

# Licensing (Licensing and Gambling) Sub-Committee

Thursday, 24th February 2011  
at 9.30 am

## **PLEASE NOTE TIME OF MEETING**

Committee Rooms 1 and 2 - Civic Centre

This meeting is open to the public  
**Members**

Councillor Drake  
Councillor Parnell  
Councillor Thomas

### **Contacts**

Democratic Support Officer  
Sue Lawrence  
Tel: 023 8083 3569  
Email: [susan.lawrence@southampton.gov.uk](mailto:susan.lawrence@southampton.gov.uk)

Assistant Solicitor to the Council  
Richard Ivory  
Tel. 023 8083 2794  
Email: [richard.ivory@southampton.gov.uk](mailto:richard.ivory@southampton.gov.uk)

## PUBLIC INFORMATION

### Terms of Reference

The Sub-Committee deals with licences for which the Council is responsible under the Licensing Act, 2003 and Gambling Act 2005, including:-

- Personal licences for the sale of liquor Licensing Act 2003;
- Premises licences, various permits, variations and reviews (Licensing Act 2003 and Gambling Act 2005);
- Club certificates, variations and reviews Licensing Act 2003;
- Registration and deregistration of designated premises supervisors Licensing Act 2003;
- Determination of police objections to temporary event notices Licensing Act 2003

### Relevant Representations

Those who have made relevant representations may address the meeting about the matter in which they have an interest.

**When dealing with Licensing Act matters the Sub-Committee can only take into account the following statutory Licensing Objectives:-**

- prevention of crime and disorder
- public safety
- prevention of public nuisance
- protection of children from harm

**Likewise, when dealing with Gambling Act matters the Sub Committee can only take into account the statutory Licensing Objectives below:-**

- Preventing gambling being a source of crime
- That gambling is conducted in a fair and open way
- To protect children and other vulnerable children from harm

### Southampton City Council's Six Priorities

- Providing good value, high quality services
- Getting the City working
- Investing in education and training
- Keeping people safe
- Keeping the City clean and green
- Looking after people

### Smoking policy

The Council operates a no-smoking policy in all civic buildings.

### Mobile Telephones –

Please turn off your mobile telephone whilst in the meeting.

### Fire Procedure –

In the event of a fire or other emergency a continuous alarm will sound and you will be advised by Council officers what action to take.

### Access –

Access is available for disabled people. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

### Dates of Potential Meetings: Municipal Year 2010/11

<b>2010</b>	<b>4 NOVEMBER</b>
<b>20 MAY 2010</b>	<b>18 NOVEMBER</b>
<b>3 JUNE</b>	<b>2 DECEMBER</b>
<b>17 JUNE</b>	<b>16 DECEMBER</b>
<b>1 JULY</b>	<b>2011</b>
<b>15 JULY</b>	<b>6 JANUARY 2011</b>
<b>29 JULY</b>	<b>13 JANUARY</b>
<b>12 AUGUST</b>	<b>10 FEBRUARY</b>
<b>26 AUGUST</b>	<b>24 FEBRUARY</b>
<b>9 SEPTEMBER</b>	<b>10 MARCH</b>
<b>23 SEPTEMBER</b>	<b>24 MARCH</b>
<b>7 OCTOBER</b>	<b>7 APRIL</b>
<b>21 OCTOBER</b>	<b>21 APRIL</b>

## CONDUCT OF MEETING

### **Terms of Reference**

The terms of reference are contained in the Council's Constitution.

### **Business to be discussed**

Only those items listed on the attached agenda may be considered at this meeting.

### **Rules of Procedure**

The meeting is governed by the Council Procedure Rules as set out in Part 4 of the Constitution.

### **Quorum 3**

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

### **Disclosure of Interests**

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "personal" or "prejudicial" interests they may have in relation to matters for consideration on this Agenda.

