

<b>To:</b> Licensing Unit	<b>From:</b> Wesley McArthur <a href="mailto:wesley.mcarthur@southwark.gov.uk">wesley.mcarthur@southwark.gov.uk</a> 020 7525 5779 (on behalf of the Licensing Unit in its role as a responsible authority)	<b>Date:</b> 12 September 2024
<b>Subject:</b>	Representation	
<b>Act:</b>	The Licensing Act 2003 (the Act)	
<b>Premises:</b>	Dennis Wines, 141 Jamaica Road, London, SE16 4SH	
<b>Ref:</b>	<b>883894</b>	
<b>Location ID:</b>	200817	
<b>Ward:</b>	North Bermondsey	

We support the application submitted by this council's Trading Standards service for the review of the premises licence issued under The Licensing Act 2003 (the Act) in respect of the premises known as Dennis Wines, 141 Jamaica Road, London, SE16 4SH.

### 1. The application

The application relates to all of the licensing objectives, but in particular the prevention of crime and disorder and the protection of children from harm licensing objectives. The grounds for the review in the application are as follows (copied verbatim):

*"This matter is brought by Trading Standards as a responsible authority under the Licensing Act 2003 in respect of all the licensing objectives but most specifically under the prevention of crime and disorder and the protection of children from harm. The facts of the matter are as follows.*

*This matter concerns several pieces of legislation but is primarily concerned with the sale of alcohol to a minor. On Saturday 15th June 2024 officers with the London Borough of Southwark Trading Standards Team were undertaking an underage sales exercise using a 15 year old male volunteer. A sale of a 500ml bottle of Fullers Bengal Lancer Ale 5.4% ABV was made to the 15 year old volunteer for £2.50, no questions asked. A total of 14 attempted test purchases were made that day using this volunteer and this was the only sale that was made. All other premises refused.*

*The sale was witnessed by the Licensing Team Leader, Bina PATEL and there were no questions asked of the volunteer such as "Do You Have Any ID?" The sale was made by the owner of the business Mr Kavirach NAGARAJAH. A full inspection was made of the premises immediately after the sale by Mr Ray MOORE, a Principal Trading Standards Enforcement Officer, accompanied by Bina PATEL who confirmed the identity of the seller as Mr Kavirach NAGARAJAH. Mr MOORE found 10 illegal vapes on the premises which exceeded the maximum capacity of the tank size. There were also 21 x 200ml bottles of Alomo Bitters which appeared to have been smuggled without payment of duty. He formally requested traceable invoices for these items which have not been provided. He also requested invoices for a case of 24 x 500ml cans of Karpackie 9% ABV lager and an invoice was produced dated 20/02/2024 from Euro Wines, 5-9 Creekside, Depford, SE8 4SA.*

*Mr MOORE wrote out a seizure notice regarding the above matters number 3587. He also wrote out an Age-Related Products Notice number A051. This recorded the following further offences at the time of the visit:-*

- *The tobacco gantry was open, and the tobacco products were clearly openly on display to the public.*
- *There was no A3 statutory notice stating that tobacco products can't be sold to under 18-year-olds.*
- *There were two opened packets of cigarettes on the till which is usually a sign that single cigarettes are being sold.*

*As well as the above criminal matters good practice matters were also looked at. The underage sale offence carries a due diligence style defence as it is an absolute offence (strict liability). However, as the sale was made by the owner he would not be able to apply such a defence. It should be noted that he employs one person in the business, S [REDACTED] F [REDACTED]. There were no training records for this person. There was no refusals register.*

*The police found a knife behind the counter. The premises licence has few conditions on it which was initially issued when the new Licensing Act 2003 came into force in 2005.*

*The following offences were discovered at the time of the visit:-*

*Licensing Act 2003, Section 146(1) – sale of alcohol to a minor (15 year old male)*

*Licensing Act 2003, Section 144 – keeping of smuggled goods on the premises? (Alomo Bitters)*

*Consumer Protection from Unfair Trading Regulations 2008, regulation 12 and paragraph 9, schedule 1 – giving the impression that a product can legally be sold when it cannot? (Alomo Bitters)*

*Tobacco and Related Products Regulations 2016, regulation 36(3) and 46(d); - illegal vapes with excess tank capacity*

*Food Safety and Hygiene (England) Regulations 2013 – failure to provide traceable invoices for a food product (alcohol-Alomo Bitters)*

*Children and Young Persons (Protection from Tobacco) Act 1991, section 4 – not displaying A3 statutory notice*

*Tobacco Advertising and Promotion Act 2002, Tobacco Advertising and Promotion (Display) Regulations 2012, section 7A(1) - tobacco openly displayed to the public*

