

To: Councillors Woodward (Chair),  
Dennis and Livingston.

Our Ref: Ics.c/agenda  
Your Ref:

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27 March 2018

Your contact is: Amy Bryan & Peter Driver - Committee Services

NOTICE OF MEETING - LICENSING APPLICATIONS SUB-COMMITTEE 1 - TUESDAY 10 APRIL 2018

A meeting of Licensing Applications Sub-Committee 1 will be held on Tuesday 10 April 2018 at 5.00pm in the Council Chamber, Civic Offices, Bridge Street, Reading.

The agenda for the meeting is set out below.

WARDS AFFECTED PAGE NO

- |    |  |   |
|----|--|---|
| 1. | DECLARATIONS OF INTEREST   |   |
|    | (a) Councillors to declare any disclosable pecuniary interests they may have in relation to the items for consideration; |   |
|    | (b) Councillors to declare whether they wish to speak on the grounds they:   |   |
|    | (i) Have submitted a relevant representation; or   |   |
|    | (ii) Will be speaking on behalf of someone who has submitted a relevant representation.                                  |   |
| 2. | MINUTES OF THE MEETING OF LICENSING APPLICATIONS SUB-COMMITTEE 2 HELD ON 8 MARCH 2018                                    | 1 |

To confirm the Minutes of the meeting of Licensing Applications Sub-Committee 2 held on 8 March 2018 as a correct record.

3. APPLICATION FOR THE GRANT OF A PREMISES WHITLEY 4  
LICENCE - SUPERSAVE, NORTHUMBERLAND AVENUE,  
READING

To consider an application for the grant of a Premises Licence in respect of Supersave, 234 Northumberland Avenue, Reading.

## LICENSING APPLICATIONS SUB-COMMITTEE 2 MINUTES - 8 MARCH 2018

Present: Councillors Woodward (Chair), D Edwards and Livingston.

### 28. MINUTES

The Minutes of the meetings of Licensing Applications Sub-Committee 2 held on 4 January and 11 January 2018 were confirmed as correct records and signed by the Chair.

### 29. APPLICATION FOR THE REVIEW OF A PREMISES LICENCE - PARK LANE FOOD AND WINE

The Head of Planning, Development and Regulatory Services submitted a report on an application by Reading Borough Council Licensing Team for the review of the Premises Licence in respect of Park Lane Food and Wine, 2 - 4 Park Lane, Tilehurst, Reading, RG31 5DL.

The report stated that the Reading Borough Council Licensing Team had submitted the review of the Premises Licence, outlining a visit to the premises on 23 November 2017 when the premises had been found employing one illegal worker, who was in sole charge of the premises, and breaching licensing conditions. The premises had also breached licensing conditions on 28 July 2015 and 2 December 2015, and on 24 October 2017 counterfeit cigarettes had been found on the premises by the Reading Borough Council Trading Standards Team.

The application sought for the Premises Licence to be revoked due to the seriousness of the crimes discovered at the premises and the undermining of the licensing objectives.

A copy of the review application was attached to the report at Appendix I.

The report stated that representations had been received from Thames Valley Police, the Immigration Service, and Reading Borough Council Trading Standards, which were attached to the report at Appendix II, III and IV.

A plan showing the location of the premises and surrounding streets was attached to the report at Appendix V.

The report stated that the Premises Licence Holder was Parklane Stores Ltd. The Designated Premises Supervisor at the time of the review application was Mr Kripleshkumar Patwa. The current Premises Licence, a copy of which was attached to the report at Appendix VI, permitted the following:

#### Hours for the Sale by Retail of Alcohol (off the premises)

Monday to Saturday	0800 hours until 2300 hours
Sunday	1000 hours until 2230 hours

Good Friday 0800 hours until 2230 hours. Christmas Day 1200 hours until 1500 hours and 1900 hours until 2230 hours.

The report stated that in determining the application the Licensing Authority had a duty to carry out its functions with a view to promoting the four licensing objectives, as follows:

- The prevention of crime and disorder

## LICENSING APPLICATIONS SUB-COMMITTEE 2 MINUTES - 8 MARCH 2018

- public safety
- The prevention of public nuisance
- The protection of children from harm

The report stated further that in determining the application the Licensing Authority must also have regard to the representations received, the Licensing Authority's statement of licensing policy and any relevant section of the statutory guidance to licensing authorities. Further, in determining the application the Licensing Authority could take such of the following steps as it considered appropriate and proportionate for the promotion of the licensing objectives:

- Take no further action
- To issue formal warnings to the premises supervisor and/or premises licence holder
- Modify the conditions of the licence (including, but not limited to hours of operation of licensable activities)
- Exclude a licensable activity from the scope of the licence
- Remove the designated premises licence supervisor
- Suspend the licence for a period not exceeding three months
- Revoke the licence

(Where the Sub-Committee took a step mentioned in the third and fourth bullet points above it may provide that the modification or exclusion was to have effect for a period not exceeding three months or permanently.)

The report set out paragraphs 1.5, 9.12, 9.13, 9.25, 9.31, 9.38, 9.42, 9.43, 11.1, 11.2, 11.16 to 11.18 and 11.24 to 11.28 of the Amended Guidance issued under Section 182 of the Licensing Act 2003 (April 2017). The report also set out paragraphs 1.5, 7.15.1, 10.5.1, 15.1, 15.1.1 and 15.3.1 of the Council's Statement of Licensing Policy.

Mr Kripleshkumar Patwa, Designated Premises Supervisor, was present and addressed the Sub-Committee and was represented by Mr Surendra Panchal, Personal Licence Courses Ltd, who also addressed the Sub-Committee.

Richard French, Reading Borough Council Licensing Team, was present at the meeting and addressed the Sub-Committee on the application. PC Simon Wheeler, Thames Valley Police, Russell Angell, Immigration Service, and Ian Savill, Reading Borough Council Trading Standards were all present at the meeting and addressed the Sub-Committee.

### Resolved -

That having reviewed the Premises Licence in respect of Park Lane Food and Wine, 2-4 Park Lane, Tilehurst, Reading, and having had regard to the licensing objectives, in particular the prevention of crime and disorder and public safety, and the oral and written representations made, the Secretary of State's guidance and the Council's Statement of Licensing Policy as detailed in the report, the Sub-Committee concluded that it would be appropriate and proportionate to revoke the Premises Licence due to:

- (a) the Designated Premises Supervisor's explanation about the illegal worker and the period he had worked at the premises not being credible and the Sub-Committee being satisfied that the Premises Licence Holder had

## LICENSING APPLICATIONS SUB-COMMITTEE 2 MINUTES - 8 MARCH 2018

employed an illegal worker in 2016 and 2017 at the time of the inspections held on 23 November 2016 and 23 November 2017 at the least;

- (b) the discovery of counterfeit cigarettes on the premises on 24 October 2017 for which the Designated Premises Supervisor could not provide an account and in fact no explanations were given;
- (c) the breaches of licence conditions, as witnessed at the time of the inspections and as stated in the report, for which no explanations were given.

(The meeting started at 9.30am and finished at 11.18am)

**LICENSING ACT 2003 HEARING TUESDAY 10<sup>th</sup> APRIL 2018 @1700HRS**

**APPLICATION FOR THE GRANT OF A PREMISES LICENCE**

<b>1. Premises:</b>
Supersave 234 Northumberland Avenue Reading RG2 7QA

<b>2. Applicant:</b>
Mr Pritesh Raghubhai Patel

<b>3. <u>Premises Licence:</u></b>
There is already a licence in force at this premises which is held by Supersave (UK) Ltd. This licence was revoked by the Licensing Committee on 14 <sup>th</sup> December 2017. Supersave (UK) Ltd have appealed that decision and are continuing to trade whilst the appeal is being determined by the court.

<b>4. <u>Proposed licensable activities and hours:</u></b>
The application is for the grant of a premises licence for the following activities:  <u>Sale of Alcohol (off the premises)</u> Monday to Sunday from 0530hrs until 2300hrs  <u>Opening Hours</u> Monday to Sunday from 0530hrs until 2300hrs

<b>5. <u>Temporary Event Notices</u></b>
In considering any application the Licensing Authority should be aware of the possible use of Temporary Event Notices to extend entertainment activities or hours of operation. A premises may extend the hours or scope of their operation by the use of Temporary Event Notices. Up to 15 events per year can be held under this provision at a particular premises. These events may last for up to 168 hours provided less than 500 people are accommodated and provided the total number of days used for these events does not exceed 21 per year.

<b>6. <u>Date of receipt of application:</u> 15<sup>th</sup> February 2018</b>
A copy of the application form is attached as <u>Appendix PN1</u>

<b>7. <u>Date of closure of period for representations:</u> 15th March 2018</b>
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<b>8. <u>Representations received:</u></b>
During the 28 day consultation process for the application, representations were received from: Reading Borough Council Licensing Team. Attached at <u>Appendix PN2</u> Reading Borough Council Trading Standards. Attached at <u>Appendix PN3</u> Thames Valley Police. Attached at <u>Appendix PN4</u>

## **9. Licensing Objectives and Reading Borough Council's Licensing Policy Statement**

In considering representations received the Licensing Authority has a duty to carry out its functions with a view to promoting the four licensing objectives, which are as follows:

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

Any conditions that are placed on a premises licence should be appropriate and proportionate with a view to promoting the licensing objectives. The Licensing Authority can amend, alter or refuse an application should it be deemed appropriate for the promotion of the licensing objectives.

The Council's licensing policy also places an onus on applicant's who wish to open past 11pm to demonstrate how they will mitigate the issues of crime and disorder and potential public nuisance.

### **Amended Guidance issued under section 182 of the Licensing Act 2003 April 2017**

#### **Licensing Objectives and Aims:**

1.5 However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work.

They include:

protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;

#### **Steps to promote the licensing objectives:**

The Secretary of State's Guidance (latest edition of April 2017) at paragraphs 8.38 to 8.46 specifically outline what an applicant should address in order to be able to demonstrate that the proposed use of the premises for licensable activities would not undermine the licensing objectives.

