

To: Councillors Maskell

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5 November 2018

Your contact is: Amy Bryan - Committee Services

NOTICE OF MEETING - LICENSING APPLICATIONS SUB-COMMITTEE 1 - 13 NOVEMBER 2018

A meeting of the Licensing Applications Sub-Committee 1 will be held on Tuesday, 13 November 2018 at 5.00 pm in the Council Chamber, Civic Offices, Bridge Street, Reading, RG1 2LU. The Agenda for the meeting is set out below.

WARDS Page No
AFFECTED

1. DECLARATIONS OF INTEREST

(a) Councillors to declare any disclosable pecuniary interests they may have in relation to the items for consideration;

(b) Councillors to declare whether they wish to speak on the grounds they:

(i) Have submitted a relevant representation; or

(ii) Will be speaking on behalf of someone who has submitted a relevant representation.

2. APPLICATION FOR THE REVIEW OF A PREMISES LICENCE - WHITLEY 3 - 78
SIMPLY FRESH SUPERMARKET, NORTHUMBERLAND
AVENUE, READING

To consider an application for the review of a Premises Licence in respect of Simply Fresh Supermarket, 236-240 Northumberland Avenue, Reading.

CIVIC OFFICES EMERGENCY EVACUATION: If an alarm sounds, leave by the nearest fire exit quickly and calmly and assemble on the corner of Bridge Street and Fobney Street. You will be advised when it is safe to re-enter the building.

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LICENSING ACT 2003 HEARING ON TUESDAY 13 NOVEMBER 2018 @17.00 HOURS

APPLICATION FOR THE REVIEW OF A PREMISES LICENCE

1. Premises:

Simply Fresh Supermarket
236-240 Northumberland Avenue
Reading
RG2 7QA

2. Applicants Requesting Review:

Reading Borough Council

3. Grounds for Review

The Licensing Team as a responsible authority under the Licensing Act 2003 and under the licensing objectives of prevention of crime and disorder, the prevention of public nuisance, the protection of children from harm and public safety make application for the review of the premises licence for Simply Fresh Supermarket, 236-240 Northumberland Avenue, Reading RG2 7QA

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

Background

The premises operates as a general store and off licence. The premises licence holder at the time of this submission are stated as Simply Fresh Supermarket Limited, ■■■ Delamere Road, Hayes, UB4 0NN. The sole director is Mr Amar Singh.

They have been the named premises licence holders since 2016.

Partnership operations between the Licensing team, Thames Valley Police and officers from the Home Office Immigration Enforcement team are regularly carried out in the Borough of Reading. Immigration Enforcement have been a 'Responsible Authority' under the Licensing Act since April 2017 to predominantly deal with the prevention and detection of immigration offences that may be being committed on licensed premises which therefore undermine the prevention of crime and disorder licensing objective. This, more often and not, is the detection of persons working in a licensed premises who have no legal right to work in the UK which would be contrary to the various Immigration Acts.

A licensing inspection was carried out on **30th November 2017** wherein the premises was found to be operating in breach of nine conditions stated on the premises licence; there was no evidence that staff had been authorised to sell alcohol as per the requirements of the mandatory conditions and various parts of the Licensing Act were not being complied with.

A licensing inspection was carried out on **6th June 2018** (the same day we encountered two illegal workers at the premises) wherein the premises was found to be operating in breach of seven conditions stated on the premises licence and the staff working at the premises had no right to work in the UK and had not been authorised to sell alcohol as

per the mandatory conditions.

A licensing inspection was carried out on **17th August 2018** wherein the premises was found to be operating in breach of five conditions stated on the premises licence and that at least one of the staff working behind the counter was not authorised to sell alcohol as per the mandatory conditions. Letters were sent to the licence holder at both the registered company address and to the premises and no response has been received to any of them.

Each breach of condition is a criminal offence liable to prosecution under Section 136 (1) of the Licensing Act with the possibility of unlimited fines for each or a prison sentence.

It is the job of any responsible employer to ensure that the correct right to work checks are carried out. This has been a legal requirement since the late 1990's. The premises licence holder has employed a person who has no right to work or live in the UK. Clearly, right to work checks were 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 Immigration Act 2016 also inserted paragraph 24B into the Immigration Act 1971 which states:

(1) A person ("P") who is subject to immigration control commits an offence if—

(a) P works at a time when P is disqualified from working by reason of P's immigration status, and

(b) at that time P knows or has reasonable cause to believe that P is disqualified from

working by reason of P's immigration status.

(2) For the purposes of subsection (1) a person is disqualified from working by reason of the person's immigration status if—

(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 doing work of that kind.

The offence of employing illegal workers is now also a relevant offence in the Licensing Act 2003. 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. Illegal workers are often paid 'off the record' or cash in hand 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.

2. 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 this only benefits the employer financially.

3. 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. There are also numerous other issues that stem from the employment and exploitation of illegal workers - particularly as illegal workers can be wholly dependent on their employer for their continued stay in this country. Again, the only person who benefits from their employment and exploitation are unscrupulous employers:

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 - because of being deliberately underpaid by their 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.

4. 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.

5. Illegal entrants - who have not undergone appropriate checks or immigration clearance at the border - could be being unwittingly employed by the licence holder

despite them having current or previous criminal convictions which may endanger the public. The employer or licence holder is exploiting potentially vulnerable people and engaging in a multitude of criminal offences by employing them at this licensed premises. These offences are covered under a multitude of different pieces of legislation and clearly engage the crime and disorder licensing objective.

The Conducting of unauthorised licensable activity As stated above, the premises has a licence pursuant to the Licensing Act 2003 to provide night refreshment (sale of hot food and drink) from 2300hrs until 0100hrs - Monday to Saturday and until midnight on a Sunday. The current licence also contains a condition that should the required planning permission be obtained then the premises could extend those hours until 0230hrs. This licence with this condition has been in force since September 2010.

It should be noted that each unauthorised activity is a criminal offence and is contrary to Section 136 (1) of the Licensing Act 2003. To knowingly carry out unlicensed activity is an offence under Section 136 (2) of the Licensing Act 2003. What follows is a brief summary of the Licensing team's interactions with the premises and the relevant appendix where that interaction can be found within this review application. The most recent interaction comes first:

Breach of premises licence conditions

Under the Licensing Act, every breach of condition is a criminal offence and means that licensable activity is being carried on not in accordance with an authorisation. Each breach of condition is contrary to Section 136 (1) of the Licensing Act 2003. It is worth remembering a further two points: Firstly, that conditions are attached to a premises licence as they are deemed appropriate and proportionate to promote the four licensing objectives at that premises. Secondly, the conditions currently attached to the premises licence have been on the licence since 2016.

Summary

In summary, the offences outlined in this review application are particularly serious. The employment of an 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.

Allowing this premises to continue to operate with the benefit of a premises licence will merely serve to perpetuate the criminal activity already apparent from the findings of the licensing authority, Thames Valley Police and colleagues in Immigration Enforcement. It is the licensing team's respectful submission that the only appropriate and proportionate step to promote the licensing objectives and safeguard the public as a whole, is for the licence to be revoked.

4. Date of receipt of application: 13 September 2018
A copy of the review application received is attached at Appendix PN-1
5. Date of closure of period for representations: 11 October 2018

6. Representations received:

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

Thames Valley Police which is attached at [Appendix PN-2](#)

The Immigration service which is attached at [Appendix PN-3](#)

7. Background

The premises is located in South Reading, on Northumberland Avenue.

The Premises Licence Holder is stated as: Simply Fresh Supermarket Limited (Sole Director is Mr Amar Singh).

A plan showing the premises location and surrounding area is attached at [Appendix PN-4](#)

The premises currently has the benefit of a premises licence for the activities and hours detailed below: A copy of the current licence is attached at [Appendix PN-5](#)

Licensable Activities authorised by the Licence

Hours for the Sale by Retail of Alcohol - Off the Premises

Monday	from 0800hrs until 2300hrs
Tuesday	from 0800hrs until 2300hrs
Wednesday	from 0800hrs until 2300hrs
Thursday	from 0800hrs until 2300hrs
Friday	from 0800hrs until 2300hrs
Saturday	from 0800hrs until 2300hrs
Sunday	from 1000hrs until 2230hrs

Good Friday from 0800hrs until 2230hrs

Christmas Day from 1200hrs until 1500hrs and 1900hrs until 2230hrs

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 2018

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;

Purpose

1.7 This Guidance is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.

1.8 The police remain key enforcers of licensing law. This Guidance does not

bind police officers who, within the parameters of their force orders and the law, remain operationally independent. However, this Guidance is provided to support and assist police officers in interpreting and implementing the 2003 Act in the promotion of the four licensing objectives.

The role of responsible authorities (eg Police)

9.12 Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area⁵. The police should usually therefore be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent. However, it remains incumbent on all responsible authorities 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.

Hearings

9.31 Regulations governing hearings may be found on the www.legislation.gov.uk website. If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, the applicant and all of the persons who made relevant

representations. In cases where only 'positive' representations are received, without qualifications, the licensing authority should consider whether a hearing is required. To this end, it may wish to notify the persons who made representations and give them the opportunity to withdraw those representations. This would need to be done in sufficient time before the hearing to ensure that parties were not put to unnecessary inconvenience.

