

**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 **Charlotte Palmer Senior Licensing Enforcement Officer**

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	
Kalamis Fish Restaurant, 112 High Street	
Post town	Post code (if known)
Enfield	EN3 4ES

Name of premises licence holder or club holding club premises certificate (if known)
Mr Mansur Duzgun

Number of premises licence or club premises certificate (if known)
LN/201500377

Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
- a) a person living in the vicinity of the premises ☐
 - b) a body representing persons living in the vicinity of the premises ☐
 - c) a person involved in business in the vicinity of the premises ☐
 - d) a body representing persons involved in business in the vicinity of the premises ☐
- 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

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 Charlotte Palmer Licensing Authority London Borough of Enfield PO Box 57 Civic Centre Silver Street EN1 3XH
Telephone number: 020 8379 3965
E-mail address: charlotte.palmer@enfield.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
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

☒
☒

Please state the ground(s) for review: (please read guidance note 1)

Enfield Licensing Authority is seeking a review of the premises licence on the grounds that those running the premises have repeatedly failed to demonstrate full compliance with the current licence conditions despite numerous visits, meetings and warnings. The plan attached to the licence is not accurate and people have been encouraged to smoke in a substantially enclosed area contrary to the Health Act 2006 through the provision of shisha pipes. The Licensing Authority has no confidence in the current Premises Licence Holder who has given false information under caution during a Police and Criminal Evidence Act 1984 interview. Despite claiming it is his business and that he is there daily Mr Duzgun has never been seen working there.

Background Information:

Please provide as much information as possible to support the application (please read guidance note 2)

Complaint and Visit History of Premises within the last 12 months (i.e. since October 2016)

12/11/16 – 00:30 - Out of Hours Licensing Enforcement Officers and the Police Licensing Officer (EVG/VPK/KS) visited the premises. The side gate was wide open and the officers were able to walk in without being challenged. Live music could be heard and disco lights were on. There were approximately 25 people sitting in the rear outside area, smoking shisha and drinking. Breach of condition 18. The officers met Mr Deniz Alemdar who claimed to be the new owner. The outside area was being used for smoking and was more than 50% enclosed – breach of Health Act 2006. An inspection report was completed, signed by an officer and Mr Alemdar and a copy was given to him. **See Appendix LA1.**

Following this visit a meeting was arranged at the premises with the named Premises Licence Holder, Mr Duzgun.

17/11/16 – Senior Licensing Enforcement Officer and the Police Licensing Officer (CPX/KS) visited the premises at a prearranged meeting with Mr Duzgun and the new Manager Mr Deniz Alemdar. A full licence inspection was carried out and a number of concerns were raised. The visit to the premises on 12/11/16 was discussed. During the meeting Mr Duzgun stated he was still the owner of the business and that it had been a private function and no one inside the premises had been charged for anything. An inspection report was completed and signed by Mr Duzgun. **See Appendix LA2.**

21/11/16 Following the meeting a letter was sent to Mr Duzgun confirming what was discussed during the meeting. The letter also reminded him of the licensed hours of the premises and listed the conditions with recommend alterations that should be made to the licence now that the back of the premises was enclosed. The letter included the following warning:

‘Given the amount of advice you have been given please take this as a warning that should officers witness breaches of licensed times or conditions in future or smoking in an enclosed or substantially enclosed area you will be invited in to attend a formal interview under caution with a view to instigating prosecution proceedings against you.’

The letter also advised that the plan showing the layout of the premises forms part of the licence and must therefore legally be accurate. **See Appendix LA3.**

21/11/16 - Smoking shelter calculator sent to Mr Duzgun which he acknowledged receipt of on the same day and asked for a meeting to discuss the smoking area.

25/11/16 – Senior Licensing Enforcement Officers (CPX/VPK) visited the premises. Work was being carried out on the rear outside area. The officers explained that it was more than 50% enclosed so no smoking was permitted - advised that they could have electronic shisha instead. Said they would do that.

04/01/17 - Noise complaint received stating it was noisy at 03.15 from a gathering in the car park, screaming and singing. Also allegation of drug dealing in the car park area.

24/01/17 - Officer emailed Mr Duzgun to inform him of this complaint which he acknowledged via email. Allegation of drug dealing denied.