Section 8.38 states that applicants are expected to have regard to the Council's Statement of Licensing Policy. This would have provided the applicant early sight of what the expectations of the Licensing Authority are and to demonstrate they have taken cognisance of the issues within the

locality they propose to operate in.

Section 8.39 outlines that applicants are expected to demonstrate that they understand the layout of the local area and the proximity to residential premises or crime and disorder hotspots so as to fully and effectively gauge the risk posed by their proposed operation to the local area.

Section 8.40 states that applicants are expected to include positive proposals in how they will manage any potential risks. Where specific policies, such as Cumulative Impact exist, the applicant should demonstrate within the operating schedule an understanding on how their proposals may impact that area.

Section 8.41 states that applicants are expected to make enquiries as to the locality of their premises and develop appropriate policies. Applicants must consider factors that may undermine any of the licensing objectives (such as proximity to residential dwellings)

Section 8.42 underlines where the applicant can obtain information about the area in which they propose to operate including the Council's licensing policy and online crime data resources such as police.uk

Section 8.43 states that all parties (applicants, licensing authority and responsible authorities) should work in partnership before the any application to use local knowledge to resolve potential disputes before they arise.

Section 8.44 states that applicants are expected to provide licensing authorities with sufficient information to be able to determine the extent with which their proposed steps are sufficient to promote the licensing objectives. It goes on to say that applicants should underline why they believe their proposals are appropriate for the premises.

Section 8.45 underlines the importance of partnership working and to work out disputes accordingly.

Section 8.46 makes clear that the applicant should demonstrate within their application how their proposals will promote each of the licensing objectives.

#### Representations from the police

9.12 In their role as a responsible authority, the police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective. The police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area.



The police should be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective, but may also be able to make relevant representations with regard to the other licensing objectives if they have evidence to support such representations. The licensing authority should accept all reasonable and proportionate representations made by the police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains incumbent on the police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

#### **Licensing authorities acting as responsible authorities**

9.13 Licensing authorities are included in the list of responsible authorities. A similar framework exists in the Gambling Act 2005. The 2003 Act does not require responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes. It is, therefore, for the licensing authority to determine when it considers it appropriate to act in its capacity as a responsible authority; the licensing authority should make this decision in accordance with its duties under section 4 of the 2003 Act.

#### **Licensing Act 2003**

The Licensing Act 2003 under Section 18 (6) also states that any relevant representation should be considered in the context of:

(a) the likely effect of the grant of the premises licence on the promotion of the licensing objectives.

Therefore in the context of the grant of a licence, it is reasonable for the Licensing Authority to base its decision on an application on what the likely effects of granting a licence would have on the promotion of the licensing objectives.

#### **The Council's Licensing Policy Statement:**

##### **7.15 Crime & Disorder Act 1998**

7.15.1 In applying this policy, the Authority will have regard to its obligations under Section 17 of the Crime and Disorder Act 1998 and will do all that it reasonably can to prevent crime and disorder in Reading. The Authority will also have regard to the Safer Reading Partnership, which incorporates both local and national strategies and whose mission statement is "We will continue to make Reading a safer place for those who live, work and visit, through a reduction in crime and disorder". In addition the Authority will liaise with the Reading Crime Reduction Partnership in order to reduce crime, misuse of drugs and the fear of crime.

### 11.3 Hours of Sales in Off Licences

11.3.1 Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. However, in the case of individual shops that are known to be a focus of disorder and disturbance, then subject to relevant representations being received, a limit on licensing hours may be appropriate.

#### Case Law

East Lindsey District Council v Abu Hanif (attached at **appendix PN5**)

#### Other Documents

Land Registry for 234 Northumberland Avenue (attached at **appendix PN6**)



**Reading**  
**Application for a premises licence**  
**Licensing Act 2003**

For help contact  
[licensing@reading.gov.uk](mailto:licensing@reading.gov.uk)  
 Telephone: 0118 937 3762

\* required information

### Section 1 of 21

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference

Not Currently In Use

This is the unique reference for this application generated by the system.

Your reference

You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

Yes  No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

### Applicant Details

\* First name

PRITESH RAGHUBHAI

\* Family name

PATEL

**You must enter a valid e-mail address**

\* E-mail

NONE

Main telephone number

Include country code.

Other telephone number

Indicate here if the applicant would prefer not to be contacted by telephone

Is the applicant:

- Applying as a business or organisation, including as a sole trader
- Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means the applicant is applying so the applicant can be employed, or for some other personal reason, such as following a hobby.

Continued from previous page...

### Address

* Building number or name	<input type="text"/>
* Street	<input type="text" value="BANKSIDE CLOSE"/>
District	<input type="text"/>
* City or town	<input type="text" value="READING"/>
County or administrative area	<input type="text"/>
* Postcode	<input type="text" value="RG2 7NH"/>
* Country	<input type="text" value="United Kingdom"/>

### Agent Details

* First name	<input type="text" value="MANPREET SINGH"/>
* Family name	<input type="text" value="KAPOOR"/>
* E-mail	<input type="text" value="info@personalllicencecourses.com"/>
Main telephone number	<input type="text" value="02086060558"/>
Other telephone number	<input type="text"/>

Include country code.

Indicate here if you would prefer not to be contacted by telephone

Are you:

- An agent that is a business or organisation, including a sole trader  
 A private individual acting as an agent

A sole trader is a business owned by one person without any special legal structure.

### Agent Business

Is your business registered in the UK with Companies House?  Yes  No

Note: completing the Applicant Business section is optional in this form.

Registration number	<input type="text" value="10291684"/>
Business name	<input type="text" value="PERSONAL LICENCE COURSES UK LTD"/>
VAT number	<input type="text" value="-"/>
Legal status	<input type="text" value="Private Limited Company"/>
Your position in the business	<input type="text" value="EMPLOYEE"/>
Home country	<input type="text" value="United Kingdom"/>

If your business is registered, use its registered name.

Put "none" if you are not registered for VAT.

The country where the headquarters of your business is located.

Continued from previous page...

**Agent Registered Address**

Address registered with Companies House.

Building number or name	INFOTREE HOUSE
Street	NEWPORT ROAD
District	
City or town	HAYES
County or administrative area	
Postcode	UB4 8JX
Country	United Kingdom

**Section 2 of 21**

**PREMISES DETAILS**

I/we, as named in section 1, apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in section 2 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003.

**Premises Address**

Are you able to provide a postal address, OS map reference or description of the premises?

- Address     OS map reference     Description

**Postal Address Of Premises**

Building number or name	SUPERSAVE
Street	234 NORTHUMBERLAND AVENUE
District	
City or town	READING
County or administrative area	
Postcode	RG2 7QA
Country	United Kingdom

**Further Details**

Telephone number	0118 931 2627
Non-domestic rateable value of premises (£)	6,800

**Section 3 of 21**

**APPLICATION DETAILS**

In what capacity are you applying for the premises licence?

- An individual or individuals
- A limited company / limited liability partnership
- A partnership (other than limited liability)
- An unincorporated association
- Other (for example a statutory corporation)
- A recognised club
- A charity
- The proprietor of an educational establishment
- A health service body
- A person who is registered under part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales
- A person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the carrying on of a regulated activity (within the meaning of that Part) in an independent hospital in England
- The chief officer of police of a police force in England and Wales

**Confirm The Following**

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities
- I am making the application pursuant to a statutory function
- I am making the application pursuant to a function discharged by virtue of Her Majesty's prerogative

**Section 4 of 21**

**INDIVIDUAL APPLICANT DETAILS**

**Applicant Name**

Is the name the same as (or similar to) the details given in section one?

- Yes                       No

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

First name

Family name

Is the applicant 18 years of age or older?

- Yes                       No

Continued from previous page...

### Current Residential Address

Is the address the same as (or similar to) the address given in section one?

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

Yes  No

Building number or name	<input type="text"/>
Street	<input type="text" value="BANKSIDE CLOSE"/>
District	<input type="text"/>
City or town	<input type="text" value="READING"/>
County or administrative area	<input type="text"/>
Postcode	<input type="text" value="RG2 7NH"/>
Country	<input type="text" value="United Kingdom"/>

### Applicant Contact Details

Are the contact details the same as (or similar to) those given in section one?

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

Yes  No

**You must enter a valid email address**

E-mail	<input type="text" value="NONE"/>
Telephone number	<input type="text"/>
Other telephone number	<input type="text"/>
* Date of birth	<input type="text" value="dd"/> / <input type="text" value="mm"/> / <input type="text" value="yyyy"/>
* Nationality	<input type="text" value="BRITISH"/>

[Documents that demonstrate entitlement to work in the UK](#)

## Section 5 of 21

### OPERATING SCHEDULE

When do you want the premises licence to start?  /  /   
dd mm yyyy

If you wish the licence to be valid only for a limited period, when do you want it to end  /  /   
dd mm yyyy

Provide a general description of the premises

For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off- supplies you must include a description of where the place will be and its proximity to the premises.

*Continued from previous page...*

OFF LICENCE AND CONVENIENCE STORE

If 5,000 or more people are expected to attend the premises at any one time, state the number expected to attend

### Section 6 of 21

#### PROVISION OF PLAYS

[See guidance on regulated entertainment](#)

Will you be providing plays?

- Yes  No

### Section 7 of 21

#### PROVISION OF FILMS

[See guidance on regulated entertainment](#)

Will you be providing films?

- Yes  No

### Section 8 of 21

#### PROVISION OF INDOOR SPORTING EVENTS

[See guidance on regulated entertainment](#)

Will you be providing indoor sporting events?

- Yes  No

### Section 9 of 21

#### PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

[See guidance on regulated entertainment](#)

Will you be providing boxing or wrestling entertainments?

- Yes  No

### Section 10 of 21

#### PROVISION OF LIVE MUSIC

[See guidance on regulated entertainment](#)

Will you be providing live music?

- Yes  No

### Section 11 of 21

#### PROVISION OF RECORDED MUSIC

[See guidance on regulated entertainment](#)

Will you be providing recorded music?

- Yes  No



Continued from previous page...

**Section 12 of 21**

**PROVISION OF PERFORMANCES OF DANCE**

[See guidance on regulated entertainment](#)

Will you be providing performances of dance?

