

To: Councillors Woodward (Chair),
D Edwards and Grashoff

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NOTICE OF MEETING - LICENSING APPLICATIONS SUB-COMMITTEE 2 - 6 DECEMBER 2018

A meeting of the Licensing Applications Sub-Committee 2 will be held on Thursday, 6 December 2018 at 9.30 am in the Council Chamber, Civic Offices, Bridge Street, Reading, RG1 2LU. The Agenda for the meeting is set out below.

<u>ACTION</u>	<u>WARDS AFFECTED</u>	<u>Page No</u>
1. DECLARATIONS OF INTEREST		
<p>(a) Councillors to declare any disclosable pecuniary interests they may have in relation to the items for consideration;</p> <p>(b) Councillors to declare whether they wish to speak on the grounds they:</p> <p>(i) Have submitted a relevant representation as an interested party; or</p> <p>(ii) Will be speaking on behalf of an interested party.</p>		
2. MINUTES OF THE MEETINGS OF LICENSING APPLICATIONS SUB-COMMITTEE 2 HELD ON 8 NOVEMBER 2018 AND LICENSING APPLICATIONS SUB-COMMITTEE 1 HELD ON 13 NOVEMBER 2018		3 - 8
<p>To confirm the Minutes of the meetings of Licensing Applications Sub-Committee 2 held on 8 November 2018 and Licensing Applications Sub-Committee 1 held on 13 November 2018 as correct records.</p>		
3. APPLICATION FOR THE REVIEW OF A PREMISES LICENCE - MAP FOOD AND WINE, LONDON ROAD, READING	PARK	9 - 80
<p>To consider an application for the review of the Premises Licence in respect of MAP Food and Wine, 255 London Road, Reading.</p>		

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.

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

15. APPLICATION FOR THE TRANSFER OF A PREMISES LICENCE - MIAH'S GARDEN OF GULAB

The Head of Planning, Development and Regulatory Services submitted a report on an application by Mr Mouadjul Miah for the transfer of the Premises Licence in respect of Miah's Garden of Gulab, 130-134 Wokingham Road, Reading, RG6 1JL.

The report stated that there was currently a Premises Licence in force and the following licensable activities were permitted:

Performance of Live Music

Monday to Sunday 1100 hours until 0030 hours

Playing of Recorded Music

Monday to Sunday 1100 hours until 0100 hours

Hours for the Provision of Late Night Refreshment

Monday to Sunday 2300 hours until 0030 hours

Hours for the Sale by Retail of Alcohol

Monday to Sunday 1100 hours until 0030 hours

Good Friday 1200 hours until 2330 hours

Christmas Day 1200 hours until 2330 hours

New Year's Eve from the end of permitted hours for that day to the start of the permitted hours the following day

Hours the Premises are Open of the Public

Monday to Sunday 1100 hours until 0030 hours

The application had been made to transfer the premises licence from Mr Jamshed Miah to Mr Mouadjul Miah. A copy of the application form was attached to the report at Appendix RF1.

A representation regarding the application had been received from Thames Valley Police, which was attached to the report at Appendix RF2.

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

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

The report set out paragraphs 5.22 to 5.24 of the Council's Statement of Licensing Policy.

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The report also set out paragraphs 1.5, 2.1, 2.6, 8.101, 8.102, 9.11, and 9.12 of the amended guidance issued under Section 182 of the Licensing Act 2003 April 2018.

Mr Mouadjul Miah, the applicant, and Mr Jamshed Miah, were both present and were represented by their solicitor, Mr Jon Payne, who addressed the Sub-Committee on their behalf.

PC Simon Wheeler and Declan Smyth, Licensing Officer, Thames Valley Police, were both present. PC Simon Wheeler addressed the Sub-Committee on the representation regarding the application as stated in the report.

Resolved -

That, in order to promote the four licensing objectives and having regard to the oral and written representations made, the Secretary of State's guidance, as set out in the report, the Council's Statement of Licensing Policy, as set out in the report, the application for the transfer of the Premises Licence in respect of Miah's Garden of Gulab, be refused for the following reasons:

- (a) the applicants inexperience of running such a business did not give the Sub-Committee confidence that the licensing objectives would be promoted;
- (b) the Sub-Committee were concerned that Mr Jamshed Miah would continue as the Designated Premises Supervisor;
- (c) the Sub-Committee believed that Mr Jamshed Miah would still be actively involved in the business and would influence the applicant who has very limited experience, despite the signed declaration to the contrary.

(The meeting started at 9.30am and finished at 10.40am)

Present: Councillors Woodward (Chair), and Maskell.

16. APPLICATION FOR THE REVIEW OF A PREMISES LICENCE - SIMPLY FRESH SUPERMARKET

The Head of Planning, Development and Regulatory Services submitted a report on an application by Reading Borough Council Licensing Team for the review of the Premises Licence in respect of Simply Fresh Supermarket, 236-240 Northumberland Avenue, Reading, RG2 7QA.

The report stated that the Reading Borough Council Licensing Team had submitted the review of the Premises Licence due to a combination of immigration offences, criminal activity and multiple breaches of licence conditions that had been discovered during visits to the premises. The report detailed visits to the premises on 30 November 2017, 6 June 2018, and 17 August 2018. Immigration Enforcement had stated that two people had been encountered at the premises on 6 June 2018 who had no permission to work in the UK.

The application sought for the Premises Licence to be revoked as the only appropriate and proportionate step to promote the licensing objectives and safeguard the public.

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

The report stated that representations had been received from Thames Valley Police and the Home Office Immigration Service, which were attached to the report at Appendix II and III.

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

The report stated that the Premises Licence Holder was Simply Fresh Supermarkets Limited, the sole director of which was Mr Amar Singh.

The current Premises Licence, a copy of which was attached to the report at Appendix V, permitted the following:

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

Monday to Saturday	0800 hours until 2300 hours
Sunday	1000 hours until 2230 hours
Good Friday	0800 hours until 2230 hours
Christmas Day	1200 hours until 1500 hours and 1900 hours until 2230 hours

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

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

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

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

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

The report set out paragraphs 1.5, 1.7, 1.8, 9.12, 9.13, 9.25, 9.31, 9.38, 9.42, 9.43, 11.1, 11.2, 11.6, 11.10, 11.16 to 11.18 and 11.24 to 11.28 of the Amended Guidance issued under Section 182 of the Licensing Act 2003 (April 2018). The report also set out paragraphs 1.5, 7.15.1, 10.5.1, 15.1.1 and 15.3.1 of the Council's Statement of Licensing Policy.

Mr Amar Singh, the Premises Licence Holder, was present at the meeting and was represented by Mr Duncan Craig, barrister, both of whom addressed the Sub-Committee. Mr Surendra Panchal, Personal Licence Courses Ltd, was also present at the meeting.

Richard French, Reading Borough Council Licensing Team, was present at the meeting and addressed the Sub-Committee on the application. Declan Smyth, Thames Valley Police, and Lee-Ann Evanson, Immigration Service, were both present at the meeting and addressed the Sub-Committee.

