

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

Our Ref: Ics.c/agenda

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21 December 2017

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

NOTICE OF MEETING - LICENSING APPLICATIONS SUB-COMMITTEE 2 - THURSDAY 11 JANUARY 2018

A meeting of Licensing Applications Sub-Committee 2 will be held on Thursday 11 January 2018 at 9.30am 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 as an interested party; or

(ii) Will be speaking on behalf of an interested party.

2. APPLICATION FOR THE REVIEW OF A PREMISES LICENCE - ARIANA NEWS, OXFORD ROAD, READING NORCOT 1

To consider an application for the review of the Premises Licence in respect of Ariana News, 733 Oxford Road, Reading.



LICENSING ACT 2003 HEARING ON THURSDAY 11 JANUARY 2017 @ 09.30 HRS

APPLICATION FOR THE REVIEW OF A PREMISES LICENCE

**1. Premises:**

Mr Mohammad Seyed Ashrafi  
Arana UK Limited  
Ariana News  
733 Oxford Road  
Reading  
Berkshire  
RG30 1JA

**2. Applicants Requesting Review:**

Reading Borough Council

**3. Grounds for Review**

Reading Borough Council (Licensing team) as a responsible authority under the Licensing Act 2003 and under the licensing objectives of prevention of crime and disorder, the prevention of public nuisance, the protection of children from harm and public safety make application for the review of the premises licence for Ariana News 733 Oxford Road, RG30 1JA.

The premises known as Ariana News currently have a premises licence pursuant to the Licensing Act 2003 which permits the sale of alcohol by retail off the premises from 0600hrs until 2300hrs from Monday to Sunday.

The premises operates as an off licence. The premises licence holder is Arana (UK) Ltd and the designated premises supervisor at the time of this submission is stated as Mr Mohammad Seyed Ashrafi. Mr Mohammad Seyed Ashrafi is also a director of Arana (UK) Ltd along with other individuals listed as a Maryam Ashrafi (director) and Sayed Aziz Ashrafi (director).

A combination of immigration and a whole host of licence condition breaches unearthed during inspections the issues outlined below have led Reading Borough Council's Licensing team to taking this final serious step in reviewing the premises licence.

On 4th October 2017 - the premises were found employing one illegal worker.

On 4th October 2017 - the premises were found to be selling alcohol to at least one drunk person and to other persons suspected of being street drinkers.

On 4th October 2017 - the premises were found to be in breach of six conditions attached to the premises licence and a further four breaches of licensing legislation.

On 22nd May 2009 - the premises had it's licence reviewed and suspended for failing age related test purchases and the current conditions on the licence were attached at that meeting at which the licence holder and DPS attended.

The employment of illegal workers; the issues surrounding street drinking and selling to drunks at the premises and along Oxford Road, the licensing breaches and the fact that

the premises has been reviewed previously, indicate a serious undermining of the licensing objectives and a lack of responsible retailing.

Due to the seriousness of the crimes discovered at the premises and the undermining of the licensing objectives, the licensing team respectfully submit that the premises licence should be revoked.

4. Date of receipt of application: 14.11.2017

A copy of the review application received is attached at Appendix I

5. Date of closure of period for representations: 12.12.2017

#### 6. Representations received:

During the consultation period, representations were received in regard to this review application from;

Thames Valley Police which is attached at Appendix II.

the Immigration service which is attached at Appendix III.

The Trading Standards team which is attached at Appendix IV

A plan showing the location of the premises (in black) and surrounding streets is attached as Appendix V

#### 7. Background

The premises is located in West Reading on the main Oxford Road.

The Premises Licence Holder is stated as: Arana UK Ltd, 37-38 Marshall House, 124 Middleton Road, Morden, Surrey, SM4 6RW

The Designated Premises Supervisor (DPS) is stated as: Mr Mohammad Seyed Ashrafi. A copy of his current personal licence is attached at Appendix VI

The premises currently has the benefit of a premises licence for the activities and hours detailed below: A copy of the current licence is attached at Appendix VII

#### Licensable Activities authorised by the Licence

Sale of Alcohol by Retail - Off the Premises

<p>The times the licence authorises the carrying out of licensable activities</p> <p>Hours for the Sale by Retail of Alcohol</p> <p>Monday from 0600hrs until 2300hrs  Tuesday from 0600hrs until 2300hrs  Wednesday from 0600hrs until 2300hrs  Thursday from 0600hrs until 2300hrs  Friday from 0600hrs until 2300hrs  Saturday from 0600hrs until 2300hrs  Sunday from 0600hrs until 2300hrs</p>	
<p>Hours the Premises is Open to the Public</p> <p>Monday from 0600hrs until 2300hrs  Tuesday from 0600hrs until 2300hrs  Wednesday from 0600hrs until 2300hrs  Thursday from 0600hrs until 2300hrs  Friday from 0600hrs until 2300hrs  Saturday from 0600hrs until 2300hrs  Sunday from 0600hrs until 2300hrs</p>	
<p><b>8. Licensing Objectives and Reading Borough Council's Licensing Policy Statement</b></p>	
<p>In determining this application the Licensing Authority has a duty to carry out its functions with a view to promoting the four licensing objectives, which are as follows:-</p> <ul style="list-style-type: none"> <li>• the prevention of crime and disorder;</li> <li>• public safety</li> <li>• the prevention of public nuisance</li> <li>• the protection of children from harm</li> </ul> <p>In determining this 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.</p>	
<p><b>9. Power of Licensing Authority on the determination of a Review</b></p>	
<p>In determining the application the sub-committee can take such of the steps as it considers appropriate for the promotion of the licensing objectives, which are:</p> <ol style="list-style-type: none"> <li>1. take no further action</li> <li>2. to issue formal warnings to the premises supervisor and/or premises licence holder</li> <li>3. modify the conditions of the licence (including, but not limited to hours of operation of licensable activities)</li> </ol>	

4. exclude a licensable activity from the scope of the licence
5. remove the designated premises licence supervisor
6. suspend the licence for a period not exceeding three months
7. revoke the licence.

Where the sub-committee takes a step mentioned in 3 or 4 it may provide that the modification or exclusion is to have effect for a period not exceeding three months or permanently.

### **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;

#### **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.

### **Home Office Immigration Enforcement acting as a responsible authority**

9.25 The Immigration Act 2016 made the Secretary of State a responsible authority in respect of premises licensed to sell alcohol or late night refreshment with effect from 6 April 2017. In effect this conveys the role of responsible authority to Home Office Immigration Enforcement who exercises the powers on the Secretary of State's behalf. When Immigration Enforcement exercises its powers as a responsible authority it will do so in respect of the prevention of crime and disorder licensing objective because it is concerned with the prevention of illegal working or immigration offences more broadly.

9.31 Regulations governing hearings may be found on the [www.legislation.gov.uk](http://www.legislation.gov.uk) website. If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, the applicant and all of the persons who made relevant representations. In cases where only 'positive' representations are received, without qualifications, the licensing authority should consider whether a hearing is required. To this end, it may wish to notify the persons who made representations and give them the opportunity to withdraw those representations. This would need to be done in sufficient time before the hearing to ensure that parties were not put to unnecessary inconvenience.

9.38 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- this Guidance;
- its own statement of licensing policy.

### **Determining actions that are appropriate for the promotion of the licensing objectives**

9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

9.43 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

### **The Review process**

11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant

or variation of a premises licence or club premises certificate.

11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

#### **Powers of a licensing authority on the determination of a review**

11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement - either orally or in writing - that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.

