

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

Our Ref: Ics.c/agenda

Your Ref:

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9 March 2018

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

NOTICE OF MEETING - LICENSING APPLICATIONS SUB-COMMITTEE 2 - THURSDAY 29 MARCH 2018

A meeting of Licensing Applications Sub-Committee 2 will be held on Thursday 29 March 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 - TODAYS LOCAL, BASINGSTOKE ROAD, READING WHITLEY 1

To consider an application for the review of the Premises Licence in respect of Todays Local, 441 Basingstoke Road, Reading.

LICENSING ACT 2003 HEARING ON THURSDAY 29TH MARCH 2018 AT 0930HRS

APPLICATION FOR THE REVIEW OF A PREMISES LICENCE

1. Premises:

Today's Local
441 Basingstoke Road
Reading
Berkshire
RG2 0JF

2. Applicants Requesting Review:

Home Office Immigration Enforcement

3. Grounds for Review

Immigration Enforcement carried out a joint visit to the premises at 441 Basingstoke Road with colleagues from Thames Valley Police and Reading Borough Council's Licensing team on 8th June 2017. One of the persons found working at the premises was found to be an illegal worker as he was found to overstayed his visa. The offence of employing a person at a licensed premises is listed in the Secretary of State's Guidance to the Licensing Act 2003 as one of the most serious crimes that can lead to revocation of a licence - even in the first instance. The Immigration Act 2016 amended the Immigration, Asylum and Nationality Act 2006 which makes the employment of illegal workers an offence. The Immigration Act 2016 also inserted paragraph 24B into the Immigration Act 1971 making it an offence for a person disqualified from working in the UK to do so. Both the employer and employee in this matter have therefore committed serious criminal offences on a licensed premises.

Upon being questioned by Immigration officers, the illegal worker stated he had worked at the premises since January 2014; worked 6-7 days a week from 0700hrs to 1700hrs and was paid £5.50 per hour. This is far below the national minimum wage which is also a criminal offence. He stated that he had been working at the premises before the current licence holder had taken over the premises and had never been asked to provide any right to work documents.

The review application states that there is an outstanding immigration penalty of £15,000 which remains unpaid.

Representations received in support of the review also detail findings of counterfeit cigarettes and alcohol found during visits in April 2015. These are also listed in the Secretary of State's Guidance to the Licensing Act 2003 as serious criminal offences where revocation, even in the first instance, should be seriously considered. Representations received in support of the review also highlight breaches of licence conditions which are offences under Section 136 (1) of the Licensing Act 2003.

4. Date of receipt of application: 24th January 2018

A copy of the review application received is attached at [Appendix RF-1](#)

5. Date of closure of period for representations: 21st February 2018

6. Representations received:

During the 28 day consultation period, representations were received in regard to this review application from:

Reading Borough Council Licensing team which is attached at [Appendix RF-2](#)

Thames Valley Police which is attached at [Appendix RF-3](#).

Reading Borough Council Trading Standards team which is attached at [Appendix RF-4](#)

7. Background

The Premises Licence Holder is stated as: Gurmit Singh Gurwara

The Designated Premises Supervisor is: Gurmit Singh Gurwara

Mr Gurmit Singh Gurwara has held both of the above positions since 14th October 2014

The premises currently has the benefit of a premises licence for the activities and hours detailed below:

Sale of alcohol by retail (off the premises)

Monday to Saturday from 0700hrs until 2300hrs

Sunday from 0900hrs until 2230hrs

A copy of the current licence is attached at [Appendix RF-5](#)

8. Licensing Objectives and Reading Borough Council's Licensing Policy Statement

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:-

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

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.

9. Power of Licensing Authority on the determination of a Review

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:

1. take no further action
2. to issue formal warnings to the premises supervisor and/or premises

- licence holder
3. modify the conditions of the licence (including, but not limited to hours of operation of licensable activities)
 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.

9.38 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.

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

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.

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.

15. Enforcement

15.1 General

15.1.1 Reading Borough Council and Thames Valley Police have established a joint enforcement approach. The protocols provide for the targeting of agreed problem and high-risk premises, with a lighter approach applied to well managed and maintained premises.

15.3 Inspections

15.3.1 The Authority will carry out routine inspections at all premises where a premises licence is in force. In addition, where a complaint or an application for a review of a premises licence is received, the premises will be inspected. The Council and Thames Valley Police will continue to liaise and may carry out joint inspections of premises. This partnership approach is intended to maximise the potential for controlling crime and disorder at licensed premises and ensure compliance with relevant licensing conditions.

Case Law

The case law of East Lindsey District Council v Abu Hanif is attached for information at [Appendix RF-6](#)

Licensing Authority: Reading Borough Council
Reference: AL09154

**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 Semhar Menghis (On behalf of Home Office Immigration Enforcement)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description TODAY'S LOCAL 441 BASINGSTOKE ROAD	
Post town Reading	Post code (if known) RG2 0JF

Name of premises licence holder or club holding club premises certificate (if known) Gurmit Singh Gurwara [REDACTED]
--

Number of premises licence or club premises certificate (if known) LP9000337

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

Home Office Immigration Enforcement Alcohol Licensing Team Lunar House 40 Wellesley Road Croydon CR9 2BY
Telephone number (if any)
E-mail address (optional) Alcohol@homeoffice.gsi.gov.uk

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

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

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

We have grounds to believe the license holder will fail to meet the licensing objectives of prevention of crime and disorder, as illegal working has been identified at this premises.

Section 36 and Schedule 4 of the Immigration Act 2016 (the 2016 Act) amended the Licensing Act 2003 (the 2003 Act) to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017. The intention is to prevent illegal working in premises licensed for the sale of alcohol or late night refreshment.

