

Annex 2

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 **Amanda Butler- Senior Fair-Trading Officer**
Enfield Council Trading Standards

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 Maxi Wine Centre (formally known as Asya Wine Centre) 495 Hertford Road	
Post town Enfield	Post code (if known) EN3 5XH

Name of premises licence holder or club holding club premises certificate (if known) Mr Ali Riza TULU

Number of premises licence or club premises certificate (if known) LN/201500460 issued on 26/8/2015

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

Amanda Butler
Senior Fair Trading Officer
Enfield Council
Trading Standards Department
PO Box 57
Civic Centre
Silver Street
EN1 3XH

Telephone number: 020 8 132 1572

E-mail address: Amanda.butler@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)

1. Background.

- 1.1 Enfield Trading Standards Authority is seeking a review of the premises licence on the grounds that smuggled goods have been found on the premises i.e. non-duty paid cigarettes and hand rolling tobacco.
- 1.2 This review is based on the prevention of crime and disorder licensing objective.
- 1.3 The review application is to revoke the premises licence in its entirety.

2. Previous History

- 2.1 495 Hertford Road was previously known as Asya Wine Centre. The Premises Licence holder was a Mr Kemal ALTUN who changed his name by deed poll to a Mr Uygur ALTUN in 2014.
- 2.2 **23rd November 2009:** Mr Kemal ALTUN was prosecuted under the Food Safety Act 1990 following the seizure of alcohol namely, 25 bottles of Spar branded Imperial Vodka containing excessive levels of methanol. Mr Kemal ALTUN was found guilty and ordered to pay a fine and costs.
- 2.3 **March 2012;** A minor variation was issued to add conditions to the licence following the discovery of counterfeit alcohol (3 bottles of Bollinger).
- 2.4 **21st July 2015,** Mr Altun's premises licence was revoked on the grounds of the Prevention of Crime and Disorder as the premises had been found to be selling nonduty paid tobacco and alcohol, contrary to Condition 15 of the premises licence which states: -

'A personal licence holder is to be present on the premises and supervise the sale of alcohol, throughout the permitted hours for the sale of alcohol'

- 2.5 Condition 15 of the licence had also been breached 5 times in a year.
- 2.6 **26th August 2015**; a new premises licence was applied for by the current premises licence holder namely, Mr Ali Riza TULU. Condition 16 was added to the new premises licence which states: -
- 'Mr Uygur Altun (formally known as Kemal Altun) shall not be involved in any way in the operation and / or management of the business or be permitted to work in the business in any capacity'.***
- 2.7 Refer to **Appendix 1** for history of licensing review resulting in revocation of the premises licence).
- 2.8 Mr Ali Riza TULU has been the Owner, Designated Premises Supervisor (DPS) and premises licence holder for Asya Wine Centre now known as **Maxi Wine Centre- 495 Hertford Road EN3 5XH**, since 15th August 2015 to present date.

3.0 Recent Inspection History 2019

- 3.1 **03/06/2019**; Enfield Council Licensing Enforcement Team were notified by a Police Licensing Officer of alleged counterfeit alcohol and tobacco being sold from 495 Hertford Rd EN3 5XH. Two vans were alleged to be parked directly outside of the said premises.
- 3.2 **17/6/2019**; Enfield Council Licensing Team and Officers from HMRC conducted an inspection at Asya Wine Centre (now known as Maxi Wine Centre).
- 3.3 No Illicit tobacco were found on the premises at the time of the inspection.
- 3.4 There was a female on the premises who was identified as 'Aylin Yengin', Flat 57 Butterfly Court. She spoke very little English. A personal licence holder was not present at the time of the inspection contrary to Condition 14 of the Premises Licence which states: -
- 'A personal licence holder is to be present on the premises and supervise the sale of alcohol, throughout the permitted hours for the sale of alcohol'.***
- 3.5 During the inspection Officers identified cans of alcohol which were over 6.5% ABV (Alcohol by Volume) alleged to breach Condition 20 of the Premises Licence which states: -
- 'No super-strength beer, lagers or ciders of 6.5% ABV (Alcohol by volume) or above shall be sold at the premises' –***
- 3.6 Refer to Appendix 2 - CPX02 to CPX06: - Photos of alcohol
Refer to Appendix 2 - CPX/07: - Premises Licence
- 3.7 Officers observed a White Bipper van VRM: NU62 XVK parked directly outside of 495 Hertford Rd EN3 5XH. Staff were observed going back and forth to the van.