- Yes  No

**Section 13 of 21**

**PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE**

[See guidance on regulated entertainment](#)

Will you be providing anything similar to live music, recorded music or performances of dance?

- Yes  No

**Section 14 of 21**

**LATE NIGHT REFRESHMENT**

Will you be providing late night refreshment?

- Yes  No

**Section 15 of 21**

**SUPPLY OF ALCOHOL**

Will you be selling or supplying alcohol?

- Yes  No

**Standard Days And Timings**

MONDAY

Start

End

Start

End

Give timings in 24 hour clock. (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

Continued from previous page...

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

Will the sale of alcohol be for consumption:

- On the premises     Off the premises     Both

If the sale of alcohol is for consumption on the premises select on, if the sale of alcohol is for consumption away from the premises select off. If the sale of alcohol is for consumption on the premises and away from the premises select both.

State any seasonal variations

For example (but not exclusively) where the activity will occur on additional days during the summer months.

NONE

Non-standard timings. Where the premises will be used for the supply of alcohol at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

NONE

State the name and details of the individual whom you wish to specify on the licence as premises supervisor

**Name**

First name

Family name

Date of birth

dd

mm

yyyy

Continued from previous page...

**Enter the contact's address**

Building number or name	<input type="text"/>
Street	<input type="text" value="BANKSIDE CLOSE"/>
District	<input type="text"/>
City or town	<input type="text" value="READING"/>
County or administrative area	<input type="text"/>
Postcode	<input type="text" value="RG2 7NH"/>
Country	<input type="text" value="United Kingdom"/>
Personal Licence number (if known)	<input type="text" value="LP7001017"/>
Issuing licensing authority (if known)	<input type="text" value="READING BOROUGH COUNCIL"/>

**PROPOSED DESIGNATED PREMISES SUPERVISOR CONSENT**

How will the consent form of the proposed designated premises supervisor be supplied to the authority?

- Electronically, by the proposed designated premises supervisor
- As an attachment to this application

Reference number for consent form (if known)

If the consent form is already submitted, ask the proposed designated premises supervisor for its 'system reference' or 'your reference'.

**Section 16 of 21**

**ADULT ENTERTAINMENT**

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children

Give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

**Section 17 of 21**

**HOURS PREMISES ARE OPEN TO THE PUBLIC**

**Standard Days And Timings**

MONDAY

Start

End

Start

End

Give timings in 24 hour clock. (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

Continued from previous page...

TUESDAY

Start	<input type="text" value="05:30"/>	End	<input type="text" value="23:00"/>
Start	<input type="text"/>	End	<input type="text"/>

WEDNESDAY

Start	<input type="text" value="05:30"/>	End	<input type="text" value="23:00"/>
Start	<input type="text"/>	End	<input type="text"/>

THURSDAY

Start	<input type="text" value="05:30"/>	End	<input type="text" value="23:00"/>
Start	<input type="text"/>	End	<input type="text"/>

FRIDAY

Start	<input type="text" value="05:30"/>	End	<input type="text" value="23:00"/>
Start	<input type="text"/>	End	<input type="text"/>

SATURDAY

Start	<input type="text" value="05:30"/>	End	<input type="text" value="23:00"/>
Start	<input type="text"/>	End	<input type="text"/>

SUNDAY

Start	<input type="text" value="05:30"/>	End	<input type="text" value="23:00"/>
Start	<input type="text"/>	End	<input type="text"/>

State any seasonal variations

For example (but not exclusively) where the activity will occur on additional days during the summer months.

NONE

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

NONE

**Section 18 of 21**

**LICENSING OBJECTIVES**

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e)

*Continued from previous page...*

List here steps you will take to promote all four licensing objectives together.

1. Strict implementation of challenge 25 policy
2. CCTV to be installed and 31 days recoding system
3. All staff to be trained in responsible alcohol retailing
4. Training manual will be available at the premises

b) The prevention of crime and disorder

1. The premise license holder shall ensure that CCTV camera and recorders are installed at the premises and are of a standard acceptable to and approved by the police
2. The system shall be maintained in good working order and at all times the premise is open to the public, be fully operational covering both internal and external areas of the premises to which the public have access. All images should be stored for a minimum of 31 days
3. The CCTV views are not to be obstructed, at least one CCTV camera is to be placed near to the exit in order to capture clear facial images of all patrons leaving the premises
4. A suitable trained staff member will be able to show and provide police or council licensing officers recent data footage with the minimum delay when requested.
5. All goods, including those subject to duty payments i.e. alcohol and tobacco products will be brought from cash and carries only an invoices and they will be available upon request. All alcohol will be purchased from AWRS registered cash & carry or wholesalers.
6. No alcoholic drinks or tobacco will be purchased by the premises from unannounced sellers calling at the premises
7. All staff employed at the premises will have UK right to work status checked, once passed that stage they shall be offered employment.

c) Public safety

1. Installation of appropriate safety equipment
2. Fire exit signs displayed
3. To comply with all current, fire, health and safety laws
4. CCTV working at all times

d) The prevention of public nuisance

1. Notice displayed asking customers to leave quietly from premises also customers will be told in person to leave quietly and not to disturb the local neighborhood
2. Strict policy in place to tell all staff not to serve alcohol to drunks at all
3. Appropriate signage will be displayed, in prominent position informing customers they are being recorded on CCTV
4. Street drinker signs displayed on premises, to prevent any street drinker disorder.

e) The protection of children from harm

1. A challenge 25 policy will be in force, where any person looking under the age of 25 shall be asked to prove their age when attempting to purchase alcohol and signs to this effect will be displayed at the premises. Challenge 25 posters displayed where alcohol is sold.
2. The only acceptable ID will be those with photographic identification documents; including passport, photo-card, driving license or proof of age card bearing the PASS hologram.
3. An incident/refusal log shall be kept at the premises, and made available for inspection on request to an authorised officer of the council of the police which will record the following;
  - a) All crimes reported at the venue
  - b) Any complaints received, any faults in the CCTV system
  - c) Any refusal of the sale of alcohol, any visit by a relevant authority
  - d) CAD reference number where police are called

## **Section 19 of 21**

### **NOTES ON DEMONSTRATING ENTITLEMENT TO WORK IN THE UK**

*Continued from previous page...*

### **Entitlement to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:**

A licence may not be held by an individual or an individual in a partnership who is resident in the UK who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.

Any premises licence issued in respect of an application made on or after 6 April 2017 will become invalid if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have an entitlement to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity. They do this by providing with this application copies or scanned copies of the following documents (which do not need to be certified).

#### **Documents which demonstrate entitlement to work in the UK**

- An expired or current passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK [please see note below about which sections of the passport to copy].
- An expired or current passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- A Registration Certificate or document certifying permanent residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A **full** birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A certificate of registration or naturalisation as a British citizen, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A **current** passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity.

*Continued from previous page...*

- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to work relation to the carrying on of a licensable activity.
- A **current** Residence Card issued by the Home Office to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights or residence.
- A **current** Immigration Status Document containing a photograph issued by the Home Office to the holder with an endorsement indicating that the named person may stay in the UK, and is allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A Certificate of Application, **less than 6 months old**, issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (European Economic Area) Regulations 2006, to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence.
- Reasonable evidence that the person has an outstanding application to vary their permission to be in the UK with the Home Office such as the Home Office acknowledgement letter or proof of postage evidence, or reasonable evidence that the person has an appeal or administrative review pending on an immigration decision, such as an appeal or administrative review reference number.
- Reasonable evidence that a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence in exercising treaty rights in the UK including:-
  - evidence of the applicant's own identity – such as a passport,
  - evidence of their relationship with the European Economic Area family member – e.g. a marriage certificate, civil partnership certificate or birth certificate, and
  - evidence that the European Economic Area national has a right of permanent residence in the UK or is one of the following if they have been in the UK for more than 3 months:
    - (i) working e.g. employment contract, wage slips, letter from the employer,
    - (ii) self-employed e.g. contracts, invoices, or audited accounts with a bank,
    - (iii) studying e.g. letter from the school, college or university and evidence of sufficient funds; or
    - (iv) self-sufficient e.g. bank statements.

Family members of European Economic Area nationals who are studying or financially independent must also provide evidence that the European Economic Area national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical insurance policy, an EHIC card or an S1, S2 or S3 form.

**Original documents must not be sent to licensing authorities.** If the document copied is a passport, a copy of the following pages should be provided:-

- (i) any page containing the holder's personal details including nationality;
- (ii) any page containing the holder's photograph;
- (iii) any page containing the holder's signature;
- (iv) any page containing the date of expiry; and
- (v) any page containing information indicating the holder has permission to enter or remain in the UK and is permitted to work.

If the document is not a passport, a copy of the whole document should be provided.

Your right to work will be checked as part of your licensing application and this could involve us checking your immigration status with the Home Office. We may otherwise share information with the Home Office. Your licence application will not be determined until you have complied with this guidance.

## **Section 20 of 21**

### **NOTES ON REGULATED ENTERTAINMENT**

*Continued from previous page...*

In terms of specific **regulated entertainments** please note that:

- Plays: no licence is required for performances between 08:00 and 23.00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- Live music: no licence permission is required for:
  - o a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
  - o a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - o a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
  - o a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - o a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
  - o any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - o any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - o any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.



Continued from previous page...

- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
  - o any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
  - o any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
  - o any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
  - o any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

## Section 21 of 21

### PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

The fee payable will be based on the rateable value of the property. Band A - 0 - 4300 - Fee Payable - 100 Band B - 4301 - 33,000 - Fee Payable - 190 Band C - 33,001 - 87,000 - Fee Payable - 315 Band D - 87,001 - 125,000 - Fee payable - 450 Band E - 125,001 and over - Fee payable - 635 Additional fees apply to outdoor events.

\* Fee amount (£)

### DECLARATION

Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15

The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, if appropriate (please see note 15)

Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

\* Full name

\* Capacity

\* Date

 /  /   
dd mm yyyy

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...

2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/reading/apply-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

Continued from previous page...

