

To: Councillors Woodward (Chair) and
Grashoff

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20 December 2018

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NOTICE OF MEETING - LICENSING APPLICATIONS SUB-COMMITTEE 2 - 10 JANUARY 2019

A meeting of the Licensing Applications Sub-Committee 2 will be held on Thursday, 10 January 2019 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		
(a) Councillors to declare any disclosable pecuniary interests they may have in relation to the items for consideration;		
(b) Councillors to declare whether they wish to speak on the grounds they:		
(i) Have submitted a relevant representation as an interested party; or		
(ii) Will be speaking on behalf of an interested party.		
2. APPLICATION FOR THE REVIEW OF A PREMISES LICENCE - BEIJING NOODLE HOUSE, WEST STREET, READING	ABBEY	3 - 74
To consider an application for the review of a Premises Licence in respect of Beijing Noodle House, 13 West Street, Reading.		

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

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LICENSING ACT 2003 HEARING ON THURSDAY 10 JANUARY 2019 @ 09.30HRS

APPLICATION FOR THE REVIEW OF A PREMISES LICENCE

1. Premises:

Beijing Noodle House
13 West Street
Reading
Berkshire
RG1 1TT

2. Applicants Requesting Review:

Home Office Immigration Enforcement

3. Grounds for Review

Home Office Immigration Enforcement have grounds to believe that the premises licence holder has failed to meet the licensing objective of prevention of Crime and Disorder, as illegal working has been identified at this premises.

Background:

The premises known as Beijing Noodle House currently has a premises licence pursuant to the Licensing Act 2003 which permits the sale of alcohol by retail on and off the premises from 1000hrs until 2300hrs from Monday to Saturday, 1200hrs to 2230hrs on Sunday and late night refreshment 2300hrs to 2330hrs Monday to Sunday.

The premises operates as a restaurant and takeaway. The sole premises licence holder and designated premises supervisor at the time of this submission is stated as Mr Dipak Gurung.

12.05.2018 - 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 THREE illegal male workers, dressed in full chef whites were found in working in the kitchen. They had no right to work in the United Kingdom. The licensing inspection is detailed below.

The management were unable to provide any documentation for these three males. The officers were told Mr Gurung was on holiday.

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

History - Licensing Visits:

28.02.2018 - First licensing inspection carried out. The premises licence holder - Mr Dipak Gurung - later attended the premises. In summary, the key issues were as follows:

a) No Valid DPS was on the licence meaning that the premises had been illegally selling alcohol for a number of years;

b) None of the staff had been authorised to sell alcohol either verbally or in writing. Therefore no alcohol should have been being sold.

c) No Part A of the premises licence.

d) Part B of the premises licence was not displayed.

e) No Section 57 notice displayed.

f) No clear age verification policy.

g) There was no evidence of any licensing due diligence as no staff training

records could be produced and staff had no knowledge of the four licensing objectives. Premises and was advised to desist from selling and displaying alcohol to avoid committing further offences. He was also informed that if he wanted to sell alcohol he would need to appoint a DPS. He was given 7 days to rectify the issues identified.

12.05.2018 -Second licensing inspection carried out. In summary, the key issues were as follows:

- a) Three illegal workers were found at the premises;
- b) No Part A of the premises licence.
- c) Part B of the premises licence displayed;
- d) No Section 57 notice displayed;
- e) No clear age verification policy in place.
- f) Again, there was no evidence of any licensing due diligence as no staff training records could be produced and staff had no knowledge of the four licensing objectives.
- g) None of the right to work documents produced were for any of the three illegal workers found on the premises.

01.11.2018 - Third licensing inspection carried out. In summary, the key issues were as follows:

- a) The person assisting officers during the inspection claimed that they were the new licence holder and DPS. However, no application to transfer the licence or appoint a new DPS had been received. Therefore no licence was in force and alcohol should not be being sold. Alcohol was being sold during the visit and it was on display.

Therefore numerous offences have been committed which are currently under investigation.

- b) It was observed that a male was either extremely intoxicated or on drugs. This person was seen being ushered out of the premises when the officer arrived only to re-appear later on. This could lead one to conclude that the premises are serving alcohol irresponsibly and allowing the premises to be used as a bar rather than a restaurant.
- c) No Part A of the premises licence.
- d) No Part B of the premises licence displayed.
- e) No Section 57 notice displayed.

f) Again, there was no evidence of any age verification policy being operated at the premises which is contrary to the mandatory conditions.

g) Again, there was no evidence of any licensing due diligence as no training records could be produced for any staff member and none of the staff or management knew anything about the four licensing objectives.