#### **Reviews arising in connection with crime**

11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go



beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs; organisation of racist activity or the promotion of racist attacks;
- for employing a person who is disqualified from that work by reason of their immigration status in the UK;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, **it is expected that revocation of the licence - even in the first instance - should be seriously considered.**

### **Reading Borough Council Licensing Policy Statement**

1.5 The Council believes that good management of its vibrant entertainment, alcohol and late night refreshment industries, and of the street environment within which they operate, is essential to the continued success of Reading Town Centre and to attracting the wide range of people who want to come here to work, to visit and to live. However, the predominantly urban nature

of the town and the significantly large proportion of young residents means that issues such as:

- (a) striking an appropriate balance between the needs of residents and the needs of businesses,
- (b) the control of underage drinking, and
- (c) the management of young and potentially immature drinkers,

are matters which are particularly relevant to the exercise of the Authority's licensing functions, and ones which applicants and existing licensees also need to consider.

### **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.

### **7.15.3 Policing and Crime Act 2009**

In applying this policy, the Authority will have regard to their obligations under Part 3 relating to alcohol misuse, (children) changes to the mandatory condition, and the licensing authority as an interested party.

### **10.5 Review of Premises Licence**

10.5.1 Any premises subject to a premises licence or club premises certificate may have that licence or certificate reviewed by the Licensing Authority on application by a responsible authority or interested parties. The Act provides strict guidelines as to the timescale and procedures to be adhered to and the Authority will deal with every review application on that basis.

Reading Borough Council, Civic Offices, Bridge Street, Reading, RG1 2LU

**Application for the review of a premises licence or club premises certificate under the Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

**I Richard French on behalf of the Licensing Authority of Reading Borough Council**

*(Insert name of applicant)*

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below

**Part 1 – Premises or club premises details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> Ariana News 733 Oxford Road	
<b>Post town</b> Reading	<b>Post code (if known)</b> RG30 1JA

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Arana (UK) Ltd
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<b>Number of premises licence or club premises certificate (if known)</b> LP9000429 (dated 16/10/17)
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**Part 2 - Applicant details**

I am

Please tick ✓ yes

- 1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

**(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)**

Please tick ✓ yes

Mr  Mrs  Miss  Ms  Other title  
(for example, Rev)

**Surname**

**First names**

**I am 18 years old or over**

Please tick ✓ yes

**Current postal  
address if  
different from  
premises  
address**

**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address  
(optional)**

**(B) DETAILS OF OTHER APPLICANT**

**Name and address**

**Telephone number (if any)**

**E-mail address (optional)**

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address Licensing Team Reading Borough Council Civic Offices Bridge Street Reading RG1 2LU
Telephone number (if any) 01189 37 37 62
E-mail address (optional) licensing@reading.gov.uk

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

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

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

On 4<sup>th</sup> October 2017 – the premises were found employing 1 illegal worker.

On 4<sup>th</sup> October 2017 – the premises were found to be selling alcohol to at least one drunk person and to other persons suspected of being street drinkers.

On 4<sup>th</sup> October 2017 – the premises were found to be in breach of six conditions attached to the premises licence and a further four breaches of licensing legislation.

On 22<sup>nd</sup> May 2009 – the premises had its licence reviewed and suspended for failing age related test purchases and the current conditions on the licence were attached at that meeting at which the licence holder and DPS attended.

Section 11.27 and 11.28 of the Secretary of State's Guidance pursuant to the Licensing Act 2003 states:

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for employing a person who is disqualified from that work by reason of their immigration status in the UK.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, **it is expected that revocation of the licence – even in the first instance – should be seriously considered.**

The employment of illegal workers; the issues surrounding street drinking and selling to drunks at the premises and along Oxford Road, the licensing breaches and the fact that the premises has been reviewed previously, indicate a serious undermining of the licensing objectives and a lack of responsible retailing.

**Due to the seriousness of the offences discovered at the premises and the undermining of the licensing objectives, the licensing team respectfully submit that the premises licence should be revoked.**

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

The premises known as Ariana News currently have a premises licence pursuant to the Licensing Act 2003 which permits the sale of alcohol by retail off the premises from 0600hrs until 2300hrs from Monday to Sunday.

The premises operates as an off licence. The premises licence holder is Arana (UK) Ltd and the designated premises supervisor at the time of this submission is stated as Mr Mohammad Seyed Ashrafi. Mr Mohammad Seyed Ashrafi is also a director of Arana (UK) Ltd along with other individuals listed as a Maryam Ashrafi (director) and Sayed Aziz Ashrafi (director).

The premises were visited on 4<sup>th</sup> October 2017 in a joint operation between the Licensing team, Thames Valley Police and officers from the Home Office Immigration Enforcement team. Immigration Enforcement have been a 'Responsible Authority' under the Licensing Act since April 2017 to predominantly deal with the prevention and detection of immigration offences that may be being committed on licensed premises which therefore undermine the prevention of crime and disorder licensing objective.

On attendance at the premises one illegal worker was found working and the details are as follows:

1. A 25 year old Afghan male who was serving behind the counter when officers walked into the premises. He was subsequently found to have what were believed to be the shop keys with him and admitted to working in the premises. He was detained – after having given officers false details.

It is the job of any responsible employer to ensure that the correct right to work checks are carried out. Clearly, right to work checks are not being carried out.

The Immigration Act 2016 amended Section 21 of the Immigration, Asylum and Nationality Act 2006 and is the relevant legislation that deals with the employment of illegal workers. It states:

- 1) A person commits an offence if he employs another ("the employee") knowing that the employee is [disqualified from employment by reason of the employee's immigration status].*
- (1A) A person commits an offence if the person—*
- (a) employs another person ("the employee") who is disqualified from employment by reason of the employee's immigration status, and*
- (b) has reasonable cause to believe that the employee is disqualified from employment by reason of the employee's immigration status.*
- (1B) For the purposes of subsections (1) and (1A) a person is disqualified from employment by reason of the person's immigration status if the person is an adult subject to immigration control and—*
- (a) the person has not been granted leave to enter or remain in the United Kingdom, or*
- (b) the person's leave to enter or remain in the United Kingdom—*
- (i) is invalid,*
- (ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), or*
- (iii) is subject to a condition preventing the person from accepting the employment.]*

*(2) A person guilty of an offence under this section shall be liable—*

*(a) on conviction on indictment—*

*(i) to imprisonment for a term not exceeding [five] years,*

*(ii) to a fine, or*

*(iii) to both*

The offence of employing illegal workers is now also a relevant offence in the Licensing Act 2003. As stated previously in this application, the Licensing Act 2003 Guidance at 11.27 and 11.28 now states that the employment of illegal workers is to be regarded as a crime that should be taken particularly seriously and that revocation of the premises licence – even in the first instance – should be seriously considered. The licence holder is undermining the crime and disorder licensing objective as well as failing to ensure that the people he employs are legally in the country or entitled to work.

There are potentially numerous other criminal offences which may apply to the employment of illegal workers and these are summarised as follows:

1. The exploitation of illegal workers by unscrupulous employers means that the only person who benefits from their employment is the licence holder through financial gain.
2. Illegal workers – being in the country illegally or working illegally – are unable to declare themselves to the authorities and seek public assistance should they require it.
3. Illegal workers are often paid ‘off the record’ by the employer meaning that the correct tax and national insurance deductions are not taken into account or declared to HMRC. This would be contrary to the Fraud Act 2006.
4. People who are living in the UK or who are working illegally are often not paid anything close to the Minimum wage which is illegal and again only benefits the employer financially.
5. Illegal workers – because of being deliberately underpaid by unscrupulous employers – are often only provided with the most basic accommodation and standard of living which is often linked to their continued employment at a licensed premises.
6. Illegal entrants into the country will not have been subject to the usual immigration checks and health screenings. This could seriously impact on public protection and the health and wellbeing of the general public as a whole. This could be particularly pertinent if the illegal entrant has arrived from a country with health issues and the employer has then decided to employ that person in a kitchen or other function where food is served to the public.
7. The employment of illegal workers is often done at the expense of people who are living and working in the country legally and is only done to financially benefit the licence holder and to undercut legitimate, law abiding competitors.
8. Illegal entrants – who have not undergone appropriate checks or immigration clearance at the



border – could be being unwittingly employed by the licence holder despite them having current or previous criminal convictions which may endanger the public.