**IT IS AN OFFENCE LIABLE TO SUMMARY CONVICTION TO A FINE OF ANY AMOUNT UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED**

**OFFICE USE ONLY**

Applicant reference number	<input type="text"/>
Fee paid	<input type="text"/>
Payment provider reference	<input type="text"/>
ELMS Payment Reference	<input type="text"/>
Payment status	<input type="text"/>
Payment authorisation code	<input type="text"/>
Payment authorisation date	<input type="text"/>
Date and time submitted	<input type="text"/>
Approval deadline	<input type="text"/>
Error message	<input type="text"/>
Is Digitally signed	<input type="checkbox"/>

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<b>Name of Officer</b>	Richard French						
<b>Type of Application</b>	Grant of Premises Licence - Licensing Act 2003						
<b>Name of Premises</b>	Supersave						
<b>Address</b>	234 Northumberland Avenue						
	Reading						
	RG2 7QA						
<b>Licensable Activities</b>	Sale of alcohol from 0530 to 2300hrs (off sales)						
<b>Finish Times</b>	<b>Mon</b>	<b>Tue</b>	<b>Wed</b>	<b>Thu</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
	2300	2300	2300	2300	2300	2300	2300
<b>Content of Application:</b>							
The application was submitted on behalf of a Mr Pritesh Raghubhai Patel on 15 <sup>th</sup> February 2018. The application is for the retail sale of alcohol off the premises from 0530hrs until 2300hrs - 7 days a week.							
<b>Licensing Officer's Comments:</b>							
<p>The Licensing team object to the application to operate the premises known as Supersave, 234 Northumberland Avenue, Reading as we believe granting a licence will undermine the promotion of the licensing objectives - notably the prevention of crime and disorder. We have concerns over the applicant and their suitability to run a licensed premises in accordance with legislation and the promotion of the licensing objectives. Section 18 (6) of the Licensing Act 2003 states that representations should relate to the <u>likely effect</u> of granting a licence on the licensing objectives and we believe that the likely effect of granting this licence is that the proposed licence holder will have no day to day control of this business and that he is, in effect, applying for a licence on behalf of someone else - notably the current business owner who has previously committed serious criminal offences at the premises. These offences including the employment and exploitation of an illegal worker and the sale or storage of duty diverted alcohol along with previous test purchase failures - these are some of the most serious offences that can be committed and the licence was duly revoked during a licensing hearing of 14<sup>th</sup> December 2017. A look through the records held by the Council also state - at the time of this submission - that the licence holder who had a premises licence revoked at this premises for the above offences still owns the land, pays all of the bills including the business rates for the shop and is still in day to day control of</p>							

the premises including the hiring and training of staff. Confirmation that the current licence holder is still in day to day control of the premises was received during a visit to the premises on 13<sup>th</sup> March 2018.

#### The approach of the Licensing Team:

The Responsible Authorities named in the Licensing Act 2003 have to ensure that the licensing objectives are all actively promoted to prevent crime and disorder and public nuisance. All four licensing objectives are of equal importance.

Section 1.5 of the Secretary of State's Guidance states that the Licensing Act 2003 also supports a number of other key aims and purposes. These are vitally important and should be the principal aims of everyone involved in licensing work: They include protecting the public and local residents from crime, anti social behaviour and noise nuisance.

Section 18 (6) of the Licensing Act 2003 states that representations should be about the likely effect of the grant of a licence on the promotion of the licensing objectives.

Therefore as outlined in the Court of Appeal Licensing case Hope and Glory v City of Westminster (2011) EWCA Civ31 - *licensing decisions ....involve an evaluation of what is to be regarded as reasonably acceptable in a particular location...(this) is essentially a matter of judgement rather than a matter of pure fact*'.

Further, in the High Court case of East Lindsey District Council v Abu Hanif (2016) EWHC 1265 (admin) Mr Justice Jay reaffirmed the position that Licensing authorities need not wait for the licensing objectives to be undermined before it takes action on a licensing application. Mr Justice Jay stated that '*the prevention of crime and disorder requires a prospective consideration of what is warranted within the public interest having regard to the twin considerations of prevention and deterrence*'.

The Secretary of State's Guidance (latest edition of April 2017) at paragraphs 8.38 to 8.46 specifically outline what an applicant should address in order to be able to demonstrate that the proposed use of the premises for licensable activities would not undermine the licensing objectives. Section 8.38 states that applicants are expected to have regard to the Council's Statement of Licensing Policy. This would have provided the applicant early sight of what the expectations of the Licensing Authority are and to demonstrate they have taken cognisance of the issues within the locality they propose to operate in.

Section 8.39 outlines that applicants are expected to demonstrate that they understand the layout of the local area and the proximity to residential premises or crime and disorder hotspots so as to fully and effectively gauge the risk posed by their proposed operation to the local area.

Section 8.40 states that applicants are expected to include positive proposals in how they will manage any potential risks. Where specific policies, such as Cumulative Impact exist, the applicant should demonstrate within the operating

schedule an understanding on how their proposals may impact that area.

Section 8.41 states that applicants are expected to make enquiries as to the locality of their premises and develop appropriate policies. Applicants must consider factors that may undermine any of the licensing objectives (such as proximity to residential dwellings)

Section 8.42 underlines where the applicant can obtain information about the area in which they propose to operate including the Council's licensing policy and online crime data resources such as police.uk

Section 8.43 states that all parties (applicants, licensing authority and responsible authorities) should work in partnership before the any application to use local knowledge to resolve potential disputes before they arise.

Section 8.44 states that applicants are expected to provide licensing authorities with sufficient information to be able to determine the extent with which their proposed steps are sufficient to promote the licensing objectives. It goes on to say that applicants should underline why they believe their proposals are appropriate for the premises.

Section 8.45 underlines the importance of partnership working and to work out disputes accordingly.

Section 8.46 makes clear that the applicant should demonstrate within their application how their proposals will promote each of the licensing objectives.

#### The application:

This application was submitted on 15<sup>th</sup> February 2018. We believe that the prospective licence holder has connections with the current licence holder for the same premises - Mr Apleshkumar Patel and is applying to be a licence holder in name only so that this person who has already had a licence revoked by the Council's Licensing Sub Committee on 14<sup>th</sup> December 2017 can benefit from this.

#### Specific concerns with this application are listed as follows:

1. We believe that the applicant - has links with a current licence holder at the premises and believe that his name is being placed on this application for no other reason than to try and obtain a licence. We do not believe that Mr Patel will be in day to day control of this business and is likely attempting to gain a licence for the benefit of someone else. It cannot be the case that the licensing objectives are being actively promoted if applicants have no intention of running the business and are simply putting their name forward to benefit someone else who has a clear record of non compliance and who remains the lease holder and bill payer for the premises.
2. It is our assertion that the current licence holder - Mr Apleshkumar Patel - still have control over the business and the relevant business rates being paid. Therefore, he is likely to be benefitting financially from this application and continuing to direct how the business shall be run.
3. The applicant has not demonstrated within the operating schedule of the application that steps to address the problems previously identified at the premises

have been or will be implemented. No steps have been proposed within the operating schedule that seem to address the previous poor compliance of the premises.

4. At no stage has the applicant seemingly taken cognisance of the Secretary of State's guidance - particularly paragraphs 8.38 to 8.46. This would indicate that the applicant has not considered the likely effect of granting any licence on the promotion of the licensing objectives.

5. Questions remain about who is truly in control of this business and how they will actively promote the licensing objectives. What is the involvement of the current licence holder in this business given that a visit to the premises on 13<sup>th</sup> March indicated he was still in charge? And what procedures have been put in place to prevent a re-occurrence of the events that have led to a review application for the current licence. It cannot be the case that serious crime and disorder occurs at a premises which leads to a review only for a proposed new licence holder - who we believe has no intention of operating the premises - to continue to carry out activities in this way and on behalf of someone else.

6. The relevant case law above in respect of Hope and Glory and East Lindsey DC v Abu Hanif clearly state that all licensing decisions are a matter of judgement for the licensing authority and should be aimed towards prevention and deterrence. We are not satisfied that granting this application to this applicant is consistent with that approach or Section 18 (6) of the Licensing Act - we believe that the likely effect of granting this licence will be the continued undermining of the licensing objectives to the financial benefit of people other than the applicant.

7. Food hygiene records indicate that there has been no change to the food business owner.

The licensing team therefore ask that this application be refused. It is right and proper that the licensing authority take consideration of the likely effect of granting this licence in order to prevent a re-occurrence of the history of non compliance seen at the premises. The Council has a wide public safety remit and it cannot be the case that the licensing objectives would be actively promoted by granting a licence to someone who does not have day to day control of the premises and would be, in effect, running it in name only for the benefit of someone else who has already had a licence revoked by the authority. The licensing committee has previously refused applications where it was believed that the new licence holder was, in effect, applying for a licence to benefit a previous licence holder that had his licence revoked. Most recently this was at a committee meeting of 6<sup>th</sup> July 2017 for an off licence in Whitley Street.

However, if the licensing committee were minded to grant the licence then they would need to be satisfied that the named licence holder and DPS - who is Mr Patel - would be running the business in a way that actively promotes the licensing objectives and not running the business on behalf of someone else who is not known to us at this time.

The licensing committee may also wish to consider some robust conditions if they were minded to grant this application:

#### Staff Training

1. Staff employed to sell alcohol shall undergo training upon induction before they are allowed to sell alcohol. This shall include, but not be limited to:-

- The premises age verification policy
- Dealing with refusal of sales
- Proxy purchasing
- Recognising valid identity documents not in the English language
- Identifying attempts by intoxicated persons to purchase alcohol
- Identifying signs of intoxication
- Conflict management
- How to identify and safeguard vulnerable persons who attend and leave the premises.

Such training sessions are to be documented and refreshed every six months. All training sessions are to be documented in English. Records of training shall be kept for a minimum of one year and be made available to an authorised officer of Thames Valley Police and Reading Borough Council upon request.

#### Challenge 25

2. The premises shall at all times operate a Challenge 25 policy to prevent any customers who attempt to purchase alcohol and who appear to the staff member to be under the age of 25 years without having first provided identification. Only a valid British driver's licence showing a photograph of the person, a valid passport or proof of age card showing the 'Pass' hologram are to be accepted as identification. Military ID Cards can also be accepted.

