

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 Barnaby Brown - Senior Trading Standards Officer

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Erols Kebab and Steak House 194 Queens Road, Hastings, East Sussex	
Post town Hastings	Post code (if known) TN34 1RG

Name of premises licence holder or club holding club premises certificate (if known) Mr Naki Kanik
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Number of premises licence or club premises certificate (if known) H0P50201

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 Barnaby Brown Senior Trading Standards Officer East Sussex County Council Trading Standards Service St Marys House 52 St Leonards Road Eastbourne East Sussex BN21 3UU
Telephone number (if any) 01323 463441
E-mail address (optional) barnaby.brown@eastsussex.gov.uk

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

Please tick one or more boxes

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

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

LICENSING OBJECTIVES - THE PREVENTION OF CRIME AND DISORDER

Enforcement agencies and licence holders have a duty to do all that is reasonably possible in reducing and preventing crime and disorder in their area.

There is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously. One of these is the use of the licensed premises for the sale of illicit alcohol.

The information provided below gives details of offences relating to counterfeit and illicit alcohol associated with Erols Kebab and Steak House 194 Queens Road, Hastings, East Sussex TN34 1RG. There is no legitimate supply chain for either these types of vodka and can have serious public health implications.

On the late evening of 28th, early morning of, 29th March 2013, 2 consumers purchased one bottle of Drop Vodka from Erols Kebab and Steak House as an Off Sale. One of these consumers attended A& E as a result of drinking the Drop Vodka.

Roger Cohen, Senior Trading Standards Officer, attended Erols Kebab & Steak House on the evening 29th March with Sussex Police and found 2 bottles of Drop Vodka and 11 bottles of Smirnoff Vodka, in possession for supply, under the counter of the Kebab Shop. Having reasonable grounds to believe that both the Drop Vodka and Smirnoff Vodka were illicit and counterfeit respectively, he seized them using Powers under the Consumer Protection from Unfair Trading Regulations 2008 and the Trade Marks Act 1994.

Sussex Police were in attendance and videoed the inspection of Erols.

The Drop Vodka was submitted to the Public Analyst and the Smirnoff to the brand holder, Diageo plc.

The Public Analyst reported the Drop Vodka as unsatisfactory, with the following comments:

"The amount of alcohol found in this sample is deficient of that declared to the extent of 11.5% vol, this deficiency being more than 38 times the maximum permitted tolerance of 0.3%vol., as prescribed by the Food Labelling Regulations 1996. The amount of alcohol is also deficient of the minimum alcoholic strength for Vodka as required by the Spirit Drink Regulations 2008

The amount of methanol found in the sample is satisfactory with regards to the requirements of the Spirit Drinks Regulations 2008. The sample was also analysed for the presence of propan-2-ol which was detected at a level of 6520mg/L in the sample. The presence of propan-2-ol is indicative of the alcohol being of industrial origin rather than agricultural origin as required, and as such it is my opinion that the sample is not consistent with genuine vodka. The sample was also analysed for the presence of xylene and chloroform, both of which were not detected in the sample.

The sample was not marked with the name or business name and address or registered office of both of the manufacturer or packer, or a seller established within the European Community, as required by the Food Labelling Regulations 1996. Furthermore no lot mark or batch code could be identified on the sample as required by the General Food Regulations 2004, and irregularities with the HMRC duty mark indicated that the mark may not be genuine"

In November 2011, the Food Standards Agency issued a Food Alert warning in relation to Drop Vodka.

Diageo plc, the Trade Mark holder for Smirnoff Vodka, confirmed that the Smirnoff Vodka seized, and the cardboard packaging were counterfeit. Further, the confirmed it as an inferior alcoholic strength to that of the genuine product.

The business owner Ceyhun Varol, has been unable to provide legitimate traceability for either vodkas, contrary to the General Food Regulations 2004.

On 00.30hrs ,Sunday 23rd June 2013, an officer from East Sussex Trading Standards Service purchased a kebab and two cans of beer as an Off Sale.

At interview under caution, on the 25th June 2013, the Premises Licence Holder, Naki KANIK admitted to leasing the premises at 194 Queens Road, Hastings to a limited company solely owned by Ceyhun VAROL in February 2009, and authorising Ceyhun VAROL to sell alcohol at those premises. The extent to which he had provided training to Ceyhun VAROL was to inform him only to sell alcohol to people who sat down and not to sell alcohol to people after midnight.

The licensing conditions imposed by the Premises Licence HOP50201 are :

1. Sale by retail of Alcohol for Consumption on the Premises - there is no provision for off sales.
2. Every supply/ sale of alcohol under the premises licence must be made or authorised by a person who holds a personal licence
3. The times granted by the Premises Licence for carrying out Licensable activities , specifically the sale by retail of alcohol are:

Monday - Saturday 10.00 - 00.00
Sunday 12.00 - 23.30

At interview of Ceyhun VAROL, under caution, he admitted that neither he nor his staff are Personal Licence Holders.

East Sussex County Council Trading Standards has evidence that clearly demonstrates that Naki Kanik has failed to meet any of his current licence conditions:

1. as alcohol is being sold as off sales
2. the supply is being made by persons who are not personal licence holders
3. alcohol being is sold by retail outside the permitted times.

East Sussex County Council Trading Standards Service would like to recommend that the Licensing Sub Committee gives consideration to revoking the premises licence for the following reasons:

1. The basic licence conditions have not been met – it is argued that imposing further licence conditions would be of little benefit
2. Naki Kanik has failed to prevent the sale of untraceable illicit and counterfeit alcohol from Errols Kebab and Steak House, a criminal activity considered particularly serious by the Secretary of State
3. Naki Kanik has provided little in the way of staff training
4. As the business of Errols Kebab and Steak House is now being run by a limited company solely owned by Ceyhun VAROL, any revocation of licence will have little impact on Naki Kanik as he has no input into the current business
5. During the interview under caution Naki Kanik stated that he did not care if he held a licence or not.

The following restricted documents will be evidenced as part of this review:

- 1.A copy of the consumers' statements
- 2.A copy of Senior Trading Standard's Officer Roger Cohen's statement
3. A copy of the Sussex Police video.
- 4.A copy of the Public Analysts report for the Drop Vodka
- 5.A Copy of the Smirnoff Trade Mark Holder's statement
- 6.A copy of the interview under caution with Mr Naki Kanik
- 7.The Drop Vodka, Smirnoff and packaging seized
- 8.A copy of FSA Food Alert Warning associated with Drop Vodka
- 9.A genuine bottle of Smirnoff Vodka
- 10 .A copy of Fair Trading Officer Paul Taylor statement

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

Please tick yes

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

If yes please state the date of that application

Day Month Year

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If you have made representations before relating to this 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 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 Barnaby Brown

Date 8th August 2013

Capacity Senior Trading Standards Officer

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5) Barnaby Brown Senior Trading Standards Officer East Sussex County Council Trading Standards Service St Marys House 52 St Leonards Road Eastbourne East Sussex	
Post town Eastbourne	Post Code BN21 3UU
Telephone number (if any) 01323 463441	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) barnaby.brown@eastsussex.gov.uk	

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.