The Home Secretary (in practice Home Office (Immigration Enforcement)) was added to the list of Responsible Authorities (RA) in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences and applications to vary a Designated Premises Supervisor (DPS)), and in some limited circumstances personal licence applications. In carrying out the role of responsible authority, Home Office (Immigration Enforcement) is permitted to make relevant representations and objections to the grant of a licence or request a review of an existing licence as a responsible authority where there is concern that a licence and related licensable activity is prejudicial to the prevention of immigration crime including illegal working

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

On 08/06/2017 entry was gained to Today's Local, 441 Basingstoke Road, RG2 0JF under S.179 of Licensing Act 2003 (as amended by 2016 IA) at 17.23 hours. 4 members of staff were encountered, 3 were cleared. The last member of staff was found to be an overstayer.

The offender was encountered working behind the counter when officers entered the shop. He was interviewed and admitted to having worked at the shop since January 2014. He worked 6 days per week, sometimes 7 but normally got a day off. He worked from 0700 – 1700 and was being paid £5.50 per hour. His duties were till operator and shelf stacker. He confirmed the name of his boss. He stated that he was already working at the shop when he took over and he had never asked to see any identification.

The boss was interviewed by another member of the team. He stated that the offender has been working at the shop a couple of years and that his role is shop worker, shelves, tills. When asked how much he pays the offender, he stated minimum wage, weekly. When asked what documentation the offender showed, he stated he had seen a copy of his passport with a valid visa. He stated that he was responsible for employing the offender and he pays him.

A civil penalty has been issued for £15,000 which is unpaid.

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
<input type="text"/>	<input type="text"/>	<input type="text"/>

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

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 EM

Date 24/01/18

Capacity **Responsible**
Authority.....
.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6) Alcohol Licensing Team Lunar House 40 Wellesley Road	
Post town Croydon	Post Code CR9 2BY
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) Alcohol@homeoffice.gsi.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.

Name of Officer	Peter Narancic Senior Licensing and Enforcement Officer						
Type of Application	Review of a Premises Licence - Licensing Act 2003						
Name of Premises	Todays Local Store						
Address	441 Basingstoke Road, Reading, RG2 0JF						
Licensable Activities	Sale of Alcohol						
Finish Times	Mon	Tue	Wed	Thu	Fri	Sat	Sun
	x	x	x	x	x	x	x
Content of Application:							
<p>On 24 January 2018 Semhar Menghis on behalf of the Home Office Immigration Enforcement Service submitted an application to review the premises licence of Todays Local Store, 441 Basingstoke Road, Reading RG2 0JF regarding the failure to uphold the licensing objectives, namely the Prevention of Crime and Disorder.</p>							
Licensing Officer's Comments:							
<p>The Licensing Authority is making this representation in support of Immigration Enforcement Service in relation to the review of the premises licence for Todays Local Store.</p> <p>The Immigration service has applied for the review of the premises licence for Todays Local, 441 Basingstoke Road, Reading. The premises is located in a small parade of shops and is surrounded by residential dwellings. The current premises licence and designated premises supervisor is Mr Gurmit Singh Gurwara. The premises currently has a licence to sell alcohol from 0700hrs until 2300hrs on a Monday to Saturday and 0900hrs until 2230hrs on a Sunday. Mr Gurwara became the sole premises licence holder and designated premises supervisor in October 2014.</p> <p>The Licensing Authority believe that this review is necessary given an illegal worker was found on the premises and the premises history regarding non-compliance in regard to conditions and Licensing law and criminal activity involving illegal tobacco and alcohol since 2015 and would invite the Licensing Committee to take the steps it deems appropriate and proportionate to promote the licensing objectives.</p>							
							16

Reading Borough Council's Licensing Policy statement clearly states that its Vision is "To promote Reading as a safe and healthy environment in which responsible operators provide lawful and responsible facilities for the enjoyment of the Town's residents and visitors".

The statement of Licensing Policy is underpinned by four core objectives:

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

The Licensing team in partnership with Thames Valley Police, Trading Standards and the Home Office Immigration Enforcement Service visit and inspect licensed premises within Reading. Particular attention is paid to premises where there have been previous incidents where the Licensing Objectives have not been supported.

Reading Borough Council Licensing team have been working closely with Reading Borough Council Trading Standards to identify and tackle Borough wide issues of illegal/smuggled tobacco and duty diverted/counterfeit alcohol. This is a growing problem within Reading and is placing residents of Reading, who use local off licences, in severe danger of picking up severe, potentially life threatening injuries, due to the nature of the smuggled products stocked in these premises.

On 9th April 2015, Reading Borough Council Trading Standards and Thames Valley Police attended Today's Local at 441 Basingstoke Road with a sniffer dog. A quantity of illegal tobacco was found and seized. The items were found in the tobacco store cupboard. The premises licence holder was written to by Reading Borough Council Trading Standards warning him of the consequences if further counterfeit/smuggled goods were found on the premises. A copy of a letter dated 29th April 2015 can be found at [Appendix PN1](#). Irrespective of the small quantity found - it was found on a licensed premises. The Secretary of State's Guidance on the Licensing Act 2003 (Section 11.27) clearly states that certain criminal activity taking place on licensed premises should be taken particularly seriously - this includes smuggled/illegal tobacco being sold or stored on the premises. No reply was received.

