BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee C	
Report of:	Interim Assistant Director of Regulation	
	& Enforcement	
Date of Meeting:	Wednesday 28 th July 2021	
Subject:	Licensing Act 2003	
	Premises Licence – Review	
Premises:	Ark Convenience Store, 85 Turves Green, Northfield, Birmingham, B31 4AH	
Ward affected:	Longbridge and West Heath	
Contact Officer:	Bhapinder Nandhra, Senior Licensing Officer, licensing@birmingham.gov.uk	

1. Purpose of report:

To consider an application to review a Premises Licence.

2. Recommendation:

To consider and determine the review application.

3. Brief Summary of Report:

Review application received on 3rd June 2021 from the Chief Inspector of Weights & Measures in respect of Ark Convenience Store, 85 Turves Green, Northfield, Birmingham, B31 4AH.

A representation has been received from West Midlands Police, as a responsible authority.

4. Compliance Issues:

4.1 Consistency with relevant Council Policies, Plans or Strategies:

The report complies with the City Council's Statement of Licensing Policy and the Council's Corporate Plan to improve the standard of all licensed persons, premises and vehicles in the City.

5. Relevant background/chronology of key events:

The Chief Inspector of Weights & Measures applied on 3rd June 2021 for a review of the Premises Licence under Section 51 of the Licensing Act 2003 for Ark Convenience Store, 85 Turves Green, Northfield, Birmingham, B31 4AH.

A representation has been received from West Midlands Police, as responsible authority, which is attached at Appendix 1.

Review application is attached. See Appendix 2.

The Premises Licence is attached at Appendix 3.

Site location plans are attached at Appendix 4.

When carrying out its licensing functions, a licensing authority must have regard to Birmingham City Council's Statement of Licensing Policy and the Guidance issued by the Secretary of State under s182 of the Licensing Act 2003.

The Licensing Authority is also required to take such steps as it considers appropriate for the promotion of the licensing objectives, which are: -

- a. The prevention of crime and disorder;
- b. Public safety;
- c. The prevention of public nuisance; and
- d. The protection of children from harm.

6. List of background documents:

Copy of the representation as detailed in Appendix 1.

Review Application Form, Appendix 2.

Copy of Premises Licence, Appendix 3.

Site location plans, Appendix 4.

7. Options available

Modify the conditions of Licence

Exclude a Licensable activity from the scope of the Licence

Remove the Designated Premises Supervisor

Suspend the Licence for a period not exceeding 3 months

Revoke the Licence

No Action

Where the authority takes a step to modify conditions or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

From: Mark Swallow Sent: 07 June 2021 13:55 To: Licensing Online

Subject: Application to join proceedings Ark Convenience Store, 85, Turves Green, Northfield. B31 4AH.

Good Afternoon Licensing,

West Midlands Police support the representations made by Birmingham Trading Standards regarding Ark Convenience Store, 85, Turves Green, Northfield, Birmingham. B31 4AH. licence number 548. The representation is supported under the prevention of crime & disorder and public safety licensing objectives. The evidence submitted by Trading Standards clearly shows that this premises are supplying counterfeit wine and vodka, selling it to the public and passing it off as a legitimate product.

On 19 February 2020 Birmingham Trading Standards Service received notification from West Midlands Police that they had received a 'Crimestoppers' complaint saying that ARK Convenience Store, 85 Turves Green, Northfield, Birmingham B31 4AH was selling 'Krackoff' vodka that was 'unfit for human consumption' as it contained high levels of industrial alcohol.

On 24 February 2021 Trading Standards and Environmental Health Officers went to ARK Convenience Store to follow up this matter. The officers told the man serving at the till, a Mr Ranjit Singh Sandhu the reason why they were there and said they would need to check the stock. The officers found 3 bottles of Krackoff vodka with a hand written price of "£10.99" on the sales shelf on display behind the counter and said that they would need to take them for further examination. Whilst in the shop Trading Standards Officer Martin Williams also checked other products and noticed suspicious special offers for one particular brand of wine on display in various parts of the shop. The officers found 16 bottles of counterfeit wine on three different display shelves in the shop. There were a further 22 bottles in boxes above the fridge display at the rear of the shop and a further 31 counterfeit bottles in the store- room at the back of the shop.