Resolved -

That, having reviewed the Premises Licence in respect of Simply Fresh Supermarket, 236-240 Northumberland Avenue, and having regard to the promotion of the four licensing objectives and having regard to the oral and written representations made, the Secretary of State's guidance, as set out in the report, the Council's Statement of Licensing Policy, as set out in the report, the Sub-Committee concluded that it was appropriate and proportionate to revoke the Premises Licence in respect of Simply Fresh Supermarket for the following reasons:

- (a) The presence of illegal workers on the premises, as described in the report;
- (b) The breaches of employment law;

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- (c) The breaches of licensing conditions, in particular those regarding the sale of alcohol;
- (d) The failure to communicate with relevant officers as advice and warnings had been ignored;
- (e) Mr Singh accepted that he had not made the necessary employment checks and admitted that the workers had been employed illegally;
- (f) The Sub-Committee had no confidence that a period of suspension, as suggested by the Premises Licence Holder's representative, would be used to put the business in order as this hadn't happened in the 11 months since the first visit to the premises, despite communications from Reading Borough Council Licensing Team to do so;
- (g) The Designated Premises Supervisor did not appear to have day to day control over alcohol sales;
- (h) The Premises Licence Holder accepted that the 21 breaches of licensing conditions outlined in the report had occurred.

(The meeting started at 4.59pm and finished at 6.48pm)

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LICENSING ACT 2003 HEARING ON 06 DECEMBER 2018 @ 09.30HRS

APPLICATION FOR THE REVIEW OF A PREMISES LICENCE

1. Premises:

MAP Food and Wine
255 London Road
Reading
RG1 3NY

2. Applicants Requesting Review:

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

3. Grounds for Review

Background:

The premises known as Map Food and Wine 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 Sunday.

The premises operates as a supermarket with an off licence. The premises licence holder and the designated premises supervisor at the time of this submission is stated as Mr Sanmeet Singh Kapoor.

Licensing Inspections:

09.06.2018 - The premises were visited in a joint operation between the Licensing team of Reading Borough Council and officers from the Home Office Immigration Enforcement team. On arrival at the premises one illegal worker who had no right to work in the UK, was found in sole charge serving customers behind the till. As the illegal worker was the only person in attendance at the premises, officers had to close the premises and wait for another staff member to arrive. This staff member did have any authorisation to sell alcohol from the premises, so he was advised to remove it from sale so as to avoid committing further offences.

This is contrary to the various Immigration Acts and is considered as one of the most serious offences to take place in licensed premises under the Licensing Act 2003. The finding of one illegal worker is sufficient for the serious consideration to be given to revoke the premises licence

It is the duty 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.

The licensing inspection found the premises to be operating in breach of seven 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 (for example, Part A of the premises licence could not be produced).

17.08.2018 - A licensing inspection was carried out wherein the premises were found to be operating in breach of five conditions stated on the premises licence. There were also breaches of various parts of the Licensing Act 2003 including offences related to the premises licence holder's personal licence and his address details. Part A of the premises licence could not be produced. This inspection took place with Mr Kapoor, the named premises licence holder and designated premises supervisor.

12.09.2018 - A Licensing inspection was carried out wherein the premises were found to be operating in breach of three conditions stated on the premises licence. The offences relating to the premises licence holder's personal licence and address had still not been resolved. Part A of the premises licence could not be produced. This inspection took place with Mr Kapoor and staff member who attended the premises after the removal of an illegal worker during the first inspection.

There was a complete lack of licensing compliance; best practice procedures or any evidence that the licensing objectives were being actively promoted by Mr Kapoor.

Letters were sent to the premises licence holder at both the address stated for the premises licence holder and to the licensed 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.

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.

This is contrary to the various Immigration Acts and is considered as one of the most serious offences to take place in licensed premises under the Licensing Act 2003. The finding of one illegal worker is sufficient for the serious consideration to be given to revoke the premises licence

It is the duty of any responsible employer to ensure that the correct right to work checks are carried out. These checks have been a requirement since the late 1990's.

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

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 Responsible Authorities respectfully submit that the premises licence should be revoked.

4. Date of receipt of application: 11.10.2018

A copy of the review application received is attached at Appendix LIC-1

5. Date of closure of period for representations: 08.11.2018

6. Representations received:

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

Home office Immigration Team at Appendix LIC-2

Thames Valley Police at Appendix LIC-3

7. Background

The premises is located in East Reading on the main London Road, Reading.

The Premises Licence Holder (and designated premises supervisor) is stated as:
Mr Sanmeet Singh Kapoor

The premises currently has the benefit of a premises licence for the activities and hours detailed below: A copy of the current premises licence (LP2001554) is attached at Appendix LIC-4.

The times the licence authorises the carrying out of licensable activities

Sale of Alcohol by Retail - Off the Premises

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 0800hrs until 2300hrs

Hours the Premises is Open to the Public

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 0800hrs until 2300hrs

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.

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

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 (22nd October 2018 until 21st October 2023)

1.1 This policy sets out how the Council as the Licensing Authority for Reading promotes the four licensing objectives stated in the Licensing Act 2003. The four licensing objectives, as outlined in Section 4 (2) of the Licensing Act 2003, are of equal importance and the Council along with other named Responsible Authorities, stakeholders, residents and licence holders shall work together in order to actively promote them. Those four licensing objectives are:

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

1.2 The Council must have regard to the four licensing objectives when carrying out its functions under the Licensing Act 2003. The Licensing Authority will also have regard to other Council policies which have been introduced to tackle issues that may undermine crime and disorder or any of the other licensing objectives. The Licensing Authority will have regard to the contents of this policy as well as the Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003. It may also depart from this policy and the Secretary of State's Guidance if there are exceptional circumstances and it is appropriate to do so to promote the licensing objectives. If the Licensing Authority departs from the Secretary of State's Guidance it will give reasons as per paragraph 1.9 of that guidance.

1.3 The legislation also supports other key aims and purposes. These are outlined in paragraph 1.5 of the guidance and should be principal aims for all parties involved in licensing for the promotion of the licensing objectives. The licensing authority will have regard to these key aims in its decision making. They are:

- Protecting the public and local residents from crime, anti-social behaviour and noise nuisance associated and caused by irresponsible licensed premises;
- Giving the police and licensing authorities the powers they need to effectively manage and police the night time economy and take action against those premises that are causing problems;
- Recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- Providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area;
- Encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

1.5 This licensing policy aims to make Reading's night time economy an economy for all. A diverse range of responsibly run premises are to be encouraged. The licensing authority wishes to discourage drunkenness and a move away from alcohol led vertical drinking establishments. We would expect responsibly run premises to actively promote the licensing objectives through promoting extra seating at their premises; instigating effective dispersal from their premises at the conclusion of licensable activities and engagement with the licensing authority and other responsible authorities in policies, initiatives and strategies that promote Reading as a safe, healthy, diverse and vibrant night time economy suitable for all.

1.6 The predominantly urban nature of Reading as a town means that an appropriate balance needs to be struck between the needs of local business and the needs of local residents. This licensing policy seeks to encourage all stakeholders to engage in the licensing process so that the needs of all can be taken into account and issues dealt with in a spirit of partnership and co-operation.

Crime and Disorder Act 1998

3.2 This Act requires local authorities and other bodies to consider crime and disorder reduction. Section 17 of the Act states that it shall be the duty of each authority, to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that is reasonably can to prevent, crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment). This links specifically with the licensing objective of prevention of crime and disorder and the licensing authority will take into account all reasonable measures that actively promote this licensing objective.

Immigration Act 2016

3.4 Section 36 and Schedule 4 of the Immigration Act 2016 amended the Licensing Act

2003 and made Home Office Immigration Enforcement a Responsible Authority concerned with the licensing objective of prevention of crime and disorder. They will exercise their power both in respect of being a consultee on new licence applications and having right of entry to licensed premises with a view to seeing whether an offence under any of the Immigration Acts is being committed on a licensed premises. This will primarily involve the detection and prevention of illegal working on premises that have an alcohol licence or a late night refreshment licence. The offence of employing people at a licensed premises who have no right to work in the UK is also now listed in the Secretary of State's guidance under Section 11.27 which covers criminal activity deemed to be particularly serious and where a licensing authority should consider revoking a premises licence even in the first instance. This Act clearly supports and actively promotes the licensing objective of preventing crime and disorder and the licensing authority will work with colleagues in the Immigration service and Thames Valley Police to enforce this.