On 14th April 2015, Reading Borough Council Trading Standards attended the premises again and bottles of smuggled/duty diverted alcohol were found and seized. Trading Standards have been working closely with the Licensing team, HMRC, Thames Valley Police and the International Federation for Spirit Producers to attempt to combat the increasing trade in counterfeit/duty diverted alcohol being sold in off licences within Reading. The alcohol seized was as follows:

10 x 35cl Smirnoff Vodka
2 x 1ltr Glens Vodka
1 x 70cl High Commissioner

It has been confirmed by the International Federation for Spirit Producers - who have considerable expertise in the area of counterfeit/duty diverted spirits - that the ten bottles of Smirnoff Vodka were duty diverted. The bottles were found to have self adhesive labels attached to them and the product is not currently manufactured in the UK with these labels attached. It is confirmed that the labels are counterfeit and had been stuck onto bottles to give the appearance that the UK duty has been paid. Further, confirmation has been received from Loch Lomond Group/Glen Catrine Warehouse that the Glen's Vodka and High Commissioner were also duty diverted. Again, these products were found with adhesive labels over the bottles which implies that the stock is not meant to be sold in the UK. A copy can be found at Appendix PN2.

All of the seized alcohol was confirmed by industry experts to be duty diverted/smuggled. Again, Section 11.27 of the Secretary of State's Guidance on the Licensing Act 2003 states that smuggled alcohol stored and sold on a licensed premises is a criminal offence that should be taken particularly seriously.

At no time has Mr Gurawa, the premises licence holder been able to account for where the stock was purchased from. At no time has Mr Gurwara been able to provide any receipts or documentation as to where the stock was purchased from. This raises a further concern in relation to public safety. If the premises licence holder is unable to account for where the stock has come from and is willing to trade in illegal/smuggled goods, then it is clear that he has no idea what is actually inside the bottles he is purchasing. He is, in effect, placing on his shelves bottles of spirits that could contain hazardous substances that are not normally found in alcohol. These hazardous substances could be industrial strength alcohol, domestic decorating products and/or liquid nitrogen. A drink containing under temperature, unevaporated, liquid nitrogen, for example, can lead to frostbite or cryogenic burns as seen in 2012 when a young lady from Lancashire had to have her stomach removed to save her life due to burning of the liquid nitrogen. Again, irrespective of the quantity of duty diverted/smuggled alcohol found in the premises, the premises licence holder is unable to account for where it has come from and what is contained within it, therefore placing members of the public at severe risk of life threatening injuries.

On 29th May 2015, Reading Borough Council Licensing team visited the premises to conduct an inspection and to ensure that the conditions on the premises licence were being adhered to. (The same illegal male worker found later in 2017 was found in charge during this visit). As the Licensing officer was not aware of this fact, the workers' details were not passed to the Immigration Service.

During the inspection, the following issues were found:

The incident register was not being used as no notes had not been made regarding the visits made by Trading Standards in April 2015. This is a breach of condition 1 of the premises licence issued under the Licensing Act 2003.

The CCTV was not fully operational and recordings were only available for 11 days. This is a breach of Condition 4 of the premises licence issued under the Licensing Act 2003.

It could not be demonstrated that all members of staff were trained to the BIIAB Level 1 standard in Responsible Alcohol Retailing. This is a breach of Condition 6(b) of the premises licence issued under the Licensing Act 2003.

Records of training were inadequate and did not state what any of the employees had been trained on. This is in breach of Conditions 6(a) and 6(c) of the premises licence issued under the Licensing Act 2003. These are breaches of Section 136 (1) of the Licensing Act 2003.

A copy of the letter detailing these breaches of the premises licence can be found at Appendix PN3. A copy of the Licensing inspection form (signed by the illegal worker) can be found at Appendix PN4. No reply was received.

The premises were visited on 8 June 2017 in a joint operation between the Licensing team and officers from Thames Valley police and the Home Office Immigration Enforcement team to detect immigration offences that may be being committed on licensed premises which therefore undermine the prevention of crime and disorder licensing objective. In addition an inspection was conducted to ensure that the conditions on the premises licence were being adhered to. Mr Gurwara was present.

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

1. A male, who was encountered working illegally in the store and was escorted off the premises. According to Reading Borough Council records he had been at the store since 2014. (As mentioned previously, this is the same male found working in the store in 2015).

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 local community.

Additionally, the employer or licence holder is potentially exploiting vulnerable people by employing them at these licensed premises.

Licensing issues found:

1. Part B summary - Not all pages were being displayed.
2. The premises plan was not available (Relating to Part A of the Premises licence).
3. Mr Gurwara could not name the four licensing objectives.

A copy of the letter detailing these issues can be found at [Appendix PN5](#).

No reply was received.

The Licensing team is very concerned that the Premises licence holder has clearly failed to uphold the licensing objectives since he took control in 2014, despite several intervention from the Responsible Authorities.

In summary, the offence 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 can also be seen with the premises storing bottles of counterfeit, illegal alcohol and alcohol on the premises. 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.

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.

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 Todays Local, 441 Basingstoke Road, Reading, should be revoked.

Date Received	24.01.2018	Date Due	21.02.2018
	Peter Narancic	Date	20.02.2018



Alison Bell
Director of Environment and
Neighbourhood Services
Civic Offices, Bridge St, Reading, RG1
2LU
☎ 0118 937 3787
Fax: 0118 9372557

Gurmit Singh Gurwara
Todays Local Store
441 Basingstoke Road
Reading
RG2 0JF

Our Ref: 051781

Direct: ☎ 0118 9372477
e-mail: ian.savill@reading.gov.uk

29 April 2015

Your contact is: Ian Savill - Regulatory Services

Dear Gurmit Singh Gurwara

**Illegal Tobacco Detection visit on 9th April 2015
4 x Marlboro Gold**

I refer to our visit with an illegal tobacco detection (sniffer) dog on the 9th April 2015, where a small quantity of illegal tobacco was found in the tobacco store cupboard.