The employer or licence holder is exploiting potentially vulnerable people and engaging in a multitude of criminal offences by employing them at this licensed premises.

The Sale of Alcohol to a drunk individual and street drinkers:

The Licensing Authority and Thames Valley police have received a number of anecdotal reports that the premises at 733 Oxford Road were selling alcohol to street drinkers and potentially other individuals who may be intoxicated. Upon approach to the premises, officers noted that a group of individuals were openly drinking alcohol in the car park on the left hand side of the premises. This would seem to corroborate the reports we had previously received that the side of the premises was being used as an area for street drinkers to congregate. We also noted upon approach that the Afghan male – who was later detained by Immigration Enforcement – was serving behind the counter. Whilst a licensing inspection was being carried out, it was noted that known street drinkers were entering the premises to purchase single cans of alcohol. At 2020hrs, one of the individuals (female) that had been observed outside next to the premises consuming alcohol in the car park, entered the premises and purchased a can of Super Tenants from Mr Ashrafi (DPS and director) and proceeded to return to the car park to consume it. A male, also noted from drinking in the car park, then entered the premises and purchased a single can of Skol Super from Mr Ashrafi and went back to the car park to consume it. Mr Ashrafi was spoken to about this (as detailed in the licensing inspection letter sent to him) and he seemed unaware of the street drinking even though it was clearly visible from the shop. Mr Ashrafi then attempted to challenge another individual but stated to the individual that the Council had told him to do it. This was not correct and seems to indicate that the individual was only being challenged because officers of the Council, TVP and Immigration were in attendance. The individual in question was also attempting to purchase single cans of super strength alcohol. At 2025hrs, an Eastern European male stumbled into the premises and was visibly red faced and intoxicated. It was the opinion of officers that this individual was intoxicated to the state of being drunk. He was able to purchase a can of super strength beer and left the premises. PC Wheeler noted this incident and then asked Mr Ashrafi to produce the CCTV in relation to this incident and to the finding of an illegal worker behind the counter. Mr Ashrafi, despite being the DPS and director of the business, claimed he did not know how to operate the CCTV. It is believed that TVP later submitted a data access request form to the premises in order to obtain the CCTV. At the date of this submission, that CCTV footage has not been provided and no contact has been received from Mr Ashrafi.

It is therefore our submission that the premises is undermining the promotion of the licensing objectives – notably the prevention of crime and disorder and prevention of public nuisance. The premises is also exacerbating issues of street drinking down Oxford Road as customers seem to know that they can get their alcohol from the premises with little challenge. It is extremely disappointing that the work the Council and TVP have done with other retailers along Oxford Road in order to discourage the sale of single cans of super strength alcohol is being undermined in this way. The premises is one of the few along Oxford Road who has not engaged with this initiative.

It is also worth noting that selling alcohol to a drunk person – which we would submit also happened during the visit in relation to the Eastern European male – is an offence under Section 141 of the Licensing Act 2003.

#### Licensing Breaches:

During the visit of 4<sup>th</sup> October 2017, the Licensing team conducted a licensing inspection to see whether the terms and conditions on the licence as well as relevant legislation were being complied with and found the following issues. The licensing inspection was carried out with the DPS who is also a named director of the stated premises licence holder.

1. Part A of the premises licence could not be produced.
2. No Section 57 notice detailing where Part A of the licence was kept could be produced.
3. There was no evidence that any staff member had been authorised to sell alcohol verbally or in writing. This is a breach of the mandatory conditions.
4. The condition on the licence relating to the use of a refusal book was not being complied with. The only refusal book that could be produced was from 2010.
5. The condition on the licence in relation to the retention of a refusal book for six months was not being complied with as none were produced.
6. The condition on the licence in relation to staff training was not being complied with. No staff training records were produced and Mr Ashrafi seemed unaware of this requirement.
7. The condition on the licence in relation to all staff having obtained the BIIAB Level 1 qualification was not being complied with. One member of staff, at least, did not have this.
8. The condition on the licence in relation to displaying notices about the area outside being an Alcohol Exclusion Zone was not being complied with. No notice was in-situ.
9. The condition on the licence in relation to CCTV was not being complied with. Mr Ashrafi could not demonstrate that the system stored images for 7 days; some of the cameras seemed not to be functioning and Mr Ashrafi claimed not to know how the system worked when asked to produce some of it for Thames Valley Police. It is believed that Thames Valley Police submitted a formal data access request to the premises in order to investigate the very serious criminal offences of illegal working and selling to a drunk individual. No CCTV has been produced at the time of this submission.
10. It was found that the address on Mr Ashrafi's Personal Licence was incorrect and had been for many years. This is an offence under Section 127 of the Licensing Act 2003.
11. The stated address for the premises licence holder and DPS on the premises licence was also incorrect.

A copy of the letter sent to the licence holder in respect of the licensing breaches found on 4<sup>th</sup> October 2017 can be found at **appendix RF-1**

It is noted that some of these issues were also brought to the licence holder's attention during a previous inspection in September 2010. Attached at appendix RF-2.

#### Licence Review of May 2009

The issues mentioned in the preceding pages of this review in relation to the employment of an illegal worker; the sale of alcohol to street drinkers and a person thought to be drunk and the breach of the conditions stated on the premises licence are further highlighted by the fact that the premises has previously had its licence reviewed. It is acknowledged that this was over eight years ago. However, it is our submission that the premises is severely undermining the licensing objectives and not selling alcohol responsibly.

It should also be noted that the conditions currently on the premises licence were attached at the review hearing in May 2009. Therefore, there is no excuse for the licence holder – who is also the DPS - to not be complying with them or, in the case of the need for training, for the DPS to be seemingly unaware that this needed to be complied with.

I attach the minutes from the review hearing in May 2009 as appendix RF-3.

No contact has been made by the licence holder and DPS to the Licensing Authority in relation to the breaches of licensing conditions/legislation. Nor has an explanation been received as to why an illegal worker was found on the premises or why alcohol is seemingly being sold so irresponsibly so as to exacerbate known issues along the Oxford Road. A further explanation has not been received as to why the premises licence holder and DPS is seemingly unaware of how to use their CCTV system and why requested data had not been submitted to TVP when requested.

In summary, the offences outlined in this review application are some of the most serious contained within the Licensing Act 2003. The employment of any illegal worker and their possible exploitation for financial gain is clearly an extremely serious criminal offence and one that the Licensing Act has identified as one where the revocation of the licence should – even in the first instance – be seriously considered. There are no acceptable excuses or justification that can be offered for this. A licence holder and responsible employer should, as a bare minimum, be checking that their potential employees are eligible to reside and work in the UK.. The licence holder has shown a complete disregard for all manner of laws and has committed extremely serious criminal offences from the premises which he operates. This also applies to the licensing issues encountered at the premises which pose a substantial risk to public safety and seriously undermine the promotion of the licensing objectives. Officers have seen with their own eyes that this is a premises that does not sell alcohol responsibly or seem to take its obligations under the Licensing Act seriously – to the detriment of the local area and the detriment of the licensing objectives.

Allowing this premises to continue to operate with the benefit of a premises licence will merely serve to perpetuate the criminal activity and human exploitation already apparent from the findings of the licensing authority, Immigration Enforcement and other partners concerned with protecting the public.

It is the licensing team's respectful submission that the only appropriate and proportionate step to promote the licensing objectives and safeguard the public as a whole, is for the licence to be revoked.

#### List of appendices:

Appendix RF-1 – Licensing inspection letter dated 4<sup>th</sup> October 2017.

