/> Feb 01/01/2017
Spray paint	<input checked="" type="checkbox"/> Feb 01/01/2017

Name Fahat Jhe Signed [Signature] Date Feb 2017



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 policies.

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

WHITBREAD

WELCOME BREAK

Martin McColl

Waitrose

M&S

Sainsbury's



Peacocks

wetherspoon

SPAR

BETFRED

t: 020 7091 1080

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

Subject : PASS - Serve Legal visit to Capitol Express
Date : 09 April 2017 10:09
Linked to: Ed Hampton-Matthews
From : Serve Legal <info@servelegal.co.uk>
To : <licensing@arts.org.uk>



Hi,

The visit to Capitol Express at 3:30 pm on 8th April 2017 was a **PASS**.

Site Review

Premises Details

Premises Name	Capitol Express
Address 1	11 Snowden Parade
Premises City	Maidstone
Post Code	ME14 5NS

Site Details

Store Code	ME14 5NS
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Visit Details

Actual Date of Visit	08/04/2017
Actual Time of Visit	3:30 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):	Smirnoff Cider, 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?	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?	Yes
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:	

Subject : PASS - Serve Legal visit to Capitol Express
Date : 14 April 2017 10:12
Linked to: Ed Hamplon-Matthews
From : Serve Legal <info@servelegal.co.uk>
To : <licensing@nerts.org.uk>



Hi,

The visit to **Capitol Express** at 2:20 pm on 13th April 2017 was a **PASS**.

Site Review

Premises Details

Premises Name	Capitol Express
Address 1	11 Snowden Parade
Premises City	Maldstone
Post Code	ME14 5NS

Site Details

Store Code	ME14 5NS
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Visit Details

Actual Date of Visit	13/04/2017
Actual Time of Visit	2:20 pm
Visit Result	PASS

Report

Question	Response
What type of alcohol did you purchase?	Lager
Please give details of the alcohol purchased (brand and size):	I purchased a can of Kronembourg 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?	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:	He asked for my ID straight away and then checked the picture and my age. We finished the transaction and I asked for a receipt, he then asked why I wanted a receipt and I replied for the transaction and then he asked for my ID again and asked me about my age again.

Subject : PASS - Serve Legal visit to: Capitol Express
Date : 19 April 2017 07:05
Linked to: Ed Hamplon-Matthews
From : Serve Legal <info@servelegal.co.uk>
To : <licensing@narts.org.uk>



Hi,

The visit to **Capitol Express** at 11:10 am on 18th April 2017 was a **PASS**.

Site Review

Premises Details

Premises Name	Capitol Express
Address 1	11 Snowden Parade
Premises City	Maldstone
Post Code	ME14 5NS

Site Details

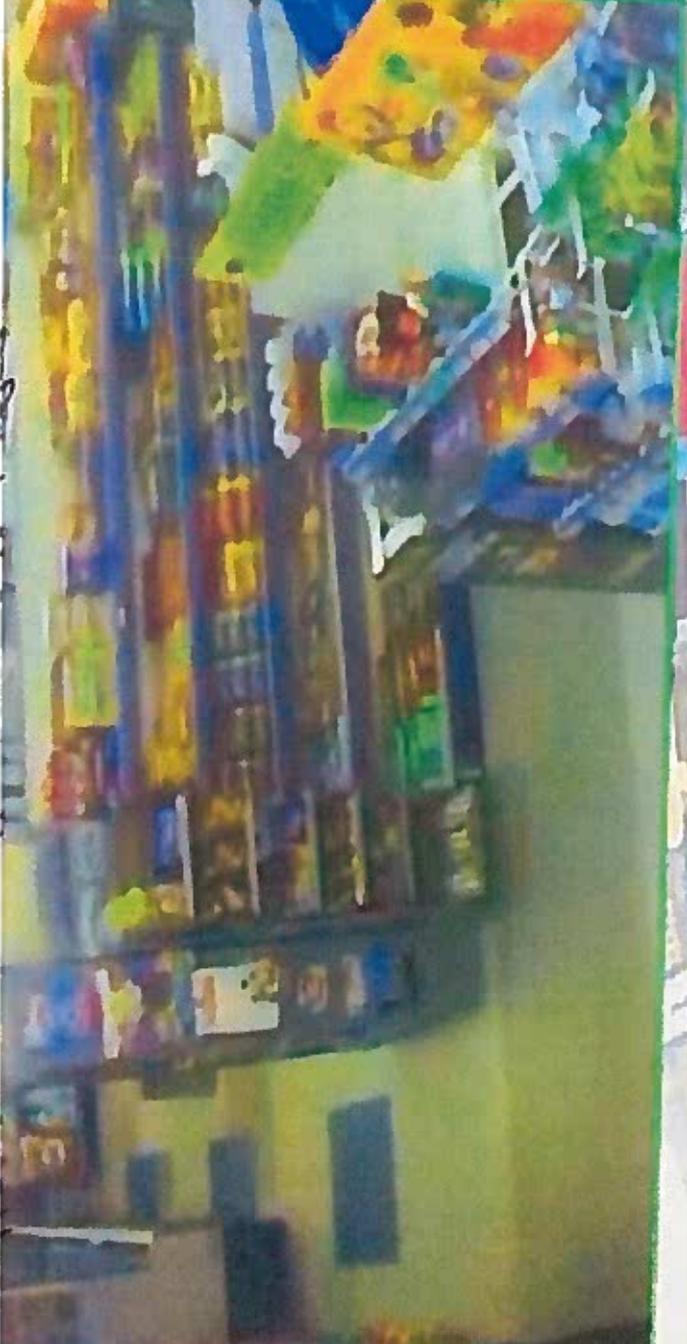
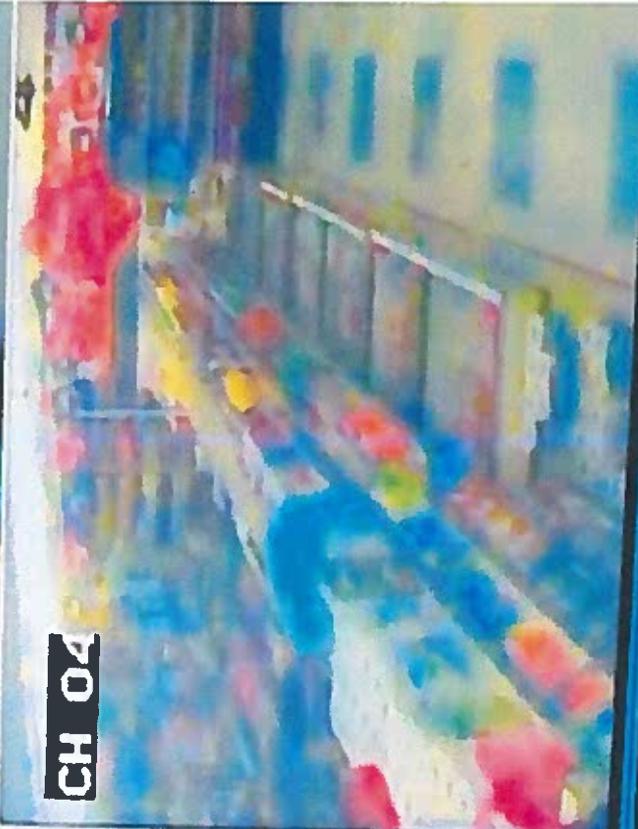
Store Code	ME14 5NS
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Visit Details