### **Personal Interests**

A Member must regard himself or herself as having a personal interest in any matter

- (i) if the matter relates to an interest in the Member's register of interests; or
- (ii) if a decision upon a matter might reasonably be regarded as affecting to a greater extent than other Council Tax payers, ratepayers and inhabitants of the District, the wellbeing or financial position of himself or herself, a relative or a friend or:-
  - (a) any employment or business carried on by such person;
  - (b) any person who employs or has appointed such a person, any firm in which such a person is a partner, or any company of which such a person is a director;
  - (c) any corporate body in which such a person has a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
  - (d) any body listed in Article 14(a) to (e) in which such a person holds a position of general control or management.

A Member must disclose a personal interest.

Continued/.....

## **Prejudicial Interests**

Having identified a personal interest, a Member must consider whether a member of the public with knowledge of the relevant facts would reasonably think that the interest was so significant and particular that it could prejudice that Member's judgement of the public interest. If that is the case, the interest must be regarded as "prejudicial" and the Member must disclose the interest and withdraw from the meeting room during discussion on the item.

It should be noted that a prejudicial interest may apply to part or the whole of an item.

Where there are a series of inter-related financial or resource matters, with a limited resource available, under consideration a prejudicial interest in one matter relating to that resource may lead to a member being excluded from considering the other matters relating to that same limited resource.

There are some limited exceptions.

Note: Members are encouraged to seek advice from the Monitoring Officer or his staff in Democratic Services if they have any problems or concerns in relation to the above.

## **Principles of Decision Making**

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

## AGENDA

Agendas and papers are available via the Council's website.

### **1 ELECTION OF CHAIR**

To appoint a Chair for the purposes of this meeting.

### **2 APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)**

To note any changes in the membership of the Sub-Committee made in accordance with the Licensing Act 2003.

### **3 DISCLOSURE OF PERSONAL AND PREJUDICIAL INTERESTS**

In accordance with the Local Government Act 2000, and the Council's Code of Conduct adopted on 16th May 2007, Members to disclose any personal or prejudicial interests in any matter included on the agenda for this meeting.

NOTE: Members are reminded that, where applicable, they must complete the appropriate form recording details of any such interests and hand it to the Democratic Support Officer prior to the commencement of this meeting.

### **4 STATEMENT FROM THE CHAIR**

### **5 EXCLUSION OF THE PRESS AND PUBLIC**

At a predetermined point during the consideration of all items the Sub-Committee may move into private session in order to receive legal advice when determining issues. The press and the public, unless otherwise excluded by the Licensing Act 2003 (Hearings) Regulations 2005, will be invited to return immediately following that private session at which time the matter will be determined and the decision of the Sub-Committee will be announced.

### **6 APPLICATION FOR REVIEW OF PREMISES LICENCE - LONDON OFF LICENCE 2, 27 ST. CATHERINES ROAD, SOUTHAMPTON SO18 1LL**

Report of the Solicitor to the Council detailing an application for the review of the Premises Licence in respect of the London Off Licence 2, 27 St. Catherines Street, Southampton SO18 1LL, attached.

Wednesday, 16 February 2011

SOLICITOR TO THE COUNCIL

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# Agenda Item 6



Reference: 2011/00014/01SRAP

Hearing:

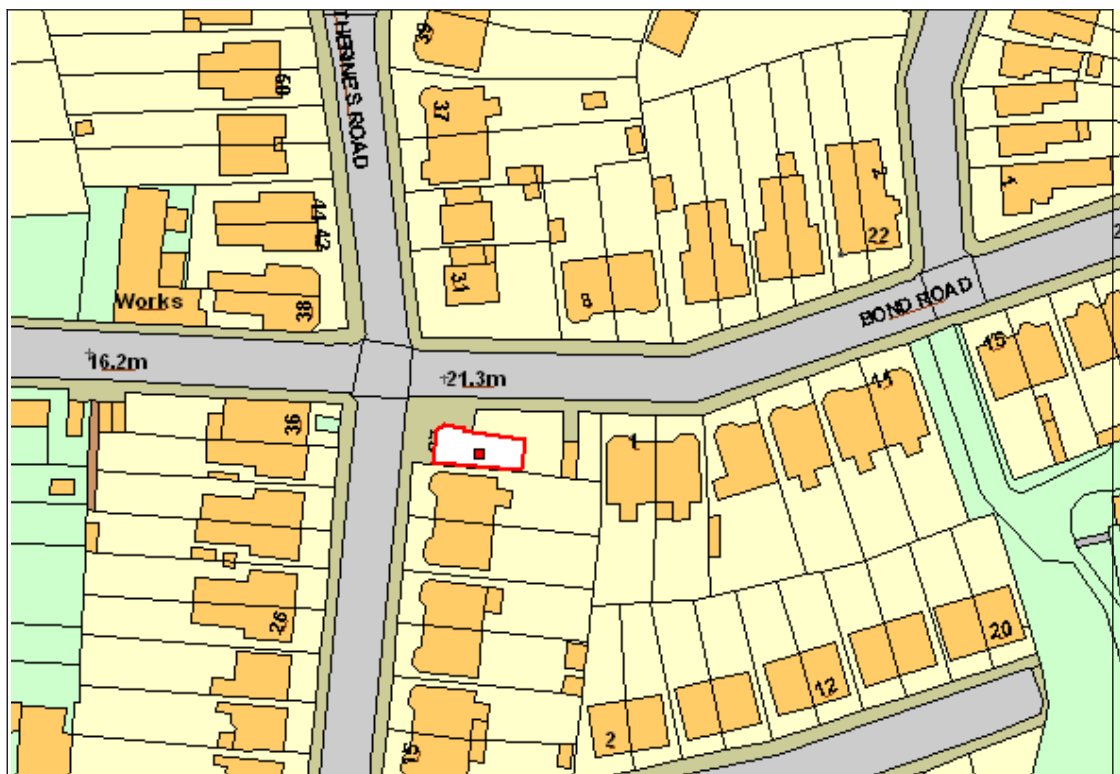
24th February 2011

## Application for Review of Premises Licence

Premises Name: London Off Licence 2  
 Premises Address: 27 St. Catherines Road  
 Southampton  
 SO18 1LL

Application Date: 5th January 2011  
 Application Received Date: 5th January 2011

Application Valid Date: 5th January 2011



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## Representation From Responsible Authorities

Responsible Authority	Satisfactory?	Comments
Child Protection Services - Licensing	No Response Received	
Hampshire Fire And Rescue - Licensing	Yes	

Environmental Health - Licensing	No Response Received	
Planning & Sustainability - Building Control - Licensing	No Response Received	
Planning & Sustainability - Development Control - Licensing	No Response Received	
Hampshire Constabulary - Licensing	No Response Received	
Trading Standards - Licensing	No	

### ***Other Representations***

<b>Name</b>	<b>Address</b>	<b>Contributor Type</b>
None		

### ***Legal Implications***

1. Part 3 of the Licensing Act 2003 provides that a responsible authority of a resident or business in the vicinity (interested party) may apply for review of a premises licence.
2. The grounds of review applications must relate to one or more of the licensing objectives.
3. In such circumstances, the applicant for the review must serve a copy of the review application on the holder of the premises licences, the City Council and each of the responsible authorities.
4. On receipt of the application for review, the officers will consider its validity, under delegated powers. Reasons for rejection, in whole or in part, include:
  - that the grounds for review are not relevant to one of more of the licensing objectives and;
  - (in the case of an application not made by a responsible authority), that the application is frivolous, vexatious or repetitious.
5. The City Council must, within one day of receiving the application for review, display a prescribed notice of the review application on the outside or adjacent the premises; the notice must remain on display for 28 days and any interested party in the vicinity or the responsible authorities may make representations in that period.
6. Unless the applicant, licence holder, interested parties and responsible authorities agree that a hearing is unnecessary, the City Council is then required to hold a



7. The sub-committee, in considering the application for review, must have regard to the adopted Statement of Licensing Policy and evidence before it at the hearing.
8. The Licensing Act 2003 provides that, in determining an application for review, the sub-committee may take any (or none) of the following steps, as it considers necessary:
  - modify the conditions of the licence;
  - exclude a licensable activity from the scope of the licence;
  - remove the designated premises supervisor;
  - suspend the licence for a period not exceeding three months;
  - revoke the licence.
9. The Licensing Act 2003 makes provision for appeal to the Southampton Magistrates' Court against the sub-committee's decision in relation to an application for review.
10. In considering this application the sub-committee will sit in a quasi-judicial capacity and is thus obliged to consider applications in accordance with both the Licensing Act 2003 (Hearings) Regulations 2005, and amending secondary legislation and the rules of natural justice. The practical effect of this is that the sub-committee must make its decision based on evidence submitted in accordance with the legislation and give adequate reasons for reaching its decision.
11. Copies of the application for review and the Police objection are annexed to this report.
12. The sub-committee must also have regard to:-
13. *Crime and Disorder Act 1998*

