

REPORT OF THE DEPUTY CHIEF EXECUTIVE

LICENSING SUB COMMITTEE – 19 DECEMBER 2012

DETERMINATION OF AN APPLICATION FOR A REVIEW OF PREMISES LICENCE UNDER SECTION 52 OF THE LICENSING ACT 2003

EURO STORES, 2 PARK TERRACE, CONCORD, WASHINGTON

**Mr Issam Al-Ayesh
2 Park Terrace
Concord
Washington**

1.0 PURPOSE OF REPORT

- 1.1 To consider an application for the review of a premises licence relating to the above-mentioned premises.

2.0 DESCRIPTION OF DECISION

- 2.1 The Sub-Committee are requested to consider the application and to take such steps as they consider appropriate for the promotion of the licensing objectives.

3.0 INTRODUCTION/BACKGROUND

- 3.1 An application has been received under Section 51 of the Licensing Act 2003 ('the Act') from Northumbria Police applying for a review of the above-mentioned premises licence on the grounds of the Prevention of Crime and Disorder and the Protection of Children from Harm. The application is attached as Appendix 1.
- 3.2 This matter was initially considered by a Licensing Sub Committee on 12 December 2012. The Committee decided to adjourn the matter until 19 December 2012 as a Notice of Hearing sent to the licensee had been returned to the Council.
- 3.3 The Licensing Section has made a number of attempts to contact the licensee. A letter addressed to Mr Al-Ayesh was sent to the premises by recorded delivery on 19 November 2012. This letter was returned by Royal Mail. Officers from the Licensing Section visited the premises at 2:30 p.m on 11 December 2012 to speak to Mr Al-Ayesh. However the premises were closed and the shutters were down. An officer attempted to hand deliver a letter to Mr Al-Ayesh's home address on 12 December 2012 but found he had left the property some months ago. The Licensing Section has also attempted to contact Mr Al-Ayesh by email. To date no response has been received.

4.0 CURRENT POSITION

- 4.1 Once such an application has been received, the Council, in its role as the Licensing Authority, must advertise on, at or near the premises the fact that a review is to take place and invite representations. This notice was displayed at the premises for the statutory period of 28 days commencing on 19 October 2012.
- 4.2 Before determining the application the Council must hold a hearing to consider it and any relevant representations received.
No representations have been received.

5.0 REASONS FOR THE DECISION

- 5.1 To comply with the requirements of Section 52 of the Licensing Act 2003.

6.0 ALTERNATIVE OPTIONS

- 6.1 None submitted.

7.0 RELEVANT CONSIDERATIONS/CONSULTATIONS

- 7.1 The provisions of sections 11.16 to 11.23 of the Secretary of State's Guidance (powers of a licensing authority on the determination of a review) apply to this matter.

'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.

The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

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.

Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- to 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;
- to 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);
- to remove the designated premises supervisor, for example because they consider that the problems are the result of poor management;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence.

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 which 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.

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.

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 which impact upon the licensing objectives.

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 a necessary means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again.

However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

8.0 GLOSSARY

- 8.1 No acronyms or abbreviations have been used in this report.

9.0 LIST OF APPENDICES

9.1 Appendix 1 - Application Form.

10.0 BACKGROUND PAPERS

10.1 None.

Appendix 1

Sunderland City Council

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 **Chief Inspector Sean McKenna** on behalf of Northumbria Police

(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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Eurostore 2 Park Terrace Concord	
Post town Washington	Post code (if known) NE37 2QX
Name of premises licence holder or club holding club premises certificate (if known) Mr Issam Al-ayesh	
Number of premises licence or club premises certificate (if known) OOCMPREM00430	

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 Chief Inspector Sean McKenna Northumbria Police Gillbridge Police Station Gillbridge Avenue Sunderland SR1 3AW
Telephone number (if any) 0191 5636655
E-mail address (optional)

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

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>

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

On 23rd June 2012 two Police Officers were on duty in plain clothes in an unmarked Police vehicle around the vicinity of Eurostore. The two Officers stopped to speak to children who were standing near to the shop and as they were speaking to them they noticed a youth come from the front door of the shop followed by a male. The Police Officers know this male by the name of 'Ram', who works in the shop. When the male caught sight of the Police Officers he went straight back into the premises.