Actual Date of Visit	18/04/2017
Actual Time of Visit	11:10 am
Visit Result	PASS

Report

Question	Response
What type of alcohol did you purchase?	Lager
Please give details of the alcohol purchased (brand and size):	Budweiser 300ml
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?	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?	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:	



CH 04

08-04-2017 15:08:24

CH 03

1x

Control panel with various icons for camera functions: stop, zoom, pan, tilt, reset, and refresh.

Witness Statement

Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, SS5A and 5B; and the Criminal Procedure Rules 2005, Rule 27.1

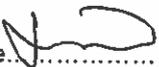
Statement of: **Iain MACLEOD**

Age of Witness: **Over 18**

Occupation of Witness: **Technical Anti Counterfeit Manager**

This statement, consisting of 1 page signed by me is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything which I know to be false or do not believe to be true.

Dated 24th of April 2017

Signature 

"I, Iain MACLEOD am the Technical Anti Counterfeit Manager employed by DIAGEO and am authorised to make this statement on their behalf. I have been employed by Diageo as a packaging expert since 2000, and am familiar with the products manufactured by Diageo. My duties include the identification of counterfeit versions of those products, which I am able to do because of my familiarity with those products and because of my training and experience.

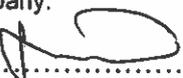
On 27/03/2017 I received from Mr Oliver Jewell, Principal Trading Standards Officer, Consumer & Public Safety, Trading Standards, Kent County Council, Ashford Highways Depot, PO Box 320, ASHFORD, TN24 8AS via email, two pictures 20170323_142323.jpg and 20170323_142456.jpg (please see attached) showing the back label of a Smirnoff Red bottle. In addition, we have been requested to trace the following 9 lot codes of Smirnoff Red brand.

L6014CY000 01377941, L6014CY000 01377775, L6014CY000 01377755, L6014CY000 01377947, L6014CY000 01377762, L6014CY000 01377770, L6014CY000 01377960, L6014CY000 01377980, L6014CY000 01377746.

I examined the attached pictures and concluded that the back label is not the one that is applied for the Smirnoff Vodka bottles produced for the GB market with a UK Tax stamp on it. The bottle has a badly printed fake type A UK tax stamp applied. I concluded in my professional opinion beyond any doubt that the type A UK tax stamp applied on the bottle is not genuine.

In relation to the above 9 lot codes that you have requested to trace, please note that the traceability of our products can only be accurate at batch level, that is, with respect to the batches we have traded in the GB market. However, the products of one batch may have been sent by the producer company to more than one customers worldwide, for this reason the method used by the producer company for traceability at bottle level, which is not always possible, and can have some deviation in its findings (the variance is estimated to be around 10%).

Therefore, following the relevant tracing that we have conducted we are in the position to inform you that all the bottles of Smirnoff Red bearing the above lot codes, were not distributed to the Great Britain market by our company.

Signature 

[Formerly form 13, Magistrates' Courts' (Forms) Rules 1981 (SI 1981/553), relating to rule 70 of the Magistrates' Courts Rules 1981, section 9 of the Criminal Justice Act 1967 and section 5B of the Magistrates' Courts Act 1980].



[Handwritten signature] 24/4/17

WITNESS STATEMENT

(Criminal Procedure Rules, r 27.1(1);
Criminal Justice Act 1967, s.9, Magistrates' Courts Act 1980, s. 5B)

Statement of Michael Rose
Age Over 18
Occupation Director of Brands Packaging

This statement consisting of 1 page 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 7th July 2017

Signed



I am Michael Rose, Director of Brands Packaging, employed by The Edrington Group. I am familiar with the appearance of genuine FAMOUS GROUSE products, and am authorized to examine and comment upon such items.