A recent application to transfer the premises licence to another named person was received by the Licensing team, however, as it was incomplete, it was therefore deemed invalid.

Legislation

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

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

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

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

The Committee are respectively reminded, a review application under paragraph 51 of the Licensing Act 2003, is a review of the licence and not the licence holder.

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 for Beijing Noodle House, 13 West Street, Reading RG1 1TT should be revoked.

4. Date of receipt of application: **15.10.2018**

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

5. Date of closure of period for representations: **12.11.2018**

6. Representations received:

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

Reading Borough Council Licensing Team at **Appendix LIC-2**

Thames Valley Police at **Appendix LIC-3**

7. Background

The premises is located in the town centre, within the Council's Cumulative impact area.

The Premises Licence Holder and Designated Premises Supervisor holder is stated as:
Mr Dipak Gurung

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

The times the licence authorises the carrying out of licensable activities

Late Night Refreshment - Indoor & Outdoor

Sale of Alcohol by Retail - On & Off the Premises

Hours for the Provision of Late Night Refreshment

Monday from 2300hrs until 2330hrs

Tuesday from 2300hrs until 2330hrs

Wednesday from 2300hrs until 2330hrs

Thursday from 2300hrs until 2330hrs

Friday from 2300hrs until 2330hrs

Saturday from 2300hrs until 2330hrs

Hours for the Sale by Retail of Alcohol

Monday from 1000hrs until 2300hrs

Tuesday from 1000hrs until 2300hrs

Wednesday from 1000hrs until 2300hrs

Thursday from 1000hrs until 2300hrs

Friday from 1000hrs until 2300hrs

Saturday from 1000hrs until 2300hrs

Sunday from 1200hrs until 2230hrs

Hours the Premises is Open to the Public

N/A

Good Friday from 1200hrs until 2230hrs

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

New Year's Eve in addition to the permitted hours for that day, the period between the end of permitted hours on that day and the beginning of permitted hours the following day.

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 area. 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.

2.19 Reading's night time economy has achieved Purple Flag and Best Bar None status. These are nationally recognised schemes meaning the town has achieved a level of excellence and we would expect all licence holders and potential applicants to take cognisance of these standards and practices. The Authority and its partners shall seek to work with all stakeholders in the town to maintain these standards. The town also has a very successful and well attended Pubwatch scheme both in the town centre and in the outer areas of Reading. This scheme is supported by Thames Valley Police and Reading Borough Council and is a particularly useful forum for licence holders to share information, best practice and work in a collaborative manner so as to make the night time economy as vibrant and safe as possible for all. The Authority would expect all prospective applicants and current licence holders to make use of their local Pubwatch scheme and engage fully in any relevant initiatives that stem from it.

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 where 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 cannot 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 it's 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/beijingnoodle/10 01 2019/pn

Licensing Authority: Reading Borough Council

Reference: AL18660

**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 Home Office Immigration Enforcement

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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
Beijing Noodle House	
13, West Street	
Post town	Post code (if known)
Reading	RG1 1TT
Name of premises licence holder or club holding club premises certificate (if known)	
Dipak Gurung	
Number of premises licence or club premises certificate (if known)	

Part 2 - Applicant details

I am

Please tick ✓ yes

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

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

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

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

Please tick ✓ yes

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

Surname

First names

I am 18 years old or over

Please tick ✓ yes

Current postal
address if
different from
premises
address

Post town

Post Code

Daytime contact telephone number

E-mail address
(optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

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

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

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

Please tick one or more boxes ✓

-
-
-
-

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

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

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

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

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

Visit conducted on 12/05/2018.

Officers gained entry to the premises along with a Licensing Officer from Reading Borough Council.

Three British nationals were encountered. 3 Nepalese nationals were encountered and cleared as they had leave to remain in the UK and were allowed to return to work.