In total officers found 69 counterfeit bottles of this particular brand of wine with seven different fake lot codes of various varieties including Merlot, Shiraz and Chardonnay. Mr Sandhu was advised that all the suspect bottles would be seized for further examination. On 2 March 2021 it was confirmed by the wine brand holder, that all the bottles seized were counterfeit. One of the bottles of Krakoff vodka was sent to the public analyst for testing. A lab report was sent back on 24 March 2021 detailing that the sample of Krakoff vodka did not contain any material that was harmful, however HMRC have now confirmed that no duty had been paid on these products.

On 24 March 2021 Trading Standards received a new complaint from a member of the public who had purchased wine of a different make from ARK Convenience Store the previous weekend he said; "...a brand I had bought and drunk before, however it was clearly fake, it was unpalatable..." After checking lot codes of counterfeit product with the manufacturers of this wine Trading Standards went back to ARK Convenience Store on 29 March 2021 and found and seized 7 bottles of this wine with the fake lot code which were on display on the shelves.

Samples were sent to the manufacturers for testing on 14 April 2021. On 28 May 2021, after testing and analysis the manufacturers confirmed that the 7 bottles seized from the shop were also counterfeit products. This was the same variety and lot code as the consumer had purchased previously. In total 69 bottles of various varieties of one brand of counterfeit wine was seized from the shop, ARK Convenience Store on 24 February 2021. There were also 3 bottles of illicit vodka. A further 7 counterfeit bottles of a different make of wine entirely was also seized from the shop on 29 March 2021 following the consumer complaint. It is impossible to say how many bottles of both brands of wine and illicit vodka have been sold before the intervention. Whilst the sample bottle of Krakoff was not found to contain harmful alcohol, HMRC has confirmed that it is illicit product where no duty has been paid.

More often than not the illegitimate purchase and sale of counterfeit alcohol is made by cash transactions with no traceability and therefore no UK duty being paid. Such transactions are unlikely to be shown on the company accounts avoiding the payment of taxes. The wider public is therefore fraudulently deprived of money to provide much needed public services. Traders acting unscrupulously purchasing counterfeit alcohol more likely than not 'off the back of a lorry' cannot have any idea where the wine has originated from or even if it was fit for human consumption. The only intention for these traders is to maximise profit, seemingly without a thought for the consequences and impact on the victims – with making money being the only driving factor.

Trading Standards have stated that the vodka seized was in fact not harmful to health but this is more by luck than judgement as the premises would not have known this when they were selling the counterfeit wine and vodka to the public. The victims of this are not only the public but the brand itself. Trading Standards have indicated that the brand owner and Food Standards Agency believe after some investigation that the counterfeiting of this wine is a large scale international criminal enterprise, using organised criminal gangs in the UK to distribute it. The money generated by this criminal black market activity normally goes straight back to fund other organised crime which has a further negative on its victims and the wider community.

There were 76 bottles of wine seized from these premises and 3 bottles of vodka this is counterfeiting on an industrial scale. When the bigger picture is looked at this criminal activity becomes more disturbing. The below information was taken from the Crimestoppers Website (a guest blog from The Wine and Sprit Trade Association) states that alcohol duty fraud costs the British public £600 Million per year. The article the goes on to quote very similar findings to that Trading Standards and West Midlands Police have stated in their representations:

The best estimate for duty fraud is that it costs about £600m per year across wines, beers and spirits. This is money that should be going towards boosting public services and not to criminal gangs. The negative impacts reach much further than taking money away from the taxman:

- It puts money into the pockets of criminals, who use it to fund other activity such as people trafficking;
- It directly damages your business in the communities it operates, by siphoning customers away;
- More widely, it damages the reputation of the industry as a whole by associating it with criminal activity.