On 10th May 2017 I received 1 bottle of Famous Grouse whisky from Oliver Jewell of Kent Trading Standards. The bottle was sealed in evidence bag number L00301098, and I broke the seal to examine it.

I can confirm that the rear label on the bottle ref is not genuine for the following reasons:

The rear label is the wrong size and the cream and purple colours are incorrect.

The label contains print errors, and there are differences in font.

The printing technique is incorrect for a genuine Famous Grouse rear label, and the label has been applied too low on the bottle and slightly squint.

I can state that this rear label was not made by, for, or on behalf of, or with the consent of Edrington, and no person or company has the right or authority to possess, deal, sell or trade in these items. The overall make up of the items and the way in which they have been produced could be considered a criminal deception.

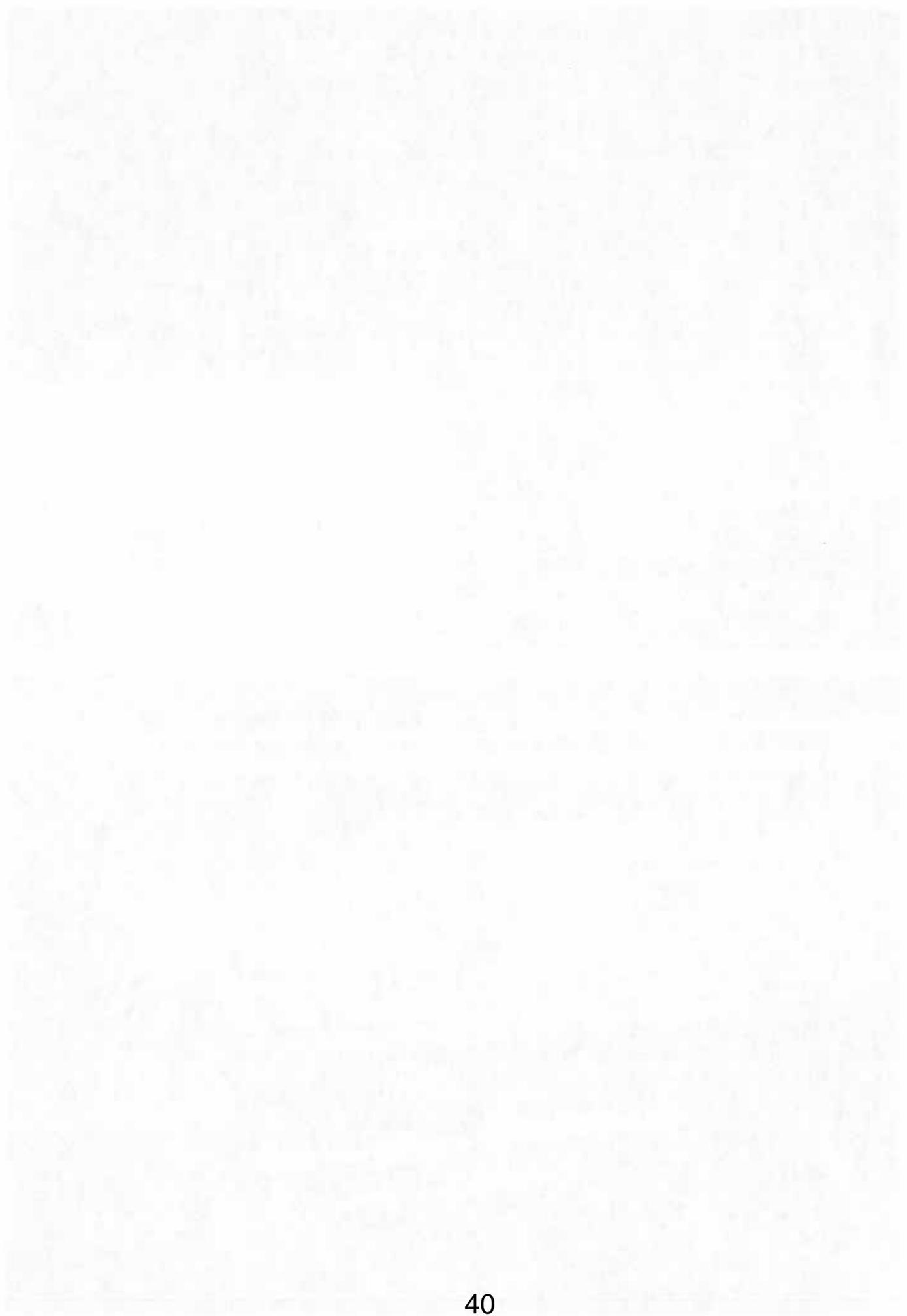
Following examination, I resealed the bottle in the evidence bag with security seal number S04799 and returned the bottle to Kent Trading Standards.

Signed



Appendix F(i)





OUS
USE

...something we do,
...1800. We bring
...spirit before
...favor from our
...skilled craftsmen
...arrive at our
...whisky.