24/01/17 - 15:10 - 15:40 - Senior Licensing Enforcement Officer and the Police Licensing Officer (CPX/KS) visited the premises. Entered premises and spoke to manager Mr Deniz Alemdar. Discussed allegations regarding drug dealing - this was denied. Noise from people using the car park - he said this was not their customers as they are not open to the public yet but that he does use the premises with his family and friends - the room at the back was set up with electronic shisha pipes set out at tables and fruit on the bar which was fully stocked. We asked to see the CCTV to check his claims but it appeared to have been removed. (no inspection report left)

31/01/17 – Email from complainant Saturday morning 28/01/17 at 00:55 woken by customer singing.

01/02/17 – Email from complainant regarding noise from manager leaving premises at 03:45.

01/02/17 – Mr Duzgun attended a meeting with the Police Licensing Officer, Principal Licensing Officer and Senior Licensing Enforcement Officer (KS/EVG/CPX) at their request. Looked at plan attached to licence and noticed that some doors are not shown on the plan. What was the rear garden area had also been enclosed. Went through licence conditions and again warned that breaches could result in Mr Duzgun being invited in for a formal interview under caution with a view to instigating prosecutions proceedings and or the submission of a licence review. Mr Duzgun advised that he would

be attending the premises more often to ensure conditions and times were complied with. A number of the conditions referred to the outside garden area. As the rear area had now been enclosed the meaning of the conditions was not as clear. These conditions were discussed and officers recommended that Mr Duzgun apply to amend the wording. Mr Duzgun advised Officers that only electronic shisha was in use at the premises now rather than traditional shisha pipes and that in time all shisha use would cease and the premises would become a fish restaurant and that the premises would be opening to the public on 28th February 2017. A number of other concerns raised by the complainant were also discussed.

03/02/17 Follow-up letter confirming what was discussed was sent to Mr Duzgun – **see Appendix LA4** which he acknowledged receipt of. The letter also advised him of the restriction attached to the building planning permission.

13/02/17 – Mr Duzgun confirmed he would submit a variation application and new plans that week and that realistically he wouldn't open on 28/02/17. He advised that his manager had been there on 01/02/17 as the tenants above thought they had heard someone trying to break in. Mr Duzgun confirmed that no CCTV data was recoverable due to water damage from a water leak. Mr Duzgun confirmed that the CCTV was now working, that he had a new recording box, however due to works going on at the moment and the electrics being off it currently was not on most of the time.

28/02/17 – Senior Licensing Enforcement Officer (CPX) emailed Mr Duzgun to advise him that a further noise complaint has been received alleging that on the morning of Tuesday 21st February at 03:00 people left the premises by the front entrance and gathered in the main road where their cars were parked and carried on shouting and screaming for approximately 20 minutes. The same allegedly happened at 02.45 on Wednesday 22nd February but by a smaller group. The Officer asked that Mr Duzgun provide them with a copy of the CCTV. This was not received.

01/03/17 – Further complaint received alleging that at 02:50 that morning people gathered at the front of the premises in the main road making a nuisance.

07/03/17 – Email and photos received from Mr Duzgun stating the premises was undergoing extensive decorative works and the CCTV has not been connected so the previously requested footage could not be provided.

17/03/17 – Variation application submitted to amend conditions and update plan. Granted 11/05/17. Over six weeks after the meeting.

14/06/17 - Email from complainant alleging that the premises was still operating as a shisha bar and that several times within the last two weeks they had been disturbed by patrons leaving the property between the hours of 2-3am.

16/06/17 21:25 - 22:05 - Out of Hours Licensing Enforcement Officers (CPX, EVG) visited the premises to see if they were trading and if so to carry out a full licence inspection. The door was closed at the front of the premises but there was a strong sweet smell in the air around the premises which smelt like shisha. The officers walked around into the carpark at the side of the premises and the smell became stronger. There was a male in the car park on a scooter and as they looked along the side of the premises he beeped his horn. The officers walked back to the front of the premises just as two males were entering via the front door using a pin pad to gain entry. There was a CCTV camera on the door which had red lights on it showing it was working. CPX held the door open and knocked on the door to get someone's attention. A male dressed in black came forward. The front of the shop has been refurbished but lacked any furniture. There was nothing going on in the front of the premises and no customers in that area. People could be seen in the kitchen area. The smell of shisha was stronger inside the