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

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

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

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

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

The Review process

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

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

Powers of a licensing authority on the determination of a review

11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities.

11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.

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 employing a person who is disqualified from that work by reason of their immigration status in the UK;**

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

Reading Borough Council Licensing Policy Statement

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

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

are matters which are particularly relevant to the exercise of the Authority's

licensing functions, and ones which applicants and existing licensees also need to consider.

7.15 Crime & Disorder Act 1998

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

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.

Lic/simplyfreshreview/08.11.18/pn

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

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

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

(Insert name of applicant)

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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description

Simply Fresh Supermarket
236-240 Northumberland Avenue

Post town Reading

Post code (if known) RG2 7QA

Name of premises licence holder or club holding club premises certificate (if known)

Simply Fresh Supermarket Ltd

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

LP2001954

Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible
authority (please read guidance note 1, and complete (A)
or (B) below)

☐

2) a responsible authority (please complete (C) below)

☒

3) a member of the club to which this application relates
(please complete (A) below)

☐

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

Please tick ✓ yes

Mr ☐

Mrs ☐

Miss ☐

Ms ☐

Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

☐

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

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

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

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

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

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

Discovery of Illegal workers:

On 6th June 2018, two illegal workers – who had no right to work in the UK – were found working at the premises.

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

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

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

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

Licensing Inspections:

A licensing inspection was carried out on 30th November 2017 wherein the premises was found to be operating in breach of nine conditions stated on the premises licence; there was no evidence that staff had been authorised to sell alcohol as per the requirements of the mandatory conditions and various parts of the Licensing Act were not being complied with.

A licensing inspection was carried out on 6th June 2018 (the same day we encountered illegal workers at the premises) wherein the premises was found to be operating in breach of seven conditions stated on the premises licence and the staff working at the premises had no right to work in the UK and had not been authorised to sell alcohol as per the mandatory conditions.

A licensing inspection was carried out on 17th August 2018 wherein the premises was found to be operating in breach of five conditions stated on the premises licence and that at least one of the staff working behind the counter was not authorised to sell alcohol as per the mandatory conditions.

Letters were sent to the licence holder at both the registered company address and to the premises and no response has been received to any of them. Each breach of condition is a criminal offence liable to prosecution under Section 136 (1) of the Licensing Act with the possibility of unlimited fines for each or a prison sentence.

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

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

Background:

The premises known as Simply Fresh Supermarket currently has a premises licence pursuant to the Licensing Act 2003 which permits the sale of alcohol by retail off the premises from 0800hrs until 2300hrs from Monday to Saturday and from 1000hrs until 2230hrs on a Sunday.

The premises operates as a supermarket with an off licence. The premises licence holder is stated as Simply Fresh Supermarket Ltd (Companies House number 10230014) and that company has a sole director named Amar Singh. The designated premises supervisor at the time of this submission is stated as Amar Singh. Therefore the premises licence holder via the company and the designated premises supervisor are the same person. It should also be noted that the correspondence address for Mr Singh on Companies House states 236-240 Northumberland Avenue, Reading – the address for the licensed premises.

Illegal workers found:

The premises were visited on 6th June 2018 in a joint operation between the Licensing team of Reading Borough Council, Thames Valley Police and officers from the Home Office Immigration Enforcement team. Immigration Enforcement have been a 'Responsible Authority' under the Licensing Act since April 2017 to predominantly deal with the prevention and detection of immigration offences that may be being committed on licensed premises which therefore undermine the prevention of crime and disorder licensing objective.

On attendance at the premises two illegal workers were found working and the details are as follows:

1. Nepalese male was observed serving customers behind the till. When his ID was checked it was found that he had no right to work in the UK.
2. Nepalese female who was found working in the stock room. When her ID was checked it was found that she had no right to work in the UK. It was also discovered that she had been keeping a log of her hours in a diary which was kept behind the till.

As the two members of staff were the only ones in attendance at the premises and had been found to have no right to work in the UK, officers had to close the premises and await for another staff member to arrive. The staff member who arrived was a Mr Sharma who we believe hired the two illegal workers. Mr Amar Singh – as the sole director of the company and DPS – did not attend the premises and it was stated that he only attended the premises once a month.

It is the job of any responsible employer to ensure that the correct right to work checks are carried out. Carrying out right to work checks has been a requirement since the late 1990's and this is underpinned by the various Immigration Acts:

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 Immigration Act 2016 also inserted paragraph 24B into the Immigration Act 1971 which states:

(1) A person ("P") who is subject to immigration control commits an offence if—

(a) P works at a time when P is disqualified from working by reason of P's immigration status, and

(b) at that time P knows or has reasonable cause to believe that P is disqualified from working by reason of P's immigration status.

(2) For the purposes of subsection (1) a person is disqualified from working by reason of the person's immigration status if—

(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 doing work of that kind.

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. Illegal workers are often paid 'off the record' or **cash in hand** 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.

2. 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 this only benefits the employer financially.

3. 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 or they have contact with members of the public.

There are also numerous other issues that stem from the employment and exploitation of illegal workers – particularly as illegal workers can be wholly dependent on their employer for their continued stay in this country. Again, the only person who benefits from their employment and exploitation are unscrupulous employers:

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 – because of being deliberately underpaid by their 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.

4. 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.

5. Illegal entrants – who have not undergone appropriate checks or immigration clearance at the border – could be being unwittingly employed by the licence holder despite them having current or previous criminal convictions which may endanger the public.

The employer or licence holder is exploiting potentially vulnerable people and engaging in a

multitude of criminal offences by employing them at this licensed premises. These offences are covered under a multitude of different pieces of legislation and clearly engage the crime and disorder licensing objective.

Licensing Inspections:

The premises has been subject to three licensing inspections since November 2017. A letter detailing the issues discovered during the first inspection on 30th November 2017 can be found at **appendix RF-1**. This letter was sent to the premises and to the registered address stated for the premises licence holder. **No response has been received in relation to this letter.** The premises was found to be operating in breach of nine of the conditions stated on the premises licence and the member of staff could not explain who had authorised her to sell alcohol and she couldn't provide the required BIIAB certificate to show she had been trained in accordance with the conditions. Briefly the areas found in breach were:

- a) Part A of the licence could not be produced. This is an offence.
- b) No Section 57 notice could be found. This is an offence.
- c) The member of staff was not authorised to sell alcohol which is a breach of the mandatory conditions.
- d) Conditions 1,2,4,5a,5b,5c,6,7 and 8 were not being complied with. These related to staff training; use of an incident book; production of invoices and the use of CCTV. All breaches of conditions are contrary to Section 136 (1) of the Licensing Act 2003 and are criminal offences.
- e) There was no evidence of responsible alcohol retailing as the premises was only sporadically filling in a refusal register and the staff member had no knowledge of what the licensing objectives were.

The second licensing inspection took place on 6th June 2018. A copy of the letter sent to the premises licence holder and the premises can be found at **appendix RF-2**. **No response has been received in relation to this letter.** The premises were found to be operating in breach of seven conditions attached to the premises licence. Briefly, the issues found during the inspection were:

- a) Two illegal workers found at the premises who had no right to work in the UK.
- b) The two members of staff were not authorised to sell alcohol which is a breach of the mandatory conditions.
- c) Conditions 4, 5a, 5b, 5c, 7, 8 and 9 were not being complied with. Again, these related to staff training; the production of invoices; the use of a refusal book and CCTV. All breaches of conditions are contrary to Section 136 (1) of the Licensing Act 2003 and are criminal offences.

d) There was no evidence of responsible alcohol retailing as staff were unaware of what the licensing objectives were. It was also stated that the DPS only attended the premises once a month which indicates a distinct lack of day to day control.

The issues identified in the letter from the 6th June 2018 visit were almost identical to the issues flagged up in the letter detailing the visit of 30th November 2017 – some 8 months previous.

The third licensing inspection took place on 17th August 2018. A copy of the letter sent to the premises licence holder's company address and to the premises can be found at **appendix RF-3**.

No response has been received in relation to this letter. The premises was found to be operating in breach of five of the licensing conditions stated on the premises licence. Briefly, the issues identified during the inspection were:

- a) The Nepalese staff member could not demonstrate he had been authorised to sell alcohol and had not achieved the relevant BIIAB qualification as stipulated in the conditions. Therefore this a breach of the mandatory conditions and the conditions attached to the premises licence.
- b) Conditions 4, 5a, 5b, 5c and 8 were found to be in breach. These conditions related to staff training and the CCTV system.
- c) There was no evidence of responsible alcohol retailing as staff did not know what the four licensing objectives were or how they were supposed to actively promote them.

The issues identified during the 17th August 2018 were almost identical to the issues previously raised during the inspections of 30th November 2017 and 6th June 2018.

There have been a total of 21 breaches of licensing conditions over the period of 3 inspections as well as issues surrounding the production of documents and a continual failure by the licence holder and DPS to respond to letters or deal with the issues that have been raised. Breaching a licence condition is a criminal offence. The continual breaching of conditions shows the disregard the premises licence holder has in his duty to promote the licensing objectives and sell alcohol responsibly.