Sl. No.	Name of the Candidate	Grade	Percentage
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Date	Product	Time	Name of Person or Description	Observations	Staff No.
Example 04/05/06	Cigarettes	7:10pm	Male 14 years? Blonde, 5ft 11"	Nervous and refusing to show ID	Alan Orr
1	20/5/08. Alcohol	11-30am	Female 16 young black girl	Calm	Ferguson
2	21/05/08 Cigarettes	6:00	Female	Refusing to show ID	John
3	05/8/08 Cigarettes	2:00	Male	Refusing to show ID	John

RESULTS REGISTER

Date	Product	Time	Name of Person or Description	Observations	Staff Name
			Male 16	Calm	Alan Orr
	Cigarettes	7:15	16		Alan Orr



REFUSALS REGISTER

Date	Product	Time	Name of Person or Description	Observations	Staff Member
26/01/2013	Cigarettes	12:15	male 16 6 ft	calm	Felt Q
30/03/2013	Alcohol	8:20 pm	Youth of kids 15/16	loud	John G
01/04/2013	Cigarettes	2:10 pm	Male, 16 years old, blonde	Persistent and loud	John G
02/04/2013	Alcohol	2:30 pm	blonde 5'10, female / ALE (15)	wanted alcohol, refused asked service, refused service.	John G
07/04/2013	Alcohol	5:30 pm	Brunette female 5'4 (16)	Aggressive when refused to serve	John G
21/6/13	Cigarettes	11:40	MG Blond hair Grey suit 6ft former	Calm	Z Peas
26 6 13	Cigs	11:00	Rochester Ethnic 6ft former	Calm	Z Peas

9

10

11

47

12

13

14

15

16

17

Refusal register

Kent Community Alcohol Partnership
information pack

Week commencing

Page

Date	Time	Sex	Approx Age	Product	Reason	Initials
17/01/2015	11.30	(M) F	Under 18 / 19-25	(A) T O	Under age	F.O.K
17/01/2015	1.45	(M) F	Under 18 / 19-25	(A) T O	Under age	F.O.K
		M F	Under 18 / 19-25	A T O		
		M F	Under 18 / 19-25	A T O		
		M F	Under 18 / 19-25	A T O		
		M F	Under 18 / 19-25	A T O		
		M F	Under 18 / 19-25	A T O		
		M F	Under 18 / 19-25	A T O		
		M F	Under 18 / 19-25	A T O		
		M F	Under 18 / 19-25	A T O		

Week commencing

Page

Date	Time	Sex	Approx Age	Product	Reason	Initials
12/01/16	8.25	M (F)	Under 18 / 19-25	A T O	No ID	F. Ok
14/01/16	10.30	M (F)	Under 18 / 19-25	A T O	No ID	F. Ok
21/01/16	12.30	M (F)	Under 18 / 19-25	A T O	No ID	F. Ok
28/01/16	8.15	M (F)	Under 18 / 19-25	A T O	No ID	F. Ok
21/02/16	5.30	M (F)	Under 18 / 19-25	A T O	No ID	F. Ok
27/02/16	11.00	M (F)	Under 18 / 19-25	A T O	No ID	F. Ok
30/02/16	8.20	M (F)	Under 18 / 19-25	A T O	No ID	F. Ok
18/03/16	1.20	M (F)	Under 18 / 19-25	A T O	No ID	F. Ok
12/03/16	10.00	M (F)	Under 18 / 19-25	A T O	No ID	F. Ok
19/03/16	1.35	M (F)	Under 18 / 19-25	A T O	No ID	F. Ok
2/04/16	8.40	M (F)	Under 18 / 19-25	A T O	No ID	F. Ok
9/04/16	12.45	M (F)	Under 18 / 19-25	A T O	No ID	F. Ok
11/04/16	8.20	M (F)	Under 18 / 19-25	A T O	No ID	F. Ok
20/04/16	6.50	M (F)	Under 18 / 19-25	A T O	No ID	F. Ok
27/04/16	8.40	M (F)	Under 18 / 19-25	A T O	No ID	F. Ok
3/04/16	8.20	M (F)	Under 18 / 19-25	A T O	No ID	F. Ok
13/05/16	8.30	M (F)	Under 18 / 19-25	A T O	No ID	F. Ok
28/05/16	7.40	M (F)	Under 18 / 19-25	A T O	No ID	F. Ok
		M (F)	Under 18 / 19-25	A T O		
		M (F)	Under 18 / 19-25	A T O		
		M (F)	Under 18 / 19-25	A T O		
		M (F)	Under 18 / 19-25	A T O		
		M (F)	Under 18 / 19-25	A T O		
		M (F)	Under 18 / 19-25	A T O		

Checked by _____ Date _____

Time	Male	Under 18 19 to 25	Alcohol Tobacco Other	eg no ID	Staff to initial
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Licensing Officer
Maidstone Police Station
Palace Avenue
Maidstone
Kent

Direct Line: (01622) 604403
E-mail: 10051@kent.pnn.police.uk
Date: 6th October 2017

For the attention of the Licensing Dept. M.B.C.

Kent Police have received the Premises Licence review which has been submitted by Kent County Council Trading Standards in respect of Capitol Express, 11 Snowden Parade, Snowden Avenue, Maidstone.

Kent Police make the following representations in respect of this application under the "Prevention of crime and disorder" and the "Protection of children from Harm" Licensing objectives.

In July 2016 Kent Police began receiving complaints from a local resident regarding nuisance youths in the area of Snowden Parade. At first the calls were to the youths being a general nuisance making noise and throwing things around, however around December 2016 the calls started to report that the youths were drinking and the informant believed the youths to be underage. Specifically calls reporting that the youths were drinking were made at 21:58hrs on the 02/12/16, at 22:26hrs on the 23/12/16, at 21:29hrs on the 27/12/16 and at 20:00hrs on the 30/12/17.