Section 17 of the Crime and Disorder Act 1998 places the Council under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.
14. *Human Rights Act 1998*

The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible (or fail to act in a way that is compatible) with the rights protected by the Act. Any action undertaken by the Council that could have an effect upon another person's Human Rights must be taken having regard to the principle of proportionality - the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the Council which affects another's rights must be no more onerous than is necessary in a democratic society. The matters set out in this report must be considered in light of the above obligations.

# SOUTHAMPTON CITY COUNCIL

## 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 Southampton City Council Trading Standards Service

*(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

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> London Off Licence 2, 27 St. Catherines Road, Southampton, SO18 1LL	
<b>Post town</b> Southampton	<b>Post code (if known)</b> SO18 1LL

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Imam Ekinci
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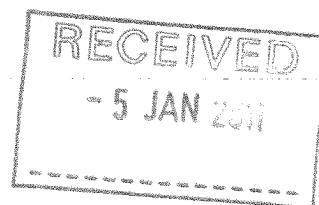
<b>Number of premises licence or club premises certificate (if known)</b> 2009/01782/01SPRD
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#### Part 2 - Applicant details

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 Lucas Marshall Trading Standards Service Southampton City Council Civic Centre Road Southampton SO14 7LY
Telephone number (if any) 02380 834930
E-mail address (optional) lucas.marshall@southampton.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)

The Prevention of Crime and Disorder  
Public Safety  
Protection of children from harm

On 12<sup>th</sup> July 2010 counterfeit vodka was found at London Off Licence 2, 27 St Catherines Rd, Southampton.

Counterfeit vodka has increasingly been found by Trading Standards Officers around the country. It is often produced from industrial alcohol which is imported into the UK. It is diluted and packed in bottles which are copies of a variety of brands. Clearly controls over the quality of the product are not as strict as would be found at a distillery producing the genuine product, and issues have been reported regarding excessive levels of methanol being present, which is poisonous.

Paragraph 11.26 of the October 2010 Amended Guidance Issued Under Section 182 of the Licensing Act 2003 states that "there is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously." Which includes "the use of the licensed premises for the sale of smuggled tobacco and alcohol". It is highly unlikely that duty would have been paid on the counterfeit vodka.

It is considered that the holder of the premises licence has not fulfilled the duty under the Licensing Act 2003 to prevent crime and disorder and to protect public safety. We are therefore applying to review the licence.

In the supporting information we give more details and state the conditions we would wish to see added to the licence in order to promote the above licensing objective.

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

On 12th July 2010 I conducted a routine inspection at London Off Licence 2, 27 St Catherines Rd, Southampton. During the inspection I examined a 70cl bottle of Glen's brand vodka. The vodka contained white floating particles, the labels were not straight and were peeling from the bottle. A label adjacent to the bottle stated that it had been reduced in price, from £11.49 to £9.99. I believed that the vodka might be counterfeit so I took it as a sample (sample reference 012071). The public analyst subsequently confirmed that it was not genuine Glen's Vodka (Certificate of Analysis exhibit LM/1). I also have a statement from Tom Taylor, Quality Manager of Glen Catrine Bonded Warehouse, who confirms that, from the markings on the bottle sampled, the Glen's Vodka is counterfeit. A case of 6x70cl Glen's vodka which appeared genuine was also found during the inspection, along with a Batleys Cash & carry receipt, dated 19<sup>th</sup> June 2010, which itemised a case of 6 x 70cl Glen's vodka.