Summary:

The offences outlined in this review application are some of the most serious outlined in the Licensing Act 2003. The employment of two illegal workers 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. This also applies to the licensing breaches encountered at the premises on three separate visits which are, in themselves, criminal offences that 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, Thames Valley Police and colleagues in Immigration Enforcement.

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

List of appendices:

Appendix RF-1 – Licensing inspection letter for inspection carried out on 30th November 2017

Appendix RF-2 – Licensing inspection letter for inspection carried out on 6th June 2018

Appendix RF-3 – Licensing inspection letter for inspection carried out on 17th August 2018

Appendix RF-4 – Case law of East Lindsey DC v Abu Hanif

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

N/A

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

Please tick ✓ yes

☐

If yes please state the date of that application

Day		Month		Year		
1	1	1	1	1	1	1

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

yes

Please tick ✓

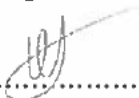
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

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

Part 3 – Signatures (please read guidance note 4)

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

Signature



Date 13th September 2018

Capacity Licensing Enforcement Officer

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

Licensing Team
Reading Borough Council
Civic Offices
Bridge Street

Post town

Reading

Post Code

RG1 2LU

Telephone number (if any) 01189 37 37 62

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

Notes for Guidance

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



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

Our Ref: LOU 053260

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

30 November 2017

Amar Singh
 Simply Fresh Supermarket
 236 Northumberland Avenue
 Reading
 RG2 7QA

Your contact is: **Mr Richard French, Licensing**

Dear Mr Singh

Licensing Act 2003
Premises Licence Number: LP2001954
Premises: Simply Fresh Supermarket
Premises Address: 236 Northumberland Avenue, Reading, RG2 7QA

On the 30th November 2017 I visited your premises to ensure you are complying with the above premises licence and advise on any matters that may arise during the inspection. The inspection was carried out with a lady identifying herself as Arju Shrestha.

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

- 1) Part A of your premises licence could not be produced. This is an offence under Section 57 of the Licensing Act 2003 and should be rectified immediately.
- 2) There was no evidence that staff had been authorised by the DPS to sell alcohol. The written authorisation list displayed behind the counter had the names of staff who did not work at the premises. Ms Arju Shrestha was not a named person on the authorisation list and she could not tell me who had authorised her to sell alcohol. All sales of alcohol have to be made or authorised by a personal licence holder. I could find no evidence that this had been done and so this is a breach of the mandatory conditions attached to your premises licence. Alcohol should not be sold until staff have been trained and authorised to do so. Alcohol was sold by Arju Shrestha on two occasions whilst I was in attendance at the premises.
- 3) No valid Section 57 notice could be located at the premises. This is a notice that states where Part A of the premises licence is kept and who has custody of it. The notice displayed behind the counter stated the name of a DPS who is not named on the premises licence and, again, contains inaccurate information. This is a breach of Section 57 of the Licensing Act 2003 and should be rectified immediately.

4) Condition 1 under Annex 2 of your premises licence in relation to the use of an incident book at the premises was not being complied with. The only document produced to me was a bit of paper called 'Incident Note' which had not been completed since March 2015. This is a breach of condition and therefore an offence under Section 136 (1) of the Licensing Act 2003.

5) Condition 2 under Annex 2 of your premises licence in relation to the use of a Challenge 25 age verification policy was not being complied with. Ms Arju Shrestha stated that she believed the policy was to Challenge persons who looked 18. She also stated that she would accept a University of Reading student card as a valid identity document. The conditions on your licence clearly outlines that the only acceptable forms of ID are a British Driver's licence; passport or Pass Card. This was also outlined on the posters you have in your premises. Therefore not only is this a breach of this condition; it is also a breach of the mandatory conditions on the licence in relation to the DPS ensuring that all sales are carried out in accordance with the premises age verification policy. This is a breach of Section 136 (1) of the Licensing Act 2003.

6) Condition 4 under Annex 2 of your premises licence in relation to staff training and refresher training could not be demonstrated as being complied with. Ms Arju Shrestha informed me that she had not received any written training despite having worked at the premises for three months. It was also not clear how many staff worked at the premises. No training records could be produced for any staff member. No refresher training could be produced for any staff member even though staff training should be refreshed every four months. This is a breach of condition and therefore a breach of Section 136 (1) of the Licensing Act 2003.

7) Condition 5 (a) under Annex 2 of your premises licence in relation to staff being trained in relation to age restricted sales could not be demonstrated as being complied with. This is a breach of condition and therefore a breach of Section 136 (1) of the Licensing Act 2003.

8) Condition 5 (b) under Annex 2 of your premises licence in relation to staff being trained to the BIIAB Level 1 Award in Responsible Alcohol Retailing was not being complied with. This should be done within four weeks of a member of staff starting employment at the premises. There were two BIIAB certificates behind the counter but it could not be ascertained whether those people worked at the premises. Ms Arju Shrestha, when asked, stated that she had not completed this training but might be doing it 'next week'. Again, she stated that she had been working at the premises for three months therefore this should have already been done. This is a breach of condition and therefore a breach of Section 136 (1) of the Licensing Act 2003.

9) Condition 5 (c) under Annex 2 of your premises licence in relation to staff training and to documentation being provided to prove the commencement of employment for all staff could not be demonstrated as being complied with. This is a breach of condition and therefore a breach of Section 136 (1) of the Licensing Act 2003.

10) Condition 6 under Annex 2 of your premises licence in relation to whether the DPS is a DPS in another premises could not be demonstrated as being complied with. Please confirm to me whether you are the DPS at another premises.

11) Condition 7 under Annex 2 of your premises licence in relation to the production of invoices for tobacco products could not be demonstrated as being complied with. No

invoices were produced. This is a breach of condition and therefore a breach of Section 136 (1) of the Licensing Act 2003.

12) Condition 8 under Annex 2 of your premises licence in relation to CCTV was not being fully complied with. It could not be demonstrated that the CCTV recorded for the required 31 days; the time on the system was incorrect and some of the cameras were not working. This is a breach of condition and therefore a breach of Section 136 (1) of the Licensing Act 2003.

13) I am concerned that the refusal log is not being used on a regular basis. There were, for example, no recorded refusals in September and only three instances of people being refused age restricted products since October. The description of the person being refused was also not as helpful as it could be. Please ensure that the refusal book is used for all refusals and that staff are aware how to use it.

14) The member of staff was not able to tell me what any of the four licensing objectives are. These should be refreshed with your staff on a regular basis and it is recommended that they are included within staff training. It is the job of all responsible retailers to promote the licensing objectives and comply with the conditions on their premises licence. Neither of which seems to be the case at this premises.

Please ensure that all of the above is rectified within 14 days as we will re-visit the premises to ensure compliance. We are also deciding whether we need to take any additional measures in relation to the findings of this inspection.

If you have any questions in relation to this letter then please email me.

Yours faithfully

Mr Richard French
Licensing Enforcement Officer

c/c Simply Fesh Supermarket Ltd, [REDACTED] Delamere Road, Hayes, UB4 0NN



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

Our Ref: EVU 053514

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

11 June 2018

Simply Fresh Supermarket Ltd
 Delamere Road
 Hayes
 UB4 0NN

Your contact is: Mr Richard French, Licensing

Dear Sirs

Licensing Act 2003

Premises Licence Number: LP2001954

Premises: Simply Fresh Supermarket

Premises Address: 236-240 Northumberland Avenue, Reading

On the 6th June 2018 I visited your premises with colleagues from Home Office Immigration Enforcement and Thames Valley Police to ensure you are complying with the above premises licence and advise on any matters that may arise during the inspection. Two persons working in your premises who had no right to work in the UK were removed from the premises by Home Office Immigration Enforcement Officers. They will correspond with you separately about this.

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

- 1) No valid Section 57 notice could be located at the premises. This notice states where Part A of your premises licence is kept and who has custody of it.
- 2) The list of authorised alcohol sellers was out of date and contained staff members who no longer worked at the premises. The gentleman serving behind the counter when we entered the premises - who was later found to have no right to work in the UK - was certainly not stated on it. The mandatory conditions attached to your licence state that all sales of alcohol must be made or authorised by a personal licence holder. It was only when a staff member arrived at the shop to take over from the persons who had no right to work in the UK that anyone could demonstrate that they had been duly authorised. Please ensure this is rectified immediately.
- 3) Condition 4 under Annex 2 of your premises licence in relation to training was not being complied with. No documentation was produced to demonstrate that any staff member had been trained. No documentation could be produced to demonstrate that training had taken place every four months. When questioned about the licensing objectives; staff did not know what they were. This is a breach of condition and should

be rectified immediately. It is noted that this condition was found to be in breach during my last inspection of 30th November 2017.

4) Condition 5(a) under Annex 2 of your licence in relation to staff training on age restricted sales could not be demonstrated as being complied with. No staff training records were produced. This is a breach of condition and should be rectified immediately. It is noted that this condition was found to be in breach during my last inspection of 30th November 2017.

5) Condition 5(b) under Annex 2 of your licence in relation to all members of staff having achieved the BIIAB Level 1 award in Responsible Alcohol Retailing could not be demonstrated as being complied with. This is a breach of condition and should be rectified immediately. It is noted that this condition was found to be in breach during my last inspection of 30th November 2017.