As a result of this last call PC Anna Verrall attended the area and spoke to a group of 9 youths all of whom were either 17 or younger. PC Verrall confiscated a bottle of Rose wine from a 15 year old female who told the officer that the alcohol had come from Capitol Express. As a result of this information PC Verrall attended the premises and spoke to shop staff. Although the staff member was apparently aware that the youths had been causing problems in the area, they denied that they had sold the wine to the young girl. Despite this denial PC Verrall warned the staff member not to sell alcohol to children.

In the New Year, the problems of youths causing a nuisance in the area did not improve, with the Police and the local PCSO still receiving complaints about youths drinking and causing damage etc. There are no other licensed premises in the area except for Capital Express. In addition Kent Police received specific information from a member of the public that their 15yr old daughter had been buying alcohol and cigarettes from the premises. This information was passed to trading standards.

Kent Police were in attendance with Kent County Trading Standards when they conducted a test purchase operation at the premises on the 21st March 2017, they were also present when the bottles of suspected counterfeit alcohol were seized. Kent Police have seen the video footage from that test purchase operation and are aware that the store's Designated Premises Supervisor, Mr Ferhat Ok was convicted of selling alcohol to a person under 18 on the 11th September 2017. This prosecution was as a result of the failed test purchase operation conducted on the 21st March 2017.

In light of the information supplied above and the information provided in the review by Trading Standards Kent Police believe that the licensing objectives are being undermined in the following ways:

The Designated Premises Supervisor (Ferhat Ok) of this premises failed a test purchase in March 2017. This happened despite the fact that staff at the venue were warned by Police in December 2016 not to sell alcohol to persons under 18. On viewing the video footage of the test purchase it can be seen that this wasn't a simple error, Mr Fehat Ok has asked all the right questions but when the volunteer cannot provide identification Mr Ok deliberately facilitates a plan whereby the sale can still proceed but will not be recorded by the store's CCTV system.

When the Police attended the venue on the 30th December 2016 the staff stated that they knew the youths were causing problems in the area but denied being the ones who were selling them alcohol. The failed test purchase on the 21st March 2017 along with the fact that there are no other off licences in the area, strongly indicates that, not only are these youths in fact getting their alcohol from Capitol Express but also that the staff are aware of this.

It should also be noted that this same premises failed an earlier test purchase in 2013 when Mr Bulent Ok (The current DPS's brother) also made a sale of alcohol to a person under 18.

Thus despite breaking the law previously, a relatively recent warning from the Police about selling alcohol to children, and knowing that that children fuelled up on their alcohol are causing issues in the area they were still prepared to break the law again when simply refusing the sale would have been the correct, legal and easier option. There appears to be a profits first attitude.

This is not a case of where they are simply not promoting the prevention of crime and disorder licensing objective, they are actually responsible for the crime and disorder, this of course also goes hand in hand with undermining the protection of children from harm licensing objective. We notice that trading standards are asking for the licence to be revoked and totally agree that this is the appropriate response to this matter as we have no trust in the premises and genuinely believe that after a short period of time they will revert back to their old ways.

It has been demonstrated that conditions will not work at this premises, as staff either work out ways to avoid them i.e. moving to parts of the shop not covered by CCTV, or simply ignore them, as shown by the lack of external CCTV, lack of Challenge 25 posters, a refusals book that hadn't been completed for some time and a lack of till prompting when an age restricted item is purchased.

Kent Police are also concerned by the fact the "smuggled" goods were on sale in the premises. The account from the premises being that they were purchased from a Cash and Carry in Maidstone however enquiries by Trading Standards showed that this premises ceased trading some time before those goods were allegedly purchased by the premises. This again indicates that the premises put profit before the law and are willing to try and deceive the relevant authorities when they are being investigated.

Because of this Kent Police have no trust in the premises.

Both of the owners/staff members of this premises have now been convicted for selling alcohol to persons under 18 and therefore Kent Police simply believe that this premises is not suitable to hold a premises licence.

As stated in the S182 Guidance, there are some offences in which revocation should be considered even in the first instance. This is not the first instance and the opportunity for compliance and to demonstrate responsible management has passed. Kent Police seek revocation of the premises licence.

Yours sincerely



PP. Chief Inspector Mick Gardner

PREMISES LICENCE

The Licensing Act 2003
Schedule 12, Part A



Premises Licence Number	13/01249/REVIEW
--------------------------------	-----------------

Part 1 – Premises Details

Postal address of premises , or if none, ordnance survey map reference or description, including Post Town & Post Code	
Capitol Express 11 Snowdon Parade Snowdon Avenue Maidstone Kent. ME14 5NS	
Telephone number	01732 525291

Where the licence is time limited the dates
Not Applicable

Licensable activities authorised by the licence
Sale or Supply of Alcohol

Times the licence authorises the carrying out of licensable activities
Sale or Supply of Alcohol – Suspended from 05/07/13 to the 04/10/13
Monday to Saturday 08:00 - 23:00
Good Friday 08.00 to 22.30
Christmas Day 12.00 to 15.00 and 19.00 to 22.30
Suspended from 05/07/13 to the 04/10/13 – There must be no alcohol on the premises at this time.

The opening hours of the premises
Every day 08:00 - 23:00

The non-standard opening hours of the premises
Not applicable

Where the licence authorises supplies of alcohol whether these are on and / or off supplies
Alcohol is supplied for consumption off the premises.