On 1<sup>st</sup> November 2010 I conducted a recorded interview with Imam Ekinci, the Premises Licence Holder at London Off Licence 2. His son, Ozkur Ekinci, who is a director of Rinkhill Ltd, the company which trades as London Off Licence 2 and the Designated Premises Supervisor, was also present.

During interview Imam stated that drinks are only purchased from three wholesalers: Bookers, Eastenders Cash & Carry and Batleys Cash & Carry. It is extremely unlikely that major wholesalers would sell counterfeit vodka. Many traders who I speak to claim to have been offered cheap alcohol and cigarettes by itinerant traders, "white van man", and I suspect that Imam Ekinci purchased the counterfeit vodka from such a trader, whilst also buying genuine product from wholesalers. Initially the Ekincis claimed that the counterfeit Glen's vodka had been found behind a roof tile in their storeroom, and had been there when they purchased the shop. They subsequently said that they had obtained it from another store that they own, George's, and that the stock had been purchased from the previous owner of Georges. They said that they had reduced the Glen's vodka to £9.99 because they had been unable to sell it, however I believe that they were able to offer it at this low price because they had purchased the counterfeit vodka at a lower price than they would usually pay. The Batleys receipt examined during the inspection indicated that they had continued to purchase genuine Glen's: businesses do not generally make repeat purchases of goods that do not sell.

Incidents of poisoning following consumption of counterfeit vodka have been reported occurring across the UK. It is not acceptable that a premises licenced by this Authority should become a market place for such goods. I would therefore request that the following conditions are imposed on the premises licence to promote the licensing objectives:

- "The Premises Licence Holder must keep complete records, such as invoices, receipts and delivery notes, relating to alcohol and cigarettes obtained by him for sale from his shop. Records must include the name, address and telephone number of the supplier, the date of supply, the products supplied, and their prices. Where items have been delivered to his shop by a vehicle details of the vehicle registration, the name of the delivery person and contact details including the name, address and telephone number for the business must be kept. These details must be available on request to Responsible Authorities within 24 hours. The Premises Licence Holder must be able to identify who supplied alcohol and cigarettes present at his premises "

Rinkhill Ltd has previously received a Simple Caution regarding the sale of alcohol to a 14 year old girl which occurred at London Off Licence 2 on 21<sup>st</sup> August 2009, so I would also request that the following conditions are imposed on the premises licence so as to assist the licence holder and designated premises supervisor in the effective management of the premises and to promote the licensing objectives.

- "The holder of the premises licence shall ensure that every individual who appears to be under 25 years of age seeking to purchase or be supplied with alcohol at or from the premises shall produce means of identification acceptable to the Licensing Authority proving that individual to be 18 years of age or older. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person. Notices regarding the store's "Challenge 25" policy must be displayed"
- "All staff who sell alcohol will be trained to NCPLH (National Certificate of Personal Licence Holder) level. All sales of alcohol must be directly supervised and authorised by a Personal Licence Holder until such staff have achieved training to NCPLH level."
- "That staff are trained regarding appropriate precautions to prevent the sale of alcohol to persons under the age of 18; that records are kept of such training, which are signed and dated by the member of staff who has received the training; that staff receive refresher training every six months as a minimum and that records, signed and dated by the member of staff, are kept of this refresher training. Records of training will be available for inspection by Hampshire Constabulary, the Licensing Authority, Trading Standards and other Responsible Authorities on request."
- "The holder of the premises licence shall keep a written record, namely a refusals book, of those incidents where a person who a member of staff believes to be under the age of 18, and is unable to produce acceptable means of identification proving that they are of 18 years or more, attempts to purchase alcohol and is refused. The record shall include details, in English, of the date, time, a brief description, including estimated age, of the person who attempted to purchase the alcohol, the type of alcohol and the name of the person who refused the sale. Staff shall be trained in the use of the refusals book and it should be kept in a readily accessible place known by all members of staff. The record will be regularly checked by the premises licence holder or the designated premises supervisor to ensure that all staff are completing records and, and this person will sign and date the record as evidence that they have checked it. The refusals book will be available for inspection by Hampshire Constabulary, the Licensing Authority, Trading Standards and other Responsible Authorities on request."
- "A CCTV system shall be installed and maintained in the licensed premises to the satisfaction of the Licensing Authority, Hampshire Constabulary and Trading Standards. As a minimum, it shall enable surveillance of both external and internal areas of the premises including entrances and exits. Recordings from the system shall be of a quality acceptable as evidence in a court of law and shall be securely retained at the licensed premises for a minimum period of 30 days after the recording, and shall be surrendered to Hampshire Constabulary, the Licensing Authority, or Trading Standards immediately on request. The Premises Licence Holder and staff must be capable of operating the CCTV system".
- I would also ask that the licence is suspended for a period of 3 months, both as a deterrent and to give the Premises Licence Holder a period of time in which to put the above conditions into effect.

