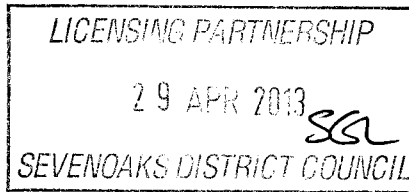


APPENDIX A



13/01249/REVIEW



Maidstone Borough Council
Licensing Partnership
P.O. Box 182
Sevenoaks
Kent TN13 1GP
Tel: 01622 602255
Fax: 01622 602978

TRADING STANDARDS
West Kent Area Office
PO Box 286
West Malling
Kent ME19 4HW
Tel: 01732 525291
Fax: 01732 525319

Website: www.tradingstandards.gov.uk/kent
Email: oliver.jewell@kent.gov.uk
Ask for: Oliver Jewell
Ref: 369486
Date: 25 April 2013

Dear Sir or Madam:

Application for the review of a premises licence - MAID0185/LPRM/1086

Please find enclosed an application by this authority for the review of the premises licence at Capitol Express, 11 Snowdon Parade, Vinters Park, Maidstone. If you have any questions regarding this application please do not hesitate to contact me.

Yours faithfully

A handwritten signature in cursive script that reads "Oliver Jewell".

Oliver Jewell
Trading Standards Officer

**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 Richard Strawson of Kent County Council Trading Standards

(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 Capitol Express 11 Snowdon Parade Vinters Park	
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 and Ms Olcay Ok

Number of premises licence or club premises certificate (if known) MAID0185/LPRM/1086

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 Richard Strawson Area Manager Kent County Council Trading Standards PO Box 286 West Malling Kent ME19 4HW
Telephone number (if any) 01732 525291
E-mail address (optional) <u>Richard.strawson@kent.gov.uk</u>

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 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)

A sale of a bottle of WKD Blue (an alcohol based drink) and a pack of cigarettes was made to volunteers working with Trading Standards on 7th March 2013. The volunteers were aged 15 and 16 years old.

The sale was made by Mr Bulent Ok, a brother of the premises licence holders Ferhat and Olcay Ok.

This sale comes after a long history of complaints being made and advisory visits to the premises as detailed in the application.

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

Kent Trading Standards work closely with Kent Police towards the licensing objective '**The Protection of Children from Harm**'. As part of this remit intelligence is shared where concerned parties believe that a premises is believed to be selling **alcohol** and other age restricted products to those under the legal age limit.

In cases where complaints are made against a business, Trading Standards will routinely make a visit to advise on the best practice including the use of Challenge 25 (and Challenge 21 prior to a phased introduction from 2007 onwards), refusals books and regular training for members of staff. If the Intelligence is considered to be sufficient a Test Purchase will be carried out to determine if the premises will sell to underage volunteer.

The use of a **Challenge 25 policy** allows the member of staff a 'buffer zone' when assessing the age of a young person, and provides sufficient allowance if followed correctly to avoid selling to those under the legal age limit. **Refusals books** allow a premises licence holder or his/her Designated Premises Supervisor to monitor refusals made of age restricted products and is also used to assess the general number of refusals made by a given premises by Trading Standards and Police. Finally the use of **Training Records** allow a premises licence holder or his/her Designated Premises Supervisor to prove that anyone he/she allows to sell alcohol from their premises is sufficiently trained in age restricted sales. From 2009 onwards, Kent Trading Standards have provided follow up guidance by way of a folder of information and template documents as can be found in **Appendix 1**

The shop known as **Capitol Express at 11 Snowdon Parade, Vinters Park** has given cause for concern over a period of time to both Kent Trading Standards and Kent Police. The shop is run by the premises licence holder Mr Ferhat Ok, with his sister Ms Olcay Ok, being the joint premises licence holder, assisting at times when Mr Ok cannot be present.