Licence Number: 13/01249/REVIEW
Issue Date: 20/06/2013

Page 1 of 5

Licence issued by:
The Licensing Partnership P.O. Box 58 Sevenoaks Kent TN13 1GP
Telephone number: 01732 227004

Part 2

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

Mr Ferhat OK & Mrs Olcay OK
 Capitol Express
 11 Snowdon Parade
 Snowdon Avenue
 Maidstone
 Kent. ME14 5NS

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

Not applicable

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Mr Ferhat OK
 11 Snowdon Parade
 Snowdon Avenue
 Maidstone
 Kent. ME14 5NS

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

Licence Number: MAID0185/LP/0483
 Licensing Authority: Maidstone Borough Council

John Littlemore
Head of Housing and Community Services
Maidstone Borough Council

Annex 1 – Mandatory conditions**MC1 - The supply of alcohol**

MC0101 - Where a premises licence authorises the supply of alcohol, the licence must include the following conditions:-

No supply of alcohol may be made under the premises licence -

- (a) at a time where 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.

MC0102 - Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

4. 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.

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 – Embedded conditions

Alcohol shall not be sold or supplied except during permitted hours.

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.

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;

Alcohol shall not be sold in an open container or be consumed in the licensed premises.

Annex 3 – Conditions consistent with the Operating Schedule

Not applicable

Annex 4 – Conditions attached after a hearing by the licensing authority

CCTV will be fitted to a standard agreed by Kent Police and Local Authority Officers. The system must comply with The CCTV Code of Practice (2008 edition) produced by the Information Commissioners Office (or subsequent revisions.)

Licence Number: 13/01249/REVIEW
Issue Date: 20/06/2013

Page 3 of 5

The CCTV system will be maintained and serviced on a regular basis

Any recording made via the use of the CCTV will be retained and stored for a minimum of 31 days and made available to any police officer, Local Authority Licensing Officer or any Trading Standards Officer on request or in any case within 48 hours of a request being made.

CCTV coverage will include areas inside and outside of the premises, as approved by the Licensing Authority, in accordance with advice from Kent Police and may include reasonable requests to reposition cameras.

Signs to be displayed to inform the public passing the premises and customers that CCTV is in use at the premises

The only forms of identification acceptable will be photographic driving licence, passport or a 'PASS' approved identification card.

A policy of Challenge 25 will be adopted and publicised in the shop including at the entrance, till point and around the alcohol display areas to the agreement of Kent Police and Local Authority Officers.

All staff will be trained in Challenge 25 and general responsibilities of responsible alcohol retailing and this training will be auditable as per condition 12

The electronic point of sale (EPOS) system to include the facility to prompt cashiers when scanning alcoholic products to positively confirm that they have checked the purchaser's age.

A written refusals and challenges book will be kept at the premises and all staff fully trained in its use. As well as refused sales a record should be kept where customers are challenged and subsequently served as per the Challenge 25 policy of condition 8. The following information will be recorded in this book: -

- a. Time of refusal or challenge
- b. Item refused
- c. Description of person refused sale
- d. Reason for refusal
- e. Name of staff member making refusal

The premises licence holder must audit the refusals and challenges log weekly to identify current trends or members of staff who may require further training to challenge customers.

The refusal book will be made available for inspection to any police officer, Local Authority Licensing Officer or Trading Standards Officer at any reasonable time.

All staff training will be auditable and written records of all training given will be available to any police officer, Local Authority Licensing Officer or Trading Standards Officer at any reasonable time.

The sale of alcohol may only be transacted by a personal licence holder or under the direct supervision of a personal licence holder at all times. When no personal licence holder is present on the premises a sign will be prominently displayed to make all purchasers aware that there are to be 'NO ALCOHOL SALES'.

Annex 5 – Plans

Licence Number: 13/01249/REVIEW
Issue Date: 20/06/2013

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Licence issued by:
The Licensing Partnership P.O. Box 182 Sevenoaks Kent TN13 1GP
Telephone number: 01732 227004