Appendix RF-2 – Licensing inspection letter of September 2010

Appendix RF-3 – Minutes of the review hearing from 22<sup>nd</sup> May 2009

Appendix RF-3 – Case law – East Lindsey District Council v Abu Hanif

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

N/A

Please tick ✓ yes

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

If yes please state the date of that application

Day	Month	Year
┆	┆	┆

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

N/A

Please tick ✓

yes

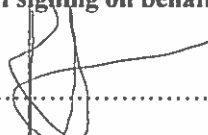
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

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

**Part 3 – Signatures** (please read guidance note 4)

**Signature of applicant or applicant’s solicitor or other duly authorised agent** (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature



Date

14<sup>th</sup> November 2017

Capacity **Licensing Enforcement Officer**

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

Licensing Team  
Reading Borough Council  
Civic Offices  
Bridge Street

**Post town**

Reading

**Post Code**

RG1 2LU

**Telephone number (if any)** 01189 37 37 62

**If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)** licensing@reading.gov.uk

**Notes for Guidance**

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.



Alison Bell  
 Director of Environment and  
 Neighbourhood Services  
 Civic Offices, Bridge St, Reading, RG1 2LU  
 ☎ 0118 937 3787

Our Ref:EVU 053141

e-mail: richard.french@reading.gov.uk

4 October 2017

┌ Mohammad Seyed Ashrafi  
 Ariana News  
 733 Oxford Road  
 Reading  
 RG30 1JA

Your contact is:

Mr Richard French, Licensing

Dear Mr Ashrafi

**Licensing Act 2003**

**Premises Licence Number:LMV000008**

**Premises: Ariana News**

**Premises Address: 733 Oxford Road, Reading**

On the 4<sup>th</sup> October 2017 I visited your premises with officers from Immigration Enforcement; Thames Valley Police and the Council's Trading Standards team to ensure you are complying with the above premises licence and advise on any matters that may arise during the inspection. An illegal worker was found on your premises and he was detained by Immigration Enforcement. They will write to you separately in relation to this.

During my inspection, I found a number of items that require your attention as outlined below:

1) You could not produce Part A of your licence and did not know where it was. This is an offence under Section 57 of the Licensing Act 2003.

2) You could not produce a Section 57 notice stating who had custody of the premises licence and where it was located. This is an offence under Section 57 of the Licensing Act 2003.

3) There was no written authorisation list of who had been authorised to sell alcohol. There was also no indication that anyone had been authorised to sell alcohol either in writing or verbally. This is a breach of the mandatory condition attached to your premises licence.

4) Condition 1 under Annex 2 of your premises licence in relation to a refusal book being used and maintained at the premises was not being complied with. No refusal book could be produced and the only refusal books that could be produced were dated 2010. This is a breach of condition and therefore an offence under Section 136 (1) of the Licensing Act 2003.

6) Condition 2 under Annex 2 of your premises licence in relation to refusal books being maintained at the premises and kept for a period of six months was not being complied with. No refusal books for any relevant time period could be produced and therefore they could not be produced to any authorised officer upon request. This is a breach of condition and therefore an offence under Section 136 (1) of the Licensing Act 2003.

7) Condition 3 under Annex 2 of your premises licence in relation to staff training and refresher training every six months was not being complied with. You seemed unaware that there was a requirement for staff training. No records could be produced in relation to any training and no refresher training documents were provided. This is a breach of condition and therefore an offence under Section 136 (1) of the Licensing Act 2003.

8) Condition (c) under Annex 3 of your premises licence in relation to all staff - who had been authorised to sell alcohol - be trained to the BIIAB Level 1 award in Responsible Alcohol Retailing. In paragraph 3 of this letter (above) we have already outlined that nobody appeared to be authorised to sell alcohol. You stated that you had three members of staff. One of which - your wife - had not been authorised and by your own admission not achieved the BIIAB Level 1 qualification. This is a breach of condition and therefore an offence under Section 136 (1) of the Licensing Act 2003. It should also be noted that this condition was placed upon the premises licence on 22<sup>nd</sup> May 2009 when your licence was previously reviewed by the Council's Trading Standards team for test purchase failures.

9) Condition (e) under Annex 3 of your premises licence in relation to displaying a notice advising customers that the area surrounding the premises is an Alcohol Exclusion Zone was not being complied with. This is a breach of condition and therefore an offence under Section 136 (1) of the Licensing Act 2003. It should also be noted that this condition was placed upon the premises licence on 22<sup>nd</sup> May 2009 when your licence was previously reviewed by the Council's Trading Standards team for test purchase failures.

10) The address on your Personal Licence - LP7000331 - states the incorrect address. This is an offence under Section 127 of the Licensing Act and should be rectified immediately.

11) The address on the premises licence states the incorrect address for the DPS. This should be rectified immediately.

12) The address on the premises licence for the premises licence holder is incorrect and should be rectified immediately.

13) Condition 1 under the heading 'Prevention of Crime and Disorder' within Annex 2 of your licence was not being complied with. Some of the CCTV cameras were not functioning; you could not prove that the system retained images for 7 days and you stated that despite being the DPS - you had no idea how to operate the CCTV system. This is a breach of condition and therefore an offence under Section 136 (1) of the Licensing Act 2003.

14) I also spoke to you about issues to do with street drinking; serving to street drinkers and selling single cans of super strength beer and cider. Upon attendance at the premises, it was noted that people were openly drinking in the street outside your premises. It was also noted that most of the customers entering your premises were buying single cans of super strength alcohol and consuming them outside. They would



then return for another single can. I advised you that there are issues regarding street drinking on Oxford Road and that a lot of the premises on Oxford Road had voluntarily agreed to either stop selling super strength beers and ciders in single cans or had taken the decision to stop selling them altogether. You are therefore reminded that responsible alcohol retailing is expected from all holders of a premises licence in Reading. Indeed, your conditions state that all staff members should be trained in the BIIAB Level 1 Award for Responsible Alcohol Retailing. Therefore, there is no excuse for what was witnessed inside and outside your premises. Whilst we were in attendance at the premises the only time any customers were challenged was after we advised you on this. Please ensure that you and your staff are fully trained in relation to responsible alcohol retailing and that street drinkers and/or people who may be drunk are not buying super strength products from your premises and then consuming them directly outside.

**Please rectify all of the above within 7 days.**

Should you wish to discuss the issues raised in this letter then please contact me.

Yours faithfully

Mr Richard French  
Licensing & Enforcement Officer

Anita Cacchioli  
MBA F.Inst.SRM.Hons FCMI FloD  
Director of Environment, Culture  
and Sport

Arana UK LTD  
1<sup>ST</sup> Floor Windsor House  
1270 London Road  
Norbury London  
SW16 4DH

Civic Centre, Reading, RG1 7AE  
☎ 0118 9373 737

Fax: 0118 9372 557

Our Ref: EVU 048843

Your Ref:

Direct: ☎ 0118 9372239

e-mail: jean.champeau@reading.gov.uk

Date 27 September 2010

Your contact is: **Jean Sebastien Champeau, Licensing and Environmental Protection**

Dear Sir or Madam;

### Licensing Act 2003

Premises Licence Ariana News 733 Oxford Road Reading

On the 23 September 2010 I visited your premises to ensure you are complying with the above premises licence and advise on any matters that may arise during the inspection. I spoke to a male by the name of Mr A Asghra , who indicated to me that he was looking after the shop for the owner. Mr A Asghra could not show that he was authorized to sell alcohol or act as a deputy during the Designated Premises Supervisors absence.

During my inspection, I found a number of items that require your attention as outlined below/attached.

- 1) No part A of the Premises license was available for inspection.
- 2) No S 57 was produced permitting Mr Asghra to act as a deputy.
- 3) No record of training was produced.
- 4) No refusal log was produced.