- 3.8 **25/6/2019**; Officers identified the White Bipper van VRM: NU62 XVK to be registered to a Mr Kemal ALTUN of 101 Southbury Rd, Enfield.
- 3.9 **5/7/2019**; Officers from Enfield Council Licensing Enforcement Team arrived at Maxi Wine Centre-495 Hertford Rd EN3 5XH and observed a White Bipper van parked directly outside of the premises.
- 3.10 Upon arrival, the Officers saw a young male outside of the premises who was looking around. The male retrieved a small item out of the van, put the item in his pocket and entered the said premises. The male identified himself as 'Filip Nadev'.
- 3.11 Officers entered, 495 Hertford Rd EN3 5XH and saw a tall broad male leave the premises with a small carrier bag.
- 3.12 Officers observed another male situated behind the counter and explained the nature of the inspection. The male did not speak much English and said to Officers that he would call the boss. The Officer asked the male who the boss was. The male replied 'Kemal' and made a telephone call. The male proceeded to send a text message as there was no answer on the telephone.
- 3.13 A couple of minutes later, a third male arrived at the premises and spoke to the male behind the counter in another language. The male behind the counter identified himself as 'Erkan' and then later said that his name was 'Svetlozar Atanasof'.

He explained to Officers that the boss was 'Ali'. Officers reminded 'Erkan' that he had told them that the name of the boss was 'Kemal'. Erkan replied '**No, I said it was Ali Riza**'. This was not the case. The third male kept speaking to 'Erkan' in another language.

- 3.14 Whilst at the premises, Officers conducted a full licensing inspection whereby the following alleged breaches of Premises Licensing Conditions were identified: -

3.14.1 Condition 4. 'All staff shall receive induction and refresher training (at least every three months) relating to the sale of alcohol and the times and conditions of the premises licence'.

Erkan explained to Officers that he had not signed training records and did not know the meaning of 'Think 25' or a refusals book.

3.14.2 Condition 5. 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.

Erkan stated he had only worked there a few days but that he had been trained. However, he said he had not signed any training records and did not the meaning of 'Think 25' or a refusals book, when asked.

3.14.3 Condition 6. A 'Think 25' proof of age scheme shall be operated, and relevant material shall be displayed at the premises.

A Think 25 poster was on display. However, staff were unaware of the scheme.

- 3.14.4 **Condition 7. *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.***

Staff did not know what a refusals book was.

- 3.14.5 **Condition 11. *The premises licence holder shall ensure that all receipts for goods bought are kept together in a file or folder as evidence that they have been brought into the UK through legal channels. Receipts shall show the following details:***

- (1) Seller's name and address;
(2) Seller's company details, if applicable;
(3) Seller's VAT details, if applicable.***

Copies of these documents shall be retained for no less than 12 months and shall be made available to police or authorised officers of the council on request within five working days of the request. The most recent three months' worth of receipts shall be kept on the premises and made available to the police or authorised officers of the council on request.

No invoices were found. During the inspection, invoices in the name of Potters Mart Ltd were found. **Please see Appendix 3- (CPX/09 to CPX/10) - photograph of the invoices**

- 3.14.6 **Condition 14. *A personal licence holder is to be present on the premises and supervise the sale of alcohol, throughout the permitted hours for the sale of alcohol.***

There was no personal licence holder on site.

- 3.14.7 **Condition 16. *Mr Uygur ALTUN (formally known as Kemal ALTUN) shall not be involved in any way in the operation and / or management of the business or be permitted to work in the business in any capacity.***

- 3.14.8 **Condition 17. *The premises shall install and maintain a comprehensive CCTV system: -***

- (1) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.
(2) All recordings shall be stored for a minimum period of 31 days with date and time stamping.
(3) Recordings shall be made available immediately upon the request of Police or authorized officer throughout the preceding 31-day period.
(4) The CCTV system should be updated and maintained according to police recommendations.
(5) A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public. This staff member must be able to show a Police or authorized council officer recent data or footage with the absolute minimum of delay when requested.***

The staff claimed that they did not know how to use the CCTV system.