Please see attached

Licence Number: 13/01249/REVIEW
Issue Date: 20/06/2013

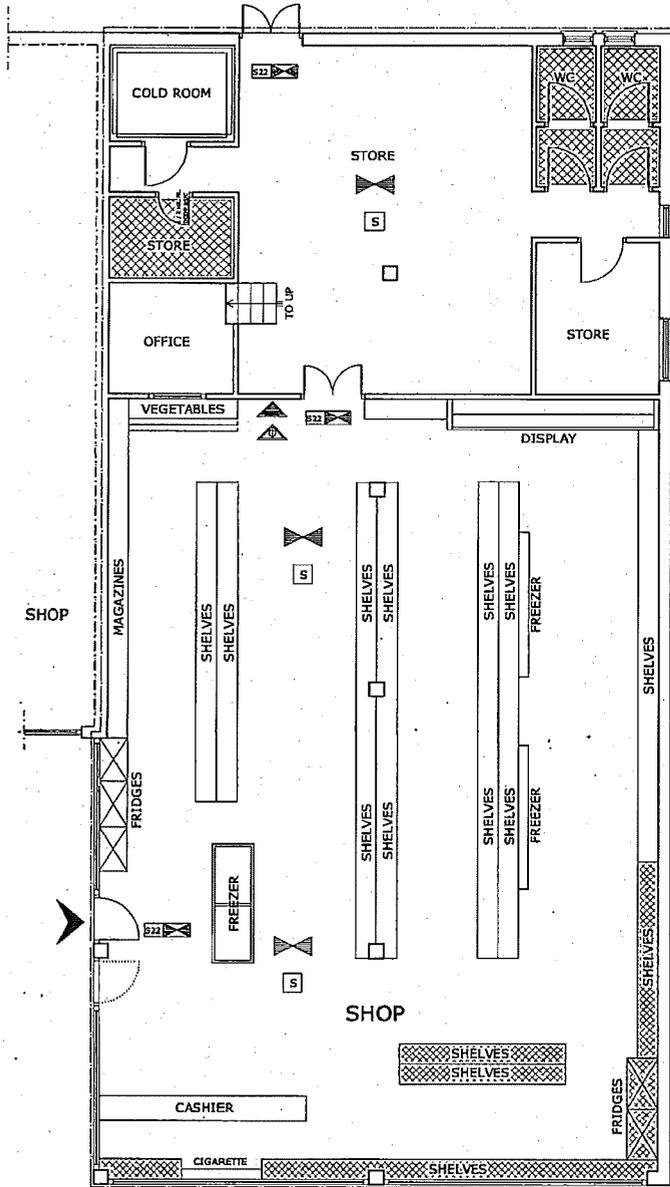
Page 5 of 5

Licence issued by:
The Licensing Partnership P.O. Box 62 Sevenoaks Kent TN13 1GP
Telephone number: 01732 227004

APPENDIX D

LEGEND

-  LIQUOR SALE
-  WC, PASSAGEWAY, ETC
-  LIQUOR STORAGE
-  AMBIT OF LICENSED PREMISES
-  SAFETY LIGHTING
-  SMOKE DETECTOR
-  CARBON DIOXIDE FIRE EXTINGUISHER
-  9 LT. WATER FIRE EXTINGUISHER
-  INTERNALLY ILLUMINATED FIRE ESCAPE SIGN (BS 5266)



EXISTING GROUND FLOOR

27 JUL 2005

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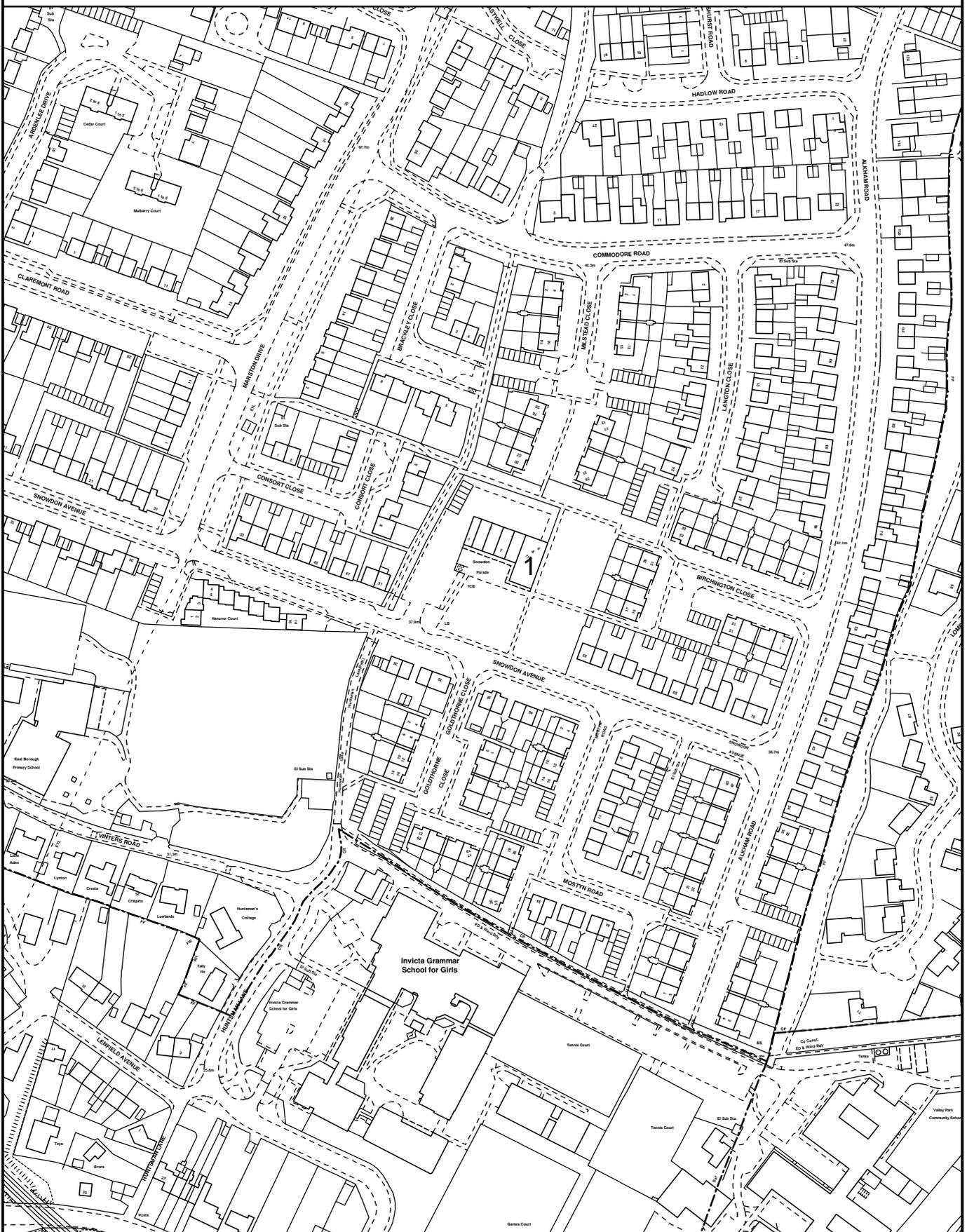
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HUMAN RIGHTS