6) Condition 5(c) under Annex 2 of your licence in relation to staff training and records of training could not be demonstrated as being complied with. This is a breach of condition and should be rectified immediately. It is noted that this condition was found to be in breach during my last inspection of 30th November 2017.

7) Condition 7 under Annex 2 of your licence in relation to the production of invoices for all tobacco products purchased within the last six months could not be demonstrated as being complied with. This is a breach of condition and should be rectified immediately. It is noted that this condition was found to be in breach during my last inspection of 30th November 2017.

8) Condition 8 under Annex 2 of your licence in relation to CCTV was being complied with in terms of coverage and data storage but the system showed the incorrect time. Please ensure this is rectified.

9) Condition 9 under Annex 2 of your licence in relation to the use of a refusal book was being complied with but contained a lack of detail of the persons refused. It is noted that this condition was also raised as an issue during my last inspection of 30th November 2017.

10) No staff members were able to tell me what the four licensing objectives were. All licence holders and responsible retailers of alcohol are supposed to be actively promoting these objectives. They should also be part of your staff training as outlined in condition 4 on your licence. This was found to be an issue during my previous inspection of 30th November 2017.

This is the second inspection I have carried out at this premises in the last 7 months and you will note that all of the above matters have previously been raised with you. I also note that I received no response to my previous letter dated 30th November 2017 yet I did see it had made its way into your licensing folder at the premises. I was also informed that you only attend the premises once a month which is not ideal given the DPS is supposed to have day to day control.

Whilst we consider what, if any, further action we may take in relation to this and previous matters, please rectify all of the above licensing breaches immediately. Please notify me when you believe the above matters have been rectified so that we can arrange a re-inspection.

If you have any questions in relation to the contents of this letter then please contact me.

Yours faithfully

Mr Richard French
Licensing Enforcement Officer

c/c DPS - Mr Amar Singh at stated DPS home address and copy sent to premises



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

Our Ref:EVU 053514

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

Amar Singh
 Simply Fresh Supermarket
 236 Northumberland Avenue
 Reading
 RG2 7QA

17 August 2018

Your contact is: **Mr Richard French, Licensing**

Dear Sirs

Licensing Act 2003

Premises Licence Number: LP2001954

Premises: Simply Fresh Supermarket

Premises Address: 236 Northumberland Avenue, Reading

On the 17th August 2018 I visited your premises with colleagues from Thames Valley Police to ensure you are complying with the above premises licence and advise on any matters that may arise during the inspection.

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

1) The list of authorised alcohol sellers was out of date and contained staff members who no longer worked at the premises and did not contain at least one member of staff encountered during the inspection. The mandatory conditions attached to your licence state that all sales of alcohol must be made or authorised by a personal licence holder. Please ensure this is rectified immediately. It is noted that this was raised as an issue during two previous inspections of 30th November 2017 and 6th June 2018.

2) Condition 4 under Annex 2 of your premises licence in relation to training was not being complied with. No documentation was produced to demonstrate that any staff member had been trained. No documentation could be produced to demonstrate that training had taken place every four months. When questioned about the licensing objectives; staff did not know what they were. This is a breach of condition and should be rectified immediately. It is noted that this condition was found to be in breach during my previous inspections of 30th November 2017 and 6th June 2018.

3) Condition 5(a) under Annex 2 of your licence in relation to staff training on age restricted sales could not be demonstrated as being complied with. No staff training records were produced. This is a breach of condition and should be rectified immediately. It is noted that this condition was found to be in breach during my previous inspections of 30th November 2017 and 6th June 2018.

4) Condition 5(b) under Annex 2 of your licence in relation to all members of staff having achieved the BIIAB Level 1 award in Responsible Alcohol Retailing could not be demonstrated as being complied with. At least one staff member was encountered who had not achieved this qualification. This is a breach of condition and should be rectified immediately. It is noted that this condition was found to be in breach during my previous inspection of 30th November 2017 and 6th June 2018.

5) Condition 5(c) under Annex 2 of your licence in relation to staff training and records of training could not be demonstrated as being complied with. This is a breach of condition and should be rectified immediately. It is noted that this condition was found to be in breach during my previous inspections of 30th November 2017 and 6th June 2018.

6) Condition 8 under Annex 2 of your licence in relation to CCTV was being complied with in terms of coverage and data storage but the system showed the incorrect time. Please ensure this is rectified. It is noted that this was flagged as an issue during my previous inspection of 6th June 2018.

7) No staff members were able to tell me what the four licensing objectives were. All licence holders and responsible retailers of alcohol are supposed to be actively promoting these objectives. They should also be part of your staff training as outlined in condition 4 on your licence. This was found to be an issue during my previous inspections of 30th November 2017 and 6th June 2018.

This is the third inspection I have carried out at this premises in the last 9 months and you will note that all of the above matters have previously been raised with you. I also note that I received no response to my previous letters dated 30th November 2017 and 11th June 2018. I was also informed that you only attend the premises once a month which is not ideal given the DPS is supposed to have day to day control.

Please ensure all of the above is rectified immediately.

Yours faithfully

Mr Richard French
Licensing Enforcement Officer

Copy sent to: Simply Fresh Supermarket Ltd, [REDACTED] Delamere Road, Hayes, UB4 0NN

Judgments

QBD, ADMINISTRATIVE COURT

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

CO/345/2016

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

THE ADMINISTRATIVE COURT

Royal Courts of Justice

Strand

London WC2A 2LL

Thursday, 14 April 2016

Before:

MR JUSTICE JAY

Between:

EAST LINDSEY DISTRICT COUNCIL

Appellant

v

ABU HANIF

(TRADING AS ZARA'S RESTAURANT AND TAKEAWAY)

Respondent

Computer- Aided Transcript of the Stenograph Notes of

WordWave International Limited trading as DTI

165 Fleet Street London EC4A 2DY

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

(Official Shorthand Writers to the Court)

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

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

J U D G M E N T

(Approved)

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1. MR JUSTICE JAY: This is an appeal by way of case stated from the decision of the Lincoln Magistrates' Court, District Judge Veits, given on 23 June 2015, whereby he allowed an appeal from the revocation of a premises licence by the licensing authority.

2. The appellant, the East Lindsey District Council, is the licensing authority. The Magistrates' Court in the usual way is not a party to these proceedings. The respondent, Mr Abu Hanif, trading as Zara's Restaurant and Takeaway, is the licence holder. He through a licensing consultant has submitted correspondence making various limited points, but indicating that he would not be taking any part in these proceedings.

3. The premises in question are Zara's Restaurant and Takeaway situated in North Summercoates on the Lincolnshire coast. They are licensed to sell alcohol ancillary to the supply of food. The restaurant is owned and managed by the licensee, Mr Hanif. On 29 April 2014, the premises were the subject of a joint visit by the police and immigration officers, and it was discovered that Mr Miah was working in the kitchen as a chef. It was common ground that Mr Miah had no current entitlement to remain in the UK, let alone to work. I was told that he arrived here illegally some years ago. Furthermore, it was also accepted by the respondent that he (i) employed Mr Miah without paperwork showing a right to work in the United Kingdom; (ii) paid Mr Miah cash in hand; (iii) paid Mr Miah less than the minimum wage; (iv) did not keep or maintain PAYE records; (v) purported to deduct tax from Mr Miah's salary; and (vi) did not account to HMRC for the tax deducted.

4. The police then applied for a review of the respondent's licence under section 51 of the Licensing Act 2003 and the matter came before the appellant's subcommittee on 30 June 2014. The subcommittee decided to revoke the respondent's licence. Its reasons were as follows:

5. "The subcommittee were satisfied that Mr Hanif did not take the appropriate checks of staff members having knowledge that there were problems previously at the other premises with overstayers, and that he continued to allow staff to work at Zara's restaurant without making appropriate checks.

6. The subcommittee were satisfied that Mr Hanif had not undertaken the relevant checks to ensure the employee concerned was eligible to work in the United Kingdom. Instead of not allowing employees to work if they had not provided the correct documentation he allowed them to work and paid cash in hand. With all this in mind the subcommittee were satisfied that Mr Hanif had knowingly employed person/s unlawfully in the United Kingdom.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. No.

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

D. No.

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

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

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

26. MR JUSTICE JAY: Yes.

27. MR KOLVIN: Should I start with here.

28. MR JUSTICE JAY: Yes.

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

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

31. MR JUSTICE JAY: It has.

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

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

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

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

35. MR JUSTICE JAY: I see.

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

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

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

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

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

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

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

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

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

45. MR KOLVIN: Thank you.

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

47. MR KOLVIN: Thank you, my Lord.

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

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

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

51. MR KOLVIN: Thank you.

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

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

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

55. MR JUSTICE JAY: Yes. (Handed)

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

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

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

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

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

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

62. MR JUSTICE JAY: Okay.

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

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

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

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

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

68. MR KOLVIN: Yes.

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

70. MR KOLVIN: Yes, they are.

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

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

73. MR JUSTICE JAY: No- one objects.

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

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

76. MR KOLVIN: Thank you very much indeed.

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

78. MR KOLVIN: No.

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

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

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

82. MR KOLVIN: Indeed.

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

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

85. MR JUSTICE JAY: Thank you very much.

Division/Station : Reading Police Station Licensing Dept

From : C2107 Declan Smyth

To : Reading Borough Council

Ref : Simply Fresh Supermarket, 236-240 Northumberland Avenue, Reading, RG2 7QA

Date : 8th October 2018

Subject :

Supportive review representation

I C2107 Declan Smyth on behalf of the Chief Officer of Thames Valley Police wish to provide this representation in support of the review process relating to Simply Fresh Supermarket, 236-240 Northumberland Avenue, Reading, RG2 7QA.