#### 3. CCTV

The premises licence holder shall ensure the premises' digitally recorded CCTV system cameras shall continually record whilst the premises are open to the public and recordings shall be kept for a minimum of 28 days with time and date stamping. The entire licensable area shall be covered by the CCTV. Data recordings shall be made immediately available to an authorised officer of Thames Valley Police or Reading Borough Council together with facilities for viewing upon request, subject to the provisions of the Data Protection Act. Recorded images shall be of such quality as to be able to identify the recorded person in any light. At least one member of staff on the premises at any time during operating hours shall be trained to access and download material from the CCTV system.

#### Immigration (Right to work) Documents

4. The premises licence holder or nominated representative shall keep and maintain all right to work documents for all staff members. Right to work documents shall be kept at the premises and produced to authorised officers of Reading Borough Council and Thames Valley Police upon request.

Alcohol Wholesale Registration Scheme

5. The Premises Licence Holder shall have available on the premises, for inspection by an authorised officer of Reading Borough Council or Thames Valley Police at any reasonable time, true copies of invoices, receipts or other records of transactions for all tobacco and alcohol products purchased in the preceding three months. All alcohol products shall only be purchased from outlets registered with HMRC's Alcohol Wholesale Registration Scheme.

Refusal Book

6. A refusal register - whether written or electronic - shall be used, kept and maintained at the premises. The refusal register shall record the time and date of the refusal; which age restricted product was refused, details of the staff member refusing service and a description of the person refused. The refusal log shall be produced to authorised officers of Reading Borough Council and Thames Valley Police upon request.

Other

7. All staff involved in the sale of alcohol must attend and pass the BII Level 1 Award in Responsible Alcohol Retailing within 28 days of employment. All staff shall be trained on the law relating to underage sales and how to question and refuse sales if necessary. Records of the training and reminders given shall be retained and be readily made available to authorised officers of Reading Borough Council and the Police on request;

8. All incidents which impact on any of the four licensing objectives shall be recorded on a register kept at the premises for this purpose. In the case of refusals for under age sales, the date, time, person refusing, the reason for refusal and a brief description of the customer shall be recorded. The register must be made available to an authorised officer of the Licensing Authority and the Police on request;

9. Signs shall be placed at all exits asking customers to respect the needs of local residents and to leave the premises quietly.

10. No cans of super strength beer and cider above 6.5% ABV shall be sold on the premises at any time except for products identified as premium craft beers.

11. The licence holder shall actively participate in initiatives set up by Thames Valley Police; Reading Borough Council or Reading Pubwatch including initiatives to tackle drunken behaviour and street drinking, such as 'Reducing the Strength'.

<b>Date Received</b>	15/02/2018	<b>Date Due</b>	15/03/2018
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<b>Date</b>	14	03	2018
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Classification: OFFICIAL

**Application for the Premises Licence of Supersave, 234 Northumberland Avenue, Whitley****15<sup>th</sup> March 2018**

This relates to an application by Pritesh Raghubhai Patel for a Premises Licence under the Licensing Act 2003 to retail alcohol from the above named premises.

The Trading Standards Service as a responsible authority under the Licensing Act 2003 make representations against the application based on the following concerns:

- The shop was subject to a licence review in December 2017 and the licence was revoked following an historical litany of criminal breaches. From age restricted sales failures to storage of counterfeit alcohol and most recently, illegal workers found employed on the premises, all of which are considered most serious offences to be associated with licensed premises.
- The Supersave Ltd and its sole director, Mr Alpeshkumar Patel, have appealed that decision but, just in case, new premises licence holder has been put forward to account for a range of possible outcomes. This is a common approach to circumvent the Licensing Act 2003 sanctions when, ostensibly, the former premises licence holder (Mr Alpeshkumar Patel in this instance) remains in charge of the business, strategically and operationally.
- Supersave Ltd and therefore Mr Alpeshkaumar Patel, reliable intelligence indicates, still runs the premises, pays the rates and Council tax and understood to be in charge by those working in the shop.
- The applicant, Mr Pritesh Patel is believed to be the same Pritesh Patel that is sole director of Shinfield Convenience Store Ltd.
- Shinfield Convenience Store Ltd was prosecuted in 2013 for selling out of date food. The offences were in part caused by a lack of control exercised by Mr Pritesh Patel over the business.
- It has been proven, over the past few years, that premises licence holders who are responsible for more than one business can struggle with the responsibilities of running licensed premises in an acceptable way and exercise appropriate control over the businesses in their absence. There is nothing in the application's conditions that alludes to how the premises will actually be run.
- It is highly recommended that further scrutiny of this application is made prior to any decision as to whether it is granted. On the information provided by the application and that known of the applicant, this Service has concerns that the objectives of the Licensing Act 2003 will not be met by the proposed arrangements.



Classification: OFFICIAL

Division/Station : Reading Police Station Licensing Dept

From : PC 5787 Simon Wheeler

To : Reading Borough Council

Ref : Application for premises licence

Date : 15<sup>th</sup> March 2018

Subject :

**Objection**

To whom it may concern

I PC 5787 Simon Wheeler on behalf of the Chief Officer of Thames Valley Police wish to formally object to the proposed application for a premises licence relating to Supersave, 234 Northumberland Avenue, Reading as it is believed that both this current applicant and application in its current format is likely to undermine the Licensing objectives with specific regard to that of the prevention of crime and disorder.

Thames Valley Police suspect that the applicant has involvement with this premises as an associate of the current licensee of whom saw his licence revoked in a hearing on the 14<sup>th</sup> December 2017.

It is therefore also suspected that there is likely potential that the new applicant will either maintain business links with the current Premises Licence Holders and DPS of whom the current licence on this premises has been revoked and is operating within the appeal period or will have direct involvement on their behalf.

Thames Valley Police visited Supersave on the 13<sup>th</sup> March 2018 in order to carry out a licence inspection during which time it was determined that the current licence holder is still in day to day control of the premises.

The Supersave licence was revoked by the Licensing Sub-Committee in December 2017 for a number of offences that had been committed including the sale of duty diverted alcohol, failing previous test purchase procedures and most concerningly the employment of illegal workers.

Clearly due to the serious immigration offence committed at the premises under its current licence, as well as poor licensing compliance you may understand that there is even more concern in relation to this application. This is clearly due to the concern regarding the very real possible link between the new applicant and current premises licence holder (pending appeal period).

The concern of Thames Valley Police is that this application has been made in an attempt to circumvent the current review process relating to this premises and if granted will likely lead to the continuation of poor practice and a failure to uphold the licensing objectives.

We strongly recommend that based on these concerns extreme scrutiny and due diligence be carried out by the licensing sub-committee to ensure that this is indeed a "New" application, and not a "rebranded" application that will likely undermine the four licensing objectives.

Further to this the application has been made without prior consultation with either Thames Valley Police or as far as we are aware the Licensing Authority. We believe the applicant has not taken into account knowledge of the local area, any concerns that we may have had regarding crime and disorder or prior concerns at the premises or the opinions of the authorities in relation to the operating schedule.

Had this taken place relevant conditions could have been recommended by Thames Valley Police to address any concerns in relation to the operating schedule which may have included

caveats to provide some reassurance that the issues discovered whilst trading prior to revocation are not once again repeated.

Notwithstanding of course the current concern over links between the current applicant and previous premises licence holder (pending revocation appeal).

The current Section 182 Secretary of States Guidance in relation to the Licensing Act 2003 section 8.38 – 8.46 is relevant in relation to this. (**Appendix 1**)

I would draw your attention specifically to Sections 8.43 – 8.45 detailed below:-

*8.43 While applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. Licensing authorities may wish to encourage co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.*

*8.44 Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.*

*8.45 All parties are expected to work together in partnership to ensure that the licensing objectives are promoted collectively. Where there are no disputes, the steps that applicants propose to take to promote the licensing objectives, as set out in the operating schedule, will very often translate directly into conditions that will be attached to premises licences with the minimum of fuss.*

In conclusion we strongly feel that this application in its current format is likely to undermine the licensing objectives, due both to its lack of consideration for the local area and failure to address conditions within the operating schedule that would be sufficient in wording to provide reassurance that the failings of Kush News are not repeated in another business for which Mr Patel has an involvement.

Case law within the East Lindsey District Council v Abu Hanif establishes:-

*“Importantly the prevention of crime and disorder requires a prospective consideration of what is warranted in the public interest, having regard to the twin considerations of prevention and deterrence”*

Therefore in this situation we state our opinion that the licensing objectives are prospective and can be preventative and would urge the Licensing Sub-Committee to refuse this application for a premises licence in order to prevent the Licensing objectives from being undermined.

If the Licensing Sub-Committee were of a mind to grant this application we would strongly recommend that the following conditions be added to the operating schedule.

### Staff Training

1. Staff employed to sell alcohol shall undergo training upon induction before they are allowed to sell alcohol. This shall include, but not be limited to:-

- The premises age verification policy
- Dealing with refusal of sales
- Proxy purchasing

- Recognising valid identity documents not in the English language
- Identifying attempts by intoxicated persons to purchase alcohol
- Identifying signs of intoxication
- Conflict management
- How to identify and safeguard vulnerable persons who attend and leave the premises.

Such training sessions are to be documented and refreshed every six months. All training sessions are to be documented in English. Records of training shall be kept for a minimum of one year and be made available to an authorised officer of Thames Valley Police and Reading Borough Council upon request.

### Challenge 25

2. The premises shall at all times operate a Challenge 25 policy to prevent any customers who attempt to purchase alcohol and who appear to the staff member to be under the age of 25 years without having first provided identification. Only a valid British driver's licence showing a photograph of the person, a valid passport or proof of age card showing the 'Pass' hologram are to be accepted as identification. Military ID Cards can also be accepted.

### 3. CCTV

The premises licence holder shall ensure the premises' digitally recorded CCTV system cameras shall continually record whilst the premises are open to the public and recordings shall be kept for a minimum of 28 days with time and date stamping. The entire licensable area shall be covered by the CCTV. Data recordings shall be made immediately available to an authorised officer of Thames Valley Police or Reading Borough Council together with facilities for viewing upon request, subject to the provisions of the Data Protection Act. Recorded images shall be of such quality as to be able to identify the recorded person in any light. At least one member of staff on the premises at any time during operating hours shall be trained to access and download material from the CCTV system.