Annex 2 to your premises requires

## Conditions Consistent with the Operating Schedule

### General

1. A record of refusals will be maintained, showing details of all incidents when the sale of alcohol is refused.
2. The record of refusals will be retained for at least six months and will be available for inspection by the police or the licensing authority upon request.

3. All staff will be trained in relation to the legal restrictions relating to sales of alcohol and the terms of this licence prior to commencing employment and will receive refreshed training at intervals of no less than 6 months. A record of this training will be kept for 12 months.

#### **Prevention of Crime & Disorder**

1. CCTV will be present in the premises. The CCTV will be kept in good working order and the recordings made will be retained for at least 7 days.

**This letter is sent and should be received as a warning against any future breaches of your premises licence. Should any future breaches occur, formal action may be considered.**

Please note that the premises shall be re inspected within two weeks.

Should you wish to discuss the issues, please telephone me on the number above, during office hours.

Yours faithfully

Jean Sebastien Champeau  
Senior Licensing & Enforcement Officer

## LICENSING APPLICATIONS SUB-COMMITTEE 2 MINUTES - 22 MAY 2009

## 2. APPLICATION FOR THE REVIEW OF A PREMISES LICENCE - ARIANA NEWS

The Head of Environment and Consumer Services submitted a report on an application by the Chief Inspector of Weights and Measures, Reading Borough Council, for the review of the Premises Licence in respect of Ariana News, 733 Oxford Road, Reading.

The report stated that the application had been submitted on the grounds of two failed Test Purchase exercises. The premises had, therefore, undermined the licensing objectives of the protection of children from harm and the prevention of crime and disorder. A copy of the review application was attached to the report at Appendix I. This gave further details of the grounds for the application, including details of four Test Purchase exercises that had taken place at the premises since October 2007. Of these, on two occasions the premises had correctly refused to sell alcohol to the test purchaser, but on two other occasions test purchasers had been able to purchase alcohol from the premises. The application recommended that the Premises Licence be suspended for four weeks, to ensure that the premises did not establish a reputation as somewhere that underage young people could purchase alcohol and to introduce suitably robust procedures to ensure further offences were not permitted.

No other representations had been received in respect of the application. A plan showing the location of the premises and the surrounding area was attached to the report at Appendix II.

The report stated that the premises were located on a busy roundabout in a parade of shops. The Premises Licence holder was Arana UK Limited and the current Designated Premises Supervisor was Mohammed Seyed Ashrafi. A copy of the current Premises Licence was attached to the report at Appendix III. This permitted the retail sale of alcohol, off the premises, Monday to Sunday 0600 hours until 2300 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
- Public safety
- The prevention of public nuisance
- The protection of children from harm

The report further stated that, in determining the application, the Sub-Committee could take the following steps:

- Take no further action;
- Issue formal warnings to the premises supervisor and/or premises licence holder;
- Modify the conditions of the licence;
- Exclude a licensable activity from the scope of the Licence;
- Remove the Designated Premises Supervisor;
- Suspend the licence for a period not exceeding three months;
- Revoke the licence.

## LICENSING APPLICATIONS SUB-COMMITTEE 2 MINUTES - 22 MAY 2009

Additional papers prepared by the applicant's solicitor had been circulated ahead of the meeting. These comprised recent training records for the premises, the premises' refusals log for the period 6 February 2008 to 9 May 2009, photographs of the inside of the shop and customer representations. Following legal advice the Chair informed all parties present that the additional customer representations which did not form part of the committee report would not be taken into consideration as they had been received outside the permitted consultation period.

The Sub-Committee was informed at the meeting that, although the application form in the report did not bear a signature, the original application form had been received in hard copy with a signature. An electronic copy had been submitted at the same time, and this had been inadvertently used in the preparation of the report. The application form also incorrectly stated that Mohammed Seyed Ashrafi was the Premises Licence holder. However, the name and address of the premises was correctly stated and the copy of the Premises Licence attached to the report at Appendix III correctly showed the Premises Licence holder as Arana UK Limited.

Matthew Golledge and Ian Savill, Trading Standards Officers, were present at the meeting and addressed the Sub-Committee on the application. Mohammed Seyed Ashrafi, the Designated Premises Supervisor, was present at the meeting. He was accompanied by his solicitor, Tim Child, who addressed the Sub-Committee.

### Resolved -

That, having reviewed the Premises Licence in respect of Ariana News, and having had regard to the promotion of the four licensing objectives, the oral and written representations made by all parties, the Secretary of State's guidance and the Council's Statement of Licensing Policy, the Sub-Committee was of the opinion that it was necessary and proportionate to suspend the Licence for a period of seven days and attach the following additional conditions to the Licence:

- (a) The premises shall at all times operate a Challenge 25 policy to prevent any customer who attempts to purchase alcohol and who appears to the staff member to be under the age of 25 years making a purchase 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;
- (b) Notices advertising the Challenge 25 policy shall be displayed in prominent positions on the premises;
- (c) Persons authorised to sell alcohol shall be trained to BIIAB Level 1 Award in Responsible Alcohol Retailing (ARAR) or any other similarly recognised nationally approved accreditation curriculum, within two months for existing employees and subsequently for new employees;
- (d) The Designated Premises Supervisor or their nominee shall be an active member in the South & East Reading Local Pubwatch scheme if one is operative in the area;

LICENSING APPLICATIONS SUB-COMMITTEE 2 MINUTES - 22 MAY 2009

- (e) Notices shall be prominently displayed at all exit points to advise customers that the area surrounding the premises is an Alcohol Exclusion Zone.

(The meeting started at 9.36am and finished at 11.50am)

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

**Before:**

**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.

# THAMES VALLEY POLICE

## APPENDIX II

Division/Station : Reading Licensing Dept

From : PC 5787 Simon Wheeler

To : Reading Licensing Authority

Ref : Ariana News, 733 Oxford Road, Reading (LP9000429)  
Tel.No.

Date : 20 November 2017

Subject :

### Supportive review representation

I PC Simon Wheeler on behalf of the Chief Officer of Police for Thames Valley wish to provide this representation in support of the review process relating to Ariana News, 733 Oxford Road, Reading, Berkshire, RG30 1JA.

This representation is based on this premises failure to uphold the licensing objectives by committing offences in relation to immigration and the employment of illegal workers, as well as various breaches of licence conditions and concerns over the sale of high strength alcohol to drunk persons, which exacerbates drink related anti social behaviour within Readings Designated Area (Alcohol Exclusion Zone).

Therefore this representation gives due regard to the failure of this premises to support the licensing objective of prevention of crime and disorder as well as impacting negatively on all other licensing objectives.

**On 4<sup>th</sup> October 2017** – Thames Valley Police were involved in a joint immigration and Reading Borough Council (RBC) inspection that took place at Ariana News.

On arrival at the premises at 1950 hours I initially observed a group of street drinkers stood against the fence line in the car park approximately ten to fifteen metres from the premises all consuming from cans. Then as I walked in and on immediate entry to the premises I observed a short Asian male stood behind the counter which is situated to the right of the entrance door as you walk in. This is the main service area and where the till is situated.

This male immediately walked from behind the counter and his behaviour appeared strange as he then walked to the rear of the store and pretended to be browsing and not serving. Immediately this aroused my suspicion and I approached the male whilst colleagues from Reading Borough Council dealt with a second male who was also inside the premises and had originally been stood a distance away from the service counter. This second male was identified as Mr Ashrafi the Designated Premises Supervisor (DPS).

The male that I had approached and who had been seen behind the service counter was evasive during questioning and initially stated he was not working in the shop but then changed his story and said he was a friend of the DPS. Eventually he gave a further third account that he worked for the DPS on an ad hoc cash in hand type basis, just randomly helping out when needed. In terms of identification the male provided a number of versions of his identity; the first being a verbal stolen identity which when checked and by using immigration systems we were able to identify did not belong to him.