As consideration must be given for the welfare of the young people volunteering, as well as evidential integrity; test purchase attempts have historically be carried out in a set format. It is likely that with a degree of caution a potential test purchase volunteer could be identified by a shop owner intent on only selling alcohol to underage persons that he personally knows or under certain conditions (such as no other persons being present in the shop). Previous Codes of Practice also restricted the ability for volunteers to act in a manner that would reflect a 'realistic' attempt from a young person to purchase age restricted products (for instance no attempt could be made to dress up to give an older appearance).

Whilst unproven it is considered given the long standing, detailed and persistent nature of the complaints made, that the owners of Capitol Express were aware of these methods and took steps to avoid selling age restricted products to persons or in situations considered to be 'risky'. A summary of these reports and the action taken is made below: -

June 2006 – a member of the public witnessed youths judged to be approximately 11 years old buying **vodka** from the shop. An advisory visit was made during which **no refusals book** was found to be in use, advice was given at the time. A test purchase followed in **September 2006** at which time **Ferhat Ok sold alcohol to 15 year old volunteers**. Mr Ferhat Ok was prosecuted for this incident and plead guilty.

November 2006 – anonymous complaint received from a member of the public that young persons were being sold **tobacco**

March 2007 – information from Kent Police that a new assistant was working in the shop and selling to those under the legal age limit. This had resulted in numerous complaints of **Anti-Social Behaviour** in the vicinity. An advisory visit followed in June 2007 prior to a test purchase in **August 2007** where no sale was made.

September 2007 – detailed information was received from an off duty Police Community Support Officer regarding a witnessed event where a male judged to be underage purchase **beer** from Capitol Express. The shop assistant acted suspiciously however sold the beer without asking for any identification.

September 2007 – a local school advised that pupils named Capitol Express as a shop that sold **cigarettes** to them.

December 2007 – a Kent resident stated that their 15 year old brother had bought **alcohol** from this shop with no questions asked. An advisory visit followed in **January 2008** during which Ferhat Ok stated **no refusals book** was kept or felt necessary. A test purchase followed in **February 2008** which was refused.

August 2008 – a resident complained to Kent Police that their 15 year old son had been served **alcohol** from Capitol Express. Also in **August 2008** a Kent Police officer reported that numerous residents had complained of **underage drinking** and **Anti-Social Behaviour** in grounds in the vicinity of Capitol Express. An advisory visit was conducted in **August 2008** when again **no refusals book** was maintained, prior to another test purchase attempt which was refused.

January 2009 – two separate reports were received from Kent Police regarding Capitol Express selling **alcohol** to young people. An advisory visit followed at which time **no refusals book** was being kept.

April 2009 – a member of the public reported an incident to Kent Police where his 15 year old stepdaughter had visited friends in the Vinters Park area and come home **drunk**. He had visited the area and spoken with residents who were having to clear up alcohol bottles and cans from grassed area outside the shop. Another test purchase attempt followed which was again refused.

May 2009 – a report was received from a local resident to Kent Police. They had witnessed a youth buying large amounts of alcohol from Capitol Express. The informant believed that the shop often would sell to those underage and there was a lot of trouble in the area with young people.

October 2009 – An advisory visit was conducted where once again no refusals book was being kept.

November 2010 – Intelligence was received from a Police Community Support Officer who had been told by local youths that they bought alcohol from Capitol Express.

February 2011 – A further advisory visit showed no refusals book being kept.

March 2012 – a report was received from a police officer who lived locally to Capitol Express. He had personally witnessed cigarettes and alcohol being sold to young persons while off duty and was aware that the shop had a reputation among police cadets as a shop that would “serve all”.

March 2012 – An advisory visit was carried out during which no refusals book was being kept. Additionally a tobacco notice as required by law was not being displayed. A test purchase followed which was refused.

November 2012 – While visiting for other matters Trading Standards Officer Clare Hooper advised Mr Ferhat Ok on age restricted sales. Once again no refusals book was being kept despite the continued advice and still no tobacco notice was being displayed.