Officers encountered a further 3 Nepalese males working in the kitchen area dressed in full chefs whites. All 3 males were questioned by officers and arrested under paragraph 17(1) Sch 2 Immigration Act 1971 as amended as persons liable to be detained under paragraph 16(2) Sch 2 Immigration Act 1971 as amended. All 3 males were questioned in regards to their work at Beijing Noodle House and all 3 males were found to be working illegally at the premises. The management/senior persons were unable to provide any documentation for the 3 males who were found working. The owner of the premises was not available as he was on holiday. The 3 males were each named on the illegal working civil penalty notice which was served on the acting manager of the premises. All 3 males were escorted off site and detained pending documentation and removal from the UK.

Arrested persons:

One – Entered the UK illegally and has no right to work in the UK. They answered the following questions.

How long had they worked there? Second time today. I don't remember when I was here first time.

How did they get the job? One of the workers called me to help. Don't know their name.

Who gave them the job? A friend who lives in London called me

Did they show any documentation? No

What days/hours do they work? 3 hours per day

How much are they paid? £20-£25 for 2-3 hours work

How are they paid? Cash

Who pays them? My friend the boss DEEPAK

Do they receive any other benefits for working there? I get the money and go

Two – Overstayer in the UK and has no right to work in the UK. They answered the following questions.

How long had they worked there? 4 to 5 months

How did they get the job? Deepak GURUNG

Who gave them the job? Deepak GURUNG

Did they show any documentation? No. Was never asked

What days/hours do they work? 8 to 9 hours 6 days a week

How much are they paid? £350 per week

How are they paid? Cash

Who pays them? Deepak GURUNG

Do they receive any other benefits for working there? I get food free

Who pays them? (Question not asked)

Three – Also an Overstayer in the UK and has no right to work in the UK. They answered the following questions.

How long had they worked there? 3 months

How did they get the job? A Nepalese friend told me about it

Who gave them the job? Don't know

Did they show any documentation? No never asked

What days/hours do they work? 6 days per week 8 hours per day

How much are they paid? £200 per week

How are they paid? Cash

Who pays them? (Question not asked)

Do they receive any other benefits for working there? Food and accommodation

The owner was unavailable for questioning but their daughter, who works there as a waitress stated the following

- All three came individually to find work
- that all 3 had been asking for work over the last 3 weeks.
- All started today
- Stated that they said they had documentation but had not yet produced it
- Subjects were 'training' with her 2 chefs in the kitchen and that they would not be paid whilst they are training.
- Claimed that they had staff records but not for the 3 persons arrested
- She stated they were trainee cooks

In light of the 3 subjects found working illegally, Home Office Immigration Enforcement wish to seek revocation of the licence.

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

Please tick ✓ yes

If yes please state the date of that application

Day Month Year

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

yes

Please tick ✓

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

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

Part 3 – Signatures (please read guidance note 4)

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

Signature P Thomas

Date 15/10/2018

Capacity Responsible
Authority.....

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

Notes for Guidance

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

6. This is the address which we shall use to correspond with you about this application.



Name of Officer	Richard French
Type of Application	Review of Premises Licence - Licensing Act 2003
Name of Premises	Beijing Noodle House
Address	13 West Street
	Reading
	RG1 1TT
Content of Application:	
<p>The application is for the review of a premises licence in respect of the above mentioned premises. The application has been submitted by Home Office Immigration Enforcement who are a named responsible authority in the Licensing Act 2003.</p>	
Licensing Officer's Comments:	
<p>The Licensing Authority - in its role as a Responsible Authority - fully support the application for the review of the premises licence for Beijing Noodle House submitted by Home Office Immigration Enforcement. We also fully support the recommendation that the licence should be revoked.</p> <p>It should be noted that paragraph 51 of the Licensing Act 2003 states that a review is of the premises licence and not the premises licence holder. Therefore the activities that have been carried on in accordance, or not in accordance, with a licence are what should be considered when determining a review application.</p> <p>1. On 12th May 2018, the premises were found to be employing three people who did not have the right to work in the UK. All three members of staff were found wearing Chef Whites as they were working in the kitchen. One of the workers was an illegal entrant and the other two were overstayers. The employment of illegal workers on a licensed premises is stated within the Secretary of State's Guidance to the Licensing Act 2003 to be one of the most serious offences that the Licensing Authority can consider:</p> <p>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:</p> <ul style="list-style-type: none"> • 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.**

2. The review application contains details of the interviews that Immigration Officers carried out with the three illegal workers and the management of the premises. All three confirmed in their questioning that they were never asked to show any right to work documentation to get the job and that they were all paid by someone who they know as Dipak Gurung - who was the named premises licence holder and DPS at the time. The first worker (the illegal entrant) stated he worked up to three hours a day; was paid £20-25 and was paid cash in hand. The second worker stated he worked almost 48-50 hours a week; was paid £350 which is far below the minimum wage and was being paid cash in hand. The third worker stated he worked 48 hours a week; was paid £200 which is far below the minimum wage and was being paid cash in hand. All three workers had been working there for a number of months.