4.4 This policy document is prepared in accordance with Section 5 of the Licensing Act 2003 having regard to the Secretary of State's Guidance issued under Section 182 of the Licensing Act.

4.5 The Licensing Authority shall, as required by Section 4 of the Licensing Act, have regard to this policy in its decision making. The policy may be departed from in the individual circumstances of any case merit this and it is in the interests of promoting the licensing objectives. In such cases, the Licensing Authority shall give full reasons for departing from this policy.

4.6 The Licensing Authority has a duty under the Licensing Act 2003 to carry out its functions so as to promote the four licensing objectives. All four licensing objectives are of equal importance.

4.7 This policy addresses the principles behind the decisions in respect of all applications for:

- Premises Licences
- Club Premises Certificates
- Community Premises
- Personal Licences
- Temporary Event Notices
- Variation of conditions attached to licences
- Review of premises licences and club premises certificates

9. Enforcement

General Principles

9.1 It is the responsibility under the Act for all responsible authorities; licence holders and prospective licence holders to actively promote the four licensing objectives. The Council along with partner agencies, has a wider responsibility to protect the public as a whole and prevent crime, harm or nuisance from taking place.

9.2 The Authority will carry out its licensing functions with a view to actively promoting the licensing objectives and maintaining public safety. This applies to the dual role the licensing authority has both as the administrator of the process and as a

responsible authority.

9.3 The Licensing Authority has previously and will continue to work with other

responsible authorities and partner agencies in order to ensure that the licensing objectives are promoted and that a consistent and joined up approach is taken to enforcement across Reading.

9.4 Reading Borough Council and Thames Valley Police work in partnership when carrying out work that involves licensed premises and any matter that undermines the licensing objectives. The Authority and Thames Valley Police also work in partnership with colleagues in the Home Office Immigration Enforcement team and Trading Standards on a variety of issues including the prevention and detection of illegal working in licensed premises and issues surrounding super strength alcoholic products and responsible alcohol retailing.

9.5 The Licensing Authority, Trading Standards and Thames Valley Police have established a regular partnership group to discuss and identify issues arising from licensed premises and to decide what, if any, enforcement action should be taken against any such premises. The partnership group is often attended by other colleagues so as to provide the widest possible, joined up approach to tackling issues in relation to licensed premises. It is the authority's view that issues are best tackled, whenever practicable, through this joined up approach as it provides consistency and a best practice approach to dealing with licensing issues.

Inspections

9.6 The Authority will carry out inspections at all premises where a premises licence is in force. Additionally, an inspection may also be carried out where an application for a grant, variation or review is received by the Authority to ascertain the likely effect of granting any application on the promotion of the licensing objectives. Inspections may also be carried out if the Authority or one of our partner agencies/responsible authorities are made aware of complaints or other incidents that undermine the promotion of the licensing objectives.

9.7 Inspections will be carried out solely by the Licensing Authority or in conjunction with other partners such as Thames Valley Police, Home Office Immigration Enforcement and Trading Standards.

Enforcement Approach

9.12 Where offences are found to have been carried out on licensed premises, the Authority has a number of enforcement options available to it. The Authority will work with partner agencies to determine which enforcement option is appropriate for the promotion of the licensing objectives. The seriousness of the offences found will be taken into consideration as well as any previous issues of non compliance or criminality that have taken place at the licensed premises.

9.13 The enforcement options available to the Authority are wide-ranging. The Authority may consider, for example, that a letter detailing the issues found during an

inspection followed by a period of time to rectify them is sufficient to promote the licensing objectives. Similarly, the Authority may consider that the breaches are sufficiently serious to warrant an immediate performance meeting with a licence holder so that a discussion can take place about the adequacy of the processes in place at the premises. This could, for example, lead to recommendations being put to the licence holder to implement much more robust conditions and processes to avoid a repeat of the breaches found. The authority may also decide to prosecute relevant persons for offences being carried out on licensed premises. Licence holders should note that the authority can take one or more of these options available to it at the same time for the same offences should it be deemed appropriate to do so.

9.14 Licence holders should be aware that some criminal activity on licensed premises is considered to be of such seriousness to warrant a licence being reviewed straight away. There is certain criminal activity stated within the Secretary of State's Guidance that should be taken particularly seriously and where revocation of a licence, even in the first instance, should be seriously considered. This can include the sale or storage of smuggled alcohol or cigarettes on a licensed premises; the employment of an illegal worker at a licensed premises and the use of a licensed premises to sell or distribute drugs and weapons. Clearly if a premises is found to be committing such serious offences, then the premises and licence holder is severely undermining the licensing objectives. It is likely, under such circumstances, that a licence review will be initiated by the Authority or colleagues within Thames Valley Police, Home Office Immigration Enforcement or the relevant responsible authority with a view to having the licence revoked.

9.15 Licensed premises that have a history of non-compliance over a period of months and years and/or incidents of serious crime taking place at that premises, will likely find that the Authority will initiate a review with a view to asking for the licence to be considered for revocation.

9.16 When considering what enforcement action to take, the Authority will always consider what is the most appropriate and proportionate step to promote the licensing objectives. The Authority is not required to wait for offences to occur before deciding it needs to take appropriate action. Case law - notably *East Lindsey District Council v Abu Hanif* - states that the promotion of the licensing objectives requires a prospective consideration of what is warranted in the public interest having regard to the twin considerations of prevention and deterrence. Similarly, the Secretary of State's Guidance to the Licensing Act makes clear that there is no requirement for the Authority to wait for the outcome of any criminal proceedings before it initiates any enforcement action. This is the approach that the Authority will take when considering what, if any, action should be taken when condition breaches and other criminal activity is found at licensed premises.

9.20 The Authority shall endeavour to work with licence holders and applicants where it is believed that steps can be taken to rectify issues identified at licensed premises. However it can not merely continue that approach if it has previously failed or the licence holder is unresponsive. It is the responsibility of all licence holders and responsible authorities to ensure that licensed premises are not undermining the

promotion of the licensing objectives and that licensable activity is carried out lawfully. The Authority will work with partners to determine what action is appropriate for each premises where issues are discovered. Each premises and the action required for each will be assessed on its own individual merits.

9.21 The Council, in determining a review application can take the following steps in order to promote the licensing objectives:

- modify the conditions on the licence
- exclude a licensable activity from the scope of the licence
- remove the designated premises supervisor
- suspend the licence for a period not exceeding three months
- revoke the premises licence

Relevant Case law for consideration

East Lindsey District Council v Abu Hanif (2016)

Lic/map06.12.2018/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 Map Food and Wine 255 London Road	
Post town Reading	Post code (if known) RG1 3NY

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

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)

- Please tick one or more boxes ✓
- 1) the prevention of crime and disorder
 - 2) public safety
 - 3) the prevention of public nuisance
 - 4) the protection of children from harm

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

Discovery of Illegal worker:

On 9th June 2018, an illegal worker – who had no right to work in the UK – was 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 9th June 2018 (the same day that an illegal worker was encountered) wherein the premises was found to be operating in breach of seven 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 (for example, Part A of the premises licence could not be produced).

A licensing inspection was carried out on 17th August 2018 wherein the premises were found to be operating in breach of five conditions stated on the premises licence. There were also breaches of various parts of the Licensing Act 2003 including offences related to the premises licence holder's personal licence and his address details. Part A of the premises licence could not be produced. This inspection took place with the named premises licence holder and DPS.