- 3.14.9 Condition 18. An incident log shall be kept at the premises, and made available on request to an authorised officer of the Council or the Police, which will record the following:**
- (1) All crimes reported to the venue**
 - (2) All ejections of patrons**
 - (3) Any complaints received**
 - (4) Any incidents of disorder**
 - (5) All seizures of drugs or offensive weapons**
 - (6) Any faults in the CCTV system**
 - (7) Any visit by a relevant authority or emergency service**

Staff were not aware of an incident book.

- 3.14.10 Condition 20. No super-strength beer, lagers or ciders of 6.5% ABV (alcohol by volume) or above shall be sold at the premises.**

Lager of 7% (ABV) was found on the shelf and were subsequently advised to remove the alcohol from the premises.

Foreign labelled Kasztelan lager was identified on the premises. Officers advised that the labelling on alcohol products should be in English.

- 3.14.11 Non-compliant tobacco products namely 'Blunts' were also identified by Officers during the inspection.

- 3.14.12 Refer to Appendix 3:CPX/11-inspection report and Appendix 3: CPX12 to CPX14- photos of the invoices and alcohol.

- 3.15 **8/7/2019** Enfield Council Licensing Department ascertained the change of business name from **Asya Wine Centre** to **Maxi Wine Centre 495 Hertford Road 5XH**

- 3.16 **11/7/2019;** Director of Potters Mart Ltd was identified as a Mr Usman Kaleem. The licence holder and the Designated Premises Supervisor (DPS) was identified as a Mr Dervis ALTUN. Refer to Appendix 3:- CPX15- Premises licence for Potters Mart Ltd

- 3.17 **9/8/2019;**Officers from Enfield Licensing Team conducted observations from outside of Maxi Wine Centre.

The White Bipper van was parked outside of the said premises.

A male was observed standing outside, smoking next to the van. He kept going in and out of the premises but did not get anything out of the van.

- 3.18 **15/8/2019;** Senior Licensing Enforcement Officer and Police Licensing Officer conducted a licensing inspection at Maxi Wine Centre-495 Hertford Rd EN3 5XH.

Upon arrival, Officers observed the White Bipper Van VRM: NU62 XVK parked directly outside of the said premises.

Tobacco products namely 'Blunts' were identified as contravening tobacco legislation and removed from the premises.

An open packet of non-duty paid cigarettes were also observed next to a motor vehicle's key, which appeared to be for the White Bipper van VRM: NU62 XVK.

Officers requested a female member of staff namely 'Aylin' to open the White Bipper Van. 'Aylin' refused to open the said van as the van belonged to a male called 'Yusuf'. An Officer advised 'Aylin' that they had identified Mr Kemal ALTUN was the registered keeper of VRM: NU62 XVK. This was denied by 'Aylin'.

'Aylin' subsequently made a telephone call and advised Officers that 'Yusuf' was on his way to 495 Hertford Rd, EN3 5XH.

Twenty minutes later, a male who identified himself as 'Yusuf' arrived at the said premises and walked behind the shop counter. 'Aylin' proceeded to hand 'Yusuf' the keys to the van and the opened packet of Non-duty paid cigarettes. 'Yusuf' left the premises immediately without speaking to officers and entered the said van.

The Police Licensing Officer knocked on the window of the van. 'Yusuf' ignored the Officer and drove away from the premises.

It is alleged that Mr Uygur ALTUN (formally known as Mr Kemal ALTUN) is still actively running/managing the business from 495 Hertford Road, (although the premises licence holder is currently Mr Ali Riza TULU, contrary to Condition 16 of the premises licence).

3.19 **11/10/19**; a premises licence was granted to Mr Ali Riza TULU regarding premises currently known as **Maxi Wine Centre- 495 Hertford Road EN3 5XH**. No changes have been made to the licence since that time.

3.20 **28/10/19** ;Officers from Enfield Council Trading Standards, a Senior Licensing Enforcement Officer and a Police Licensing Officer were accompanied by a dog handler and a dog from Wagtail International to various retail premises within the Borough to combat the sale of illicit tobacco.

At approximately 11.30HRS, Officers conducted an inspection to Maxi Wine Centre (formally known as Asya Wine Centre) 495 Hertford Rd Enfield EN3 5XH.