This representation is based on this premises and Mr Amar Sing's 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 the licence conditions.

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

On **30th November 2017** – Reading Borough Council (Richard French, Licensing Officer), completed a licensing inspection at Simply Fresh Supermarket, 236-240 Northumberland Avenue, Reading, RG2 7QA and found:
(See Appendix TVP-RBC-1)

1. Part A of the premises licence could not be produced.
2. There was no evidence that staff had been authorised by the DPS to sell alcohol. The written authorisation list displayed behind the counter had the names of staff who did not work at the premises.
3. No valid Section 57 notice could be located at the premises.
4. Condition 1 under Annex 2 of the premises licence in relation to the use of an incident book at the premises was not being complied with.
5. Condition 2 under Annex 2 of the premises licence in relation to the use of a Challenge 25 age verification policy was not being complied with.
6. Condition 4 under Annex 2 of the premises licence in relation to staff training and refresher training could not be demonstrated as being complied with.
7. Condition 5 (a) under Annex 2 of the premises licence in relation to staff being trained in relation to age restricted sales could not be demonstrated as being complied with.
8. Condition 5 (b) under Annex 2 of the premises licence in relation to staff being trained to the BIIAB Level 1 Award in Responsible Alcohol Retailing was not being complied with.

9. Condition 5 (c) under Annex 2 of the premises licence in relation to staff training and to documentation being provided to prove the commencement of employment for all staff could not be demonstrated as being complied with.
10. Condition 6 under Annex 2 of the premises licence in relation to whether the DPS is a DPS in another premises could not be demonstrated as being complied with.
11. Condition 7 under Annex 2 of the premises licence in relation to the production of invoices for tobacco products could not be demonstrated as being complied with.
12. Condition 8 under Annex 2 of the premises licence in relation to CCTV was not being fully complied with.
13. Licensing Officer, Richard French had a concern that the refusal log is not being used on a regular basis. There were, for example, no recorded refusals in September and only three instances of people being refused age restricted products since October. The description of the person being refused was also not as helpful as it could be.
14. The member of staff was not able to tell RBC, Licensing Officer, Richard French what any of the four licensing objectives are. These should be refreshed with your staff on a regular basis and it is recommended that they are included within staff training. It is the job of all responsible retailers to promote the licensing objectives and comply with the conditions on their premises licence. Neither of which seems to be the case at this premises

On **6th June 2018** – Reading Borough Council (Richard French, Licensing Officer), Thames Valley Police (P5787 Simon Wheeler) and a Home Office Immigration inspection took place at Simply Fresh Supermarket, 236-240 Northumberland Avenue, Reading, RG2 7QA and found:
(See **Appendix TVP-RBC-2**)

1. No valid Section 57 notice could be located at the premises.
2. The list of authorised alcohol sellers was out of date and contained staff members who no longer worked at the premises.
3. Condition 4 under Annex 2 of the premises licence in relation to training was not being complied with. No documentation was produced to demonstrate that any staff member had been trained. No documentation could be produced to demonstrate that training had taken place every four months. When questioned about the licensing objectives; staff did not know what they were.
4. Condition 5(a) under Annex 2 of the premises licence in relation to staff training on age restricted sales could not be demonstrated as being complied with. No staff training records were produced.
5. Condition 5(b) under Annex 2 of the premises licence in relation to all members of staff having achieved the BIIAB Level 1 award in Responsible Alcohol Retailing could not be demonstrated as being complied with.
6. Condition 5(c) under Annex 2 of the premises licence in relation to staff training and records of training could not be demonstrated as being complied with.

7. Condition 7 under Annex 2 of the premises licence in relation to the production of invoices for all tobacco products purchased within the last six months could not be demonstrated as being complied with.
8. Condition 8 under Annex 2 of the premises licence in relation to CCTV was being complied with in terms of coverage and data storage but the system showed the incorrect time.
9. Condition 9 under Annex 2 of the premises licence in relation to the use of a refusal book was being complied with but contained a lack of detail of the persons refused.
10. No staff members were able to tell the RBC Licensing Officer what the four licensing objectives were. All licence holders and responsible retailers of alcohol are supposed to be actively promoting these objectives. They should also be part of your staff training as outlined in condition 4 on the premises licence.

On arrival at the premises it was confirmed by the Home Office Immigration officers that 2 members of staff working within the premises were working illegally.

It is the job of any responsible employer to ensure that the correct right to work checks are carried out. Carrying out right to work checks has been a requirement since the late 1990's and this is underpinned by the various Immigration Acts:

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*

On 17th August 2018 - The Reading Borough Council (Richard French, Licensing Officer) and Thames Valley Police (P5787 Simpyn Wheeler) conducted an enforcement visit at Simply Fresh Supermarket, 236-240 Northumberland Avenue, Reading, RG2 7QA and found:-
(See Appendix TVP-RBC-3)

1. The list of authorised alcohol sellers was out of date and contained staff members who no longer worked at the premises and did not contain at least one member of staff encountered during the inspection
2. Condition 4 under Annex 2 of the premises licence in relation to training was not being complied with. No documentation was produced to demonstrate that any staff member had been trained. No documentation could be produced to demonstrate that training had taken place every four months. When questioned about the licensing objectives; staff did not know what they were.
3. Condition 5(a) under Annex 2 of the premises licence in relation to staff training on age restricted sales could not be demonstrated as being complied with. No staff training records were produced.
4. Condition 5(b) under Annex 2 of the premises licence in relation to all members of staff having achieved the BIIAB Level 1 award in Responsible Alcohol Retailing could not be demonstrated as being complied with. At least one staff member was encountered who had not achieved this qualification.
5. Condition 5(c) under Annex 2 of the premises licence in relation to staff training and records of training could not be demonstrated as being complied with.
6. Condition 8 under Annex 2 of the premises licence in relation to CCTV was being complied with in terms of coverage and data storage but the system showed the incorrect time.
7. No staff members were able to tell the Licensing Officer what the four licensing objectives were. All licence holders and responsible retailers of alcohol are supposed to be actively promoting these objectives. They should also be part of your staff training as outlined in condition 4 on the premises licence

The 3 inspections since November 2017 suggests that the Premises Licence Holder has not learnt from previous transgressions and continues to take short cuts. Due to the history of this site it is imperative that these wholesale failures are not repeated.

The licence holder is exploiting potentially vulnerable people and engaging in a multitude of criminal offences by employing them at the licensed premises. These offences are covered under a multitude of different pieces of legislation and clearly engage the crime and disorder licensing objective.

In conclusion we have a host of issues relating to this premises and Mr Amar Sing including the employment of illegal workers and a number of breaches of licence conditions and noncompliance.

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 a serious and real implications connected to modern day slavery.

The current Secretary of State Guidance pursuant to the Licensing Act 2003 specifically deals with this in section 11.27 & 11.28

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;
- For the 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.**

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 Thames Valley Police and colleagues in Immigration Enforcement.

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

APPENDIX TVP-RBC-1 – RBC Inspection Letter – 30th November 2017

APPENDIX TVP-RBC-2 – RBC Inspection Letter – 11th June 2018

APPENDIX TVP-RBC-3 – RBC Inspection Letter – 17th August 2018



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

Our Ref: LOU 053260

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

30 November 2017

Amar Singh
 Simply Fresh Supermarket
 236 Northumberland Avenue
 Reading
 RG2 7QA

Your contact is:

Mr Richard French, Licensing

Dear Mr Singh

Licensing Act 2003

Premises Licence Number: LP2001954

Premises: Simply Fresh Supermarket

Premises Address: 236 Northumberland Avenue, Reading, RG2 7QA

On the **30th November 2017** I visited your premises to ensure you are complying with the above premises licence and advise on any matters that may arise during the inspection. The inspection was carried out with a lady identifying herself as Arju Shrestha.

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

1) Part A of your premises licence could not be produced. This is an offence under Section 57 of the Licensing Act 2003 and should be rectified immediately.

2) There was no evidence that staff had been authorised by the DPS to sell alcohol. The written authorisation list displayed behind the counter had the names of staff who did not work at the premises. Ms Arju Shrestha was not a named person on the authorisation list and she could not tell me who had authorised her to sell alcohol. All sales of alcohol have to be made or authorised by a personal licence holder. I could find no evidence that this had been done and so this is a breach of the mandatory conditions attached to your premises licence. Alcohol should not be sold until staff have been trained and authorised to do so. Alcohol was sold by Arju Shrestha on two occasions whilst I was in attendance at the premises.