2.1 Failure to pay the minimum wage is evidence of further criminality and it appears that the relevant tax contributions were not being paid or declared which is contrary to the Fraud Act. The minimum wage in May 2018 was £7.83. Carrying out right to work checks on employees has been a requirement since the late 1990s and this was also confirmed as not being done. This could be defined as exploitation of workers who had no right to work in the UK which also undercuts law abiding employers who play by the rules. No credible explanation as to why the illegal workers were found was given by the premises management.

Licensing Visits

3. At the time of this submission, three licensing visits have taken place at the premises. The first visit took place on **28th February 2018** and the results of this inspection are attached at **appendix RF-1**. In summary, the key issues were as follows:

- a) No Valid DPS was on the licence meaning that the premises had been illegally selling alcohol for a number of years;
- b) None of the staff had been authorised to sell alcohol either verbally or in writing. Therefore no alcohol should have been being sold.
- c) Part A could not be produced.
- d) Part B of the licence was not displayed.
- e) No Section 57 notice could be found.
- f) There was no evidence of any age verification policy being in place. This is contrary to the mandatory conditions attached to the licence.
- g) There was no evidence of any licensing due diligence as no staff training records could be produced and staff had no knowledge of the four licensing objectives.

The premises licence holder - Mr Dipak Gurung - later attended the premises and was advised to desist from selling and displaying alcohol to avoid committing further offences. He was also informed that if he wanted to sell alcohol he would need to appoint a DPS. He was given 7 days to rectify the issues identified.

3.1 A second licensing inspection took place on **12th May 2018** and the results of this inspection are attached at **appendix RF-2**. In summary, the key issues were as follows:

- a) Three illegal workers were found at the premises;
- b) Again, Part A of the licence could not be produced;
- c) Again, Part B of the licence was not displayed;
- d) Again, a Section 57 notice could not be located;
- e) Again, there was no clear age verification policy in place. No staff knew what it was. This is contrary to the mandatory conditions.
- f) Again, there was no evidence of any licensing due diligence as no staff training records could be produced and staff had no knowledge of the four licensing objectives.
- g) None of the right to work documents produced were for any of the three illegal workers found on the premises.

3.2 A period of three months had elapsed since the previous licensing inspection yet the same issues were found. The premises licence holder did not attend the premises on this occasion. The premises management were advised to rectify the issues immediately.

3.3 A third licensing inspection took place on 1st November 2018 and the results of this inspection are attached at appendix RF-3. In summary, the key issues were as follows:

- a) The person assisting officers during the inspection claimed that they were the new licence holder and DPS. However, no application to transfer the licence or appoint a new DPS had been received. Therefore no licence was in force and alcohol should not be being sold. Alcohol was being sold during the visit and it was on display. Therefore numerous offences have been committed which are currently under investigation.
- b) It was observed that a male was either extremely intoxicated or on drugs. This person was seen being ushered out of the premises when the officer arrived only to re-appear later on. This could lead one to conclude that the premises are serving alcohol irresponsibly and allowing the premises to be used as a bar rather than a restaurant.
- c) Again, Part A of the premises licence could not be produced.
- d) Again, Part B of the premises was not displayed.
- e) Again, no Section 57 notice could be located.
- f) Again, there was no evidence of any age verification policy being operated at the premises which is contrary to the mandatory conditions.
- g) Again, there was no evidence of any licensing due diligence as no training records could be produced for any staff member and none of the staff or management knew anything about the four licensing objectives.

3.4 At the time of this submission, no transfer application or DPS variation has been received in respect of this premises. The premises has been seen selling and displaying alcohol despite being informed that no licence was in force and that, by doing so, further offences will be committed. No contact has been made in respect of any of the visits mentioned in this letter despite the seriousness of the offences that have been and continue to be committed. These offences alone and the lack of responsible alcohol retailing is enough for serious consideration to be given for the licence to be removed.