The Police Officers stopped the youth who appeared to be approximately 15 years old. The youth was carrying a bag with 3 bottles of 2 litre cider inside (1 x Strongbow and 2 x White Ice). The youth stated that he had been served by 'Ram' in Eurostore.

The Police Officers took the youth home to his parents who confirmed that he was under 18 years old. The youth signed a pocket note book entry to confirm the sale of alcohol from the premises.

The two Police Officers returned to the premises where they spoke with 'Ram', who's full name is Ramprasad VENKATESWARAN. He denied that he had sold any alcohol but was the only person in the shop at the time of the offence. He had cleared the shelves of the 2 litre bottles of Strongbow and White Ice and there was an obvious space where they had been, next to the 1 litre bottles of Strongbow and White Ice. The Officers stated that his attitude at the time was 'disgusting' towards them and he also stated that he had CCTV but it was not recording. VENKATESWARAN was issued with a £80 Penalty Notice, this notice has been paid.

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

Efforts have been made to speak to the Premises Licence Holder Mr Issam Al-ayesh.

3 Letters have been sent to the premises from Northumbria Police on 27 July 2012, 3 August 2012 and 12 September 2012 inviting him to attend the Police Station to discuss the matter further. None of these appointments have been attended. These letters are attached to this review.

Police have also received numerous complaints and information from the local residents that the premises are selling alcohol to underage youths. The residents state that the staff check the outside the premises to make sure that nobody is about before selling the alcohol to under 18's. There has been information received that the staff also sell from the rear of the premises but only to the local children that they know, this means that conducting test purchases would be difficult.

On 23 July 2012 a complaint was received from a mother whose 14 year daughter had been admitted to hospital after purchasing alcohol from Eurostore. Her daughter stated that she had bought alcohol directly from a male in the premises who kept the alcohol under the desk of the store, the male is aware that she is under 18 as she regularly attends in her school uniform.

Northumbria Police take matters of underage sales of age restricted products very seriously. Youth disorder is clearly related to the consumption of alcohol.

- Offences by youths, such as criminal damage, drunken disorderly behaviour and violence is often as a result of underage drinking.
- Youths under 18 are more vulnerable when drunk, particularly when they have been drinking excessively and when unsupervised as is often the case with street drinking.
- Significant public nuisance is also caused when groups of youths congregate in the Local area in the ready expectation of obtaining alcohol. Broken bottles, criminal damage and unruly behaviour by drunken youths causes distress to local residents and reduces the quality of life for those living in the area.

It is clear that the premises licence holder is not taking their responsibilities under the Licensing Act seriously. Northumbria Police would request that the licensing committee are minded to add the following conditions to the premises licence in order to promote the licensing objectives;

1. A CCTV system must be designed, installed and maintained in proper working order and be correctly time and date stamped. Such a system must;
 - Ensure coverage of all entrances and exits to the licensed premises both internally and externally and such areas as may be required by the licensing authority and Northumbria Police.
 - Provide continuous recording for each camera to the Home Office Scientific Development Branch (HOSDB) standard for identification (CCTV Operational Requirements Manual 2009 No. 28/09). Such recording must be retained for a minimum of 28 days and must be supplied to an Officer of the Council or a Police Officer on demand.
 - Be in operation at all times the premises are in use.
 - An operational daily log report must be maintained endorsed by signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded.
2. All members of staff at the premises shall seek credible photographic proof of age evidence from any person who appears to be under the age of 25 years and who is seeking to purchase alcohol on the premises. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or a Proof of Age card carrying a 'PASS' logo.
3. A staff training record shall be maintained at the premises:
 - All members of staff shall receive training on their responsibilities, with particular focus on

issues surrounding age restricted products.