For information during the interview, which occurred on 1<sup>st</sup> November 2010, Imam Ekinci stated that he is also the owner of Georges Off Licence, 6 Athelstan Rd, Southampton. His son, Ozgur Ekinci, is the Premises Licence Holder at Georges, and is Designated Premises Supervisor at London Off Licence 2 and Georges: there is a clear link between the two shops. On 4<sup>th</sup> November I visited Georges and found 5 bottles of counterfeit Glens, and a bottle of non uk duty paid Lithuanian Vodka displayed for sale. I had given advice to Imam and Ozgur Ekinci during interview regarding detection of counterfeit spirits, however he failed to heed this advice.

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**

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

..... 5/1/11

Capacity Trading Standards Officer

.....

**Contact name (where not previously given) and postal address for correspondence associated with this application** (please read guidance note 5)

Lucas Marshall  
Trading Standards Service  
Southampton City Council  
Civic Centre Rd

**Post town**  
Southampton

**Post Code**  
SO14 7LY

**Telephone number (if any)** 02380 834930

**If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)** lucas.marshall@southampton.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.
6. See separate guidance for responsible authorities' details.



**TRADING STANDARDS SERVICE WITNESS STATEMENT**

C J Act 1967 S.9; MCA 1980 ss5A(3)(a) and 5B; Criminal Procedure Rules 2010 (Rule 27)

STATEMENT OF: **LUCAS MARSHALL**

AGE IF UNDER 18: **OVER 18**

This statement (consisting of 1 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the *17<sup>th</sup>* day of *December* 2010 Signature: .. .. .

~~..... being unable to read the statement,  
I..... of .....  
.....read it to him/her before he/she signed it.~~

~~Dated the      day of                      2010      Signature: .. .. .~~

A My name is Lucas Marshall. I am employed as a Trading Standards Officer by Southampton City  
Council. On 12 July 2010 I conducted an inspection at London Off Licence 2, 27 St Catherines Road,  
Southampton. During the inspection I examined a 70cl bottle of Glen's brand vodka. The vodka  
B contained white floating particles, the labels were not straight and were peeling from the bottle.  
Displayed next to the bottle was a label which stated 'Sale was £11.49 now £9.99'. I believed that the  
C vodka might be counterfeit so I took it as a sample, reference 012071, which I subsequently submitted to  
the public analyst. I produce, as Exhibit LM/1, a Certificate of Analysis confirming that the spirit sampled  
was not genuine Glen's vodka. On 1<sup>st</sup> November 2010 I interviewed Imam Ekinci, the Premises Licence  
D Holder, in accordance with the Police and Criminal Evidence Act 1984 and associated Codes of  
Practice. The interview was conducted in the interview room at Trading Standards Service, 7 Civic  
Centre Road, Southampton. I produce a copy of the interview CD as Exhibit LM/2.

Signature: .