3.5 I also attach the case law of East Lindsey DC v Abu Hanif to this representation as appendix RF-4. This case states that the licensing objective of preventing 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. There is no need to any criminal proceedings/prosecutions/issuing of immigration penalties to be issued to engage the prevention of crime and disorder licensing objective. This is confirmed in paragraph 11.25 of the Guidance.

Summary

In summary, a review application under paragraph 51 of the Licensing Act 2003, is a review of the licence and not the licence holder. Three licensing visits have taken place at the premises since February 2018 and serious offences have been uncovered during all three visits. At the time of this submission, unlicensed activity is continuing to take place at the premises by people claiming to be a new licence holder. No applications have been received in respect of this; no contact has been received in respect of any of the letters sent to the premises and they have also demonstrated serious non compliance with licensing legislation. It is unclear who these alleged new licence holders are and whether they have any connection with the previous licence holder. Investigations are ongoing in respect of this.

It is the licensing teams submission that the only way to promote the licensing objectives and protect the public as a whole is for the premises licence to be revoked.

Date Received	15/10/2018	Date Due	12/11/2018
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Date	07	11	2018
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Alison Bell
 Director of Environment and
 Neighbourhood Services
 Civic Offices, Bridge St, Reading, RG1 2LU
 ☎ 0118 937 3787

Our Ref:EVU 053405

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

1 March 2018

Mr Gurung
 Basingstoke Road
 Reading

RG2 0EL

Your contact is: Mr Richard French, Licensing

Dear Mr Gurung

Licensing Act 2003

Premises Licence Number: LP3000425

Premises: Beijing Noodle House

Premises Address: 13 West Street, Reading

On the 28th February 2018 I visited your premises with my licensing colleague Mr Anthony Chawama and 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.

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

1) There was no valid Designated Premises Supervisor stated on the premises licence. By your own admission, Mrs Poh Choo Ong had left the business 'years ago' and had nothing to do with the premises. The mandatory conditions, stated on all premises licences that sell or supply alcohol, clearly state that no supply of alcohol may be made under the premises licence if there is no DPS. Therefore all alcohol sales made since Mrs Ong had left were arguably illegal. This is a serious offence under the Licensing Act 2003. At the conclusion of our licensing inspection you were advised that any sale of alcohol would be illegal and therefore to avoid committing further offences the sale of alcohol should cease until there is a valid DPS named on the premises licence. You were also advised that to prevent a further offence of displaying alcohol for sale - Section 137 of the Licensing Act 2003 - that alcohol should be removed from display. If you wish to carry on selling alcohol then you should apply to put a new DPS onto the licence immediately. Any sale that takes place without first adding a valid DPS would be an offence under the Licensing Act 2003.

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

3) Part B of your premises licence could not be located and was not displayed in a prominent position. This is an offence under the Licensing Act 2003 and should be rectified immediately.

4) There was no written authorisation list stating who had been authorised to sell alcohol. The mandatory conditions attached to all alcohol licences clearly states that every supply of alcohol made under the premises licence must be made or authorised by a personal licence holder. There was no evidence to suggest that anyone on the premises had been authorised. This is therefore a breach of the mandatory conditions attached to your premises licence. It was noted that you were not in attendance at the premises when we arrived and were therefore not selling alcohol.

5) No Section 57 notice could be located. This notice states where Part A of your premises licence is kept and who has custody of it. This is an offence under Section 57 of the Licensing Act 2003 and should be rectified immediately.

6) There was no evidence of any age policy being operated at the premises. The mandatory conditions attached to your premises licence clearly state that the premises licence holder must ensure that an age verification policy is adopted at the premises in relation to the sale of alcohol and must ensure that all sales are carried out in accordance with that policy. Failure to do this is a breach of the mandatory conditions attached to your premises licence and should be rectified immediately.

7) There was no evidence of any staff training in regard to licensing matters. Staff could not tell officers what training they had received; were unaware of the age verification policy and did not know what to do in the event of having to deal with incidents and refusals. You are strongly recommended to undertake such training with your staff - once you have addressed the issues already outlined in points 4 and 6 of this letter. It is recommended that any training be refreshed on a regular basis.

8) You were unaware of the four licensing objectives. You are a personal licence holder and part of that course is spent learning about and understanding the licensing objectives. All premises licence holders should be actively promoting the licensing objectives. If you do not know what they are then you cannot be actively promoting them. You are advised to refresh yourselves of these objectives and train your staff accordingly.