During this period Mr Ashrafi was non committal as to who the male was; stating that he hardly knew him, he was a friend and gave accounts that he did not work at the premises.

It is worth noting that when the male was eventually detained and arrested for being an over stayer in the country and illegally working he handed Mr Ashrafi a set of keys from inside his jean pocket which were stated to be the keys to the shop. This action alone provided me with the belief that this male had been working and in the employ of Mr Ashrafi with full access to the premises.

Whilst immigration dealt with the detained male and performed checks I remained within the store whilst Mr French (RBC) performed an inspection of the premises licence.

I was made aware that the inspection of the licence had shown a number of condition breaches involving no training, lack of signage and concerns over the CCTV provision amongst other things.

Further to this I noted the following observations in my pocket notebook:

20:20 hours – Street drinkers (persons seen outside the premises consuming alcohol prior to our arrival) entered and purchased Super Strength alcohol. Including a can of Super Tennants and a can of Skol Super. Each purchased a single can each and then walked directly out of the shop and began consuming the alcohol on the street in the exclusion zone. This was also observed by Mr French and Mr Knight from Reading Trading Standards.

20:25 hours – an Eastern European male entered the premises, he was stumbling and red faced and I formed the opinion that he was drunk. This male selected a single can of super strength Polish beer approached the counter and was also immediately sold the alcohol by Mr Ashrafi with no challenge offered.

20:55 hours – keys to the shop were handed to Mr Ashrafi by the detained illegal worker.

These sales although clearly illegal were not challenged by me at the time as I wished to determine the scale of the problems caused by this premises and wished to provide Mr Ashrafi the opportunity to proactively show us in our presence that he was responsibly retailing alcohol. However, I did not preclude further action and after these offences had clearly been committed and requested CCTV from Mr Ashrafi as evidence in relation to this so that prosecution could be considered supported by visual evidence.

Mr Ashrafi stated that he could not on the night provide this CCTV so I informed him that an official request would be made for this evidence.

**On Friday 6<sup>th</sup> October 2017 at 19:20 hours – PCSO Emin hand delivered a data protection request form for CCTV relating to this incident and a signature for its receipt was obtained from Mr Ashrafi in her pocket notebook.**

(This CCTV has never been provided and Mr Ashrafi has made no contact with myself or TVP to explain this or offer reasonable excuse).

In conclusion we have a host of issues relating to this premises including the employment of illegal workers, the sales of alcohol to drunk persons and numerous breaches of licence conditions and non compliance.

Mr Ashrafi on the night in question was unco-operative and evasive and since this time has failed to further co-operate and provide the requested CCTV which could prove or arguably disprove these ascertains if his account on the night is to be believed.

In itself the employment of an illegal worker is enough to consider a revocation of this licence, and as such the employment of illegal workers is a criminal activity which has serious impacts on society and can in certain circumstances have serious and real implications connected to modern day slavery.

The current Secretary of State's Guidance pursuant to the Licensing Act 2003 specifically deals with this in Section 11.27 and 11.28, and outlines that "It is expected that revocation of the licence – even in the first instance- should be seriously considered".

In relation to the other aspects unearthed during this inspection there are wide reaching implications that need to be considered in relation to this premises trading. They are the selling of alcohol to drunk people in an area that already has a street drinking and anti-social behaviour issue, and the failures to comply with the premises licence.

It is worthy of note that not only was the alcohol sold to persons who intended to street drink but any other measures that were expected to negate this issue were not taken. Mr Ashrafi did not challenge the drinkers verbally or provide information about the alcohol restriction zone, nor did he provide signage as is determined by his licence conditions.

It is impossible for Mr Ashrafi to not be aware that these sales would lead to the street drinking behaviour observed, especially in such close proximity to the premises. The drinkers congregate within easy sight of the shop frontage as can be seen in APPENDIX TVP 1.

For these reasons Thames Valley Police respectfully recommend that the Licensing Sub-Committee take the only appropriate and proportionate step available to them in a situation as serious as this and revoke the licence as the only possible means to promote the licensing objectives and further support the prevention of crime and disorder.

### **Appendices List**

- TVP 1 - Images to show the front of the store and area marked in red where street drinkers were congregated on 4th October 2017 in the street close to the shop.
- TVP 2 - Image taken on 4th October 2017 from the Ariana display showing a number of single can sales of high strength alcohol.
- TVP 3 – Data request form delivered to Mr Ashrafi.
- TVP 4 – Copy of signature received from Mr Ashrafi for receipt of CCTV request on 6<sup>th</sup> October 2017.

## APPENDIX TVP 1

Images to show the front of the store and area marked in red where street drinkers were congregated on 4<sup>th</sup> October 2017 in the street close to the shop.



## APPENDIX TVP 2

Image taken on 4<sup>th</sup> October 2017 from the Ariana display showing a number of single can sales of high strength alcohol



## LICENSING DATA ACCESS REQUEST FORM – CCTV IMAGES

<b>Date of request</b>	<b>Date of recording</b>	<b>Time from:</b>	<b>Time to:</b>
5 <sup>th</sup> October 2017	4 <sup>th</sup> October 2017	0530	2200
<b>Collar no. or Name</b>	<b>Station or Address</b>	<b>URN ref: (Police)</b>	<b>Occurrence ref: (Police)</b>
PC 5787 Wheeler	Reading Police Station Castle Street Reading Berkshire	N/A  Joint Police, RBC, Immigration enforcement inspections	N/A
<b>Contact email: simon.wheeler@thamesvalley.pnn.police.uk</b>			
<b>Contact Tel: 07973231273</b>			
<b>Area within premises (Describe as accurate as possible)</b>			
Request to Mr Mohammad Seyed Ashrafi Relating to Ariana News 733A Oxford Rd Reading  All cameras covering both internal and external areas, with specific regard to the cameras covering the service/ till area.			
<b>Reason for request (Continue overleaf if necessary)</b>			
<p>During a joint inspection as detailed above a male was seen in the premises behind the till area in a position to make sales. The male it transpired was an illegal immigrant who was not allowed to work in the UK and is suspected of being employed by the owner of the shop on a cash in hand basis.</p> <p>Also during the inspection a number of persons who appeared to be intoxicated (drunk) purchased alcohol from the store DPS.</p> <p>CCTV required for investigation and potential prosecution relating to the illegal employment of persons and the sales of alcohol to drunk persons.</p> <p>The keys to the shop were handed over by the suspected illegal worker to the DPS and therefore CCTV required to establish his links to the business and working hours and roles and responsibilities.</p>			
<b>Data Controller - Record action/viewing only/or decision to provide copy (If negative result or request considered unlawful please provide rationale for this decision)</b>			
<b>Date produced:</b>	<b>By whom:</b>	<b>Exhibit reference:</b>	<b>Signature:</b>
<b>Comments:</b>			

The completion of this log is to satisfy the need for audit and continuity of image management as required by the Data Protection Act 1998 & any subsequent judicial proceedings.



APPENDIX TVP 4

Serial No. C 60253



Thames Valley Police

Rank PCSO No 20  
Name CATHERINE EMW  
Section CA Area READING  
Commenced 6/9/17 At FT  
Completed \_\_\_\_\_ At \_\_\_\_\_  
Signature of Issuing Officer [Signature]  
Date of Issue 5/4/17 Issue No 20  
© 1998 Thames Valley Police

[Redacted]  
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1922  
REMOVED DATA  
ACCESS REQUEST  
MOHAMMAD ASHRAF  
@ ARKIANIA News  
733A OXFORD ROAD  
[Redacted] MOHAMMAD  
ASHRAF

**Narancic, Peter**

---

**From:** Narancic, Peter  
**Sent:** 11 December 2017 10:38  
**To:** Narancic, Peter  
**Subject:** Ariana News [OFFICIAL]

**From:** Menghis Semhar [<mailto:Semhar.Menghis1@homeoffice.gsi.gov.uk>]  
**Sent:** 11 December 2017 10:34  
**To:** Narancic, Peter; Wilkinson Matthew  
**Subject:** RE: Review Application - Reading Borough Council - Ariana News, 733 Oxford Road, Reading [OFFICIAL]

This is an EXTERNAL EMAIL. STOP. THINK before you CLICK links or OPEN attachments.