Clare Hooper issued a written notice to Mr Ferhat Ok, which he signed to acknowledge receipt. The notice included the recommendations to keep a refusals book, train staff and display the statutory tobacco notice. After the visit Clare Hooper sent a letter of advice to Mr Ferhat Ok including a Kent Trading Standards Underage Sales Advice folder and a tobacco notice in the

required format. A statement from Clare Hooper including copies of the inspection document issued and a duplicate copy of the follow up letter are included as **Appendix 2** (n.b. a signed copy of the letter as delivered can be seen in the photographs in Appendix 4).

January 2013 – A member of the public reported on behalf of his daughters (Aged 13 and 15) that school peers were able to purchase alcohol and tobacco from Capitol Express even when dressed in school uniform of the nearby school.

A similar report was also made in **January 2013** to Kent Police. While it could not be confirmed whether this informant was different to that above, the report also included the information that their 16 year old brother in law bought age restricted foods from Capitol Express.

Also in **January 2013** a report was received from a member of the public that Capitol Express sold alcohol to a group of girls known to be 16 years old.

Finally in **February 2013** the manager of a Maidstone based youth facility advised that young people attending his facility reported that the convenience store in Vinters Park would regularly sell alcohol to those under 18. The information continued that the young people were aware that the shop keeper will only do this if there were no adults in the shop at the time.

In **March 2013**, Kent Trading Standards carried out a test purchase operation. On this occasion the covert equipment was used allowing the volunteers to make the test purchase attempt with no Trading Standards Officers in the shop at the same time to reflect the Intelligence received.

A sale was made of a bottle of **WKD Blue** and a pack of **10 Marlboro Smooth cigarettes** to volunteers aged 15 and 16. The seller in this incident was Mr Bulent Ok, brother of Ferhat Ok. Statements of the volunteers who made the purchases are included in **Appendix 3**.

Mr Bulent Ok had previously served as a Director of Erna Ltd, the legal owner of Capitol Express, between 12th January 2004 and 3rd November 2005 holding a 50% share.

Evidence from the young volunteers also stated that Mr Bulent Ok opened what appeared to be an alcoholic beverage for the customer in front of them, and also offered to open the bottle of WKD Blue for them, which they declined. This action is contrary to the Annex 5 Embedded Conditions of the premises licence such that: -

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

Following the sale Mr Bulent Ok made reference to a previous incident he was involved in, in a London Borough, however to date no further information can be obtained in relation to this incident.

Premises Licence Holder Mr Ferhat Ok was interviewed by Trading Standards Officers on 26th March 2013. During this interview Mr Ok made the following statements:

- He is the main person in terms of the premises licence. Despite the licence being held by both himself and his sister Olcay Ok, she will only fill in for him in his absence
- He remembered receiving advice from Trading Standards on numerous occasions
- He paid little attention to the recommendations from the advisory visits as he felt it was just a 'procedure' for such visits to be carried out
- He didn't keep refusals books despite advice as his was a local shop that didn't experience problems with young people attempting to buy age restricted goods
- His brother Bulent Ok was just 'helping out' in the shop however Ferhat said he felt Bulent was not an appropriate person to be trusted in the job
- Ferhat Ok made references to the fact the test purchase was setup to catch them out and stated that 8pm was close to closing time which meant they were lax in their responsibilities.

- Ferhat Ok also felt that amongst other factors, as the volunteers were a couple this would lead him to assess their age as over 18.

Following the interview, the officers requested to see a copy of refusals books that were alleged to be part used. From the till area, **three** Kent Trading Standards advice folders were produced and were unused. One of these folders was that which was sent by Trading Standards Officer Clare Hooper following the advisory visit in November 2012. Within that folder was the letter of advice and another statutory tobacco notice (which was still not displayed) with a covering note reminding of its importance.