9) I briefly spoke to you about the three out of date food hygiene certificates you were displaying - two of which belonged to individuals that no longer work at the premises. You stated that you are training your staff yet you were not present when we attended the premises. I have referred this matter to our Environmental Health team.

10) I also briefly spoke to you about the room that is downstairs which seems to contain a DJ booth and seating. You are reminded that no licensable activity should take place in that room.

Please rectify all of the above points within 7 days and notify me when you believe all of the issues have been resolved so that we can arrange a revisit. If you wish to carry on selling alcohol then you should arrange to complete a DPS variation form immediately. Until there is a valid DPS on the licence, then no alcohol is permitted to be sold under the premises licence. Please note that we are still considering whether we need to take

any further action in relation to the issues raised in this letter and will notify you in due course if we decide that further action is required.

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

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:053462 EVU

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

16 May 2018

Gurung
Basingstoke Road
Reading
Berkshire
RG2 0EL

Your contact is: Mr Richard French, Licensing

Dear Mr Gurung

Licensing Act 2003

Premises Licence Number: LP2002270

Premises: Beijing Noodle House

Premises Address: 13 West Street, Reading

On the 12th May 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 informed that Home Office Immigration Enforcement found three persons on your premises who were believed to have been illegally working. They will correspond with you separately about this. The licensing inspection was carried out with Dipson Gurung.

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 an offence under Section 57 of the Licensing Act 2003 and should be rectified immediately.
- 2) Part B of your premises licence could not be located and was not displayed in a prominent position. This is an offence under the Licensing Act 2003 and should be rectified immediately.
- 3) No Section 57 notice could be located. This notice states where Part A of your premises licence is kept and who has custody of it. This is an offence under Section 57 of the Licensing Act 2003 and should be rectified immediately.
- 4) There was no evidence of any age policy being operated at the premises. The mandatory conditions attached to your premises licence clearly state that the premises licence holder must ensure that an age verification policy is adopted at the premises in relation to the sale of alcohol and must ensure that all sales are carried out in accordance with that policy. Failure to do this is a breach of the mandatory conditions attached to your premises licence and should be rectified immediately.

5) There was no evidence of any staff training in regard to licensing matters. Staff could not tell officers what training they had received; were unaware of the age verification policy and did not know what to do in the event of having to deal with incidents and refusals. You are strongly recommended to undertake such training with your staff - once you have addressed the issues already outlined in points 4 and 6 of this letter. It is recommended that any training be refreshed on a regular basis.

6) All staff seemed unaware of the four licensing objectives. You are a personal licence holder and part of that course is spent learning about and understanding the licensing objectives. All premises licence holders should be actively promoting the licensing objectives. If you do not know what they are then you cannot be actively promoting them. You are advised to refresh yourselves of these objectives and train your staff accordingly.

7) You produced a folder of some employees right to work documents however none of them were for the three people who were believed to be illegally working. There also appeared to be a lot of right to work documents in the folder. Please ensure that all right to work documents for ALL staff are kept securely and that documents for staff that no longer work at the premises are destroyed securely. You were advised about this during our last visit of 28th February 2018 and were given guidance about how to do this by colleagues from Immigration Enforcement.

Whilst we are considering what, if any, further action needs to be taken in relation to the visits of 12th May 2018 and 28th February 2018, you are advised to rectify the above as soon as possible. Once you believe the above matters have been rectified then please notify me. I note that I did not receive any correspondence from you in relation to the visit of 28th February 2018 when you were also asked to rectify these issues.

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:053819 EVU

The Licence Holder
 Beijing Noodle House
 13 West Street
 Reading
 RG1 1TT

Direct: ☎ 0118 9373 762 Option 3
 e-mail: licensing@reading.gov.uk

1 November 2018

Your contact is: **Anthony Chawama, Licensing**

Dear Licence Holder

Licensing Act 2003
 Premises Licence Number:
 Premises: Beijing Noodle House
 Premises Address: 13 West Street, Reading

At 12:40 hours on the 1st November 2018 I visited your premises to ensure you are complying with the above premises licence. This was a follow up to our inspections on 28th February 2018 and 12th May 2018.