Hi,  
Please see our representation below:

A visit was conducted on 04/10/2017 of Ariana News, 733 Oxford Road, Reading, RG30 1JA.

Entry was gained under S.179 of Licensing Act 2003 (as amended by 2016 IA) at 19.47 hours. One male who was behind the counter when the team entered moved away and was spoken to by a TVP Officer who conducted a PNC check and found him to be a possible immigration absconder. Checks showed that the male now had ILR – although the picture on the Home Office database was of a different person. The male then gave his real details and was found to be an illegal entrant. He was served and detained as an illegal worker, consequently a civil penalty referral notice was served on the business. En route to Harmondsworth Detention Centre the male became disruptive and was subsequently transported there in a Police vehicle. At Harmondsworth he complained of chest pains and was taken to A&E by ambulance with officers also in attendance. After being given the all clear he was taken back to Harmondsworth without incident.

A penalty has been raised for £10,000 with the appeal rights exhausted date on 24/12/2017.

Kind regards

Semhar Menghis

**Home Office**

Interventions and Sanctions Directorate | The Central Team | Immigration Enforcement

Apollo House | 3rd Floor | 36 Wellesley Rd | Croydon | CR9

2BY ☎: 02087608134 ✉: [Semhar.menghis1@homeoffice.gsi.gov.uk](mailto:Semhar.menghis1@homeoffice.gsi.gov.uk)

Classification: OFFICIAL

**Application for the review of a Premises Licence by Reading Borough Council Licensing**

**Ariana News, 733 Oxford Road, Reading**

**28<sup>th</sup> November 2017**

This relates to an application for the review of a premises licence submitted by Reading Borough Council's Licensing Service on the 14<sup>th</sup> November 2017.

The Trading Standards Service as a responsible authority under the Licensing Act 2003 support the action being taken and also take this as an opportunity of submitting additional information for inclusion at the review.

The Trading Standards Service has had a number of interactions with the Premises Licence Holder during the course of the past 10 years.

In 2009, the Trading Standards Service reviewed the premises licence of Ariana News, 733 Oxford Road, Reading due to the premises failing two test purchase exercises. The licence was suspended for a period of seven days and conditions were attached to the licence.

In 2013, Ariana News 733 Oxford Road, Reading was visited during the course of a programme of inspections to check the authenticity and legality of alcohol found on licensed premises. A total of 84 bottles of spirits were seized after being identified as "duty diverted". Additionally, 6 bottles of Bollinger Champagne were seized due to poor quality labelling and confirmed as counterfeit by the trademark holder. Following an investigation, Mr Sayed Ashrafi was issued with a warning letter for the offences.

In August 2016, a complaint from a member of the public was received alleging that cigarettes he had bought from Ariana News, 733, Oxford Road, Reading, were counterfeit. Officers visited in September 2016 and 11 packets of Marlboro Gold Cigarettes (20s) were seized as they were believed to be counterfeit.

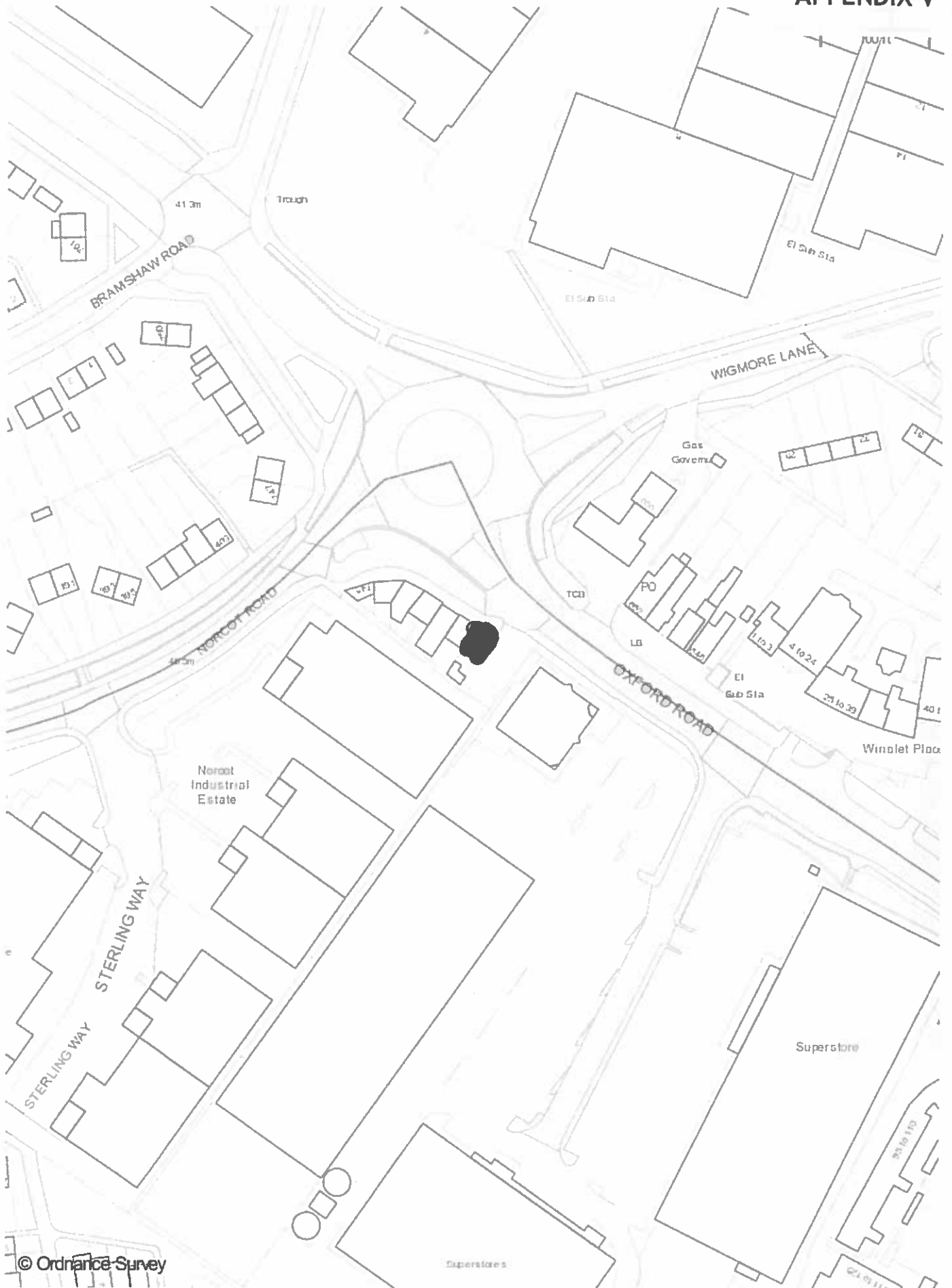
The history of transgressions is indicative of a business that does not take its legal and regulatory responsibilities seriously and undermines the Licensing Act 2003 objectives, particularly that of crime and disorder.

The Premises Licence Holder is an experienced individual and it is difficult not to draw the conclusion that he conduct is negligent at best but more likely wilful and the latest incident relating illegal workers is another example of a calculated approach to gain an unfair advantage over competitors and, more insidiously, take advantage of vulnerable workers. The Trading Standards Service supports the recommendation made by the Licensing Service.