In addition to photographs taken on the evening of the test purchase, further photographs were taken following the visit on 26th March 2013. These photographs are included as **Appendix 4** and serve to demonstrate that Mr Ferhat Ok had all the material and information within his possession to prevent 'accidental' sales to minors and that policies purported to be in place were either disregarded or only displayed to pay 'lip service' to enforcement agencies attempting to prevent young people from causing themselves serious harm through alcohol consumption.

Further to these reported incidents and the failed test purchase, a report was received from Kent Police who had responded to a call regarding Anti-Social Behaviour outside the shop. When spoken to, the youths claimed that Capitol Express was known to sell to young people, but on this occasion the owner had been rude to them when he refused to sell them alcohol.

Trading Standards consider this incident with the utmost severity given the long term nature of the complaints received. Coupled with the acknowledgement from Mr Ferhat Ok that the advice given by Trading Standards on no less than **TEN** advisory visits to his premises between June 2004 and November 2012 had been disregarded it is felt that merely imposing conditions on the premises licence is not sufficient in this case.

Intelligence received from independent consumers, young people and other concerned parties, as well as the evidence of Test Purchasing, suggest that Capitol Express take measures to avoid selling age restricted products when they believe there is an attached risk of 'getting caught'. As such the imposition of licence conditions is not considered enough in this instance to fulfil the licensing objective of the 'Protection of Children from Harm'.

Kent Trading Standards recommend that the premises licence be suspended for a period of three months. Three months will allow the licence holders sufficient time to implement the suggested conditions and facilitate a change of Designated Premises Supervisor.

Additionally the following conditions should be attached to the premises licence and be complied with prior to the re-commencement of licensable activity at the premises.

1. 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.)
2. The CCTV system will be maintained and serviced on a regular basis
3. 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.
4. CCTV coverage will include areas inside and outside of the premises in accordance with advice from Kent Police and may include reasonable requests to reposition cameras.
5. Signs to be displayed to inform the public passing the premises and customers that

CCTV is in use at the premises

6. A sign is to be prominently displayed at the exit to the shop to remind departing customers to minimise noise.
7. The only forms of identification acceptable will be photographic driving licence, passport or a 'PASS' approved identification card.
8. 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.
9. All staff will be trained in Challenge 25 and this training will be auditable as per condition 12
10. The electronic point of sale (EPOS) system to include the facility to prompt cashiers when scanning age restricted goods to positively confirm that they have checked the purchaser's age.
11. 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
12. 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.
13. 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.
14. All staff training will be auditable and will be available to any police officer, Local Authority Licensing Officer or Trading Standards Officer at any reasonable time.
15. 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'.
16. Permitted hours for alcohol sales should be restricted 8am to 6pm seven days a week.

Additionally it is considered that a change in responsibility for alcohol retailing is required to take account of the seriousness of the matter. The previous inaction following advice visits of Mr Ferhat Ok demonstrates a lack of accountability and appreciation for the Licensing regime. As such this authority requests a change of Designated Premises Supervisor to someone not currently connected with the premises licence.

The licensing committee are reminded that these are the recommendations of Kent Trading Standards deemed necessary to **Protect Children from Harm**. The panel can choose to implement, modify or add conditions to those above in addition to suspending the licence for any period up to three months. The panel may deem the circumstances are such that the only option

available is to revoke the premises licence permanently.

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
<input type="text"/>	<input type="text"/>	<input type="text"/>

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

Please tick ✓

yes

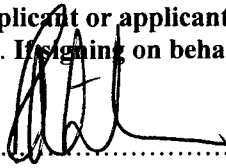
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

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 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

25/4/13

Capacity

TRADING STANDARDS MANAGER (WEST)

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

Oliver Jewell
Kent Trading Standards
8 Abbey Wood Road
Kings Hill

Post town
West Malling

Post Code
ME19 4YT

Telephone number (if any) 01732 525291

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.