During my inspection, I was assisted by **SABITA GURUNG** and 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 an offence under Section 57 of the Licensing Act 2003 and should be rectified immediately.
- 2) Part B of your premises licence could not be located and was not displayed in a prominent position. This is an offence under the Licensing Act 2003 and should be rectified immediately.
- 3) No Section 57 notice could be located. This notice states where Part A of your premises licence is kept and who has custody of it. This is an offence under Section 57 of the Licensing Act 2003 and should be rectified immediately.
- 4) There was no evidence of any age policy being operated at the premises. The mandatory conditions attached to your premises licence clearly state that the premises licence holder must ensure that an age verification policy is adopted at the premises in relation to the sale of alcohol and must ensure that all sales are carried out in accordance with that policy. Failure to do this is a breach of the mandatory conditions attached to your premises licence and should be rectified immediately.
- 5) There was no evidence of any staff training in regard to licensing matters. Staff could not tell officers what training they had received; were unaware of the age verification

policy and did not know what to do in the event of having to deal with incidents and refusals. You are strongly recommended to undertake such training with your staff - once you have addressed the issues already outlined in points 4 and 6 of this letter. It is recommended that any training be refreshed on a regular basis.

6) All staff seemed unaware of the four licensing objectives. You are a personal licence holder and part of that course is spent learning about and understanding the licensing objectives. All premises licence holders should be actively promoting the licensing objectives. If you do not know what they are then you cannot be actively promoting them. You are advised to refresh yourselves of these objectives and train your staff accordingly.

7) Whilst I was carrying out the inspection, I could see a man of Napalese ethnic group that was behaving in abnormal way. In my opinion he was either highly high on SPICE or heavily intoxicated on ALCOHOL that he couldn't stand on his own two feet. One male member of your staff from the restaurant wearing black shirt and black trouser was dragging out the patron that was behaving abnormal through the fire exit door. A few moment later the same man re-emerge in to the premises through the front entrance door using the tables and chairs as a pillar to balance his posture. If you or your staffs are trained or aware of LICENCING OBJECTIVES this situation would have be managed better.

You stated to me that you had taken over the premises a number of months ago. There has been no transfer application or DPS variation. Therefore without a DPS, you should not be selling alcohol at all. This is a serious offence and I noted on my visit that alcohol was being sold and alcohol was on display. These are offences under Section 136 and Section 137 of the Licensing Act and contrary to the mandatory conditions on the premises licence. You also claimed that you were the new licence holder yet the licence is not in your name. Therefore, you are advised to desist from carrying out any licensable activities until you have a premises licence in your name.

You were also informed that a review application is underway which seeks revocation of the premises licence for 13 West Street. This review was submitted on 12th November and a copy was hand delivered to the premises. Therefore you should already be aware of its contents. The fact that you have not taken any appropriate steps to ensure that you are legally running this business is of extreme concern and we are considering what, if any, further action to take in relation to this. As previously mentioned the alcohol that has been sold is unauthorised and it appears that at least one customer was extremely intoxicated so as to seriously question whether you should be selling alcohol at all.

Please rectify all of the issues in this letter immediately.

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

Yours faithfully

Anthony Chawama
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 appellants and other licensees in the east of England.

62. MR JUSTICE JAY: Okay.

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

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

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

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

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

68. MR KOLVIN: Yes.
69. MR JUSTICE JAY: Because these cases are referred to almost willy nilly, if they're available on Lawtel or wherever.
70. MR KOLVIN: Yes, they are.
71. MR JUSTICE JAY: Then they're just provided.
72. MR KOLVIN: They get into the textbooks and they - -
73. MR JUSTICE JAY: No- one objects.
74. MR KOLVIN: Yes. It has happened once before, in relation to the meaning of the Court of Appeal judgment in Hope and Glory, and Lindblom J, as he then was, was asked repeatedly would he certify in relation to the meaning of Hope and Glory, which is an important test, and he was pretty engaged in the practice direction. But since then that judgment, there's always an argument in court about whether it can be cited or not. The difference between licensing and some other fields of law is that very few cases reach here, so when they do, the judgments of High Court judges are gold dust.
75. MR JUSTICE JAY: Yes, well I'm happy to make the certification.
76. MR KOLVIN: Thank you very much indeed.
77. MR JUSTICE JAY: We wouldn't want this point to be taken again successfully.
78. MR KOLVIN: No.
79. MR JUSTICE JAY: Now as a matter of courtesy, is the judgment, once available, sent to the district judge, or is it something that I should do informally?
80. MR KOLVIN: I don't know, my Lord, what the normal practice is. I don't think that I have previously been on a legal team which has sent judgments, but we're very happy to undertake to do so.
81. MR JUSTICE JAY: Yes, I think if you're going to get a copy, obviously you're going to send it to the respondent - -