A discussion with the member of staff on duty at the time indicated that the tobacco was for personal use. I am giving you a considerable benefit of the doubt in terms of the plausibility of that explanation but, if they were for personal use, I would strongly advise you store them out of your retail premises.

You will be revisited in the future and if *any* quantity of illegal tobacco is detected on your premises for a second time, you are likely to face more formal action, which could include prosecution or a review of your licence to sell alcohol. You may also find that your existing tobacco supplier will refuse to continue to supply your business with legitimate tobacco products.

This letter will be held on record and may be referred to in any future interactions with you or your business. If you would like any clarification on the above, or to discuss this matter further, please contact me using the address options above.

Yours sincerely

Senior Trading Standards Officer

French, Richard

To: Knight, Matthew
Subject: RE: Reviews

From: Knight, Matthew
Sent: 04 June 2015 13:14
To: French, Richard
Cc: Savill, Ian; Evans, Paul
Subject: RE: Reviews

Hi Richard

441 Basingstoke road

Visited 14/4/2015

10x35cl Smirnoff Vodka
2x1ltr Glens Vodka
1x 70cl High Commissioner

Email from IFSP below:

'You asked me to inspect a number of bottles of spirits and to give my professional opinion based on my experience of examining counterfeit bottles of spirits in support of UK Law Enforcement. I concluded that none of the bottles appeared to be counterfeit. However, when I examined some of the bottles I came to the following conclusions:

10 x 35cl Smirnoff Vodka - These bottles have self-adhesive rear labels and there are signs that these labels have been stuck onto existing labels. This product is not currently manufactured with self adhesive labels and it is very likely that the rear labels are counterfeit and have been stuck onto a genuine bottle. In my experience this type of label is sometimes affixed to non UK products in order to give the appearance that UK duty has been paid'.

Email from Tom Taylor - Glen Catrine

From your description and the attached photographs, the back labels on the bottles are counterfeit and were not applied by our company.

We never used self-adhesive labels on Glen's Vodka and High Commissioner when these bottles were produced.

All genuine bottles have lot codes that we apply which are etched into the glass by laser or printed by Ink-jet at the time of bottling. The codes on the 70cl and Litre bottles are located around 10mm up from the base and are in the format for example L3/162/14 10:30. L3 = our production line No.3, 162 = the Julian day code for 11th June, 14 = 2014, 10:30 is the actual time of bottling. The laser codes are sometimes quite difficult to see depending on the light conditions.

All the alcohol was ok the rear labels were counterfeit to imply that duty had been paid on the product this is done through smuggling into the country or diverting stock that is meant for sale in Europe so it never reaches the intended location and actually stays in the UK , an obliteration sticker is used to cover the duty stamp if the alcohol is destined for sale outside of the UK if this is removed it leaves a sticky residue on the label indicating that a removal has taken place and again duty has not been paid.

All of the seized alcohol has been confirmed of having counterfeit rear labels by Industry experts.

If you need anything else please let me know

Thanks

Matthew Knight
Community Alcohol Partnership Officer
Trading Standards
Directorate of Environment & Neighbourhood Services

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

0118 937 2263 (ext 72263)
[REDACTED]

[Website](#) | [Facebook](#) | [Twitter](#) | [YouTube](#)





Mr Gurmit Singh Gurwara

Southall,
Middlesex,

Alison Bell

Director of Environment and
Neighbourhood Services

Civic Offices, Bridge St, Reading,
RG1 2LU

☎ 0118 937 3787

Our Ref: LIC/PN/EVU 051878

Your Ref:

Direct: ☎ 0118 9372269

e-mail: peter.narancic@reading.gov.uk

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12 June 2015

Your contact is: Mr Peter Narancic, Licensing, Environment and Neighbourhood Services

Dear Mr Gurwara,

Licensing Act 2003

Premises Licence Number - LP3000506

Name of Premise - Todays Local Store

Address - 441 Basingstoke Road, Reading

On Friday 29 May 2015, I visited your premises with my colleague, Mr Richard French to ensure you are complying with the above premises licence and advise on any matters that may arise during the inspection. As you were not there, we spoke with and advised your employee, Mr [REDACTED]

During my inspection, I found the following breaches of your premises licence conditions and Licensing law, that require your urgent attention as outlined below.

1. Breach of condition 1, you failed to record details of visits made by Reading Borough Council's trading standards officers and Thames Valley Police officers'. Your condition clearly states all incidents which impact on any of the four licensing objectives shall be recorded in a register kept at the premises for this purpose. The names of the person recording the information and those members of staff who deal with any incident shall also be recorded. Where known, any offenders name shall also be recorded.
2. Breach of condition 4, as your CCTV system does not store recordings for a minimum of 31 days. Your employee was only able to show us 11 days of recording. I did not find any records to show you contacted Reading Borough Council to explain that you CCTV was not operating correctly.
3. Breach of condition 6(b) as you failed to produce records to show all staff authorised to sell alcohol in your premises are accredited to at least the BIIAB Level 1 Award in Responsible Alcohol Retailing (ARAR) or any other similarly recognised nationally approved accreditation curriculum, within four weeks for existing and subsequent new employees.

4. Breach of condition 6(a) and 6(c) as you failed to keep accurate records of the content of staff training, and commencement of employment records.

Crime and Disorder

The Licensing Authority has been informed by Reading Borough Council's Trading Standards Officers, working with Thames Valley Police they have found a quantity of illegal smuggled/duty not paid tobacco and alcohol on your premises. Under the Licensing Act these are criminal offences and therefore a clear breach of the licensing objective of crime and disorder, and as you are aware, may have very serious implications for your premises licence.