A licensing inspection was carried out on 12th September 2018 wherein the premises were found to be operating in breach of three conditions stated on the premises licence. The offences relating to the premises licence holder's personal licence and address had still not been resolved. Part A of the premises licence could not be produced. This inspection took place with the named premises licence holder/DPS and staff member who attended the premises after the removal of an illegal worker during the first inspection.

Letters were sent to the licence holder at both the address stated for the premises licence holder and to the licensed 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 Map Food and Wine 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 Sunday.

The premises operates as a supermarket with an off licence. The premises licence holder is stated as Sanmeet Singh Kapoor. The designated premises supervisor at the time of this submission is stated as Sanmeet Singh Kapoor. Therefore the premises licence holder and the designated premises supervisor are the same person.

Illegal worker found:

The premises were visited on 9th June 2018 in a joint operation between the Licensing team of Reading Borough Council and officers from the Home Office Immigration Enforcement team. Immigration Enforcement have been a 'Responsible Authority' under the Licensing Act since April 2017 to predominantly deal with the prevention and detection of immigration offences that may be being committed on licensed premises which therefore undermine the prevention of crime and disorder licensing objective.

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

1. 29 year old Indian male was observed serving customers behind the till and he was the sole member of staff. When his ID was checked it was found that he had overstayed his visa and had no right to work in the UK.

As the illegal worker was the only person 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 did have a right to work in the UK but did not have any authorisation to sell alcohol from the premises. He was advised to remove it from sale so as to avoid committing further offences.

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 June 2018. A letter detailing the issues discovered during the first inspection on 9th June 2018 can be found at **appendix RF-1**.

This letter was sent to the premises and to the 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 seven of the conditions stated on the premises licence and the member of staff who attended the premises after the illegal worker was escorted off the premises was not authorised to sell alcohol from the premises. He was then advised to cover up or remove the alcohol to avoid committing further offences. The premises licence holder/DPS did not attend the premises.

Briefly, the areas found in breach were:

- a) Part A of the licence could not be produced. This is an offence.
- b) No valid 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 2,3,4,5,6 were not being complied with. These related to staff training; refresher training; issues with the age verification policy and the use of CCTV. It was later discovered that the CCTV did not record for 31 days as per the condition. The mandatory conditions in relation to having an age verification policy and all sales being authorised by a personal licence holder was not being complied with. 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 staff members were unclear as to the age verification policy was and did not know or understand what the four licensing objectives were.
- f) One illegal worker was located on the premises with no right to work in the UK.

The second licensing inspection took place on 17th August 2018. A copy of the letter sent to the premises licence holder at 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 five conditions attached to the premises licence. **This inspection was carried out with the premises licence holder/DPS present.** Briefly, the issues found during the inspection were:

- a) Conditions 1,2,3,5 and 6 were not being complied with. Again, these related to staff training; refresher training; the inadequacy of the CCTV in terms of staff being able to use it and it failing to hold the correct amount of days worth of footage and the lack of a clear age verification policy. These are the same issues that were identified during the first inspection on 9th June 2018. All breaches of conditions are contrary to Section 136

(1) of the Licensing Act 2003 and are criminal offences.

b) Part A of the premises licence could not be produced.

c) It was found that the address on the premises licence holders/DPS personal licence was incorrect and had been for some time. This is an offence under Section 127 of the Licensing Act 2003.

d) It was found that the address stated for the premises licence holder/DPS on the premises licence was incorrect. This is an offence under Section 33 of the Licensing Act 2003.

e) The DPS was unaware and did not have knowledge of the four licensing objectives.

The issues identified in the letter from the 17th August 2018 visit were almost identical to the issues flagged up in the letter detailing the visit of 9th June 2018 – some 2 months previous.

The third licensing inspection took place on 12th September 2018. A copy of the letter sent to the premises licence holder at the premises can be found at **appendix RF-3. No response has been received in relation to this letter.** The premises were found to be operating in breach of three of the licensing conditions stated on the premises licence. Briefly, the issues identified during the inspection were:

a) Conditions 1,5 and 6 were found to be in breach. These conditions related to staff training; refresher training and the CCTV system.

b) 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.

c) The contact address for the premises licence holder/DPS was incorrect on the premises licence. This is an offence under Section 33 of the Licensing Act 2003.

d) Once again, Part A of the premises licence could not be produced. This is an offence.

The issues identified during the 12th September 2018 were almost identical to the issues previously raised during the inspections of 9th June 2018 and 17th August 2018.

There have been a total of 15 breaches of licensing conditions over the period of 3 inspections 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 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. 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 9th June 2018
- Appendix RF-2 – Licensing inspection letter for inspection carried out on 17th August 2018
- Appendix RF-3 – Licensing inspection letter for inspection carried out on 12th September 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

Please tick ✓ yes

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

If yes please state the date of that application

Day		Month		Year		
┆	┆	┆	┆	┆	┆	┆

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

N/A

Please tick ✓

yes

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

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

Part 3 – Signatures (please read guidance note 4)

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

Signature



Date **11th October 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:EVU 053517

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

11 June 2018

Sanmeet Singh Kapoor
[REDACTED]
Hayes
Middlesex
UB3 4QG

Your contact is: Mr Richard French, Licensing

Dear Sirs

Licensing Act 2003
Premises Licence Number:LP2001554
Premises: MAP Food and Wine
Premises Address: 255 London Road, Reading

On the 9th June 2018 I visited your premises with colleagues from Home Office Immigration Enforcement to ensure you are complying with the above premises licence and advise on any matters that may arise during the inspection. I am aware that the member of staff left in charge of your premises on this date was removed from the premises by Immigration Officers because he had no right to work in the UK. The Home Office will correspond with you separately about this.

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

- 1) The mandatory conditions attached to your premises licence states that all sales of alcohol must be made or authorised by a personal licence holder. The member of staff who attended the premises to take over from the illegal worker was not authorised by you to sell alcohol; admitted he wasn't authorised by you and was therefore unable to legally sell alcohol. He was advised to cease selling alcohol to avoid committing further offences. You are also reminded that no sale of alcohol can take place at the premises until staff are correctly authorised.
- 2) Part A of your premises licence could not be produced. This is an offence and should be rectified immediately.
- 3) No Section 57 notice could be located at the premises. This document states where Part A of your premises licence is located and who has custody of it. Please rectify this immediately.
- 4) The mandatory conditions state that the premises licence holder must ensure that an age verification policy is adopted at the premises and that the DPS must ensure that all sales of alcohol are carried out in accordance with that policy. During my inspection

there was considerable confusion over what the age verification policy was. I was told verbally that it was Challenge 18. The condition on your licence states that it is Challenge 21 and the poster behind the till states it is Challenge 25. Please confirm to me what your age verification policy is and ensure that all staff are trained accordingly.

5) Condition 1 under Annex 2 of your premises licence in relation to CCTV could not be demonstrated as being complied with. It could not be shown how long the CCTV stored images for. This is a breach of condition and should be rectified immediately.

6) Conditions 2 and 3 under Annex 2 of your premises licence in relation to your age verification policy could not be demonstrated as being complied with. See point number 4 of this letter. Further, no notices advertising Challenge 21 were displayed. This is a breach of conditions and should be rectified immediately.

7) Condition 4 under Annex 2 of your premises licence in relation to all staff members being authorised to sell alcohol in writing was not being complied with. None of the staff members - the illegal worker or the person who came to take over from him - had been authorised in writing. This is a breach of condition and should be rectified immediately.

8) Condition 5 under Annex 2 of your premises licence in relation to staff training could not be demonstrated as being complied with. No staff training records were produced and when asked, staff could not tell me what staff they had received. This is a breach of condition and should be rectified immediately.