The fake alcohol menace is another level of threat altogether. It may be inferior liquid posing as a premium product. More worryingly, it may not be fit for human consumption at all and contain methanol or other harmful substances. At worst, this could lead to death for a consumer. Illicit alcohol and duty fraud are a direct threat to the reputation of the industry and, in some cases, consumer health. https://crimestoppers-uk.org/campaigns-media/blog/2019/sep/alcohol-fraud-costs-the-british-public-%C2%A3600-million-every-year

West Midlands Police have no confidence in the management of this premises. The purchase of this counterfeit wine could have only been made outside the recognised legitimate supply chain with the premises knowingly crossing that threshold and being prepared to put the safety of its customers in jeopardy. The premises has not paid UK duty on the wine or vodka or paid tax as this sort of illegal black market activity is unlikely to go through the company accounts. Furthermore by circumventing the legitimate supply chain the premises have more than likely gone on to fund organised criminal gangs, damage the reputation of the brands in the process without caring about the consequences to the public, the brands and victims of these organised crime gangs.

West Midlands Police request the revocation of these premises licence.

The premises have not been served with this application. Mark Swallow. 60264. West Midlands Police.

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 ou may wish to keep a copy of the completed i	form for your records.			
I Martin Williams (on behalf of Donna Bensley Chief Inspector of Weights & Measures)				
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, ordnan	ice survey map reference or description			
ARK Convenience Store Ltd				
85 Turves Green, Northfield				
Post town BIRMINGHAM	Post code (if known) B31 4AH			
Name of premises licence holder or club hold: Mr Surinder Singh	ing club premises certificate (if known)			
Number of premises licence or club premises 548	certificate (if known)			
Part 2 - Applicant details				
Iam	Please tick ✓ y	/es		
an individual, body or business which is not a authority (please read guidance note 1, and compor (B) below)	-			
2) a responsible authority (please complete (C) b	pelow)	YES		

Premises licence review ARK Convenience Store Ltd. 85 Turves Green 9925895 Page 1

3) a member of the club to which this application relates

AN DETAIL OF BURNING ADDITION OF THE STATE O
(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)
Please tick ✓ yes
Mr Mrs Miss Ms Other title (for example, Rev)
Surname First names
Please tick ✓ yes I am 18 years old or over
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;
Martin Williams
Birmingham Trading Standards
1-3 Ashted Lock Way
Aston
Birmingham
B7 4AZ
Our Ref: 9925895
Telephone number (if any)
E-mail address (optional)

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 tick one or more boxes ✓

Yes

Yes

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

On 19 February 2020 Birmingham Trading Standards Service received notification from West Midlands Police that they had received a 'Crimestoppers' complaint saying that ARK Convenience Store, 85 Turves Green, Northfield, Birmingham B31 4AH was selling 'Krackoff' vodka that was 'unfit for human consumption' as it contained high levels of industrial alcohol.

On 24 February 2021 Trading Standards and Environmental Health Officers went to ARK Convenience Store to follow up this matter.

The officers told the man serving at the till, a Mr Ranjit Singh Sandhu the reason why they were there and said they would need to check the stock.

The officers found 3 bottles of Krackoff vodka with a hand written price of "£10.99" on the sales shelf on display behind the counter and said that they would need to take them for further examination.

Whilst in the shop Trading Standards Officer Martin Williams also checked other products and noticed suspicious special offers for one particular brand of wine on display in various parts of the shop.

Officer Williams had with him a list of counterfeit lot codes for this brand and checked the bottles on display.

The officers found 16 bottles of counterfeit wine on three different display shelves in the shop. There were a further 22 bottles in boxes above the fridge display at the rear of the shop and a further 31 counterfeit bottles in the store- room at the back of the shop.

In total officers found 69 counterfeit bottles of this particular brand of wine with seven different fake lot codes of various varieties including Merlot, Shiraz and Chardonnay. Mr Sandhu was advised that all the suspect bottles would be seized for further examination and he was given a receipt with a list of the items taken from search book No. 900.