E



STATEMENT OF: **LUCAS MARSHALL**

HOME ADDRESS: **Southampton City Council, Trading Standards Service, 7 Civic Centre Road, Southampton SO14 7FJ**

BUSINESS ADDRESS: **Southampton City Council, Trading Standards Service, 7 Civic Centre Road, Southampton SO14 7FJ**

DATE OF BIRTH: **5 May 1970**

OCCUPATION: **Trading Standards Officer**

HOME TELEPHONE NO:

BUSINESS TELEPHONE NO: **023 8083 4930**

**WITNESS AVAILABILITY** (Delete dates to be avoided)

Month of .....							Month of .....							Month of .....						
1	2	3	4	5	6	7	1	2	3	4	5	6	7	1	2	3	4	5	6	7
8	9	10	11	12	13	14	8	9	10	11	12	13	14	8	9	10	11	12	13	14
15	16	17	18	19	20	21	15	16	17	18	19	20	21	15	16	17	18	19	20	21
22	23	24	25	26	27	28	22	23	24	25	26	27	28	22	23	24	25	26	27	28
29	30	31					29	30	31					29	30	31				
Month of .....							Month of .....							Month of .....						
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8	9	10	11	12	13	14	8	9	10	11	12	13	14	8	9	10	11	12	13	14
15	16	17	18	19	20	21	15	16	17	18	19	20	21	15	16	17	18	19	20	21
22	23	24	25	26	27	28	22	23	24	25	26	27	28	22	23	24	25	26	27	28
29	30	31					29	30	31					29	30	31				

CONTACT POINT IF DIFFERENT FROM ABOVE:

ADDRESS:

TELEPHONE NO:

STATEMENT TAKEN BY:

INCIDENT NO.

**CRIMINAL PROCEDURE AND INVESTIGATIONS ACT 1996**

Record below anything that may affect the credibility of the person making this statement, eg previous convictions, relationship to defendant. If there is nothing state 'none' below.

*None*

Dated the *17* day of *Dec* 2010

Signed .....



RECEIVED 01 OCT 2010

## **FOOD SAFETY ACT 1990**

CERTIFICATE OF ANALYSIS OR EXAMINATION CARRIED OUT UNDER FOOD SAFETY  
(SAMPLING AND QUALIFICATIONS) REGULATIONS 1990

To: L Marshall                  Southampton City Council, Civic Centre,  
   Southampton, Hampshire, SO14 7LY

I, the undersigned, Public Analyst for Southampton City Council, certify that on 26/07/2010 the sample marked:

<u>Date sample taken</u>	<u>Reference number, description etc.</u>	<u>Weight/measure</u>
12/07/2010	012071	710ml
1037	GLENS VODKA 70CL	

Place of Sampling:                  LONDON OFF LICENCE, 27 ST CATHERINES RD, SOTON

was received by me from you (the person named above)

I certify that the sample was analysed by me or under my direction and the results are as follows:-

Alcohol % v/v    :                  36.6

My opinion and observations are:-

The declared alcoholic strength was 37.5 % volume.

The uncertainty of measurement is 0.4% alcohol by volume.

The difference between the amount of alcohol found and the amount declared taking into account the uncertainty of measurement was 0.5% by volume. This difference is outside the permitted tolerance of 0.3% alcohol by volume prescribed in The Food Labelling Regulations 1996 for vodka.

The sample had an alcohol content of 0.2% volume less than the minimum permitted.

Genuine Glen's vodka is only bottled in bottles supplied by Allied Glass Containers (AGC). These bottles have a small AGC logo on the base of the bottle with '58mm C12173' embossed in the glass, about 5mm from the base.

No such logo or embossing was present on the bottle.

The UK duty stamp on genuine Glen's brand vodka fluoresces at a wavelength of 365nm.

The UK duty stamp on the bottle did not fluoresce.

In my opinion the sample is not genuine Glen's brand vodka

I further certify that the sample had undergone no change which would affect my results, opinion or observations.

Certified by me this 24th day of September 2010, at Southsea

Signature: \_\_\_\_\_

Name: SHAYNE DYER  
PUBLIC ANALYST

Official address/Telephone No: As Letterhead

Unless you request otherwise this specimen will be disposed of 28 days from the date of this report.