9) Condition 6 under Annex 2 of your premises licence in relation to refresher training could not be demonstrated as being complied with. No documents were produced for any member of staff and staff could not tell me what training they had received. This is a breach of conditions and should be rectified immediately.

10) Staff did not know what the four licensing objectives were. It is the responsibility of all licensed premises and staff to actively promote these objectives. This clearly can't be done if nobody knows what they are. You are advised to refresh yourself of these objectives and train your staff accordingly.

As I have already outlined, **you are advised to not sell or display alcohol unless staff are duly authorised. This is to avoid committing further offences under the Licensing Act 2003.** You are further advised to rectify all of the above licensing breaches immediately and to advise me when you believe all of the matters in this letter have been put right.

Please contact me if you require any clarification on the contents of this letter.

Yours faithfully

Mr Richard French
Licensing & Enforcement Officer



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

Our Ref: EVU 053517

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

21 August 2018

Sanmeet Singh Kapoor
 MAP Food and Wine
 255 London Road
 Reading
 RG1 3NY

Your contact is: Mr Richard French, Licensing

Dear Sirs

Licensing Act 2003
Premises Licence Number: LP2001554
Premises: MAP Food and Wine
Premises Address: 255 London Road, 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. As requested, this letter is being sent to the shop address as you have moved from the stated address on the licence.

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

- 1) Part A of your premises licence could not be produced. This is required to be kept at the premises and produced to authorised officers upon request. Please ensure this is rectified. If you require a further copy of Part A, then contact licensing@reading.gov.uk
- 2) You confirmed to me that you do not live at the address stated on the premises licence for the licence holder and DPS. This is an offence under Section 33 of the Licensing Act. Please return your premises licence to us with a letter notifying us of your new address and a fee of £10.50.
- 3) You confirmed to me that the address on your personal licence is incorrect as you do not live at that address. Section 127 of the Licensing Act states that you should notify the authority which issued your personal licence of any change of address. Therefore you should notify Hillingdon Council to inform them of this.
- 4) Condition 1 under Annex 2 of your premises licence in relation to CCTV could not be demonstrated as being complied with. It could not be shown how long the CCTV stored images for. This is a breach of condition and should be rectified immediately. This is the same issue that was raised in my previous visit on 9th June 2018.

Conditions 2 and 3 under Annex 2 of your premises licence in relation to your age verification policy could not be demonstrated as being complied with. Further, no notices advertising Challenge 21 were displayed. This is a breach of conditions and should be rectified immediately. This is the same issue that was raised in my previous visit on 9th June 2018.

5) Condition 5 under Annex 2 of your premises licence in relation to staff training could not be demonstrated as being complied with. No staff training records were produced and when asked, staff could not tell me what staff they had received. This is a breach of condition and should be rectified immediately. This is the same issue that was raised in my previous visit on 9th June 2018.

6) Condition 6 under Annex 2 of your premises licence in relation to refresher training could not be demonstrated as being complied with. No documents were produced for any member of staff and staff could not tell me what training they had received. This is a breach of conditions and should be rectified immediately. This is the same issue that was raised in my previous visit on 9th June 2018.

7) You did not know what the four licensing objectives were. It is the responsibility of all licensed premises and staff to actively promote these objectives. This clearly can't be done if nobody knows what they are. You are advised to refresh yourself of these objectives and train your staff accordingly. This is the same issue that was raised in my previous visit on 9th June 2018.

8) You were further reminded of your requirement to check your employees right to work documents before employing them. You stated that the other member of staff in the store at the time of our visit was 'on trial'. Please note that staff who are on trial or training are still classed as working for you as you are benefitting from them carrying out tasks for you.

Two visits have now been made to the premises and the level of compliance has not improved. It is the licence holders responsibility to ensure that the conditions of the licence as well as relevant legislation is being complied with.

Whilst we consider what, if any, further action to take in relation to this, please rectify the points outlined above within 14 days and notify me when you believe they have been rectified.

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



Mr Sanmeet Singh Kapoor
MAP Food and Wine
255 London Road
Reading
RG1 3NY

Alison Bell

Director of Environment and
Neighbourhood Services

Civic Offices, Bridge St, Reading,
RG1 2LU

☎ 0118 937 3787

Our Ref: LIC/PN/EVU53698

Your Ref:

Direct: ☎ 0118 9372269

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

26 September 2018

Your contact is: **Mr Peter Narancic, Licensing**

Dear Mr Kapoor

Licensing Act 2003

Premises Licence Number - LP2001554

Name of Premise - MAP Food and Wine

Address - 255 London Road, Reading

On 12 September 2018, I visited your premises with Thames Valley Police and Home Office Immigration officers to ensure you are complying with the above premises licence and advise on any matters that may arise during the inspection.

You were present with a member of staff during this inspection.

According to our records this is the third inspection made by the Licensing Team this year. You claimed that you had not received the two previous letters dated 11 June 2018 and 21 August 2018 from Richard French last one being addressed to your shop premises.

During my inspection, I found the following items that require your attention as outlined below. You were made aware that breaches of Licensing law and conditions are criminal offences.

1. You could not produce Part A of your premises licence. You were advised to rectify this immediately and notify your change of address to the Council.
2. You told the officer you have not notified the Licensing team that you have moved to a new address some years ago.

Breach of Conditions

Please refer to the attached premises licence

1. The Premises Licence holder shall ensure the premises CCTV system cameras shall continually record whilst the premises are open to the public and recordings shall be kept for a minimum of 31 days with time and date stamping. Data recordings shall be made available to an authorised officer of Reading Borough Council or a Thames Valley Police officer, together with facilities for viewing upon request within 24 hours - You were not complying with this condition as recordings are not kept for a minimum 31 days. You claimed you were waiting for an engineer to look at it.

5. All members of staff dealing with the sale of alcohol will be trained in relation to their responsibilities under the Licensing Act 2003 including the potential for underage sales. These records shall be in written format, kept at the premises and made available for inspection to authorised officers of Reading Borough Council and Thames Valley Police - You were not complying with this condition as training records produced were inadequate. You provided a single sheet of paper signed by a staff member.

6. All staff shall be refresher trained on the law relating to underage sales and their responsibilities under the Licensing Act 2003 every twelve months. Records of the training and reminders given shall be retained and made available to authorised officers of Thames Valley Police and Reading Borough Council upon request - You were not complying with this condition as you could not produce refresher training records.

Other Issues

1. Your staff member did not know what the four licensing objectives were, which casts doubt on the standard of training he has received.

Recommendations

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

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

Please ensure that above items are actioned within the next seven days, and once completed, inform in writing.

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

Yours faithfully

Peter Narancic

Mr Peter Narancic
Senior Licensing & Enforcement Officer

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.



Immigration
Enforcement

Immigration Enforcement representations:

**MAP FOOD AND WINE,
255 LONDON ROAD,
READING,
RG1 3NY**

M.A.P. FOOD & WINE SUPERSTORE, 255-257 LONDON ROAD, READING, RG1 3NY.

Home office immigration enforcement visited the above address entering under Section 179 Licensing Act 2003..

Upon entry 1x male of Asian ethnicity was encountered behind the till. He was the only member of staff and stated that he was the only person working in the shop at this time.

Subject stated that he had been working at the store for 2 years. He worked 4-5 days per week and worked 0900-1300. He is paid £100 per week and was never asked for documents to prove his right to work.

4 Day week he would earn 6.25p/h

5 Day week he would earn 5.00 p/h

These figures are below the recognised minimum wage which is set as follows:

These rates are for the National Living Wage and the National Minimum Wage. The rates change every April.