On 2 March 2021 It was confirmed by the wine brand holder, that all the bottles seized were counterfeit.

One of the bottles of Krakoff vodka was sent to the public analyst for testing. A lab report was sent back on 24 March 2021 detailing that the sample of Krakoff vodka did not contain any material that was harmful, however HMRC have now confirmed that no duty had been paid on these products.

On 24 March 2021 Trading Standards received a new complaint from a member of the public who had purchased wine of a different make from ARK Convenience Store the previous weekend he said;

"...a brand I had bought and drunk before, however it was clearly fake, it was unpalatable..."

After checking lot codes of counterfeit product with the manufacturers of this wine Trading Standards went back to ARK Convenience Store on 29 March 2021 and found and seized 7 bottles of this wine with the fake lot code which were on display on the shelves

Samples were sent to the manufacturers for testing on 14 April 2021. Finally on 28 May 2021, after testing and analysis the manufacturers confirmed that the 7 bottles seized from the shop were also counterfeit product. This was the same variety and lot code as the consumer had purchased previously.

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

In total 69 bottles of various varieties of one brand of counterfeit wine was seized from the shop, ARK Convenience Store on 24 February 2021. There were also 3 bottles of illicit vodka.

A further 7 counterfeit bottles of a different make of wine entirely was also seized from the shop on 29 March 2021 following the consumer complaint. (It is impossible to gauge how many bottles of both brands of wine and illicit vodka have been sold before we were made aware)

Joint working with various organisations is trying to stem the flow of illicit alcohol, (wine and vodka) in this case. It would appear that large-scale operations are afoot, probably originating abroad, using organised crime gangs in the UK to distribute and sell the produce at retail level.

Whilst the sample bottle of Krakoff was not found to contain harmful alcohol, HMRC has confirmed that it is illicit product where no duty has been paid.

Trading Standards is aware of several different varieties of illicit Krackoff branded vodka across the country. The Crimestoppers intel is likely to have been linked to a police licence review of a shop in Lincoln in February 2021 where 5 bottles of Krakoff vodka were seized and found to contain high levels of industrial alcohol. The Krackoff in this case was not harmful but likely to have been a refinement from the original fake product.

Trading Standards has been working with HMRC and the wine inspectorate section of the Food Standards Agency, (FSA) to trace the source of the counterfeit wines. The FSA has sent many of the counterfeit varieties for analysis and "although the traceability of the suspect wines is unclear, there are currently no specifically identified concerns for health regarding the consumption of these products". It appears that substandard wine, rather than anything harmful has been used in the production of these fake products.

Previous history of this shop.

There is no previous history of similar issues at ARK Stores in recent years.

Recommendations

Counterfeit alcohol is worse than non-duty as it is specifically manufactured to look like genuine brands and mislead customers into making purchases of what appear to be genuine products. In this case the product is not harmful but that is likely in order to avoid detection and so prolong the scam.

We have had members of the public complain about substandard wine from several other stores in Birmingham. In each case the consumers said they were on the verge of changing brands as they were unhappy with the quality of the product. We do not know how long this has gone on for or how many other innocent members of the public have been affected. It is obvious to see the detrimental affect this can cause to a genuine brand.

This also subverts the normal supply chains of legitimate trade as it is controlled by criminal organisations who seek to maximise profit by avoiding legitimate controls and systems including not paying taxes or duty.

The review will need to consider the confidence in management of the shop to ensure they do not engage in and encourage criminal activity which also affects citizens of Birmingham and beyond. The owner has not been able to demonstrate where the supply was purchased from and said they buy all their stock from local cash & carry's. There is no doubt the owners would have known the product was illicit and from a dubious source. In most cases this type of product is bought from a van that turns up at the shop offering cheap product and supplies no invoices or record of the supplier or items supplied. Retail shops should be able to provide full traceability; this doesn't appear to be the case to date. Although the product does not present health risks, buying goods from unknown sellers indicates a lack of concern for the safety of the products sold and the community who buy from them. We invite Committee to consider all available options in relation to this request for a

Have you made an application for review relating to the premises before							No	
If yes please state the date of that application	Day	_	_	_	Yea	_		ĺ

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

- 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, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

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	3 June 2021		
Capacity	Trading Standards Officer		

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

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

- 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.
- 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.