Upon arriving at the said premises, Officers saw a female of Mediterranean appearance behind a shop counter. The Senior Licensing Enforcement Officer explained the nature of the inspection to the female who identified herself as Ms Eilem KILIC. Officers showed their credentials to Ms KILIC.

Ms Eilem KILIC's first language was not English and therefore made a telephone call on her mobile phone. The Senior Licensing Enforcement Officer asked to speak to the person on the telephone. The Officer spoke to a male who identified himself as Mr Dervish KILIK who explained that he was the business partner of the premises licence holder.

The Owner and premises licence holder, Mr Ali RIZA TULU was not on the premises at the time of the inspection.

The Dog handler and Dog from Wagtail International assisted with the inspection and found the following tobacco on the premises: -

- Fifty (x50) packets of 20 Marlboro Gold cigarettes
- Twenty-four (x24) packets of 20 P3ct cigarettes
- Fourteen (x14) packets of 20 Compliment Blue cigarettes
- Ten (x10) packets of 20 Compliment Purple cigarettes
- Twelve (x12) packets of 20 Marvel cigarettes
- Thirteen (x13) packets of 20 NZ cigarettes
- Fourteen (x14) packets of 20 L & M Cigarettes
- Nineteen (x19) packets of 20 Minsk cigarettes
- Seventeen (x17) packets of 20 NZ Gold cigarettes
- Ten (x10) packets of 20 Rothmans cigarettes
- Fourteen (x14) packets of 20 Lifa cigarettes
- Twenty (x20) packets of 20 Marlboro Touch cigarettes
- Four (x4) packets of 20 Victory Gold cigarettes

Total: 221 packets of 20 cigarettes (4420 sticks)

- Three (x3) packets of 20 Golden Virginia hand rolling tobacco (50g)
- Two (x2) Amber leaf hand rolling tobacco (50g)

Total: - 5 packets of hand-rolling tobacco (250g)

The afore-mentioned products were found in bags within cardboard boxes behind the shop counter.

The estimated excise duty and VAT evaded on the 4420 cigarettes is **£1559.11** and 5 packets of hand rolling tobacco seized is **£70.70**.

Also, during the inspection, illicit drug paraphernalia/polyethene bags were seen displayed for sale behind the shop counter. **Please see Appendix 2: - CPX22 to CPX26**

Refer to Appendix 4- Notice of Seizure and Notice of Powers

Refer to Appendix 3: -CPX17 to CPX26 Photos of the seized tobacco

3.21 **11/11/2019**; a letter was sent to Mr Ali RIZA TULU and Ms Eilem KILIC inviting them to attend a tape-recorded interview on 10th December 2019 under the provisions of the Police and Criminal Evidence Act 1984. They did not attend this interview.

This was in regard to the following alleged offences pertaining to the seized tobacco namely: -

Section 136 licensing Act 2003

It is alleged that the following premises licence conditions have been breached: -

Condition 14 of the premises licence which states: -

‘A personal licence holder is to be present on the premises and supervise the sale of alcohol throughout the permitted hours for the sale of alcohol’.

Mr Ali RIZA TULU was not on the said premises at the time of the inspection conducted on 28th October 2019 by Officers from Enfield Council’s Trading Standards Team, Licensing Enforcement Team and a Police Licensing Officer.

Condition 16 of the premises licence states: -

'Mr Aygar ALTUN (formally known as Kemal ALTUN) shall not be involved in anyway in the operation and/or management of the business or be permitted to work in the business in any capacity'.

Inspections from Enfield Council Licensing Enforcement Team and a Police Licensing Officer observed a White Bipper van VRM: NU62 XVK parked directly outside of 495 Hertford Rd EN3 on the 17th June 2019 and 15th August 2019, respectively. The van has been identified to be registered to Mr Kemal ALTUN alias Mr Aygar ALTUN.

Condition 10 of the premises licence states: -

'Only the Premises Licence Holder or Designated Premises Supervisor shall purchase alcohol and cigarette stock'

On 5th July 2019, Officers from Enfield Licensing Dept conducted a licensing inspection at 495 Hertford Rd EN3. During the inspection, invoices were produced which stated the suppliers of alcohol and tobacco. The invoices were addressed to 'Potters Mart Ltd' 75 Darkes Lane.

The Company Director of Potters Mart Ltd has been identified to be a Mr Usman Kaleen and the premises licence holder has been identified as a Mr Dervis ALTUN who was not the premises licence holder for Asya Wine Centre or Maxi Wine Centre'.