3) No valid Section 57 notice could be located at the premises. This is a notice that states where Part A of the premises licence is kept and who has custody of it. The notice displayed behind the counter stated the name of a

DPS who is not named on the premises licence and, again, contains inaccurate information. This is a breach of Section 57 of the Licensing Act 2003 and should be rectified immediately.

4) Condition 1 under Annex 2 of your premises licence in relation to the use of an incident book at the premises was not being complied with. The only document produced to me was a bit of paper called 'Incident Note' which had not been completed since March 2015. This is a breach of condition and therefore an offence under Section 136 (1) of the Licensing Act 2003.

5) Condition 2 under Annex 2 of your premises licence in relation to the use of a Challenge 25 age verification policy was not being complied with. Ms Arju Shrestha stated that she believed the policy was to Challenge persons who looked 18. She also stated that she would accept a University of Reading student card as a valid identity document. The conditions on your licence clearly outlines that the only acceptable forms of ID are a British Driver's licence; passport or Pass Card. This was also outlined on the posters you have in your premises. Therefore not only is this a breach of this condition; it is also a breach of the mandatory conditions on the licence in relation to the DPS ensuring that all sales are carried out in accordance with the premises age verification policy. This is a breach of Section 136 (1) of the Licensing Act 2003.

6) Condition 4 under Annex 2 of your premises licence in relation to staff training and refresher training could not be demonstrated as being complied with. Ms Arju Shrestha informed me that she had not received any written training despite having worked at the premises for three months. It was also not clear how many staff worked at the premises. No training records could be produced for any staff member. No refresher training could be produced for any staff member even though staff training should be refreshed every four months. This is a breach of condition and therefore a breach of Section 136 (1) of the Licensing Act 2003.

7) Condition 5 (a) under Annex 2 of your premises licence in relation to staff being trained in relation to age restricted sales could not be demonstrated as being complied with. This is a breach of condition and therefore a breach of Section 136 (1) of the Licensing Act 2003.

8) Condition 5 (b) under Annex 2 of your premises licence in relation to staff being trained to the BIIAB Level 1 Award in Responsible Alcohol Retailing was not being complied with. This should be done within four weeks of a member of staff starting employment at the premises. There were two BIIAB certificates behind the counter but it could not be ascertained whether those people worked at the premises. Ms Arju Shrestha, when asked, stated that she had not completed this training but might be doing it 'next week'. Again, she stated that she had been working at the premises for three months therefore this should have already been done. This is a breach of condition and therefore a breach of Section 136 (1) of the Licensing Act 2003.

9) Condition 5 (c) under Annex 2 of your premises licence in relation to staff training and to documentation being provided to prove the commencement of employment for all staff could not be demonstrated as being complied

with. This is a breach of condition and therefore a breach of Section 136 (1) of the Licensing Act 2003.

10) Condition 6 under Annex 2 of your premises licence in relation to whether the DPS is a DPS in another premises could not be demonstrated as being complied with. Please confirm to me whether you are the DPS at another premises.

11) Condition 7 under Annex 2 of your premises licence in relation to the production of invoices for tobacco products could not be demonstrated as being complied with. No invoices were produced. This is a breach of condition and therefore a breach of Section 136 (1) of the Licensing Act 2003.

12) Condition 8 under Annex 2 of your premises licence in relation to CCTV was not being fully complied with. It could not be demonstrated that the CCTV recorded for the required 31 days; the time on the system was incorrect and some of the cameras were not working. This is a breach of condition and therefore a breach of Section 136 (1) of the Licensing Act 2003.

13) I am concerned that the refusal log is not being used on a regular basis. There were, for example, no recorded refusals in September and only three instances of people being refused age restricted products since October. The description of the person being refused was also not as helpful as it could be. Please ensure that the refusal book is used for all refusals and that staff are aware how to use it.

14) The member of staff was not able to tell me what any of the four licensing objectives are. These should be refreshed with your staff on a regular basis and it is recommended that they are included within staff training. It is the job of all responsible retailers to promote the licensing objectives and comply with the conditions on their premises licence. Neither of which seems to be the case at this premises.

Please ensure that all of the above is rectified within 14 days as we will re-visit the premises to ensure compliance. We are also deciding whether we need to take any additional measures in relation to the findings of this inspection.

If you have any questions in relation to this letter then please email me.

Yours faithfully

Mr Richard French
Licensing Enforcement Officer

c/c Simply Fesh Supermarket Ltd, ■■■ Delamere Road, Hayes, UB4 0NN



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

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Our Ref:EVU 053514

Simply Fresh Supermarket Ltd
 ■ Delamere Road
 Hayes
 UB4 0NN

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

11 June 2018

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Your contact is:

Mr Richard French, Licensing

Dear Sirs

Licensing Act 2003**Premises Licence Number:LP2001954****Premises:** Simply Fresh Supermarket**Premises Address:** 236-240 Northumberland Avenue, Reading

On the **6th June 2018** I visited your premises with colleagues from Home Office Immigration Enforcement and Thames Valley Police to ensure you are complying with the above premises licence and advise on any matters that may arise during the inspection. Two persons working in your premises who had no right to work in the UK were removed from the premises by Home Office Immigration Enforcement Officers. They will correspond with you separately about this.

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

- 1) No valid Section 57 notice could be located at the premises. This notice states where Part A of your premises licence is kept and who has custody of it.
- 2) The list of authorised alcohol sellers was out of date and contained staff members who no longer worked at the premises. The gentleman serving behind the counter when we entered the premises - who was later found to have no right to work in the UK - was certainly not stated on it. The mandatory conditions attached to your licence state that all sales of alcohol must be made or authorised by a personal licence holder. It was only when a staff member arrived at the shop to take over from the persons who had no right to work in the UK that anyone could demonstrate that they had been duly authorised. Please ensure this is rectified immediately.
- 3) Condition 4 under Annex 2 of your premises licence in relation to training was not being complied with. No documentation was produced to demonstrate that any staff member had been trained. No documentation could be produced to demonstrate that training had taken place every four

months. When questioned about the licensing objectives; staff did not know what they were. This is a breach of condition and should be rectified immediately. **It is noted that this condition was found to be in breach during my last inspection of 30th November 2017.**

4) Condition 5(a) under Annex 2 of your licence in relation to staff training on age restricted sales could not be demonstrated as being complied with. No staff training records were produced. This is a breach of condition and should be rectified immediately. **It is noted that this condition was found to be in breach during my last inspection of 30th November 2017.**

5) Condition 5(b) under Annex 2 of your licence in relation to all members of staff having achieved the BIIAB Level 1 award in Responsible Alcohol Retailing could not be demonstrated as being complied with. This is a breach of condition and should be rectified immediately. **It is noted that this condition was found to be in breach during my last inspection of 30th November 2017.**

6) Condition 5(c) under Annex 2 of your licence in relation to staff training and records of training could not be demonstrated as being complied with. This is a breach of condition and should be rectified immediately. **It is noted that this condition was found to be in breach during my last inspection of 30th November 2017.**

7) Condition 7 under Annex 2 of your licence in relation to the production of invoices for all tobacco products purchased within the last six months could not be demonstrated as being complied with. This is a breach of condition and should be rectified immediately. **It is noted that this condition was found to be in breach during my last inspection of 30th November 2017.**

8) Condition 8 under Annex 2 of your licence in relation to CCTV was being complied with in terms of coverage and data storage but the system showed the incorrect time. Please ensure this is rectified.

9) Condition 9 under Annex 2 of your licence in relation to the use of a refusal book was being complied with but contained a lack of detail of the persons refused. **It is noted that this condition was also raised as an issue during my last inspection of 30th November 2017.**

10) No staff members were able to tell me what the four licensing objectives were. All licence holders and responsible retailers of alcohol are supposed to be actively promoting these objectives. They should also be part of your staff training as outlined in condition 4 on your licence. **This was found to be an issue during my previous inspection of 30th November 2017.**

This is the second inspection I have carried out at this premises in the last 7 months and you will note that all of the above matters have previously been raised with you. I also note that I received no response to my previous letter dated 30th November 2017 yet I did see it had made its way into your licensing folder at the premises. I was also informed that you only attend the premises once a month which is not ideal given the DPS is supposed to have day to day control.

Whilst we consider what, if any, further action we may take in relation to this and previous matters, please rectify all of the above licensing breaches immediately. Please notify me when you believe the above matters have been rectified so that we can arrange a re-inspection.

If you have any questions in relation to the contents of this letter then please contact me.

Yours faithfully

Mr Richard French
Licensing Enforcement Officer

c/c DPS - Mr Amar Singh at stated DPS home address

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

Our Ref:EVU 053514

┌ Amar Singh
Simply Fresh Supermarket
236 Northumberland Avenue
Reading
RG2 7QA

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

17 August 2018

└ Your contact is:

└ Mr Richard French, Licensing

Dear Sirs

Licensing Act 2003

Premises Licence Number: LP2001954

Premises: Simply Fresh Supermarket

Premises Address: 236 Northumberland Avenue, Reading

On the **17th August 2018** I visited your premises with colleagues from Thames Valley Police to ensure you are complying with the above premises licence and advise on any matters that may arise during the inspection.