### Immigration (Right to work) Documents

4. The premises licence holder or nominated representative shall keep and maintain all right to work documents for all staff members. Right to work documents shall be kept at the premises and produced to authorised officers of Reading Borough Council and Thames Valley Police upon request.

### Alcohol Wholesale Registration Scheme

5. The Premises Licence Holder shall have available on the premises, for inspection by an authorised officer of Reading Borough Council or Thames Valley Police at any reasonable time, true copies of invoices, receipts or other records of transactions for all tobacco and alcohol products purchased in the preceding three months. All alcohol products shall only be purchased from outlets registered with HMRC's Alcohol Wholesale Registration Scheme.

### Refusal Book

6. A refusal register – whether written or electronic – shall be used, kept and maintained at the premises. The refusal register shall record the time and date of the refusal; which age restricted product was refused, details of the staff member refusing service and a description of the person refused. The refusal log shall be produced to authorised officers of Reading Borough Council and Thames Valley Police upon request.

## Other

7. All staff involved in the sale of alcohol must attend and pass the BII Level 1 Award in Responsible Alcohol Retailing within 28 days of employment. All staff shall be trained on the law relating to underage sales and how to question and refuse sales if necessary. Records of the training and reminders given shall be retained and be readily made available to authorised officers of Reading Borough Council and the Police on request;

8. All incidents which impact on any of the four licensing objectives shall be recorded on a register kept at the premises for this purpose. In the case of refusals for under age sales, the date, time, person refusing, the reason for refusal and a brief description of the customer shall be recorded. The register must be made available to an authorised officer of the Licensing Authority and the Police on request;

9. Signs shall be placed at all exits asking customers to respect the needs of local residents and to leave the premises quietly.

10. No cans of super strength beer and cider above 6.5% ABV shall be sold on the premises at any time except for products identified as premium craft beers.

11. The licence holder shall actively participate in initiatives set up by Thames Valley Police; Reading Borough Council or Reading Pubwatch including initiatives to tackle drunken behaviour and street drinking.

Please note that these above conditions have been specifically developed to address the concerns that Thames Valley Police have with regards to this application and we feel are supported by our written submission.

### **Appendices:-**

Appendix 1 – Secretary of States Section 182 Guidance LA03 – Section 8.38 – 8.46.

## APPENDIX 1

8.38 In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.

8.39 Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:

- the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;
- any risk posed to the local area by the applicants' proposed licensable activities; and
- any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.

8.40 Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.

8.41 It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.

8.42 The majority of information which applicants will require should be available in the licensing policy statement in the area. Other publicly available sources which may be of use to applicants include:

- the Crime Mapping website;
- Neighbourhood Statistics websites;
- websites or publications by local responsible authorities;
- websites or publications by local voluntary schemes and initiatives; and
- on-line mapping tools.

8.43 While applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. Licensing authorities may wish to encourage co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.

8.44 Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.

8.45 All parties are expected to work together in partnership to ensure that the licensing objectives are promoted collectively. Where there are no disputes, the steps that applicants propose to take to

promote the licensing objectives, as set out in the operating schedule, will very often translate directly into conditions that will be attached to premises licences with the minimum of fuss.

8.46 For some premises, it is possible that no measures will be appropriate to promote one or more of the licensing objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be precise and clear about the measures that are proposed to promote each of the licensing objectives.

Judgments

**QBD, ADMINISTRATIVE COURT**

Neutral Citation Number: [2016] EWHC 1265 (Admin)

CO/345/2016

**IN THE HIGH COURT OF JUSTICE**

**QUEEN'S BENCH DIVISION**

**THE ADMINISTRATIVE COURT**

Royal Courts of Justice

Strand

London WC2A 2LL

Thursday, 14 April 2016

**B e f o r e:**

**MR JUSTICE JAY**

**Between:**

**EAST LINDSEY DISTRICT COUNCIL**



**Appellant**

v

**ABU HANIF**

**(TRADING AS ZARA'S RESTAURANT AND TAKEAWAY)**

**Respondent**

Computer- Aided Transcript of the Stenograph Notes of

WordWave International Limited trading as DTI

165 Fleet Street London EC4A 2DY

Tel No: 020 7404 1400 Fax No: 020 7404 1424

(Official Shorthand Writers to the Court)

**Mr P Kolvin QC & Mr D Dadds** (instructed by David Dadds LLP) appeared on behalf of the **Appellant**

The **Respondent** did not appear and was not represented

J U D G M E N T

(Approved)

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1. MR JUSTICE JAY: This is an appeal by way of case stated from the decision of the Lincoln Magistrates' Court, District Judge Veits, given on 23 June 2015, whereby he allowed an appeal from the revocation of a premises licence by the licensing authority.
2. The appellant, the East Lindsey District Council, is the licensing authority. The Magistrates' Court in the usual way is not a party to these proceedings. The respondent, Mr Abu Hanif, trading as Zara's Restaurant and Takeaway, is the licence holder. He through a licensing consultant has submitted correspondence making various limited points, but indicating that he would not be taking any part in these proceedings.
3. The premises in question are Zara's Restaurant and Takeaway situated in North Summercoates on the Lincolnshire coast. They are licensed to sell alcohol ancillary to the supply of food. The restaurant is owned and managed by the licensee, Mr Hanif. On 29 April 2014, the premises were the subject of a joint visit by the police and immigration officers, and it was discovered that Mr Miah was working in the kitchen as a chef. It was common ground that Mr Miah had no current entitlement to remain in the UK, let alone to work. I was told that he arrived here illegally some years ago. Furthermore, it was also accepted by the respondent that he (i) employed Mr Miah without paperwork showing a right to work in the United Kingdom; (ii) paid Mr Miah cash in hand; (iii) paid Mr Miah less than the minimum wage; (iv) did not keep or maintain PAYE records; (v) purported to deduct tax from Mr Miah's salary; and (vi) did not account to HMRC for the tax deducted.
4. The police then applied for a review of the respondent's licence under section 51 of the Licensing Act 2003 and the matter came before the appellant's subcommittee on 30 June 2014. The subcommittee decided to revoke the respondent's licence. Its reasons were as follows:
5. "The subcommittee were satisfied that Mr Hanif did not take the appropriate checks of staff members having knowledge that there were problems previously at the other premises with overstayers, and that he continued to allow staff to work at Zara's restaurant without making appropriate checks.
6. The subcommittee were satisfied that Mr Hanif had not undertaken the relevant checks to ensure the employee concerned was eligible to work in the United Kingdom. Instead of not allowing employees to work if they had not provided the correct documentation he allowed them to work and paid cash in hand. With all this in mind the subcommittee were satisfied that Mr Hanif had knowingly employed person/s unlawfully in the United Kingdom.

7. The subcommittee considered the evidence by Mr Kheng on behalf of Mr Hanif and the Home Office section 182 Guidance to Licensing Authorities. The subcommittee were of the view that the premises licence should be revoked and that revocation was an appropriate step with a view to promoting the crime prevention licensing objective."

8. The respondent then appealed to the Magistrates' Court. There was a hearing on 27 March 2015, and on 23 June the district judge decided to allow the respondent's appeal. On 1 September 2015, the district judge determined the issue of costs and on 7 January 2016 he stated the case. The appeal to the district judge was de novo, but he accepted that he could only allow the appeal if the subcommittee's decision was "wrong", the burden being on the appellant before him to establish that.

9. Looking now at the stated case, the district judge noted that the respondent had received a civil penalty for employing an illegal worker under section 15 of the Immigration, Asylum and Nationality Act 2006. An immigration officer gave evidence to the effect that although by virtue of section 21 a criminal offence was committed, such proceedings were rarely brought. The district judge also noted that the police and the Council's licensing officer were no longer saying that the respondent was a serial offender, but a redacted report which was placed before the subcommittee still gave the impression that he "was in a much worse position than he actually was". As for the failure to pay the minimum wage, the district judge said this:

A. "In his evidence before me Mr Hanif accepted that he had not paid the minimum wage and this in itself can be a criminal offence. I found that this was not the main basis of the subcommittee's decision however and again there was no evidence that he had been reported for that alleged offence. It would appear from their reasons that the subcommittee used the evidence of paying cash in hand as justification for the finding that he knowingly employed Mr Miah. The prosecuting authority however appear to have taken a different view in offering the civil penalty."

10. The district judge's core reasoning was that no crime had been committed. As he put it:

A. "It appeared to me that no crime had been committed as a result of the visit to the premises in April of last year. A civil penalty had been imposed rather than prosecution for the section 21 offence and no other crime had been reported in relation to not paying the minimum wage."

11. In the district judge's view, the crime prevention objective was not engaged.

12. The district judge also criticised the subcommittee for adopting an inconsistent approach because in other similar cases only warnings were issued. Finally, he considered

that the subcommittee may have been influenced by comments in the police report, leading them to believe that they were dealing with a serial offender.

13. At the conclusion of the stated case, the district judge posed two questions for my determination. I will address these at the end of my judgment.

14. I was taken by Mr Philip Kolvin QC to various provisions of the Licensing Act 2003 as amended. Under section 4(1)and(2) a licensing authority must carry out its licensing functions with a view to promoting the licensing objectives, which include "the prevention of crime and disorder". The provisions dealing with the review application brought by the police are contained in sections 51 and 52. Under section 52(3), the licensing authority (and on appeal the Magistrates' Court):

A. "... must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives."

15. The epithet "appropriate" was introduced by amendment in 2011. Previously the test had been stricter. In my judgment, it imports by necessary implication the concepts of proportionality and relevance.