- 3.22 **11/12/2019;** Senior Fair-Trading Officer wrote to Mr Ali Riza TULU and Eilem KILIC requesting them to contact them within 7 days in order to reschedule the PACE interview. Refer to Appendix 5- PACE letters and emails from and to Mr Ali Riza TULU

4. Suspected Offences;

4.1 Section 144 of the Licensing Act 2003

It is alleged that on 28th October 2019 Maxi Wine Centre- 495 Hertford Rd were found to be in possession of imported tobacco without payment of duty or which have otherwise been unlawfully imported

4.2 Regulation 7(1) of the Standardised Packaging of Tobacco Products Regulations 2015

On 28th October 2019, Officers seized tobacco products alleged to breach Regulation 7(1) of the Standardised Packaging of Tobacco Products Regulations 2015, in that the exterior of the packaging did not have the permitted colour, that being Pantone 448c applied to it.

4.3 Contrary to Regulation 15(1) of the Standardised Packaging of Tobacco Products Regulations 2015

On 28th October 2019, Officers seized tobacco products alleged to breach Regulation 7 and 11 of the Tobacco & Related Products Regulations 2016 because the labelling was not in English i.e. did not comply with the General warnings and information messages on tobacco products for smoking and/or General conditions applicable to all health warnings on tobacco products. **Contrary to Regulation 48 of the Tobacco & Related Products Regulations 2016.**

5.0 Additional Information:

- 5.1 Home Office revised guidance issued under section 182 of the Licensing Act 2003 (11.27), states that there are certain criminal activities that may arise in connection with licensed premises which should be treated particularly seriously. The list includes the use of licensed premises for the sale or storage of smuggled tobacco and alcohol (i.e. non duty paid products).
- 5.2 The guidance (11.28) goes on to say that it is envisaged that responsible authorities will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.
- 5.3 On 11th February 2015, during the meeting of the Licensing Sub-Committee in regard to the application to review the premises licence of Asya Wine Centre -495 Hertford Rd, Paragraph 11 of the said minutes stated, ***'there would be no drug related paraphernalia in the shop'***. **Please see Appendix 1- Paragraph 11.**
- 5.4 However, during the Trading Standards and Licensing Inspection on 28th October 2019, photographs of small plastic bags believed to be drugs paraphernalia were identified.

6.0 Conclusion:

- 6.1 Enfield Trading Standards Authority is of the opinion that given the large volume of tobacco seized, it is appropriate to recommend that this licence be revoked, even in the first instance.
- 6.2 The afore-mentioned recommendation takes into consideration the previous premises licence revocation issued to Mr Uygur ALTUN (formally known as Kemal ALTUN) and the alleged breach(es) of the current premises licensing conditions i.e. 10, 14 and 16, contrary to Section 136 of the Licensing Act 2003
- 6.3 The fact that Mr Ali Riza TULU (who is the current Premises Licence Holder and Designated Premises Supervisor) was not on the premises at the time of the inspection, the alleged licensing breaches and alleged product safety non-compliances, the Trading Standards Authority has a lack of confidence in those running the business.
- 6.4 If the Licensing Committee is minded not to revoke the licence, then the Trading Standards Authority request that the licence be suspended until the following actions have been completed:
- 6.4.1 Full compliance with the licence conditions has been demonstrated.
- 6.5 Trading Standards make no recommendations regarding amendments to the licence conditions, as these had already been varied in March 2012 and have been demonstrated as not being adhered to. They contain the most appropriate and up to date conditions consistent with the Operating Schedule.
- 6.6 Trading Standards reserve the right to add any additional information to support this review application.

**7.0 Annex 3 - Conditions attached after a hearing by the Licensing Authority
Not applicable**

Add the following conditions:

7.1 Non-duty paid tobacco or alcohol must not be stored or sold from the premises or from any vehicle.

7.2 There will be no drug related paraphernalia in the shop or being displayed for sale

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):	
A significant quantity of smuggled tobacco has been found at this premises. Having regard to the Home Office guidance the Trading Standards Authority feels it is appropriate to seek total revocation of the premises licence.	

Please tick yes

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
N/A

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: 20th January 2020

Capacity: Senior Fair-Trading 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.