This letter is sent and should be received as a warning against any future breaches of Licensing law, the terms and conditions of your premises licence. Should any future breaches occur, formal action will be considered, which may result in an unlimited fine and/or 6 months imprisonment.

Recommendations

Please ensure that your fire fighting equipment is inspected annually and all fire exits kept clear of obstructions at all times. Ensure your fire risk assessment is up to date and carry out any necessary staff re-training to ensure that your staff are fully aware of all issues regarding fire safety in your premises. For more information, go to www.fire.gov.uk/Workplace+safety/WhatTheLawRequires/

Please ensure that your health and safety risk assessment is up to date. For more information, go to <http://www.hse.gov.uk/business/policy.htm>

Please ensure that above items are actioned within the next seven days.

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

Yours faithfully

Mr Peter Narancic
Senior Licensing & Enforcement Officer

Risk:

check if scanned



Wang

12/6

PREMISES LICENCE - RECORD OF INSPECTION

Inspection Worksheet: EVU No.....

Business Name:	Today's Local	PH/Off Licence/Restaurant/Hotel/Other
Address:	44 Basingstoke Rd Reading, Berkshire RG2 0JF	Licence No LP 3000506
Type:	Premises Licence/Club Premises Certificate/Other (please specify)	

Licence inspection: Is the Summary on Display? Yes / No (current copy)

Is the Licence/Conditions held at Premises? Yes / No (current copy and plan)

Premises Licence Holder: Mr Gurmit Singh DPS (if applicable) Mr Gurmit Singh
 Is the DPS as per Licence? Yes / No / NA How often is DPS at premises N/A
 Is the DPS present? Yes / No / NA

Person in charge: [Redacted] Person Authorised in absence: Yes / No
 How Authorised: verbal/written verbal / written → subject to training co. etc
 Age verification policy Yes / No s57 Authorisation Yes / No

LICENSABLE ACTIVITIES carried on:

Regulated Entertainment: ~~Plays / Films / Indoor Sporting Events / Boxing or Wrestling / Live Music / Recorded Music / Performances of Dance / Anything Similar~~

Entertainment Facilities: Making Music / Dancing / Anything Similar

Provision of Late Night Refreshment: Yes / No Supply of Alcohol: On / Off / Both

Capacity (if applicable): * N/A

Does the Licence/Certificate permit the Licensable Activities carried on: Yes/No

AWARENESS OF LICENSING OBJECTIVES BY PREMISES LICENCE HOLDER / DPS: A n/a B C D
 (Key = A - Very Good, B - Good, C - Fair, D - Poor) DPS Not Present

CONDITIONS OF LICENCE / CERTIFICATE:

The following conditions of the Licence were NOT being complied with:

1. [Redacted] - certificate + Mr Gurmit
2. inadequate training records - all every calendar
3. incident book not updated with TPO/TI visits
4. CCTV - see below
5. employment start dates not recorded
6. No ID No SALE
- 7.

Is signage clearly visible in respect of 'No under age sales' Yes/No 18/21/25

Do you have a proof of age scheme? Yes / No

Details:

Have staff been trained in the operation of the proof of age scheme? Yes / No → inaccurate

How is this recorded? Refreshers? records

Do you have a refusals log? book/till/ other Yes/No

Is the refusals log actively used? Yes/No

Last entry date: Last 4 weeks

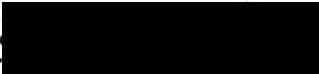
Additional comments: CCTV time/date/signage/storage period condition? Yes/No Pub Watch Attendance Yes/No
 Exposure of Alcohol policy/safeguards/training/signage
 * CCTV ✓ * ID 7 read for 20 days / work time

check DPS Address + personal licence

Details of Any Matters identified during the inspection requiring your attention:	Legal Requirement/ Recommendation

Following an inspection of the above premises, I can confirm that the overall inspection outcome was:-
 Compliant Non Compliant

INSPECTING OFFICER(S) Peter Narancic SIGNATURE 

PREMISES REPRESENTATIVE  SIGNATURE

DATE OF INSPECTION 29/5 2014/5


To discuss the above findings or request further advice please contact the above officer on 0118 9373762, option 3



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.

Premises Licence Number	LP3000506
--------------------------------	------------------

Premises Details

Trading name of Premises and Address	
Todays Local Store 441 Basingstoke Road Reading RG2 0JF	
Telephone Number	

Where the Licence is time limited the dates the Licence is valid
N/A

Licensable Activities

Licensable Activities authorised by the Licence
Sale of Alcohol by Retail - Off the Premises

Authorised Hours for Licensable Activities

The times the licence authorises the carrying out of licensable activities	
Hours for the Sale by Retail of Alcohol	
Monday	from 0700hrs until 2300hrs
Tuesday	from 0700hrs until 2300hrs
Wednesday	from 0700hrs until 2300hrs
Thursday	from 0700hrs until 2300hrs
Friday	from 0700hrs until 2300hrs
Saturday	from 0700hrs until 2300hrs
Sunday	from 0900hrs until 2230hrs
Good Friday	from 0800hrs until 2230hrs
Christmas Day	from 1200hrs until 1500hrs and 1800hrs until 2230hrs

Opening Hours

Hours the Premises is Open to the Public	
Monday	from 0700hrs until 2300hrs
Tuesday	from 0700hrs until 2300hrs
Wednesday	from 0700hrs until 2300hrs
Thursday	from 0700hrs until 2300hrs
Friday	from 0700hrs until 2300hrs
Saturday	from 0700hrs until 2300hrs
Sunday	from 0700hrs 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: Mr Gurmit Singh Gurwara

Address: [REDACTED] Southall, Middlesex, UB2 5DG

Additional Details

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

Name: Mr Gurmit Singh Gurwara

Address: [REDACTED], Southall, Middlesex, UB2 5DG

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

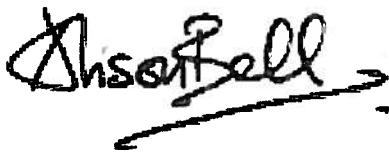
Personal Licence Number: 04152

Issuing Authority: London Borough of Ealing

This Licence shall continue in force from 29/10/2014 unless previously suspended or revoked.