Year	25 and over	21 to 24	18 to 20	Under 18	Apprentice
April 2018 (current rate)	£7.83	£7.38	£5.90	£4.20	£3.70
April 2019	£8.21	£7.70	£6.15	£4.35	£3.90

Checks were conducted on the details he gave by Officer IDE which showed that he had expired leave as a T4 student. He had made an out of time application that had been refused and had put in another application which was currently outstanding. He had no permission to work.

He was arrested and served with papers as an Overstayer and Bailed to report to Eaton House. IW questions were put to him by Officer IDE and a referral notice was served on the business before officers left.

A civil penalty notice was issued

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.

THAMES VALLEY POLICE

APPENDIX LIC-3

Division/Station : Reading Police Station Licensing Dept

From : C2107 Declan Smyth

To : Reading Borough Council

Ref : Map Food And Wine, 255 London Road, Reading, RG1 3NY

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 Map Food And Wine, 255 London Road, Reading, RG1 3NY.

This representation is based on this premises and Mr Sanmeet Sing Kapoor'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 Sanmeet Sing Kapoor to support the licensing objective of prevention of crime and disorder as well as impacting negatively on all other licensing objectives.

On 12th September 2018 – Reading Borough Council (Peter Narancic, Licensing Officer) along with Thames Valley Police and Home Office Immigration officers completed a licensing inspection at Map Food And Wine, 255 London Road, Reading, RG1 3NY and found:-
See Appendix: TVP1 – RBC, Licensing Inspection 12th September 2018

- Part A of the premises licence could not be produced.
- DPS personal details were not correct (Change of address)
- Annex 2 - CCTV - Condition No.1 - was not being complied with.
- Annex 2 - Staff Training - Condition No.5 - was not being complied with and records were inadequate.
- Annex 2 - Staff Refresher training - Condition No. 6 – No records could be produced.
- Staff did not know the four licensing objectives.

On 17th August 2018 – Reading Borough Council (Richard French, Licensing Officer) and Thames Valley Police completed a licensing inspection at Map Food And Wine, 255 London Road, Reading, RG1 3NY and found:-
See Appendix: TVP2 – RBC, Licensing Inspection 17th August 2018

- Part A of the premises licence could not be produced.
- The DPS and Premises Licence Holder confirmed to Richard French that he does not live at the address stated on the premises licence.
- The DPS confirmed that the address on his personal licence is incorrect as he no longer lives at that address.
- Condition 1 under Annex 2 of the premises licence in relation to CCTV could not be demonstrated as being complied with.
- Conditions 2 and 3 under Annex 2 of the premises licence in relation to the age verification policy could not be demonstrated as being complied with.
- Condition 5 under Annex 2 of the premises licence in relation to staff training could not be demonstrated as being complied with.

- Condition 6 under Annex 2 of the premises licence in relation to refresher training could not be demonstrated as being complied with.
- The DPS did not know what the four licensing objectives were.

On 9th June 2018 – Reading Borough Council (Richard French, Licensing Officer), and a Home Office Immigration inspection took place at Map Food And Wine, 255 London Road, Reading, RG1 3NY and found:-

See Appendix TVP3 – RBC, Licensing Inspection 9th June 2018

- The mandatory conditions attached to the premises licence states that all sales of alcohol must be made or authorised by a personal licence holder, this was not being complied with.
- Part A of the premises licence could not be produced.
- No Section 57 notice could be located at the premises.
- The mandatory conditions state that the premises licence holder must ensure that an age verification policy is adopted at the premises and that the DPS must ensure that all sales of alcohol are carried out in accordance with that policy. During the inspection there was considerable confusion over what the age verification policy was. Richard French was told verbally that it was Challenge 18. The condition on your licence states that it is Challenge 21 and the poster behind the till states it is Challenge 25.
- Condition 1 under Annex 2 of the premises licence in relation to CCTV could not be demonstrated as being complied with.
- Conditions 2 and 3 under Annex 2 of the premises licence in relation to your age verification policy could not be demonstrated as being complied with.
- Condition 4 under Annex 2 of the premises licence in relation to all staff members being authorised to sell alcohol in writing was not being complied with.
- Condition 5 under Annex 2 of the premises licence in relation to staff training could not be demonstrated as being complied with.
- Condition 6 under Annex 2 of your premises licence in relation to refresher training could not be demonstrated as being complied with.
- Staff did not know what the four licensing objectives were.

On arrival at the premises it was confirmed by the Home Office Immigration officers that 1 member of staff working within the premises were working illegally. They were removed from the premises by Immigration Officers because he had no right to work in the UK.

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 3 inspections since June 2018 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 Sanmeet Singh Kapoor including the employment of an illegal worker 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 Reading Borough Council, Thames Valley Police and colleagues in Immigration Enforcement.

For these reasons Thames Valley Police respectfully recommend that the licensing Subcommittee 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.

List of appendix:

TVP1 – RBC, Licensing Inspection 12th September 2018

TVP2 – RBC, Licensing Inspection 17th August 2018

TVP3 – RBC, Licensing Inspection 9th June 2018



Alison Bell

Director of Environment and
Neighbourhood Services

Civic Offices, Bridge St, Reading,
RG1 2LU

☎ 0118 937 3787

Our Ref: LIC/PN/EVU53698
Your Ref:
Direct: ☎ 0118 9372269
e-mail: peter.narancic@reading.gov.uk

Mr Sanmeet Singh Kapoor
MAP Food and Wine
255 London Road
Reading
RG1 3NY

26 September 2018

Your contact is:

Mr Peter Narancic, Licensing

Dear Mr Kapoor

Licensing Act 2003

Premises Licence Number – LP2001554

Name of Premise - MAP Food and Wine

Address – 255 London Road, Reading

On 12 September 2018, I visited your premises with Thames Valley Police and Home Office Immigration officers to ensure you are complying with the above premises licence and advise on any matters that may arise during the inspection.

You were present with a member of staff during this inspection.

According to our records this is the third inspection made by the Licensing Team this year. You claimed that you had not received the two previous letters dated 11 June 2018 and 21 August 2018 from Richard French last one being addressed to your shop premises.

During my inspection, I found the following items that require your attention as outlined below. You were made aware that breaches of Licensing law and conditions are criminal offences.

1. You could not produce Part A of your premises licence. You were advised to rectify this immediately and notify your change of address to the Council.
2. You told the officer you have not notified the Licensing team that you have moved to a new address some years ago.

Breach of Conditions

Please refer to the attached premises licence

1. The Premises Licence holder shall ensure the premises CCTV system cameras shall continually record whilst the premises are open to the public and recordings shall be kept for a minimum of 31 days with time stamping. Data recordings shall be made

available to an authorised officer of Reading Borough Council or a Thames Valley Police officer, together with facilities for viewing upon request within 24 hours - **You were not complying with this condition as recordings are not kept for a minimum 31 days. You claimed you were waiting for an engineer to look at it.**

5. All members of staff dealing with the sale of alcohol will be trained in relation to their responsibilities under the Licensing Act 2003 including the potential for underage sales. These records shall be in written format, kept at the premises and made available for inspection to authorised officers of Reading Borough Council and Thames Valley Police

- **You were not complying with this condition as training records produced were inadequate**

You provided a single sheet of paper signed by a staff member.

6. All staff shall be refresher trained on the law relating to underage sales and their responsibilities under the Licensing Act 2003 every twelve months. Records of the training

and reminders given shall be retained and made available to authorised officers of Thames Valley Police and Reading Borough Council upon request - **You were not complying**

with this condition as you could not produce refresher training records.

Other Issues

1. Your staff member did not know what the four licensing objectives were, which casts doubt on the standard of training he has received.