building. The male who approached the officers said that he didn't work there but had come to the door as he'd heard them knocking. The officers entered the premises and walked towards the kitchen as the two males they had seen enter previously crossed in front of them and went up some stairs to the flat above. The doorway to the accommodation upstairs was open and residents did not appear to have any separate entrance. In the kitchen there was a female who didn't appear to speak English and one other person. In the grill area there were small red hot cubes of coals for shisha pipes. No cooking was seen during the visit. The officers walked around to the back room of the premises. In this area there were 21 customers (19 males and 2 females) sitting playing cards, and a scrabble like game. Most appeared to be drinking soft drinks. Three shisha pipes were being used. A very small area of the room - less than 5% was open at the far end -breach of Health Act 2006. The officers spoke to a second male who gave his name as Orhan and said he was a member of staff and that the first male was his friend who didn't work there. He said there were two staff working and two friends there in the kitchen area. CPX advised that they were from the Licensing Enforcement Team and were there to investigate a complaint alleging that the premises was trading as a shisha bar with loud music and people noise affecting local residents and that they would also be carrying out a full licence inspection. She advised that there were too many people in the back area of the premises at that time and that they should not be smoking in the room. He phoned Mr Duzgun and spoke to him on the phone. He then handed the phone to CPX who told Mr Duzgun about the complaint, that smoking legislation and the licence were being breached. He advised that he was currently on the M25 motorway at junction 12 so would not be able to get there for some time. He apologised and said they should not be smoking in there. CPX advised him that she would carry out an inspection and would invite him in to attend a meeting about it. CPX handed the phone back to Orhan. As she was aware that the Police Licensing Officer was working that night CPX called her in case she wanted to come down and see what was going on. After speaking to the PLH the officers carried out a full inspection and looked around the premises. Staff spoke to the customers advising them that the premises would be closing and that they would have to leave. Optics were on display with various spirits, the till was on, CPX picked up 2 receipts, one showing the sale of a Budwiser at 21:20 and the other the sale of a Red Bull at 21:20. This showed that alcohol was being sold and the licence was in use. The remains of one meal were seen on a table but there was no longer a customers at that table. There was a large television projector screen playing music. PC Karen Staff and PC Steve Elsmore entered the premises at approximately 21:50 by which time all customers had been asked to leave - several were waiting outside. Inspection carried out and the following conditions were being breached: 2, 3, 4, 5, 6, 8, 10, 11, 12, 13, 15, 17. Inspection report completed and copy signed by and given to Orhan. Also requested they provide the CCTV footage for the last week i.e. from 09/06/16. On looking around the room Officers saw red hot coals on top of a shisha pipe with no cover over them. This was dangerous as it could easily have been knocked over and the building was almost if not totally made of wood, including a decking floor. There was an electoral cable hanging down, a hairdryer on a table which it is believed is used to blow on the coals to keep them burning and heaters on the walls. Near the side gate there were lots of paint pots and decorating equipment, bottles and gas cylinders, The side gate is meant to be used by residents and the bolt was difficult to get to because it was obstructed by a pillar, concerns for fire safety (CPX advised Fire Service of concerns on 20.06.17). EVG took photos of the premises. All four officers left via the side gate and noticed that a group of customers were still outside. EVG also noticed that the plan was still not correct. Officers waited until the customers had gone then left the area at 22:05. **See Appendix LA5, LA6 and photos LA6.** CCTV was not provided.

14/07/17 – 14:00 – Mr Duzgun was interviewed under caution (CPX/EVG) in relation to alleged offences under the Licensing Act 2003 and the Health Act 2006. Mr Duzgun said that he had sublet the premises to a Mr Das and then to Mr Alemdar but that he stopped subletting it in March / April 2017. He claimed that he is at the premises everyday 5-10 hours and that all of the bills are in his name and his responsibility. He said that the

premises would be a fish restaurant and that he had a special chef coming out from Turkey to work there. He went on to say that Orhan and Deniz have day to day control of the premises. He also claimed that the premises was not yet open to the public and that the event on 16/06/17 had been a private party to celebrate the birth of Orhan's baby. He said they Orhan has asked him if he could have a party and that he had said no but that Orhan had gone ahead without his permission. Mr Duzgun brought a birth certificate with him to the interview. No mention of this was made by anyone at the premises at the time of the visit. When asked what he understood by the term smoke free Mr Duzgun said 50% open at least. He said that he would not give the keys of anyone again and that he would be there from now on. He said that the events happened without his knowledge. Mr Duzgun said that the CCTV had not been working as there was no power to that area of the premises due to the work that was taking place. At the end of the interview the officer stressed to Mr Duzgun that the plan attached to the licence must be accurate and all conditions complied with before any further activities took place at the premises.