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

1) The list of authorised alcohol sellers was out of date and contained staff members who no longer worked at the premises and did not contain at least one member of staff encountered during the inspection. The mandatory conditions attached to your licence state that all sales of alcohol must be made or authorised by a personal licence holder Please ensure this is rectified immediately. **It is noted that this was raised as an issue during two previous inspections of 30th November 2017 and 6th June 2018.**

2) Condition 4 under Annex 2 of your premises licence in relation to training was not being complied with. No documentation was produced to demonstrate that any staff member had been trained. No documentation could be produced to demonstrate that training had taken place every four months. When questioned about the licensing objectives; staff did not know what they were. This is a breach of condition and should be rectified immediately. **It is noted that this condition was found to be in breach during my previous inspections of 30th November 2017 and 6th June 2018.**

3) Condition 5(a) under Annex 2 of your licence in relation to staff training on age restricted sales could not be demonstrated as being complied with. No staff training records were produced. This is a breach of condition and should be rectified immediately. **It is noted that this condition was found to be in breach during my previous inspections of 30th November 2017 and 6th June 2018.**

4) Condition 5(b) under Annex 2 of your licence in relation to all members of staff having achieved the BIIAB Level 1 award in Responsible Alcohol Retailing could not be demonstrated as being complied with. At least one staff member was encountered who had not achieved this qualification. This is a breach of condition and should be rectified immediately. **It is noted that this condition was found to be in breach during my previous inspection of 30th November 2017 and 6th June 2018.**

5) Condition 5(c) under Annex 2 of your licence in relation to staff training and records of training could not be demonstrated as being complied with. This is a breach of condition and should be rectified immediately. **It is noted that this condition was found to be in breach during my previous inspections of 30th November 2017 and 6th June 2018.**

6) Condition 8 under Annex 2 of your licence in relation to CCTV was being complied with in terms of coverage and data storage but the system showed the incorrect time. Please ensure this is rectified. **It is noted that this was flagged as an issue during my previous inspection of 6th June 2018.**

7) No staff members were able to tell me what the four licensing objectives were. All licence holders and responsible retailers of alcohol are supposed to be actively promoting these objectives. They should also be part of your staff training as outlined in condition 4 on your licence. **This was found to be an issue during my previous inspections of 30th November 2017 and 6th June 2018.**

This is the third inspection I have carried out at this premises in the last 9 months and you will note that all of the above matters have previously been raised with you. I also note that I received no response to my previous letters dated 30th November 2017 and 11th June 2018. I was also informed that you only attend the premises once a month which is not ideal given the DPS is supposed to have day to day control.

Please ensure all of the above is rectified immediately.

Yours faithfully

Mr Richard French
Licensing Enforcement Officer



Immigration
Enforcement

IMMIGRATION ENFORCEMENT LICENSING
REPRESENTATION:

SIMPLY FRESH, 236-240 NORTHUMBERLAND AVENUE,
READING, RG2 7QA

On 6th June 2018 Immigration enforcement officers visited Simply Fresh, 236-240 Northumberland Avenue, Reading, RG2 7QA in conjunction with licensing officers from Reading Borough Council.

Entry under was gained under S.179 LA2003 at 14.05 hours. Whilst officers entered the premises there was One male behind counter served several customers whilst the visit took place. This male was checked and He was found to have an outstanding application with the Home office. He was reporting regularly which means he has to attend pre determined appointments to report in to the Home office whilst his application is being considered. The male does not have permission to work.

Whilst officers were talking with him he stated that he had worked at the premises for almost 2 years and that he had just showed a driving licence as ID having informed the manager that his documents were with the HO. He stated that he stacked shelves and worked at the till 5 or 6 days per week and was paid £5.70 per hour, cash in hand weekly, by a man named Sharma (who arrived at the premises during the visit).

A female was also present and was in a store room when the team entered. She was the male's wife and stated during Q&A that she had worked at the address for around 2 months as a customer assistant having been given a job by Mr Sharma, who didn't ask to see any documents. She worked from 07.00 to 13.00 or 14.00 5 days a week, Monday to Friday, and was paid £6 per hour cash in hand weekly by Sharma. She had written down her hours of work in a diary which was behind the counter.

Both Male and female at the time of this offence had no permission to work in the UK.

An Illegal working civil penalty referral notice served on the business with both named subjects listed.

OFFENDERS ENCOUNTERED:

- G1228220 overstayer (NFA as reporting)
- G1228220/002 – “ “ “

The information above is taken from HO systems and is an account of Immigration Officer ANGELL. The notes have been amended to allow them to be read more easily and to remove any jargon or personal details.

The employment of people who do not have the right to work in the UK is a serious crime and can be linked to exploitation of vulnerable people.

Continuing to employ people without making the legally required checks, and not making improvements to prevent such allegations again goes to demonstrate that the premises licence holder is not robust, and does not take the responsibilities towards the licensing objectives seriously.

Tackling illegal working

The ability to work illegally is a key driver of illegal migration; it encourages people to break the UK's immigration laws and provides the practical means for migrants to remain unlawfully in the UK.

It encourages people to take risks in trying to enter the UK illegally by putting their lives in the hands of unscrupulous people smugglers and leaves them vulnerable to exploitative employers.

Illegal working results in businesses that are not playing by the rules undercutting legitimate businesses that are. It also negatively impacts on the wages of lawful workers and can be linked to other labour market abuse such as tax evasion, breach of the national minimum wage and exploitative working conditions.

Working illegally is a criminal offence and on conviction in England and Wales, an illegal worker may receive a custodial sentence of up to six months and an unlimited fine.

We are committed to tackling the economic motivation behind illegal migration and those people who facilitate it. However, employers also have an important role to play in preventing illegal working by undertaking simple checks on their employees' right to work in the UK.

Employers' responsibilities

Employers have had a responsibility since 1997 to ensure they do not employ illegal workers. Since 2008, this requirement has been underpinned by civil and criminal sanctions for non compliance, set out in the Immigration, Asylum and Nationality Act 2006 - sections 15 and 21. Under these sanctions, an employer who employs an illegal worker may be liable for a civil penalty of up to £20,000 per illegal worker and an employer who knowingly or has reasonable cause to believe that the employment is not permitted may on conviction after indictment be subject to a custodial sentence of up to five years and an unlimited fine.

Employers may prevent a liability for a civil penalty by undertaking simple right to work checks on all those they intend to employ and repeating the checks if the employee has time-limited permission to live and work in the UK.

The panel will be aware of the High Court Judgement from East Lindsey District Council v Abu Hanif (trading as Zara's Restaurant and Takeaway) to get over the point that prosecutions don't have to occur in order for the crime prevention objective to be undermined and the Licensing Authority to be able to take action.

HMI 9262 WILKINSON
South Central ICE



Printed on: 15/10/2018 at 11:59 AM

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	LP2001954
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Premises Details

Trading name of Premises and Address	
Simply Fresh Supermarket 236-240 Northumberland Avenue Reading Berkshire RG2 7QA	
Telephone Number	0118 987 1195

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 0800hrs until 2300hrs
Tuesday	from 0800hrs until 2300hrs
Wednesday	from 0800hrs until 2300hrs
Thursday	from 0800hrs until 2300hrs
Friday	from 0800hrs until 2300hrs
Saturday	from 0800hrs until 2300hrs
Sunday	from 1000hrs until 2230hrs
Good Friday from 0800hrs until 2230hrs	
Christmas Day from 1200hrs until 1500hrs and 1900hrs until 2230hrs	

Opening Hours

N/A

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: Simply Fresh Supermarket Ltd
Address: ■ Delamere Road, Hayes, UB4 0NN

Additional Details

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

Name: Mr Amar Singh
Address: Flat ■ St John's Court, Beaufort Road, Kingston-Upon-Thames, KT1 2TT

Designated Premises Supervisor

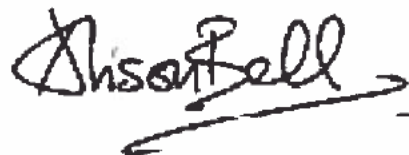
Personal Licence number and issuing authority of personal licence held by the designated premises supervisor where the premises licence authorises the supply of alcohol

Personal Licence Number: PA2396
Issuing Authority: Royal Borough Of Kingston-Upon-Thames

This Licence shall continue in force from 23/09/2016 unless previously suspended or revoked.

Dated: 10 October 2016

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

Embedded Restrictions from the Acts listed below to be carried forward to the premises licence in accordance with Schedule 8 to the Licensing Act 2003.

Unless otherwise stated this licence is issued subject to the imposition of all the relevant embedded restrictions required by the:-

Licensing Act 1964

Children & Young Persons Act 1933

Cinematograph (Safety) Regulations 1955

Cinemas Act 1985 - Film Exhibition Licence Conditions

Sporting Events (Control of Alcohol etc) Act 1985

Local Government (Miscellaneous Provisions) Act 1982 - Public Entertainment Licence Conditions

Acts applicable to this licence for the purposes of embedded restrictions

The following Acts and embedded restrictions are applicable to this licence:-

Licensing Act 1964

On-licences - Permitted hours

1 Alcohol shall not be sold or supplied except during permitted hours. In this condition, permitted hours means:

- a) On weekdays, other than Christmas Day, Good Friday or New Year's Eve, 11 a.m. to 11 p.m.
- b) On Sundays, other than Christmas Day or New Year's Eve, 12 noon to 10.30 p.m.
- c) On Good Friday, 12 noon to 10.30 p.m.
- d) On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.
- e) On New Year's Eve, except on a Sunday, 11 a.m. to 11 p.m.
- f) On New Year's Eve on a Sunday, 12 noon to 10.30 p.m.
- g) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).