## STATEMENT OF WITNESS

(Criminal Procedure Rules 2005, r 27.1(1);  
Criminal Justice Act 1967, s.9; Magistrates' Court Act 1980, s.5B)

**Statement of:** Thomas Keith Taylor  
**Age if Witness:** Over 18  
**Occupation:** Quality Manager

**This statement consisting of two pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.**

**Dated the 16<sup>th</sup> Day of November 2010**

**Signature:** ..... ?  
.....

I am Thomas Keith Taylor and I have been employed by Glen Catrine Bonded Warehouse Ltd, 7 Laigh Road, Catrine, Ayrshire, KA5 6SQ as Quality Manager for Eighteen years. In this capacity, I am familiar with the design, appearance, composition and quality of all genuine Glen Catrine products and I am authorised to speak on behalf of the company in relation to such matters. I can confirm that Glen's Vodka is a vodka brand for which Glen Catrine Bonded Warehouse Ltd owns the Trade Mark Number E3231107 and the brand was introduced in April 2003. I produce a copy of the Trademark Certificate and identify it as TKT/1. No other person, other than an agent authorised by our company, has permission to manufacture, produce or distribute any items bearing our trademark. On 16<sup>th</sup> July 2010, I received an E-mail from Lucas Marshall of Southampton Trading Standards Department informing me of a seizure that had been made by his department of a 70cl bottle that was labelled Glen's Vodka and was suspected of being counterfeit. The seizure was from the premises London Off-Licence 2, 27 St. Catherines Road, Southampton, SO18 1LL. From the information provided in the E-mail, I came to the conclusion that the bottle was counterfeit. My reasons for determining that this was not a genuine bottle of Glen's Vodka were as follows:- Previously, for genuine Glen's Vodka 70cl, our company only used a bottle supplied by Allied Glass Containers which can be identified by a small *AGC* logo on the base of the bottle. The following information was also embossed in the glass around 5mm from the base - 70cl 58mm  $\approx$  G1 2173. Since October 2009, our company has

**Signature:** .....

**Statement of Thomas Keith Taylor – Continued**

only used a bespoke bottle supplied by Allied Glass Containers which has the AGC logo, 2589, and G.C.B.W. embossed in the base. The E-mail from Lucas Marshall stated that the bottle used for the counterfeit product had the following information embossed in the glass – 700ml ÷ 66mm 1445. Our company does not, and has never used this bottle for Glen's Vodka. There was no lot code on the counterfeit bottle. On genuine bottles, a lot code is etched into the glass or printed by ink-jet on the bottle to allow traceability of where and when the bottle was filled. I can confirm that London Off-Licence 2, 27 St. Catherines Road, Southampton, SO18 1LL is not authorised in any way by our company to sell or offer for sale goods which bear the Glen's Vodka trade mark other than as displayed on genuine Glen's Vodka product. Counterfeiting is extremely detrimental to the brand image of our company's product and also to the consumer who has no guarantees of the quality or safety of the product they have purchased. *TKT*

**Signature:** .....



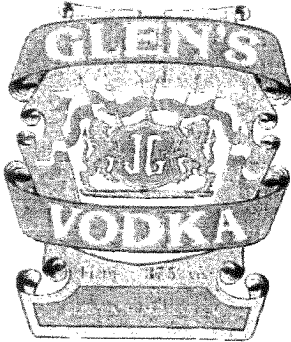


TKT/i

## Case details for Community Trade Mark E3231107

[Explanation of terms used on this page](#)

### Mark



Mark text: GLEN'S VODKA

### Status

UK case status: Registered  
 Original language: English  
 Second language: French  
 Class: 33

### Relevant dates

Filing date: 18 June 2003  
 Publication date: 17 January 2005  
 Registration date: 07 December 2004

### Priority claims

Priority date: 18 December 2002  
 Country: United Kingdom  
 Reference: 2319225

### List of goods or services

Class 33: Alcoholic beverages, vodka, gin, white and dark rum.

### Names and addresses

Applicant: Glen Carine Bonded Warehouse Limited  
 7 Laigh Road, Catrine, Ayrshire, United Kingdom, KA5 6SQ  
 Representative: MURGHITROYD & COMPANY  
 Scotland House 165-169 Scotland Street, Glasgow, United Kingdom, G5 8PL

### Earlier rights notification

Not opted in

[Explanation of terms used on this page](#)

The "E" prefix is used purely within the UK and is not part of the Community Trade Mark Number.

This enquiry shows Community Trade Mark information held by us. If you want to see details of the definitive Community Trade Mark, please visit the [Office for Harmonization in the Internal Market](#).



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