Recommendations

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

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

Please ensure that above items are actioned within the next seven days, and once completed, inform in writing.

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

Yours faithfully

Peter Narancic

Mr Peter Narancic
Senior Licensing & Enforcement Officer

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	LP2001554
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Premises Details

Trading name of Premises and Address

MAP Food and Wine Ltd
255 London Road
Reading
RG1 3NY

Telephone Number

Where the Licence is time limited the dates the Licence is valid

N/A

Licensable Activities

Licensable Activities authorised by the Licence

Sale of Alcohol by Retail - Off the Premises

Authorised Hours for Licensable Activities

The times the licence authorises the carrying out of licensable activities

Hours for the Sale by Retail of Alcohol

Monday from 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 0800hrs until 2300hrs

Opening Hours

Hours the Premises is Open to the Public

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 0800hrs until 2300hrs

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

Sale of Alcohol by Retail - Off the Premises

Premises Licence Holder

Name, (registered) address of holder of premises licence

Name: Mr Sanmeet Singh Kapoor

Address: [REDACTED] Nestles Avenue, Hayes, Middlesex, UB3 4QG

Additional Details

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

Name: Mr Sanmeet Singh Kapoor

Address: [REDACTED] Nestles Avenue, Hayes, Middlesex, UB3 4QG

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

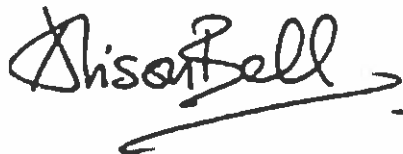
Personal Licence Number: LBHIL 1557

Issuing Authority: London Borough of Hillingdon

This Licence shall continue in force from **28/05/2014** unless previously suspended or revoked.

Dated: 28 May 2014

Head of Environment & Neighbourhood Services



Annex 1

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 drinks promotions.

On licence premises only (commencement date 6/4/2010)

- 1 The responsible person shall take all reasonable steps to 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 in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—
 - (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 (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
 - (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;
 - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—
 - (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring;
 - (e) 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.

Responsible drinking On and Off Sales

(Commencement date 6 April 2010)

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

Supply of tap water

On licence premises only (commencement date 6/4/2010)

The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

Age Verification (commencement 1st October 2010)

(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the supply of alcohol.

(2) The policy must require individuals who appear to the responsible person, as defined within the meaning of Section 153 (4) of the Licensing Act 2003, 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 a holographic mark.

Drink Measurements (commencement 1st October 2010)

1. The responsible person, within the meaning of Section 153 (4) of the Licensing Act 2003, shall 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: half a pint
- ii) gin, rum, vodka or whisky: 25ml or 35ml and
- iii) still wine in a glass: 125 ml and

b) customers are made aware of the availability of these measures

Annex 2

Conditions Consistent with the Operating Schedule

1. The Premises Licence holder shall ensure the premises CCTV system cameras shall continually record whilst the premises are open to the public and recordings shall be kept for a minimum of 31 days with time and date stamping. Data recordings shall be made available to an authorised officer of Reading Borough Council or a Thames Valley Police officer, together with facilities for viewing upon request within 24 hours.
2. The premises shall at all times operate a Challenge 21 policy to prevent any customers who attempt to purchase alcohol and who appear to the staff member to be under the age of 21 years from making such a purchase without having first provided identification. Only a valid British driver's licence showing a photograph of the person, a valid passport or proof of age card showing the 'Pass' hologram are to be accepted as identification.
3. Notices advertising the Challenge 21 policy shall be displayed in prominent positions on the premises.
4. All members of staff dealing with the sale of alcohol to the public will be authorised in writing by the Designated Premises Supervisor or Premises Licence Holder.
5. All members of staff dealing with the sale of alcohol will be trained in relation to their responsibilities under the Licensing Act 2003 including the potential for underage sales. These records shall be in written format, kept at the premises and made available for inspection to authorised officers of Reading Borough Council and Thames Valley Police.
6. All staff shall be refresher trained on the law relating to underage sales and their responsibilities under the Licensing Act 2003 every twelve months. Records of the training and reminders given shall be retained and made available to authorised officers of Thames Valley Police and Reading Borough Council upon request.
7. No items of stock are to be stacked on the public pavement outside the premises. The curtilage of the premises will be kept clear and clean by the Premises Licence Holder or their nominated representative.

Annex 3

Conditions attached after a hearing by the Licensing Authority

N/A

Annex 4

Plans

As attached plan submitted and dated 05/11/2012



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

Our Ref: EVU 053517

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

21 August 2018

Sanmeet Singh Kapoor
MAP Food and Wine
255 London Road
Reading
RG1 3NY

Your contact is: Mr Richard French, Licensing

Dear Sirs

Licensing Act 2003

Premises Licence Number: LP2001554

Premises: MAP Food and Wine

Premises Address: 255 London Road, 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. As requested, this letter is being sent to the shop address as you have moved from the stated address on the licence.

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

- 1) Part A of your premises licence could not be produced. This is required to be kept at the premises and produced to authorised officers upon request. Please ensure this is rectified. If you require a further copy of Part A, then contact licensing@reading.gov.uk
- 2) You confirmed to me that you do not live at the address stated on the premises licence for the licence holder and DPS. This is an offence under Section 33 of the Licensing Act. Please return your premises licence to us with a letter notifying us of your new address and a fee of £10.50.
- 3) You confirmed to me that the address on your personal licence is incorrect as you do not live at that address. Section 127 of the Licensing Act states that you should notify the authority which issued your personal licence of any change of address. Therefore you should notify Hillingdon Council to inform them of this.
- 4) Condition 1 under Annex 2 of your premises licence in relation to CCTV could not be demonstrated as being complied with. It could not be shown

how long the CCTV stored images for. This is a breach of condition and should be rectified immediately. This is the same issue that was raised in my previous visit on 9th June 2018.

Conditions 2 and 3 under Annex 2 of your premises licence in relation to your age verification policy could not be demonstrated as being complied with. Further, no notices advertising Challenge 21 were displayed. This is a breach of conditions and should be rectified immediately. This is the same issue that was raised in my previous visit on 9th June 2018.

5) Condition 5 under Annex 2 of your premises licence in relation to staff training could not be demonstrated as being complied with. No staff training records were produced and when asked, staff could not tell me what staff they had received. This is a breach of condition and should be rectified immediately. This is the same issue that was raised in my previous visit on 9th June 2018.

6) Condition 6 under Annex 2 of your premises licence in relation to refresher training could not be demonstrated as being complied with. No documents were produced for any member of staff and staff could not tell me what training they had received. This is a breach of conditions and should be rectified immediately. This is the same issue that was raised in my previous visit on 9th June 2018.

7) You did not know what the four licensing objectives were. It is the responsibility of all licensed premises and staff to actively promote these objectives. This clearly can't be done if nobody knows what they are. You are advised to refresh yourself of these objectives and train your staff accordingly. This is the same issue that was raised in my previous visit on 9th June 2018.

8) You were further reminded of your requirement to check your employees right to work documents before employing them. You stated that the other member of staff in the store at the time of our visit was 'on trial'. Please note that staff who are on trial or training are still classed as working for you as you are benefitting from them carrying out tasks for you.

Two visits have now been made to the premises and the level of compliance has not improved. It is the licence holders responsibility to ensure that the conditions of the licence as well as relevant legislation is being complied with.

Whilst we consider what, if any, further action to take in relation to this, please rectify the points outlined above within 14 days and notify me when you believe they have been rectified.