Part 3 - Signatures (please read guidance note 4)

- 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.

LICENSING ACT 2003

PREMISES LICENCE

Premises Licence Number:	548 / 2
Part 1 - Premises details:	
Postal address of premises, or if none, ordnand	ce survey map reference or description
ARK Convenience Store Ltd 85 Turves Green Northfield	
Post town:	Post Code:
Birmingham	B31 4AH
Telephone Number:	
Where the licence is time limited the dates	
N/A	
Licensable activities authorised by the licence	
M2 Sale of alcohol by retail (off the	e premises)
The times the licence authorises the carrying o	out of licensable activities
Monday - Saturday	08:00 - 23:00 M2
Sunday	10:00 - 22:30 M2
Christmas Day	12:00 - 15:00 M2
•	19:00 - 22:30 M2
Good Friday	08:00 - 22:30 M2
The opening hours of the premises	
Not Specified	
Where the licence authorises supplies of alcoh	ol whather these are on and/or off supplies
• •	or whether these are on and/or on supplies
Off Supplies Only	· · · · · · · · · · · · · · · · · · ·

Part 2

Name, (registered) address, telephone number licence	and email (where relevant) of holder of premises
Mr Surinder Singh	
Post town:	Post Code:
Telephone Number:	
Email	
Not Specified	
Registered number of holder for example comp	pany number or charity number (where applicable)
N/A	can y named of charty named (miles approach)
Name, address, telephone number of designate authorises for the supply of alcohol Mr Surinder Singh	ed premises supervisor where the premises licence
ca.mas. c.mg	
Post town:	Post Code:
Telephone Number:	
Personal licence number and issuing authority supervisor where the premises licence authorises.	of personal licence held by designated premises ses for the supply of alcohol
Licence Number	Issuing Authority
037389	SANDWELL METROPOLITAN BOROUGH COUNCIL

Dated 30/10/2012

Carolyn Bennett Senior Licensing Officer For the Director of Regulation and Enforcement

Annex 1 - Mandatory Conditions

No supply of alcohol may be made under the premises licence (a) at a time when there is no designated premises supervisor in respect of the premises licence, or (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.

The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either— (a) a holographic mark, or (b) an ultraviolet feature.

(1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price. (2) In this condition: - (a) "permitted price" is the price found by applying the formula P = D + (D x V), where- (i) P is the permitted price, (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol; (b) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979; (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence— (i) the holder of the premises licence, (ii) the designated premises supervisor (if any) in respect of such a licence, or (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence; (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994. (3) Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny. (4) Where the permitted price on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax, the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

No supply of alcohol may be made under the premises licence (a) at a time when there is no designated premises supervisor in respect of the premises licence, or (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Annex 2 - Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

No enforceable conditions identified from operating schedule.

2b) Conditions consistent with, and to promote the prevention of crime and disorder

No enforceable conditions identified from operating schedule.

2c) Conditions consistent with, and to promote, public safety

No enforceable conditions identified from operating schedule.

2d) Conditions consistent with, and to promote the prevention of public nuisance

No enforceable conditions identified from operating schedule.

2e) Conditions consistent with, and to promote the protection of children from harm

No enforceable conditions identified from operating schedule.

Annex 3 – Conditions attached after hearing by licensing authority
3a) General committee conditions
N/A
3b) Committee conditions to promote the prevention of crime and disorder
N/A
3c) Committee conditions to promote public safety
N/A
3d) Committee conditions to promote the prevention of public nuisance
N/A
3e) Committee conditions to promote the protection of children from harm
N/A

Annex 4 - Plans

The plan of the premises with reference number **79580-548/2** which is retained with the public register kept by Birmingham City Council and available free of charge for inspection by appointment only. Please ring the Licensing Section on 0121 303 9896 to book an appointment.

Appendix 4