Dated: 29 October 2014

Head of Environment & Neighbourhood 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.

Responsible Drink Promotions (commencement date 01/10/2014)

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 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.
2. 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

Annex 2

Conditions Consistent with the Operating Schedule

General

note o/s
Skills, Forks, fills, stay b/c of each

nl stay
stay

1. All incidents which impact on any of the four licensing objectives shall be recorded in a register kept at the premises for this purpose. The names of the person recording the information and those members of staff who deal with any incident shall also be recorded. Where known, any offenders name shall also be recorded.

no records of TUP / TS visits

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

3. Notices advertising the Challenge 25 and proof of age policies shall be displayed in prominent positions on the premises.

not done for 1st time

X 4. The premises shall have installed a digitally recorded CCTV system. All cameras shall continually record whilst the premises are open to the public and the recordings shall be kept available for a minimum of 31 days with time and date stamping. Data recordings shall be made immediately available to an authorised officer of Reading Borough Council or a Thames Valley Police Officer, together with facilities for viewing upon request. Recorded images shall be of such a quality as to be able to identify the recorded person. Except that this condition shall not apply whenever the CCTV system is not working through no fault of the Premises Licence Holder provided that arrangements are made for the CCTV System to resume working at the earliest opportunity.

X 5. The Premises Licence Holder or Designated Premises Licence Holder shall ensure staff receive training on a regular basis, (every four months), in relation to the Four Licensing Objectives contained within the Licensing Act 2003 for those authorised to sell alcohol. Written proof of training shall be recorded and maintained.

not detailed enough

X 6. a) All staff shall be trained in the requirements of the Licensing Act 2003 in relation to age restricted sales of alcohol before being authorised to sell alcohol.

X (b) Staff authorised to sell alcohol shall be accredited to at least the BIIAB Level 1 Award in Responsible Alcohol Retailing (ARAR) or any other similarly recognised nationally approved accreditation curriculum, within four weeks for existing and subsequent new employees.

not all evidence

X (c) Records of training, refresher training and proof of the date of the commencement of employment (e.g. signed contract) shall be retained and must be made available to officers of Reading Borough Council or Police Officer on demand.

not available

7. The Designated Premises Supervisor shall ensure they and staff who are authorised to sell alcohol, are able to converse with customers and representatives of Statutory Agencies to a level that they are able to satisfactorily meet the four licensing objectives as contained in the Licensing Act 2003.

- i. The Prevention of Crime and Disorder.
- ii. Public Safety.
- iii. Public Nuisance.
- iv. The Protection of Children from Harm.

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Annex 3

Conditions attached after a hearing by the Licensing Authority

N/A

Annex 4

Plans

As attached plan dated 20/04/2011



Mr Gurmit Singh Gurwara
 Todays Local Store
 441 Basingstoke Road
 Reading
 RG2 0JF

Alison Bell

Director of Environment and
 Neighbourhood Services

Civic Offices, Bridge St, Reading,
 RG1 2LU

☎ 0118 937 3787

Our Ref: LIC/PN/EVU52997

Your Ref:

Direct: ☎ 0118 9372269

e-mail: peter.narancic@reading.gov.uk

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21 June 2017

Your contact is: **Mr Peter Narancic, Licensing, Environment and Neighbourhood Services**

Dear Mr Gurwara

Licensing Act 2003

Premises Licence Number - LP3000337

Name of Premise - Todays Local Store

Address - 441 Basingstoke Road, Reading

On Thursday 8 June 2017 I visited your premises with officers from Thames Valley Police and Immigration Enforcement to ensure you were complying with the above premises licence and advise on any matters that may arise during the inspection.

I understand Immigration Enforcement officers interviewed one employee found in your premises working illegally and was escorted off your premises. I understand he has worked in your premises for more than two years. They will correspond with you about that matter separately. This letter will deal with the licensing inspection that was carried out with you when you attended the premises, however you need to be aware from April 2017, the immigration service has become one of the responsible Authorities in regard to Licensing matters.

From our records and conversation, you confirmed that you are the current premises licence holder and the designated premises supervisor for Todays Local Store, 441 Basingstoke Road, Reading.

During my inspection, I found the following items that require your attention as outlined below.

1. You were not displaying all the pages of your Part B Summary Licence.
2. Please ensure you attach a copy of your premises plan to Part A of your premises licence.
3. You could not name the four licensing objectives.

General

The Designated Premises Supervisor shall ensure they and staff who are authorised to sell alcohol, are able to converse with customers and representatives of Statutory Agencies to a level that they are able to satisfactorily meet the four licensing objectives as contained in the Licensing Act 2003. (ie All staff must know what the licensing objectives are)

- I. The Prevention of Crime and Disorder.
- II. Public Safety.
- III. Public Nuisance.
- IV. The Protection of Children from Harm.