Article 8

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 1 of the First Protocol

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

Article 6(1)

In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgement shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

Article 10

3. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
4. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

**LICENSING AUTHORITY:
MAIDSTONE BOROUGH COUNCIL**

**Licensing Act 2003 Sub-Committee Hearing Procedure of
Applications for the Review of a Premises Licence or Club Premises
Certificate**

Introduction and Procedure

i) Introductions

The Chairman will request all those persons participating in the hearing to identify themselves, starting with the:

- Members of the sub-committee (who will, if applicable, declare any personal or prejudicial interests)
- Legal advisor
- Committee clerk
- Maidstone Borough Council licensing officers/managers
- The licence/certificate holder (and any representative)
- The applicant for review* (and any representative)
- Each responsible authority (and any representative)
- Each interested party (and any spokesperson or representative)

ii) Procedural Matters

- **Procedure**

The Chairman will:

- Confirm that all parties are aware of the sub-committee hearing procedure and that each party has a copy of the hearing procedure document.

* Not applicable following a closure order.

- **Submissions**

The Chairman will:

- Explain that the sub-committee will allow all parties to put their case fully and make full submissions, within a reasonable time frame.

- **Discussion and cross-examination**

The Chairman will:

- Explain that the sub-committee procedure shall take the form of a discussion led by the sub-committee.
- Explain that the sub-committee will usually permit cross examination (conducted within a reasonable time frame).

- **Disruptive Behaviour**

The Chairman will:

- Explain that where any person attending the hearing behaves in a disruptive manner, the sub-committee may direct that person to leave the hearing (including temporarily) and thereafter the person may submit to the sub-committee in writing any information which the person would have been entitled to give orally had the person not been required to leave the hearing.

- **Reading of Papers**

The Chairman will:

- Confirm that all sub-committee members have pre-read all the papers and any other documents contained in the report regarding the hearing.

- **Draft Conditions**

The Chairman will:

- Enquire whether draft conditions have been agreed between the licence/certificate holder and any of the other parties for the sub-committee to consider.

- **Witnesses**

The Chairman will:

- Enquire whether any parties request to have any witnesses give evidence at the hearing; and if so grant the request unless the request is unreasonable.
- Invite the parties, where appropriate, to appoint a spokesperson.

The Hearing

Outline of the Application and Representations

- The Chairman will ask the legal advisor or community services manager to briefly outline the application and all representations regarding the application.

i) The Applicant for Review

- Opening remarks by the applicant for review (or their representative).
- Evidence of the applicant for review and any witnesses.
- After each person has given evidence the person may be questioned by the licence/certificate holder, each responsible authority, interested party and sub-committee member.
- If necessary, the applicant for review (or their representative) may clarify any matter that arose during questioning.

ii) Responsible Authorities (where applicable)

RESPONSIBLE AUTHORITY	Tick if applicable
Police	
Trading standards	
Environmental Health	
Child Protection (Social Services)	
Planning	
Fire and Rescue	

- Opening remarks by the officer representing the responsible authority (or their representative).
- Evidence of the responsible authority officer and any witnesses.
- After each person has given evidence the person may be questioned by the applicant for review, the licence/certificate holder, each other responsible authority, interested party and sub-committee member.
- If necessary, the officer (or their representative) may clarify any matter that arose during questioning.

iii) Interested Parties

- Opening remarks by the interested party (or spokesperson/representative).
- Evidence of the interested party and any witnesses.

- After each person has given evidence the person may be questioned by the applicant for review, the licence/certificate holder, responsible authorities, each other interested party and sub-committee member.
- If necessary, the interested party (or spokesperson/representative) may clarify any matter that arose during questioning.

iv) The Licence/Certificate Holder

- Opening remarks by the licence/certificate holder (or their representative).
- Evidence of the licence/certificate holder and any witnesses.
- After each person has given evidence the person may be questioned by the applicant for review, each responsible authority, interested party and sub-committee member.
- If necessary, the licence/certificate holder may clarify any matter that arose during questioning.

Closing Speeches

In the following order:

- The applicant for review**
- Each responsible authority**
- Each interested party**
- The licence/certificate holder**

End of Hearing

- The Chairman will ask the members of the sub-committee if they have any final questions for any party to the hearing.
- The Chairman will ask the legal advisor whether there are any further matters to be raised or resolved before the hearing is closed.
- The Chairman will invite the legal advisor to remain with the sub-committee during its deliberations.

- The Chairman will bring the hearing to a close and shall declare that the sub-committee will retire, to private session, to consider the application, all relevant representations, evidence, the relevant extracts of Licensing Authority's Statement of Licensing Policy, the relevant extracts of the National Guidance issued under section 182 of The Licensing Act 2003 and the licensing objectives under the Licensing Act 2003.
- The Chairman shall ask all other persons to withdraw from the room.

The Decision

The Chairman shall declare in public session:

- The sub-committee's determination.
- All parties to the hearing will receive a copy of the written Determination Notice regarding the sub-committee's determination.
- All parties may appeal against the sub-committee's decision within 21 days beginning with the day on which the appellant is notified of the Licensing Authority's written determination. Appeals must be lodged with the Magistrates' Court. The decision of the sub-committee does not take effect until the period for appealing has ended, or if there is an appeal, upon completion of the appeal. Parties should be aware that the Magistrates Court may make an order with respect to costs on any appeal.
- The hearing is formally closed.

Agenda Item 5

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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