16. Mr Kolvin submitted that the district judge erred in a number of respects. First, he wrongly held that, given that criminal proceedings were never brought, the crime prevention objective (see section 4(2)) was not engaged. The statute is concerned with the prevention rather than the fact of crime. Secondly, and in any event, the interested party had committed criminal offences in relation to tax evasion, the employment of an illegal worker, and employing an individual at remuneration below the minimum wage. As for the employment of an illegal worker, Mr Kolvin accepted that this requires knowledge on the part of the employer, and he also accepted that it is not altogether clear whether the district judge found as a fact that the respondent possessed the requisite knowledge. However, the core question is the promotion of the licensing objectives, not the fact of anterior criminal activity, and in this regard a deterrence approach is appropriate.

17. Thirdly, Mr Kolvin submitted that there was no evidence of an inconsistent approach by the subcommittee in giving warnings in some cases because all cases turn on their own facts. Finally, Mr Kolvin submitted that there was no basis for the district judge's conclusion that the subcommittee may have been influenced by a suggestion that the respondent was a serial offender.

18. I accept Mr Kolvin's submissions. In my view the district judge clearly erred. The question was not whether the respondent had been found guilty of criminal offences before a relevant tribunal, but whether revocation of his licence was appropriate and proportionate in the light of the salient licensing objectives, namely the prevention of crime and disorder.

This requires a much broader approach to the issue than the mere identification of criminal convictions. It is in part retrospective, in as much as antecedent facts will usually impact on the statutory question, but importantly the prevention of crime and disorder requires a prospective consideration of what is warranted in the public interest, having regard to the twin considerations of prevention and deterrence. The district judge's erroneous analysis of the law precluded any proper consideration of that issue. In any event, I agree with Mr Kolvin that criminal convictions are not required.

19. To the extent that the analysis must be retrospective, the issue is whether, in the opinion of the relevant court seized of the appeal, criminal offences have been committed. In the instant case they clearly had been: in relation to tax evasion (see the common law offence of cheating the Revenue and the offence of fraudulent evasion of tax contrary to section 106A of the Taxes and Management Act 1970); and the employment of Mr Miah at remuneration below the minimum wage (see section 31 of the National Minimum Wage Act 1998). Moreover, given the evidence that Mr Miah never provided the relevant paperwork, notwithstanding apparent requests, the obvious inference to be drawn is that the respondent well knew that he could not, and that no tax code and National Insurance number had been issued. The corollary inference in my judgment is that the respondent well knew that Mr Miah could not provide the relevant paperwork because he was here illegally.

20. I also accept Mr Kolvin's submission that each case must turn on its own facts. As a matter of law, unless it could be said that some sort of estoppel or related abuse of process arose in the light of warnings given in other cases, the alleged inconsistent approach led nowhere. In my judgment, it could not be so said.

21. Finally, I agree with Mr Kolvin that there is nothing in the point that the subcommittee could have been misled about the interested party being a serial offender. The point that the subcommittee was making was the fact that the respondent had worked at premises where illegal workers were also employed meant that he should have been vigilant to the issue.

22. Thus the answer to the district judge's two questions are as follows:

A. Q. "Was I correct to conclude that the crime prevention objective was not engaged as no crimes had been proceeded with, the appellant only receiving a civil penalty?"

B. No.

C. Q. "Was I correct in concluding that the respondent had been inconsistent in similar decisions in not revoking the licence [sic]?"

D. No.

23. Having identified errors of law in the district judge's decision, the next issue which arises is whether I should remit this case for determination in the light of my ruling or whether I have sufficient material to decide the issue for myself. I should only adopt the latter course if satisfied that the issue is so obvious that no useful purpose would be served by remission. I am so satisfied. Having regard in particular to the twin requirements of prevention and deterrence, there was in my judgment only one answer to this case. The respondent exploited a vulnerable individual from his community by acting in plain, albeit covert, breach of the criminal law. In my view his licence should be revoked. Another way of putting the matter is that the district judge had no proper basis for overturning the subcommittee's assessment of the merits.

24. It follows in my judgment that the only conclusion open to the district judge in the present case was to uphold the revocation of the respondent's licence. This appeal must be allowed and the respondent's licence must be revoked.

25. MR KOLVIN: My Lord, I'm very grateful. Can I deal with the question of costs, both here and below.

26. MR JUSTICE JAY: Yes.

27. MR KOLVIN: Should I start with here.

28. MR JUSTICE JAY: Yes.

29. MR KOLVIN: My Lord, we would ask for the costs before this court. I just want to pray in aid four very brief points. The first is the result. The second is that the district judge's approach was expressly urged on him by the respondent's legal team. Thirdly, that the respondent was expressly urged to concede this appeal to stop costs running, he was given that opportunity at pages 42 and 43 of the bundle. Fourthly, perhaps a little bit tugging at the heart strings, but there's no reason why the Council Tax payers of East Lindsey should bear the cost of establishing what has been established in this court. So we would ask for the costs up here.

30. There is a schedule and the schedule has been served upon Mr Hanif by letter dated 16 March of 2016. I don't know whether the schedule has found its way to my Lord, if not I can hand up a copy.

31. MR JUSTICE JAY: It has.

32. MR KOLVIN: It has. My Lord, I can see that VAT has been added on. It doesn't need to be because of course the Council can retrieve the VAT, so my application

is for £16,185. I know there's not a lot of explanation around my fee, but it was taken on a single fee for all work involved in relation to the case stated; advice, the skeleton argument and attendance today, so it's one single - -

33. MR JUSTICE JAY: What about your junior's fees?

34. MR KOLVIN: My learned junior is also my instructing solicitor, he wears two hats.

35. MR JUSTICE JAY: I see.

36. MR KOLVIN: He has his own firm which is Dadds LLP, and he is also a member of the bar, so although he has appeared as my junior, his fee is wrapped up in the solicitors' fees set out in the schedule.

37. MR JUSTICE JAY: Okay. What about the costs below?

38. MR KOLVIN: My Lord, I'm just trying to ascertain what the position is.

39. MR JUSTICE JAY: I thought there was no order for costs below.

40. MR KOLVIN: There was no order for costs below, that was on the basis that the appeal had been allowed. The situation in relation to costs of licensing appeals are set out in section 181 of the Act, which enables the court to make such order as it thinks fit. Normally when appeals are dismissed there is no real question about it, costs follow the event. When appeals are allowed, some further considerations come into play, which are expressed by the Master of the Rolls in a case which you may have come across called City of Bradford v Booth, which is the case where the Master of the Rolls said that local authorities shouldn't be put off from trying to make honest and reasonable decisions in the public interest. And so one has to take account additionally of the means of the parties and their conduct in relation to the dispute, but in this case of course the appeal has now been dismissed, and so we would say that the ordinary rule is that the costs should follow the event, the appeal having failed. I'm just trying to ascertain whether schedules were ever served below, in the light of the way the case came out. **(Pause)**

41. My Lord, I'm really sorry that we don't actually have the schedule here, apparently it was £15,000. If you were minded to order costs below the options are either I suppose to wait and we will have the thing emailed up, or to say, "Look, it was below, it's a little bit more complex, they should be assessed if not agreed."

42. MR JUSTICE JAY: This is going to wipe him out, isn't it?

43. MR KOLVIN: Well he has already said, I have to say, I'm just telling you frankly what I've been told this morning, that when the bundles and the schedules were served on him, he had clearly read them, but he said, "If you win in the High Court and get costs against me, then I'm just going to declare myself bankrupt." So there may well be a bit of football(?) about this, but nonetheless it was his appeal, his team raised a point which in retrospect was very surprising, and caused an awful lot of costs to be incurred.

44. MR JUSTICE JAY: Yes. Well I am going to assess the costs here in the round figure of £15,000.

45. MR KOLVIN: Thank you.

46. MR JUSTICE JAY: If there was a schedule, which you tell me there was, below, it is proportionate that I assess those costs rather than put you to the trouble of a detailed assessment, so if you could have that emailed to my clerk in due course, I will assess the costs below.

47. MR KOLVIN: Thank you, my Lord.

48. MR JUSTICE JAY: On the basis of that schedule.

49. MR KOLVIN: We're not trying to be too ambitious, but we would like to see what we can - -

50. MR JUSTICE JAY: I'll take a broad brush approach to that.

51. MR KOLVIN: Thank you.

52. My Lord, the only other thing to mention is that this isn't the only case which is kicking around the east of England where licensing subcommittees are being urged to take no action because there has been no prosecution in these immigration cases. Although I appreciate that this is hardly stellar law making, it's an application of pretty well established legal principles to the facts, I'm asking whether my Lord would be minded to certify this so that we can adduce the authority in other cases, because it's a clear statement of the law that there doesn't need to have been a prosecution. So with the practice direction in mind, would my Lord be minded to - -

53. MR JUSTICE JAY: Just remind me of the practice direction.

54. MR KOLVIN: Yes, can I hand it up?



55. MR JUSTICE JAY: Yes. **(Handed)**

56. MR KOLVIN: If Mr Hanif had come I wouldn't need to make the application. It's paragraph 6.1. The judgment has to clearly indicate that it purports to establish a new principle or extends the present law and that has to take the form of an express statement to that effect, and then 6.2 says what categories of judgment we're dealing with, which include applications attended by one party only.

57. So that's the situation we're in. In reality these judgments get around anyway, because we're dealing with administrative tribunals and not courts, but sometimes the point is taken, "Ah yes, but the court didn't certify".

58. MR JUSTICE JAY: But where's the new principle I've established?

59. MR KOLVIN: My Lord, what you have said clearly, which hasn't been said before, by dint of the fact that not many licensing cases reach the lofty heights of this building, is that there does not need to have been a prosecution in order for the crime to have - -

60. MR JUSTICE JAY: Oh, I see. Well that's so obvious it almost goes without saying, that's why it hasn't been said before.

61. MR KOLVIN: My Lord, it was obvious to everyone except the district judge, the appellant and other licensees in the east of England.

62. MR JUSTICE JAY: Okay.

63. In terms of the logistics, if you want a copy of the judgment, don't you have to pay for it?

64. MR KOLVIN: We may have to, and we would be obviously very pleased to do so.

65. MR JUSTICE JAY: Because I'm not sure that all judgments are, in the Administrative Court, they're not all transcribed and published.

66. MR KOLVIN: That is correct, and I have no doubt that my client would be - - this isn't a matter about the costs of the judgment.