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



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

Our Ref:EVU 053517

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

11 June 2018

Sanmeet Singh Kapoor
██████ Nestles Avenue
Hayes
Middlesex
UB3 4QG

Your contact is: Mr Richard French, Licensing

Dear Sirs

Licensing Act 2003
Premises Licence Number:LP2001554
Premises: MAP Food and Wine
Premises Address: 255 London Road, Reading

On the 9th June 2018 I visited your premises with colleagues from Home Office Immigration Enforcement to ensure you are complying with the above premises licence and advise on any matters that may arise during the inspection. I am aware that the member of staff left in charge of your premises on this date was removed from the premises by Immigration Officers because he had no right to work in the UK. The Home Office will correspond with you separately about this.

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

- 1) The mandatory conditions attached to your premises licence states that all sales of alcohol must be made or authorised by a personal licence holder. The member of staff who attended the premises to take over from the illegal worker was not authorised by you to sell alcohol; admitted he wasn't authorised by you and was therefore unable to legally sell alcohol. He was advised to cease selling alcohol to avoid committing further offences. You are also reminded that no sale of alcohol can take place at the premises until staff are correctly authorised.
- 2) Part A of your premises licence could not be produced. This is an offence and should be rectified immediately.
- 3) No Section 57 notice could be located at the premises. This document states where Part A of your premises licence is located and who has custody of it. Please rectify this immediately.

4) The mandatory conditions state that the premises licence holder must ensure that an age verification policy is adopted at the premises and that the DPS must ensure that all sales of alcohol are carried out in accordance with that policy. During my inspection there was considerable confusion over what the age verification policy was. I was told verbally that it was Challenge 18. The condition on your licence states that it is Challenge 21 and the poster behind the till states it is Challenge 25. Please confirm to me what your age verification policy is and ensure that all staff are trained accordingly.

5) Condition 1 under Annex 2 of your premises licence in relation to CCTV could not be demonstrated as being complied with. It could not be shown how long the CCTV stored images for. This is a breach of condition and should be rectified immediately.

6) Conditions 2 and 3 under Annex 2 of your premises licence in relation to your age verification policy could not be demonstrated as being complied with. See point number 4 of this letter. Further, no notices advertising Challenge 21 were displayed. This is a breach of conditions and should be rectified immediately.

7) Condition 4 under Annex 2 of your premises licence in relation to all staff members being authorised to sell alcohol in writing was not being complied with. None of the staff members - the illegal worker or the person who came to take over from him - had been authorised in writing. This is a breach of condition and should be rectified immediately.

8) Condition 5 under Annex 2 of your premises licence in relation to staff training could not be demonstrated as being complied with. No staff training records were produced and when asked, staff could not tell me what staff they had received. This is a breach of condition and should be rectified immediately.

9) Condition 6 under Annex 2 of your premises licence in relation to refresher training could not be demonstrated as being complied with. No documents were produced for any member of staff and staff could not tell me what training they had received. This is a breach of conditions and should be rectified immediately.

10) Staff did not know what the four licensing objectives were. It is the responsibility of all licensed premises and staff to actively promote these objectives. This clearly can't be done if nobody knows what they are. You are advised to refresh yourself of these objectives and train your staff accordingly.

As I have already outlined, you are advised to not sell or display alcohol unless staff are duly authorised. This is to avoid committing further offences under the Licensing Act 2003. You are further advised to rectify all of the above licensing breaches immediately and to advise me when you believe all of the matters in this letter have been put right.

Please contact me if you require any clarification on the contents of this letter.

Yours faithfully

Page 71
Page 68

Mr Richard French
Licensing & Enforcement Officer

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	LP2001554
-------------------------	-----------

Premises Details

Trading name of Premises and Address	
MAP Food and Wine Ltd 255 London Road Reading RG1 3NY	
Telephone Number	

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

Licensable Activities

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

Authorised Hours for Licensable Activities

The times the licence authorises the carrying out of licensable activities	
Hours for the Sale by Retail of Alcohol	
Monday	from 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 0800hrs until 2300hrs

Opening Hours

Hours the Premises is Open to the Public	
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 0800hrs until 2300hrs

Alcohol

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

Sale of Alcohol by Retail - Off the Premises

Premises Licence Holder

Name, (registered) address of holder of premises licence

Name: Mr Sanmeet Singh Kapoor

Address: [REDACTED] Nestles Avenue, Hayes, Middlesex, UB3 4QG

Additional Details

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

Name: Mr Sanmeet Singh Kapoor

Address: [REDACTED] Nestles Avenue, Hayes, Middlesex, UB3 4QG

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

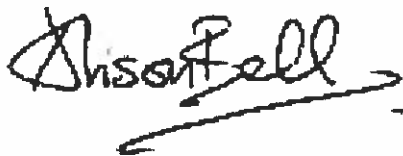
Personal Licence Number: LBHIL 1557

Issuing Authority: London Borough of Hillingdon

This Licence shall continue in force from 28/05/2014 unless previously suspended or revoked.

Dated: 28 May 2014

Head of Environment & Neighbourhood Services



Mandatory Conditions

Supply of Alcohol

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

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

Film Exhibitions

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

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

Door Supervisors

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

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

Responsible drinks promotions.

On licence premises only (commencement date 6/4/2010)

- 1 The responsible person shall take all reasonable steps to 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 in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children-
 - (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 (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
 - (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;
 - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on-
 - (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring;
 - (e) 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.

Responsible drinking On and Off Sales

(Commencement date 6 April 2010)

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

Supply of tap water

On licence premises only (commencement date 6/4/2010)

The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

Age Verification (commencement 1st October 2010)

(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the supply of alcohol.

(2) The policy must require individuals who appear to the responsible person, as defined within the meaning of Section 153 (4) of the Licensing Act 2003, 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 a holographic mark.

Drink Measurements (commencement 1st October 2010)

1. The responsible person, within the meaning of Section 153 (4) of the Licensing Act 2003, shall 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: half a pint
- ii) gin, rum, vodka or whisky: 25ml or 35ml and
- iii) still wine in a glass: 125 ml and

b) customers are made aware of the availability of these measures

Annex 2

Conditions Consistent with the Operating Schedule

1. The Premises Licence holder shall ensure the premises CCTV system cameras shall continually record whilst the premises are open to the public and recordings shall be kept for a minimum of 31 days with time and date stamping. Data recordings shall be made available to an authorised officer of Reading Borough Council or a Thames Valley Police officer, together with facilities for viewing upon request within 24 hours.
2. The premises shall at all times operate a Challenge 21 policy to prevent any customers who attempt to purchase alcohol and who appear to the staff member to be under the age of 21 years from making such a purchase without having first provided identification. Only a valid British driver's licence showing a photograph of the person, a valid passport or proof of age card showing the 'Pass' hologram are to be accepted as identification.
3. Notices advertising the Challenge 21 policy shall be displayed in prominent positions on the premises.
4. All members of staff dealing with the sale of alcohol to the public will be authorised in writing by the Designated Premises Supervisor or Premises Licence Holder.
5. All members of staff dealing with the sale of alcohol will be trained in relation to their responsibilities under the Licensing Act 2003 including the potential for underage sales. These records shall be in written format, kept at the premises and made available for inspection to authorised officers of Reading Borough Council and Thames Valley Police.
6. All staff shall be refresher trained on the law relating to underage sales and their responsibilities under the Licensing Act 2003 every twelve months. Records of the training and reminders given shall be retained and made available to authorised officers of Thames Valley Police and Reading Borough Council upon request.
7. No items of stock are to be stacked on the public pavement outside the premises. The curtilage of the premises will be kept clear and clean by the Premises Licence Holder or their nominated representative.

Annex 3

Conditions attached after a hearing by the Licensing Authority

N/A

Annex 4

Plans

As attached plan submitted and dated 05/11/2012

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