14/07/17 - 20:40 Out of Hours Licensing Enforcement Officers (CPX/EVG) visited the premises following the interview early that day. The premises was open. Both Deniz Alemdar and Orhan were in the premises along with six other people and 2 female cleaners. When asked Mr Alemdar said the six people were a mixture of his friends and a couple of customers. Three groups of 2 people, not sitting together so didn't appear to know each other. The friends and customers were smoking shisha (not electronic). When asked Mr Alemdar stated that he would be sub-letting the premises and that he currently pays all the bill - rates etc. He said that he hopes to open the restaurant in 2 weeks time and that his Uncle will be the chef – he denied that His Uncle was travelling over from Turkey for the job. Mr Alemdar advised that the residents upstairs had moved out. Half the roof at the back of the premises was now retractable and the sides of rear room had been altered – they were now clear plastic instead of wood. The plan attached to the licence was not accurate. The officers advised that only electronic shisha was permitted inside the building. Tobacco sign on display, Think 25 posters on display, leave quietly posters on display. No alcohol in tall fridge but there was alcohol in the fridge behind the counter. Optics on display, spirits, champagne, wine. One chicken shish cooking - for staff. Till off. Mr Alemdar advised that the business rates, electric etc were all in his name – and showed the officers paperwork – this contradicted what Mr Duzgun said in his interview. Mr Alemdar said that Orhan will be his member of staff. When asked he said that the buzzer system would be removed the next day. When asked if he was selling alcohol Mr Alemdar said that if customers asked for it of course he would sell it. The front of the shop was still not ready to use. Mr Alemdar said the CCTV was working and had been for 3 weeks – again this contradicted what Mr Duzgun had told officers during his interview. Four people left the premises whilst the Officers were there. EVG took photos. Inspection report left. **See Appendix LA8 and photos as LA9.**

20/07/17 – Email from Mr Duzgun stating that he is willing to stop the shisha part of the business if the Licensing Authority compromises and allows the rear area of the premises to be used for the same times as the front of the premises i.e. until midnight. **See Appendix LA10.**

04/08/17 – Officers visited the premises (CPX/VPK) at a pre-arranged meeting with Mr Alemdar and Orhan to discuss the smoking area which was still more than 50% enclosed. Mr Alemdar had removed some of the wooden sides and replaced them with removable see through plastic. He was advised that even though they could be removed the area was still more than 50% enclosed. Different options were discussed and it was decided that he would remove the sides and replace them wire mesh. It was agreed that if enough sides were replaced this would bring the area into compliance with smoking legislation. Buzzer system had been removed. Photos were taken of the room and bills showing Mr Alemdar as the bill payer. **See Photos LA11.**

14/08/17 – Letter sent to Mr Duzgun advising that Officers have had conversations with Mr Alemdar which contradict answers that Mr Duzgun gave under caution and that Officers have also see official documents which show that Mr Alemdar is paying the bills for the premises which also contradicts what Mr Duzgun said under caution. The letter went on to say that the Licensing Authority lacks confidence in him as the premises licence holder as the conditions were not being complied with, the plan was not correct, and the named DPS did not work at the premises. The letter advised that as a result the Licensing Authority intended to submit a licence review application. **See Appendix LA12.**

18/08/17 - DPS variation submitted, granted 06/09/17.

24/08/17 - Photos sent to officer (VPK) by Mr Alemdar showing that the plastic sides had been removed and wire mesh put up in their place. As the rear wall was still partly up the area was still more than 50% enclosed. **See Appendix 13.**

09/09/17 – 00:20 - Out of Hours Licensing Enforcement Officers (EVG/VPK) visited the premises which was closed. It was noted that the corrugated plastic sheets had been put back meaning that the shelter was substantially enclosed.

13/09/17 – Officer (VPK) had telephone conversation with Mr Alemdar regarding the rear area still being more than 50% enclosed. Mr Alemdar agreed to remove the plastic sheets and advised that he would need time to remove the back wall.

13/09/17 - Business Rates records show that Mansur Duzgun was liable for business rates from 27/04/15 – 08/05/16 then Mr Kamran Das from 09/05/16 – 09/11/16 and Mr Alemdar has been liable for paying the business rates since 10/11/16.

22.09.17 – 23:15 – 23:45 - Out of Hours Licensing Enforcement Officers (CPX/VPK) visited the premises to carry out a full licence inspection. The following conditions were not being complied with:

3. All training relating to the sale of alcohol and the times and conditions of the premises licence shall be documented and records kept at the premises. These records shall be made available to the Police and/or Local Authority upon request and shall be kept for at least one year.

5. A written record of refused sales shall be kept on the premises and completed when necessary. This record shall be made available to Police and/or the Local Authority upon request and shall be kept for at least one year from the date of the last entry.