67. MR JUSTICE JAY: No, fortunately it doesn't cost that much. But I will give the certification. I have never been asked to do so before, I must confess.

68. MR KOLVIN: Yes.

69. MR JUSTICE JAY: Because these cases are referred to almost willy nilly, if they're available on Lawtel or wherever.

70. MR KOLVIN: Yes, they are.

71. MR JUSTICE JAY: Then they're just provided.

72. MR KOLVIN: They get into the textbooks and they - -

73. MR JUSTICE JAY: No- one objects.

74. MR KOLVIN: Yes. It has happened once before, in relation to the meaning of the Court of Appeal judgment in Hope and Glory, and Lindblom J, as he then was, was asked repeatedly would he certify in relation to the meaning of Hope and Glory, which is an important test, and he was pretty engaged in the practice direction. But since then that judgment, there's always an argument in court about whether it can be cited or not. The difference between licensing and some other fields of law is that very few cases reach here, so when they do, the judgments of High Court judges are gold dust.

75. MR JUSTICE JAY: Yes, well I'm happy to make the certification.

76. MR KOLVIN: Thank you very much indeed.

77. MR JUSTICE JAY: We wouldn't want this point to be taken again successfully.

78. MR KOLVIN: No.

79. MR JUSTICE JAY: Now as a matter of courtesy, is the judgment, once available, sent to the district judge, or is it something that I should do informally?

80. MR KOLVIN: I don't know, my Lord, what the normal practice is. I don't think that I have previously been on a legal team which has sent judgments, but we're very happy to undertake to do so.

81. MR JUSTICE JAY: Yes, I think if you're going to get a copy, obviously you're going to send it to the respondent - -

82. MR KOLVIN: Indeed.

83. MR JUSTICE JAY: - - so he can ingest it. I think you should send it to the district judge, just saying that the judge directed that out of courtesy he should see it.

84. MR KOLVIN: We're very happy to do that. Thank you very much indeed.

85. MR JUSTICE JAY: Thank you very much.



## Official copy of register of title

Title number BK90247

Edition date 01.07.2002

- This official copy shows the entries on the register of title on 23 FEB 2018 at 09:54:59.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
  - Issued on 23 Feb 2018.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry, Gloucester Office.

### A: Property Register

This register describes the land and estate comprised in the title.

#### READING

- 1 (22.12.1969) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being 234 Northumberland Avenue, Reading, (RG2 7QA).
- 2 The land has the benefit of a right of way over the land tinted brown on the filed plan.
- 3 The land has the benefit of the following rights granted by the Conveyance dated 26 March 1934 referred to in the Charges Register:-  
  
"Full and free right of passage and running of water and soil through the drains sewers or watercourses laid or to be laid in or under the said portion of the said private passageway coloured brown on the said plan."

NOTE:-The passageway coloured brown referred to is tinted brown on the filed plan.

### B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

#### Title absolute

- 1 (01.07.2002) PROPRIETOR: ALPESH PATEL and SANGITA PATEL of 234 Northumberland Avenue, Reading RG2 7QA.
- 2 (01.07.2002) The price stated to have been paid on 22 May 2002 was £135,000.
- 3 (01.07.2002) RESTRICTION: Except under an order of the registrar no disposition by the proprietor of the land is to be registered without the consent of the proprietor of the Charge dated 22 May 2002 in favour of National Westminster Bank PLC referred to in the Charges Register.

## C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 A Conveyance of the land in this title and other land dated 14 October 1929 made between (1) Arthur Edgar Newbery (Vendor) and (2) The Mayor Aldermen and Burgesses of the Borough of Reading (Corporation) contains the following covenants:-  

THE Corporation hereby covenants with the Vendor that no spirituous or fermented liquors shall be sold in or upon the property hereby assured or any building to be erected thereon.
- 2 A Conveyance of the land in this title and other land dated 12 February 1934 made between (1) The Mayor Aldermen and Burgesses of the Borough of Reading and (2) John Bradley Holmes, Edgar Austin Hardman and Arthur Harold Fisk contains covenants details of which are set out in the schedule of restrictive covenants hereto.
- 3 The land is subject to the following rights reserved by a Conveyance of the land in this title dated 26 March 1934 made between (1) John Bradley Holmes, Edgar Austin Hardman and Arthur Harold Fisk (Vendors) and (2) Robert Haliwell Alsop (Purchaser):-  

"Except and reserving unto the Vendors and their successors in title or other the owner or owners for the time being of the adjoining premises known or intended to be known as Nos 1, 2, 3 and 4 and Nos 6 to 10 (both inclusive) Market Parade aforesaid the full and free right of passage and running of water and soil through the drains sewers or watercourses laid or to be laid in or under the said property hereby conveyed into the main sewer in Northumberland Avenue (subject nevertheless to all persons as shall from time to time be entitled to use the said private passageway and drains sewers and watercourses paying with the Purchaser a due proportion of the expenses of repairing and maintaining the same)."
- 4 The land tinted blue on the filed plan is subject to rights of way.
- 5 (01.07.2002) REGISTERED CHARGE dated 22 May 2002 to secure the moneys including the further advances therein mentioned.
- 6 (01.07.2002) Proprietor: NATIONAL WESTMINSTER BANK PLC (Co. Regn. No. 929027) of 1st Floor, 143 High Street, Bromley, Kent BR1 1JH.

## Schedule of restrictive covenants

- 1 The following are details of the covenants contained in the Conveyance dated 12 February 1934 referred to in the Charges Register:-  

With intent to bind the said land hereby conveyed into whosoever hands the same may come but so nevertheless that neither the Purchasers (or any of them) nor any of their successors in title shall be personally liable under the covenants following after having parted with the land hereby conveyed or any part thereof in respect of which a breach of the said covenants shall thereafter be alleged the Purchasers for themselves and their successors in title hereby covenant with the Corporation (a) at all times hereafter to perform and observe the conditions stipulations and restrictions set out in the Schedule hereto.

THE SCHEDULE above referred to

(a) To use the said land hereby conveyed for the sole purpose of the erection thereon of two blocks each of five shops with dwelling accommodation (hereinafter called "the said shops") and to erect and complete the said shops not later than the 31st of March 1935 in accordance with the provisions of Clause 2(4) of the Lease.

Note Clause 2(4) of the Lease referred to reads as follows:-

"At their own cost to erect cover in and complete fit for immediate occupation in a substantial and workmanlike manner with the best materials of their several kinds and in conformity in every respect with the plans elevations sections and specifications already submitted

## Schedule of restrictive covenants continued

to and approved and signed by or on behalf of the Corporation and under the inspection and direction and to the satisfaction of the Surveyor and Housing Architect respectively for the time being of the Corporation on the said piece of land two blocks each of five shops with dwelling accommodation and all proper offices and outbuildings walls fences drains sewers and other appurtenances and so that the ground on which the said shops with dwelling accommodation are built shall have a frontage of not less than 215 feet to Northumberland Avenue but including in the said frontage of 215 feet the passageway 15 feet in width shown on the said plan No 1 And to make all entrances thereto and exists therefrom in positions to be approved by the Corporation And to remove and replace any materials brought on the premises or used in any of the said buildings or works which the said Surveyor shall require to be removed or remedy any workmanship which (before the same are respectively certified fit for occupation) he shall consider bad or improper and immediately after the execution hereof to commence the erection of and to complete with due diligence one block of five shops with dwelling accommodation as aforesaid and thereafter on the completion thereof with the like dwelling accommodation Provided that in any event the said second block of five shops with dwelling accommodation shall be completed and ready for occupation not later than the 31st day of March 1935"

(b) Not at any time to cause or permit any public or private nuisance in or upon the said land nor cause or permit any user thereof or operation thereon which shall cause unnecessary annoyance inconvenience or disturbance to the Corporation or to the owners and occupiers of the adjoining properties.

(c) Not at any time to deposit on the said land or to make up or manufacture thereon or cause or allow to be deposited or made up or manufactured thereon any building or other materials except such as shall actually be required for use in connection with the said shops

(d) Not to alter the elevation of any of the said shops without the previous consent in writing of the Corporation which consent shall not be unreasonably withheld.

(e) At all times to keep all the exterior of the said shops properly painted grained varnished and coloured and in as good a state of repair and appearance as that in which the Corporation maintain their neighbouring properties

(f) Not later than the 1st of November 1934 to fence off with close boarded fencing six feet in height the northern and southern boundaries of the said property where in the opinion of the Corporation it shall be necessary to erect such fences and at all times to keep the said fences in repair

(g) (i) Not to erect or cause or allow to be erected any petrol pumps on the said land without the previous consent in writing of the corporation first had and obtained which consent shall not be unreasonably withheld

(ii) to submit to the Corporation for their approval all designs for the said petrol pumps to be erected on the said land or any part thereof and further

(iii) to place such pumps in positions to be indicated by the Borough Surveyor for the time being to the Corporation

(h) To submit to the Corporation for their approval all designs for shop fronts or fascia boards proposed to be fixed to the said shops or to be erected on the said land and not to erect the same without the previous consent in writing of the corporation first had and obtained, which consent shall not be unreasonably withheld.

(i) Not to erect any sky sign or roof advertisement on any of the said shops

(j) Not to display or permit or cause or allow to be displayed on the said shops any advertisements or advertisement hoardings except such as shall have both in regard to nature and position been approved by the

## Schedule of restrictive covenants continued

Corporation which approval shall not be unreasonably withheld

(k) Not to display or permit or cause or allow to be displayed any goods or merchandise outside the said shops except upon the land shewn coloured blue on the said plan and to display such goods or merchandise in a neat and orderly manner.

(l) On the completion of the erection of the said shops to pay to the Corporation the cost as certified by the said Borough Surveyor of surfacing with suitable materials the pieces of land shown coloured blue and brown on the said plan (which surfacing the Corporation undertake to carry out on being so requested in writing on completion of the erection of the said shops) and thereafter to maintain the surfacing of the said pieces of land at their own expense.

NOTE 1:-The Lease referred to is that dated 2 November 1933.

NOTE 2:-The land coloured blue and the land coloured brown referred to are respectively hatched blue and hatched brown on the filed plan.

End of register