*Mr NAGARAJAH came in for an interview under caution on 29th July 2024. He stated that he was the owner of the business and that he had made the sale. He said that the volunteer had a hood up and that he should have asked him to lower it in order to assess his age. He said that he hadn't got an invoice for the alcohol as he hadn't paid for it yet. He also said that the alcohol and vapes were brought to the shop by companies delivering these things and again he had no invoices for the vapes as well as the alcohol. He apologised for what had happened.*

*It should be noted that an underage sale was made by Mr NAGARAJAH of a vape on 15th February 2024. This test purchase was made after a complaint made to this*

*office by a member of the public stating that he was selling vapes to teenagers on the estate where the shop is. He was interviewed under caution on 13th March 2024 and signed a simple caution for the offence along with offences relating to illegal vapes and a quantity of illicit tobacco that was seized. This visit came about as a result of a complaint from a member of the public that vapes were being sold from the shop openly to teenagers from the local estate where the shop is located.*

*A further test purchase was attempted on 6th June 2024 (again of a vape by a different 15 year old male). The volunteer was told by the person behind the counter that he didn't know him and he should try somewhere else. Shortly after the test purchase on the 15th June 2024 a further complaint was received by this office about vapes being sold to local teenagers.*

*All options are open to the Licensing Sub-committee regarding these matters including imposing conditions and / or suspending or revoking the licence. Trading Standards would ask that the licence be revoked but can supply a list of conditions should the LSC choose to take a different route."*

## **2. The premises licence**

The premises licence (number 881877) allows for the provision of the following licensable activities as stated:

### **The sale of alcohol to be consumed off the premises –**

Monday – Saturday:           08:00 – 23:00

Sunday:                         10:00 – 22:30

There are no standard opening hours in respect of the premises licence.

## **3. Operating history**

The premises licence was originally issued to a Senay Donmez on 06 August 2005.

The licence was transferred to the current licensee, Kavirach Nagarajah, on 13 November 2023.

On 04 December 2023 Kavirach Nagarajah was specified as the designated premises supervisor (DPS) regarding the licence.

On 09 January 2024 a licensing officer undertook an inspection of the premises and found the premises to be being operated compliantly.

No complaints have been received by the Licensing Unit regarding the operation of the premises.

## **4. Possible outcomes**

The licensing sub-committee may choose to:

1. Take no further action
2. Impose further conditions

3. Curtail or remove licensable activities
4. Remove the DPS from the premises licence
5. Suspend the premises licence for a period of up to 3 months
6. Revoke the premises licence

## **5. Reasons for supporting the review application**

An offence under the Act has taken place at the premises, to wit, the sale of alcohol to an individual aged under 18. Section 146 (1) of the Act states:

- **“146 Sale of alcohol to children**  
*(1) A person commits an offence if he sells alcohol to an individual aged under 18.”*

It is also likely that an offence under section 144 (1) of the Act has taken place, to wit, the keeping of smuggled goods on the premises. Section 144 (1) of the Act states:

- **“144 Keeping of smuggled goods**  
*(1) A person to whom subsection (2) applies commits an offence if he knowingly keeps or allows to be kept, on any relevant premises, any goods which have been imported without payment of duty or which have otherwise been unlawfully imported.”*

In addition to the offences above, offences under other legislation have been witnessed and / or are alleged.

We say that, although there has only been one failed test purchase regarding the sale of alcohol (which relates to the Act and is therefore the primary concern to the licensing sub-committee) the other failed test purchases regarding age restricted products **show an ongoing and persistent pattern of behaviour** in that the licensee consistently sells high risk products to underage individuals **even after being warned about such activities**.

Given the established pattern of behaviour, we say that it is **highly likely** that previous sales of alcohol to underage individuals have taken place at the premises, and that if the licensee had not been subject to a failed test purchase, such sales would have continued.

We contend that it is likely that alcohol sales to underage individuals will take place at the premises should the premises licence remain in place at the premises.

The licensee is also the DPS, and so we say that removing the DPS from the licensee will have no affect on reducing the likelihood of underage sales at the premises.

**We therefore support the Trading Standards service’s recommendation that the premises licence be revoked.**

If, however, the licensing sub-committee does not choose to revoke the premises licence then we would seek that robust conditions are imposed on the premises licence. Because we support revocation of the premises licence, we do not think it is appropriate to provide a schedule of proposed conditions prior to the hearing, but will be happy to discuss recommended conditions at the hearing.

Yours sincerely,

**Wesley McArthur**  
Principal Enforcement Officer