7. The management shall make subjective assessments of noise levels outside at the perimeter of the premises approximately hourly, whilst recorded music is provided to ensure that noise from the premises does not cause a disturbance to local residents. Records shall be kept of the times, dates and any issues discovered. These records shall be kept for six months. Records must be made available to an authorised officer of the Council or police, upon request. Where monitoring by staff identifies that noise from the premises is audible at the perimeter, measures shall be taken to reduce this i.e. turning volume down.

10. A digital CCTV system must be installed in the premises complying with the following criteria:

(1). Cameras must be sited to observe the entrance and exit doors both inside and outside, the alcohol displays, and floor areas.

(2). Cameras on the entrances must capture full frame shots of the heads and shoulders of all people entering the premises i.e. capable of identification.

(3). Cameras overlooking floor areas should be wide angled to give an overview of the premises.

(4). Provide a linked record of the date, time, and place of any image.

(5). Provide good quality images.

(6). Operate under existing light levels within and outside the premises.

(7). Have the recording device located in a secure area or locked cabinet.

- (8). Have a monitor to review images and recorded picture quality.
- (9). Be regularly maintained to ensure continuous quality of image capture and retention.
- (10). Have signage displayed in the customer area to advise that CCTV is in operation.
- (11). Digital images must be kept for 28 days.
- (12). Police or authorised local authority employees will have access to images at any reasonable time.
- (13). The equipment must have a suitable export method, e.g. CD/DVD writer so that the police can make an evidential copy of the data they require. This data should be in the native file format, to ensure that no image quality is lost when making the copy. If this format is non-standard (i.e. manufacturer proprietary) then the manufacturer should supply the replay software to ensure that the video on the CD can be replayed by the police on a standard computer. Immediate copies must be made available to Police or authorised local authority employees on request.

18. The rear room shall not be used after 22:00.

Part B of the licence must be displayed. The plan attached to the licence is not accurate. A new plan must be submitted. Advised that a licence review is very likely due to repeated breaches and incorrect plan. Officer will email resources again to help you comply. Eleven people using rear room. Two musicians- live music in front of premises and 1 customer. Restaurant now open. Rear still more than 50% enclosed. Three Shisha pipes being used. People playing games. Plastic sheets up on last 2 panels, one at very back and on right as you enter rear room. TV on- not loud, music channel? One shisha pipe taken away by staff at 23:19. One side of ceiling is now totally a retractable roof. Think 25 poster seen. Tobacco signage seen. Leave quietly poster seen. No alcohol being consumed during visit but live music being provided inside so licence was being used. **See Appendix LA14** Officer drew alterations on copy of plan – **see Appendix LA15**.

26/09/17 – Resources emailed to DPS.

To date the plans attached to the licence are still not correct. The premises is now trading under the name Kalamis Fish Restaurant.

Conclusion

The continued breaches of the licence have led to a lack of confidence in those running the premises. The Licensing Authority therefore recommend that the licence be revoked.

If the Licensing Sub Committee is not minded to revoke the premises licence the Licensing Authority recommends that the conditions be strengthened as detailed below and the licence be suspended until a new accurate plan has been submitted and full compliance with the licence conditions and Health Act 2006 has been demonstrated.

Add the following licence conditions

- All staff engaged in the sale/supply of alcohol shall be trained to operate the CCTV system and to download images/footage upon request by Police or authorised local authority employees.
- Customers entering the premises shall not need to use a buzzer system to gain entry to the premises.
- Windows at the front of the premises and the side panels of the premises shall not be obstructed. This is to allow a clear view into the premises.

Complaints have been received from local residents and advice regarding conditions, the plans and smoking issues has repeatedly been given to Mr Duzgun over the last year.

Mr Duzgun kept claiming that the premises was not trading but this does not appear to be the case when officers visit and is not what officers are told by his Manager.

Despite having at least three different names this premises has only ever been seen trading as a shisha café.

Given the number of times Mr Duzgun and his staff has been told of alleged breaches of conditions, times and smoking legislation the Licensing Authority feels they have no choice but to submit this review application.

The Licensing Authority reserve the right to add any additional information to support this review application.

Suspension of Licence:	N
Revocation of Licence:	Y
Recommended period of suspension (max 3 months):	

Have you made an application for review relating to this premises before **No**

If yes please state the date of that application

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

LA representations dated 17/07/15 made when new Premises Licence Application submitted. Conditions recommended. Licence granted 22/07/17

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, 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 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**



Signature:

Date: 6th October 2017

Capacity: Licensing Enforcement Officer

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.