Signed:

A handwritten signature in black ink, appearing to be 'Sayed Ashrafi', written over a light blue horizontal line.

Classification: OFFICIAL



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Borough Council  
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LICENCE NO - 'LP7000331'

Record Number	Surname	Forename	Expiry date	Image Captured By	ImageCaptured	DateCreated
328	ASHRAF	MOHAMMED	09/10/2015	ADMIN	<input checked="" type="checkbox"/>	10/10/2005

**Record Number** 328

**Surname** ASHRAF

**Forename** MOHAMMED SEYED

**Expiry date**  09/10/2015

**Image Captured By** ADMIN

**ImageCaptured**

**DateCreated**  10/10/2005


**Last Amended**  17/10/2017

**General Info** 733A OXFORD ROAD, READING RG30 1JA COA, 17.10.17

**Address** [REDACTED]

**Start Date**  10/10/2005

**Licence No** LP7000331



ibXes

**LICENSING ACT 2003 PREMISES LICENCE - PART A**

Reading Borough Council being the Licensing Authority under the above Act,  
HEREBY GRANT a PREMISES LICENCE as detailed in this licence.

<b>Premises Licence Number</b>	<b>LP9000429</b>
--------------------------------	------------------

**Premises Details**

<b>Trading name of Premises and Address</b>	
Ariana News 733 Oxford Road Reading Berkshire RG30 1JA	
<b>Telephone Number</b>	<b>0118 942 7429</b>

<b>Where the Licence is time limited the dates the Licence is valid</b>
N/A

**Licensable Activities**

<b>Licensable Activities authorised by the Licence</b>
Sale of Alcohol by Retail - Off the Premises

**Authorised Hours for Licensable Activities**

<b>The times the licence authorises the carrying out of licensable activities</b>	
<b>Hours for the Sale by Retail of Alcohol</b>	
Monday	from 0600hrs until 2300hrs
Tuesday	from 0600hrs until 2300hrs
Wednesday	from 0600hrs until 2300hrs
Thursday	from 0600hrs until 2300hrs
Friday	from 0600hrs until 2300hrs
Saturday	from 0600hrs until 2300hrs
Sunday	from 0600hrs until 2300hrs

**Opening Hours**

<b>Hours the Premises is Open to the Public</b>	
Monday	from 0600hrs until 2300hrs
Tuesday	from 0600hrs until 2300hrs
Wednesday	from 0600hrs until 2300hrs
Thursday	from 0600hrs until 2300hrs
Friday	from 0600hrs until 2300hrs
Saturday	from 0600hrs until 2300hrs

**Alcohol**

Where the licence authorises supplies of alcohol whether these are on and/or off supplies

Sale of Alcohol by Retail - Off the Premises

**Premises Licence Holder**

Name, (registered) address of holder of premises licence

Name: Arana UK Ltd

Address: 37-38 Marshall House, 124 Middleton Road, Morden, Surrey, SM4 6RW

**Additional Details**

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

Name: Mr Mohammad Seyed Ashrafi

Address: [REDACTED]

**Designated Premises Supervisor**

Personal Licence number and issuing authority of personal licence held by the designated premises supervisor where the premises licence authorises the supply of alcohol

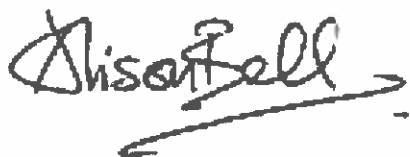
Personal Licence Number: LP7000331

Issuing Authority: Reading Borough Council

This Licence shall continue in force from 16/10/2017 unless previously suspended or revoked.

Dated: 27 October 2017

Head of Environment & Consumer Services



## **Mandatory Conditions**

### **Supply of Alcohol**

#### **To be applied where a premises licence authorises the supply of alcohol**

- 1 No supply of alcohol may be made under the premises licence:-
  - a) at a time when there is no designated premises supervisor in respect of the premises licence, or
  - b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended
- 2 Every supply of alcohol made under the premises licence must be made or authorised by a person who holds a personal licence.

### **Film Exhibitions**

#### **To be applied only where a premises licence or club premises certificate authorises the exhibitions of films**

- 1 The admission of children to any exhibition of any film must be restricted in accordance with section 20 of Part 3 of the Licensing Act 2003.
- 2 In the case of films which have been classified by the British Board of Film Classification admission of children to films must be restricted in accordance with that classification.
- 3 In the case of films which have not been classified by the British Board of Film Classification, admission of children must be restricted in accordance with any recommendation made by the Licensing Authority.

### **Door Supervisors**

**To be applied where a premises licence or club premises certificate includes a condition that any person must be at the premises to carry out a security activity. [Except premises with a premises licence authorising only plays or films or premises used exclusively by a club].**

- 1 Each individual present at the licensed premises to carry out a security activity must be licensed by the Security Industry Authority.



- 1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- 2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
  - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

**Supply of Tap Water (commencement date 01/10/2014)**

1. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

**Age Verification Policy (commencement 01/10/2014)**

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

**Drink Measurements (commencement date 01/10/2014)**

1. The responsible person must ensure that—
  - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml;
  - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
  - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

### Minimum Permitted Pricing (commencement 28th May 2014)

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1—

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) “permitted price” is the price found by applying the formula—

$$P = D + (D \times V)$$

where—

(i) P is the permitted price,

(ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from the paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.

4. (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

## Conditions Consistent with the Operating Schedule

### General

1. A record of refusals will be maintained, showing details of all incidents when the sale of alcohol is refused.

2. The record of refusals will be retained for at least six months and will be available for inspection by the police or the licensing authority upon request.

3. All staff will be trained in relation to the legal restrictions relating to sales of alcohol and the terms of this licence prior to commencing employment and will receive refreshed training at intervals of no less than 6 months. A record of this training will be kept for 12 months.

(a) The premises shall at all times operate a Challenge 25 policy to prevent any customer who attempts to purchase alcohol and who appears to the staff member to be under the age of 25 years making a purchase without having first provided identification. Only a valid British drivers 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;

(b) Notices advertising the Challenge 25 policy shall be displayed in prominent positions on the premises;

(c) Persons authorised to sell alcohol shall be trained to BIIAB Level 1 Award in Responsible Alcohol Retailing (ARAR) or any other similarly recognised nationally approved accreditation curriculum, within two months for existing employees and subsequently for new employees;

(d) The Designated Premises Supervisor or their nominee shall be an active member in the South & East Reading Local Pubwatch scheme if one is operative in the area;

(e) Notices shall be prominently displayed at all exit points to advise customers that the area surrounding the premises is an Alcohol Exclusion Zone.

### Prevention of Crime & Disorder

1. CCTV will be present in the premises. The CCTV will be kept in good working order and the recordings made will be retained for at least 7 days

**Conditions attached after a hearing by the Licensing Authority**

- (a) The premises shall at all times operate a Challenge 25 policy to prevent any customer who attempts to purchase alcohol and who appears to the staff member to be under the age of 25 years making a purchase without having first provided identification. Only a valid British drivers 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;
  
- (b) Notices advertising the Challenge 25 policy shall be displayed in Prominent positions on the premises;
  
- (c) Persons authorised to sell alcohol shall be trained to BIIAB Level 1 Award in Responsible Alcohol Retailing (ARAR) or any other similarly recognised nationally approved accreditation curriculum, within two months for existing employees and subsequently for new employees;
  
- (d) The Designated Premises Supervisor or their nominee shall be an active member in the local Pubwatch scheme if one is operative in the area;
  
- (e) Notices shall be prominently displayed at all exit points to advise customers that the area surrounding the premises is an Alcohol Exclusion Zone.

**Annex 4**

**Plans**

As attached plan Dated 29/12/2009