For information we operate a three tier procedure similar to our trading standards and police partners where following licensing inspections where issues of non - compliance have been found which we believe have undermined any of the four licensing objectives and we believe the management is underperforming we invite the premises licence holder to a performance management meeting and following discussions a plan of action is agreed in regard to future conduct. If following this, no or little improvement is made, an application to review the premises licence may be made. However, if we receive evidence that the premises licence(s) holder have committed a serious criminal offence, the licence may be reviewed without further notice.

Recommendations

Please ensure that your fire fighting equipment is inspected annually and all fire exits kept clear of obstructions at all times. Ensure your fire risk assessment is up to date and carry out any necessary staff re-training to ensure that your staff are fully aware of all issues regarding fire safety in your premises. For more information, go to www.fire.gov.uk/Workplace+safety/WhatTheLawRequires/

Please ensure that your health and safety risk assessment is up to date. For more information, go to <http://www.hse.gov.uk/business/policy.htm>

Please ensure that above items are actioned within the next seven days.

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

Yours faithfully

Mr Peter Narancic
Senior Licensing & Enforcement Officer

Copies sent to:
Environmental Health
UK Immigration Enforcement Department
Thames Valley Police

Division/Station : Reading Licensing Dept

From : PC 5787 Simon Wheeler

To : Reading Licensing Authority

Ref : Todays Local Store, 441 Basingstoke Road, Reading (LP9000337)
Tel.No.

Date : 20 February 2018

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 Todays Local Store, 441 Basingstoke Road, Reading.

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 duty diverted/smuggled alcohol and tobacco.

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 8th June 2017 – Thames Valley Police were involved in a joint immigration and Reading Borough Council (RBC) inspection that took place at Todays Local.

On arrival at the premises at 17:23 it was confirmed by immigration officers that of the four members of staff within the premises working that one of them was discovered to be an overstayer and working illegally.

Reading Borough Council enforcement officers carried out an inspection of the premises licence during this process and found that part B of the licence was incorrectly displayed and that staff had no knowledge of the four licensing objectives.

Prior to the inspection in June 2017 the premises has been previously visited and found to be in breach of conditions and committing other offences; listed below:-

15th June 2015 – Trading standards located a quantity of duty diverted/smuggled alcohol on the premises.

29th May 2015 – During a Reading Borough Council inspection the premises was found non compliant with its training and CCTV conditions.

14th April 2015 – Trading standards located counterfeit/duty diverted alcohol on the premises.

9th April 2015 – During a joint Thames Valley Police and Trading Standards inspection the premises was found to have no records of ongoing training and illegal tobacco was found inside the premises by a sniffer dog. (**APPENDIX 1**)

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

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 referenced within this representation there are wide reaching implications that need to be considered in relation to this premises trading including the many offences outlined above. Specifically the sale of counterfeit alcohol and tobacco may significantly raise concerns in relation to public safety and the potential for such goods to be related to the funding of organised crime, which clearly impacts the prevention of crime and disorder.

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 – GEN 40 from TVP inspection with Trading Standards on 9th April 2015

Submitting Officer		
Shoulder No/Name: PC 5787 Wheeler	Station: Reading	LPA: Reading

Incident References			
Premises Name/Location: Todays Local Store, 441 Basingstoke Rd, Reading, RG2 0JF			
Incident Date:	09/04/2015	Incident Time:	1504 hrs
Command & Control URN:	n/a	Crime Report(s):	n/a
CCTV Seized?	No		
Sources of Information: Joint TVP/RBC Trading standards operation			

Nature of Incident – what happened?
Trading standards operation utilising sniffer dog to detect illegal tobacco. TVP Licensing check - determining current license compliance

Premises Response – what part did staff play? How did they react/assist (include good/poor performance)?
<ol style="list-style-type: none"> 1) Licenses shown LP3000506. 2) Staff member had BIABC level 2 qualification. 3) On going training records could nto be shown. 4) All other licensing aspects complied with. 5) Illegal tobacco was discovered by the sniffer dog.

Police Response – what action was taken? Please identify the main officers who dealt with the incident.
Licensing administration appeared in order however no ongoing training records could be shown and illegal tobacco was discovered. For information to Mike King and Peter Narancic to liaise with trading standards re the tobacco offences.

Persons Involved - to add more rows click into the final cell of this table				
Name	Date of Birth	Role	Action Taken	Ref No. (e.g. Custody, PND etc)

When complete, please forward to the Licensing Officer for the area (and anyone else as per local instructions)

Application for the review of a Premises Licence by the Home Office**Today's Local Store, 441 Basingstoke Road, Reading****21st February 2018**

This relates to an application for the review of a premises licence submitted by the Home Office on the 24th January 2018.

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 Service had two interactions of significance with the premises in 2015. The first was during an illegal tobacco detection visit with a "sniffer dog" on the 9th April 2015 when a small quantity (4 x 20 Marlboro Gold) was found in a storage cabinet. A warning letter was sent to the Premises Licence Holder, Mr Gurmit Singh Gurwara to conclude the matter.

However, on the 14th April 2015, the Service visited the premises again during a check on illegal alcohol and 10 bottles of 35cl Smirnoff Vodka, 2 bottles of 1 litre Glens Vodka and 1 bottle of 70 cl High Commissioner whisky were very likely to be "duty diverted" on the basis that the rear labels were not genuine. The Premises Licence Holder was not able to provide a satisfactory explanation for the source of the bottles.

The latest incident to which the Home Office refer demonstrates that the Premises Licence Holder has not learnt from previous transgressions and continues to take short cuts for financial gain at the expense of vulnerable people.

The Trading Standards Services believes the premise's activities seriously undermine the licensing objective of the Prevention of Crime and Disorder. Secretary of State's Guidance on the Licensing Act 2003 at 11.27 lists certain criminality that should be treated particularly seriously and it includes the sale or storage of smuggled tobacco and alcohol and the employment of persons not entitled to work in the UK.