- A record of training shall be kept at the premises containing the training that each member of staff has received, and be available on request to an Officer of the Council or Police Staff.
- 4. All alcohol will be kept in a particular area of the premises separate from general food sales, that can be monitored at all times by staff working in the premises.
- 5. A refusals register shall be maintained at the premises for all refusals of age restricted products. This register shall be made available to an Officer of the Council or Police Staff.
- 6. There shall be displayed at the point of entry to the premises and inside the premises at any points of sale, suitably worded signage advising customers that underage sales of alcohol are an offence and that they will be asked to produce proof of age evidence

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

yes

Please tick ✓

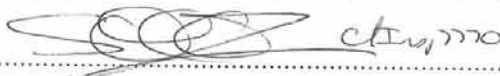
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 4)

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

Signature



Date **18 October 2012**

Capacity **Chief Inspector**

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6) Sarah Howson Licensing Coordinator Gillbridge Police Station Gillbridge Avenue	
Post town Sunderland	Post Code SR1 3AW
Telephone number (if any) 0191 5636655	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) sarah.howson.4672@northumbria.pnn.police.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.

Mr Issam Al-ayesh
Eurostore
2 Park Terrace
Concord
Washington
NE37 2QX

27 July 2012

Eurostore, Washington

As you may be aware an employee at the premises has been issued with a fixed penalty notice for sale of alcohol to a person under 18 year old. This sale was made on Saturday 23rd June 2012 and witnessed by Officers of Northumbria Police.

It is our intention to reduce the opportunity for under age drinkers having access to alcohol in licensed premises. We will do this by working together with licensed premises to identify areas of best practice, to reduce the availability of alcohol to underage drinkers.

We would therefore request that you attend Gillbridge Avenue Police Station on Thursday 2nd August 2012 at 1030hrs hours so this matter can be discussed further.

I must advise you that officers from Northumbria Police will be inspecting the premises again and, should it be found that they are operating in breach of **any** of the requirements of the Act, we would be obliged to consider dealing with the matter in a less lenient fashion.

Should you have any queries with regard to this matter, or this date is not suitable please contact me as soon as possible, **telephone no 0191 5636655**.

Yours faithfully

Sarah Howson
Licensing Coordinator
Sunderland Area Command
Northumbria Police

Mr Issam Al-ayesh
Eurostore
2 Park Terrace
Concord
Washington
NE37 2QX

3 August 2012

Eurostore, Washington

As you may be aware an employee at the premises has been issued with a fixed penalty notice for sale of alcohol to a person under 18 years old. This sale was made on Saturday 23rd June 2012 and witnessed by Officers of Northumbria Police.

It is our intention to reduce the opportunity for under age drinkers having access to alcohol in licensed premises. We will do this by working together with licensed premises to identify areas of best practice, to reduce the availability of alcohol to underage drinkers.

We would therefore request that you attend Gillbridge Avenue Police Station on Thursday 9th August 2012 at 1030hrs hours so this matter can be discussed further.

I must advise you that officers from Northumbria Police will be inspecting the premises again and, should it be found that they are operating in breach of **any** of the requirements of the Act, we would be obliged to consider dealing with the matter in a less lenient fashion.

Should you have any queries with regard to this matter, or this date is not suitable please contact me as soon as possible, **telephone no 0191 5636655**.

Yours faithfully

Sarah Howson
Licensing Coordinator
Sunderland Area Command
Northumbria Police

Mr Issam Al-ayesh
Eurostore
2 Park Terrace
Concord
Washington
NE37 2QX

12 September 2012

Eurostore, Washington

As you may be aware an employee at the premises has been issued with a fixed penalty notice for sale of alcohol to a person under 18 years old. This sale was made on Saturday 23rd June 2012 and witnessed by Officers of Northumbria Police.

We would therefore request that you attend Gillbridge Avenue Police Station on Monday 24th September 2012 at 1130hrs so this matter can be discussed further.

I must advise you that this is the third request sent for you to attend and discuss these matters. If this appointment is not attended then the matter will be taken to review under section 51 of the Licensing Act 2003.

Should you have any queries with regard to this matter, or this date is not suitable please contact me as soon as possible, **telephone no 0191 5636655**.

Yours faithfully

Sarah Howson
Licensing Coordinator
Sunderland Area Command
Northumbria Police