2 The above restrictions do not prohibit:

- a) during the first twenty minutes after the above hours the consumption of the alcohol on the premises;
- b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- c) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking meals there if the alcohol was supplied for consumption as ancillary to the meals;
- d) consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;
- e) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- f) the sale of alcohol to a trader or club for the purposes of the trade or club;
- g) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
- h) the taking of alcohol from the premises by a person residing there;
- i) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;
- j) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

Off-licences and off-sales departments of on-licensed premises - Permitted hours

- 1 Alcohol shall not be sold or supplied except during permitted hours. In this condition, permitted hours means:
 - a) On weekdays, other than Christmas Day, 8 a.m. to 11 p.m.
 - b) On Sundays, other than Christmas Day, 10 a.m. to 10.30 p.m.
 - c) On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.
 - d) On Good Friday, 8 a.m. to 10.30 p.m.
- 2 The above restrictions do not prohibit:
 - a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;
 - b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
 - c) the sale of alcohol to a trader or club for the purposes of the trade or club;
 - d) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;

s.59, 60, 63, 67A, 68, 70, 74, 76, 78

Club premises - Permitted hours

- 1 Alcohol shall not be sold or supplied except during permitted hours. In this condition, permitted hours means:
 - a) On weekdays, other than Christmas Day, Good Friday or New Year's Eve, 11 a.m. to 11 p.m.
 - b) On Sundays, other than Christmas Day or New Year's Eve, 12 noon to 10.30 p.m.
 - c) On Good Friday, 12 noon to 10.30 p.m.
 - d) On New Year's Eve, except on a Sunday, 11 a.m. to 11 p.m.
 - e) On New Year's Eve on a Sunday, 12 noon to 10.30 p.m.
 - f) On New Year's Eve from the end of permitted hours to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).
 - g) On Christmas day, as provided by the rules of the club and notified in writing by the chairman or secretary of the club to the chief executive of the justices for the petty sessions area in which the premises are. The said hours shall:
 - i. not exceed six and a half hours;
 - ii. not begin earlier than 12 noon;
 - iii. not end later than 10.30 p.m.
 - iv. provide for a break of at least 2 hours, including 3 p.m. to 5 p.m.;
 - v. not extend for more than three and a half hours after 5 p.m.
- 2 The above restrictions do not prohibit:
 - (a) during the first twenty minutes after the above hours, the consumption of the alcohol on the premises;
 - (b) during the first twenty minutes after the above hours, the taking of alcohol from the premises, unless the alcohol is supplied or taken in

- (c) an open vessel;
during the first thirty minutes after the above hours, the consumption of the alcohol on the premises by persons taking meals there if the alcohol was supplied as ancillary to the meals;
- (d) the supply to, or consumption by, any person of alcohol in any premises where they are residing.

S.86A

Ports - Permitted Hours

Permitted hours are disapplied for licensed premises in approved wharfs in ports designated by the Secretary of State. Permitted hours conditions should therefore be omitted.

S87

Airports - Permitted Hours

Permitted hours are disapplied for licensed premises within examination stations in airports designated by the Secretary of State. Permitted hours conditions should therefore be omitted.

S95

Restaurant licence. Restaurant and residential licence - Permitted Hours

1 Alcohol may be sold or supplied:

- (1) On weekdays, other than Christmas Day, Good Friday or New Year's Eve from 11am to 12pm.
- (2) On Sundays, other than Christmas Day or New Year's Eve, and on Good Friday: 12 noon to 11:30pm
- (3) On Christmas Day: 12 noon to 11:30pm;
- (4) On New Year's Eve, except on a Sunday, 11 a.m. to midnight;
- (5) On New Year's Eve on a Sunday, 12 noon to 11.30 p.m.
- (6) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).

2 The above restrictions do not prohibit:

- (a) during the first twenty minutes after the above hours the consumption of the alcohol on the premises;
- (b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- (c) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking meals there if the alcohol was supplied for consumption as ancillary to the meals;
- (d) consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the premises;

S156**Seamen's Canteens - Permitted Hours**

1 Alcohol may be sold or supplied:

(1) On weekdays, other than Christmas Day, Good Friday or New Year's Eve, from 11am to 11pm.

(2) On Sundays, other than Christmas Day or New Year's Eve, and on Good Friday, from 12 noon to 10:30pm.

(3) On Christmas Day, from 12 noon to 3pm and 7pm to 10:30pm

(4) On New Year's Eve, except on a Sunday, 11 a.m. to midnight;

(5) On New Year's Eve on a Sunday, 12 noon to 11.30 p.m.

(6) Alcohol may be sold or supplied between 3pm and 7pm on Christmas Day to persons taking table meals for consumption as an ancillary to the meal.

(6) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).

2 The above restrictions do not prohibit:

(a) during the first twenty minutes after the above hours the consumption of the alcohol on the premises;

(b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;

(c) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking meals there if the alcohol was supplied for consumption as ancillary to the meals;

(d) consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the premises;

S157**Seamen's Canteens - Off Sales**

Alcohol shall not be sold or supplied for consumption outside the canteen.

S164**Off - Licence - Alcohol Consumption**

Alcohol shall not be sold in an open container or be consumed in the licensed premises.

S166**Licensed Premises - Credit Sales**

1 Alcohol shall not be sold or supplied unless it is paid for before or at the time when it is sold or supplied, except alcohol sold or supplied:

(a) with and for consumption at a meal supplied at the same time, consumed with the meal and paid for together with the meal;

(b) for consumption by a person residing in the premises or his guest and paid for together with his accommodation;

(c) to a canteen or mess.

Licensed Canteens & Club Premises - Credit Sales

- 1 Alcohol shall not be sold or supplied unless it is paid for before or at the time when it is sold or supplied, except alcohol sold or supplied with and for consumption at a meal supplied at the same time, consumed with the meal and paid for together with the meal.

S.168, 171, 201

On-licence, no children's certificate - Children in bars

- 1 No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:
 - (1) He is the child of the holder of the premises licence.
 - (2) He resides in the premises, but is not employed there.
 - (3) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.
 - (4) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

In this condition "bar" includes any place exclusively or mainly used for the consumption of intoxicating liquor. But an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.

S.168, 171, 179, 201

Seamen's Canteens - Children in Canteens

- 1 No person under fourteen shall be in the licensed canteen during the permitted hours unless one of the following applies:
 - (1) He is the child of the holder of the premises licence.
 - (2) He resides in the premises, but is not employed there.
 - (3) He is in the canteen solely for the purpose of passing to or from some part of the premises which is not a canteen and to or from which there is no other convenient means of access or egress.
 - (4) The canteen is in premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the canteen licence is ancillary.

On-licensed premises with children's certificates

1 No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:

- (1) He is the child of the holder of the premises licence.
- (2) He resides in the premises, but is not employed there.
- (3) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.
- (4) The bar is in premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.
- (5) (a) He is in an area shown on the plan attached to the licence
 - (b) Meals and non-alcoholic beverages are available for sale for consumption in that area.
 - (c) He is in the company of a person aged 18 or over.
 - (d) He is there:
 - (i) prior to 9 p.m. or
 - (ii) between 9 p.m. and 9.30 p.m.
where he or the said person is
consuming a meal purchased
before 9 p.m.

In this condition "bar" includes any place exclusively or mainly used for the consumption of intoxicating liquor. But an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.

Conditions Consistent with the Operating Schedule

Conditions agreed via Minor Variation July 2011 with Thames Valley Police and Trading Standards

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 Licence Holder or Designated Premises Supervisor 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.
- 5.(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 Thames Valley Police.
6. The Designated Premises Supervisor named on the premises licence shall not be a Designated Premises Supervisor for another premises licence operated by the same premises licence holder.
7. The Premises Licence Holder shall have available on the premises, for inspection by an authorised officer of the Licensing Authority at any reasonable time, true copies of invoices, receipts or other records of transactions for all tobacco products purchased in the preceding six months.
8. A digital CCTV system shall be installed, maintained and operated to the satisfaction of the Thames Valley Police and the Licensing Authority. The recordings from the system shall be able to record all

the entry and exit points to enable frontal identification of every person in any light conditions and shall be retrievable and retained for a period of 31 days. The system shall cover the outside of the premises to assist in the prevention of proxy sales. In accordance with the Data Protection Act 1998, a sign advising customers that CCTV is in operation shall be positioned at every entry point.

9. A refusal log, either electronic or written, detailing any attempted sale of alcohol that have been refused by a staff member(s) shall be kept and maintained on the premises. This log shall be made available to authorised officers of the Licensing Authority and Thames Valley Police upon request.

Annex 3

Conditions attached after a hearing by the Licensing Authority

N/A

Annex 4

Plans

As attached plan BTS/NA/R-002 dated 16/01/2003

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