The Service also believes the premises is considerably below the standard of retailing the expected in the Borough and as such, the Sub Committee is invited to seriously consider revocation of its licence to sell alcohol.

Signed:



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.

Premises Licence Number	LP9000337
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Premises Details

Trading name of Premises and Address	
<p>Todays Local Store 441 Basingstoke Road Reading RG2 0JF</p>	
Telephone Number	[REDACTED]

Where the Licence is time limited the dates the Licence is valid
N/A

Licensable Activities

Licensable Activities authorised by the Licence
Sale of Alcohol by Retail - Off the Premises

Authorised Hours for Licensable Activities

The times the licence authorises the carrying out of licensable activities
Hours for the Sale by Retail of Alcohol
Monday from 0700hrs until 2300hrs
Tuesday from 0700hrs until 2300hrs
Wednesday from 0700hrs until 2300hrs
Thursday from 0700hrs until 2300hrs
Friday from 0700hrs until 2300hrs
Saturday from 0700hrs until 2300hrs
Sunday from 0900hrs until 2230hrs
Good Friday from 0800hrs until 2230hrs Christmas Day from 1200hrs until 1500hrs and 1800hrs until 2230hrs

Opening Hours

Hours the Premises is Open to the Public
Monday from 0700hrs until 2300hrs
Tuesday from 0700hrs until 2300hrs
Wednesday from 0700hrs until 2300hrs
Thursday from 0700hrs until 2300hrs
Friday from 0700hrs until 2300hrs
Saturday from 0700hrs until 2300hrs

Sunday from 0700hrs 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: Mr Gurmit Singh Gurwara

Address: [REDACTED]

Additional Details

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

Name: Mr Gurmit Singh Gurwara

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: 04152

Issuing Authority: London Borough of Ealing

This Licence shall continue in force from 23/06/2015 unless previously suspended or revoked.

Dated: 24 June 2015

Head of Environment & Neighbourhood 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) “valued 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. All incidents which impact on any of the four licensing objectives shall be recorded in a register kept at the premises for this purpose. The names of the person recording the information and those members of staff who deal with any incident shall also be recorded. Where known, any offenders name shall also be recorded.

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

3. Notices advertising the Challenge 25 and proof of age policies shall be displayed in prominent positions on the premises.

4. The premises shall have installed a digitally recorded CCTV system. All cameras shall continually record whilst the premises are open to the public and the recordings shall be kept available for a minimum of 31 days with time and date stamping. Data recordings shall be made immediately available to an

authorised officer of Reading Borough Council or a Thames Valley Police Officer, together with facilities for viewing upon request. Recorded images shall be of such a quality as to be able to identify the recorded person. Except that this condition shall not apply whenever the CCTV system is not working through no fault of the Premises Licence Holder provided that arrangements are made for the CCTV System to resume working at the earliest opportunity.

5. The Premises Licence Holder or Designated Premises Licence Holder shall ensure staff receive training on a regular basis, (every four months), in relation to the Four Licensing Objectives contained within the Licensing Act 2003 for those authorised to sell alcohol. Written proof of training shall be recorded and maintained.

6. a) All staff shall be trained in the requirements of the Licensing Act 2003 in relation to age restricted sales of alcohol before being authorised to sell alcohol.
(b) Staff authorised to sell alcohol shall be accredited to at least the BIIAB Level 1 Award in Responsible Alcohol Retailing (ARAR) or any other similarly recognised nationally approved accreditation curriculum, within four weeks for existing and subsequent new employees.

(c) Records of training, refresher training and proof of the date of the commencement of employment (e.g. signed contract) shall be retained and must be made available to officers of Reading Borough Council or Police Officer on demand.

7. The Designated Premises Supervisor shall ensure they and staff who are authorised to sell alcohol, are able to converse with customers and representatives of Statutory Agencies to a level that they are able to

satisfactorily meet the four licensing objectives as contained in the Licensing Act 2003.

- i. The Prevention of Crime and Disorder.
- ii. Public Safety.
- iii. Public Nuisance.
- iv. The Protection of Children from Harm.

Annex 3

Conditions attached after a hearing by the Licensing Authority

Annex 4

Plans

As plan dated 20/04/2011

Judgments

QBD, ADMINISTRATIVE COURT

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

CO/345/2016

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

THE ADMINISTRATIVE COURT

Royal Courts of Justice

Strand

London WC2A 2LL

Thursday, 14 April 2016

B e f o r e:

MR JUSTICE JAY

Between:

EAST LINDSEY DISTRICT COUNCIL

Appellant

v

ABU HANIF

(TRADING AS ZARA'S RESTAURANT AND TAKEAWAY)

Respondent

Computer- Aided Transcript of the Stenograph Notes of

WordWave International Limited trading as DTI

165 Fleet Street London EC4A 2DY

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

(Official Shorthand Writers to the Court)

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

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

J U D G M E N T

(Approved)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. No.

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

D. No.

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

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

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

26. MR JUSTICE JAY: Yes.

27. MR KOLVIN: Should I start with here.

28. MR JUSTICE JAY: Yes.

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

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

31. MR JUSTICE JAY: It has.

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

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

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

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

35. MR JUSTICE JAY: I see.

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

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

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

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

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

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

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

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

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

45. MR KOLVIN: Thank you.

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

47. MR KOLVIN: Thank you, my Lord.

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

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

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

51. MR KOLVIN: Thank you.

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

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

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

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

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

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

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

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

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

61. MR KOLVIN: My Lord, it was obvious to everyone except the district judge, the appellants 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.