82. MR KOLVIN: Indeed.

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

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

85. MR JUSTICE JAY: Thank you very much.

Division/Station : Reading Licensing Dept

From : C2107 Declan Smyth

To : Reading Borough Council

Ref : Beijing Noodle House, 13 West Street, Reading, RG1 1TT - Premises Licence Number LP2002270

Date : 17th October 2018

Tel.No. 101

Subject :

Supportive review representation

I C2107 Declan Smyth on behalf of the Chief Officer of Thames Valley Police (TVP) wish to provide this representation in support of the review process relating to Beijing Noodle House, 13 West Street, Reading, RG1 1TT.

This representation is based on this premises and Mr Dipak Gurung'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.

On 12th May 2018 - The Home Office Immigration and Reading Borough Council (RBC) inspection took place at Beijing Noodle House, 13 West Street, Reading, RG1 1TT.

On arrival at the premises it was confirmed by the Home Office Immigration officers that 3 Nepalese males were working in the kitchen area dressed in full chef whites, these members of staff working within the premises were working illegally. All 3 males were questioned and arrested.

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

Also as part of the visit a licensing inspection was carried out by a member of the Reading Borough Council licensing team and TVP can confirm that the following areas of concern were noted:-

(See Appendix TVP-RBC-1)

- Part A of the Premises licence could not be produced and was unable to be presented on request.
- Part B of the premises licence could not be located and was not displayed in a prominent position.
- No Section 57 notice could be located.
- There was no evidence of any age policy being operated at the premises.
- There was no evidence of any staff training in regard to licensing matters. Staff could not tell officers what training they had received; were unaware of the age verification policy and did not know what to do in the event of having to deal with incidents and refusals.
- No member of staff knew any of the four licensing objectives.
- The authorised person produced a folder of some employees right to work documents however none of them were for the three people who were believed to be illegally working.

On 28th February 2018 – Reading Borough Council (RBC), and a Home Office Immigration Enforcement inspection took place at Beijing Noodle House, 13 West Street, Reading, RG1 1TT. The following areas of concern were noted:-

(See Appendix TVP-RBC-2)

- There was no valid Designated Premises Supervisor stated on the premises licence.
- Part A of the premises licence could not be produced.
- There was no written authorisation list stating who had been authorised to sell alcohol.
- No Section 57 notice could be located.
- There was no evidence of any age policy being operated at the premises.
- The DPS was unaware of the four licensing objectives.

Clearly there are a number of serious issues and failures of compliance in relation to the premises licence conditions that were discovered. Notably the employment of a number of illegal workers is also of serious concern.

For this reason TVP will state that this premises clearly undermines the licensing objectives and we fully endorse the review of this premises licence undertaken by the Licensing Authority.

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

Appendices

Appendix TVP-RBC-1 – Reading Borough Council, Inspection – 12th May 2018
Appendix TVP-RBC-2 – Reading Borough Council, Inspection – 28th February 2018



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

Our Ref:053462 EVU

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

Beijing Noodle House
 13 West Street
 Reading
 RG1 1TT

16 May 2018

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

Dear Mr Gurung

Licensing Act 2003
Premises Licence Number: LP2002270
Premises: Beijing Noodle House
Premises Address: 13 West Street, Reading

On the 12th May 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 informed that Home Office Immigration Enforcement found three persons on your premises who were believed to have been illegally working. They will correspond with you separately about this. The licensing inspection was carried out with Dipson Gurung.

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 an offence under Section 57 of the Licensing Act 2003 and should be rectified immediately.
- 2) Part B of your premises licence could not be located and was not displayed in a prominent position. This is an offence under the Licensing Act 2003 and should be rectified immediately.
- 3) No Section 57 notice could be located. This notice states where Part A of your premises licence is kept and who has custody of it. This is an offence under Section 57 of the Licensing Act 2003 and should be rectified immediately.
- 4) There was no evidence of any age policy being operated at the premises. The mandatory conditions attached to your premises licence clearly state that the premises licence holder must ensure that an age verification policy

is adopted at the premises in relation to the sale of alcohol and must ensure that all sales are carried out in accordance with that policy. Failure to do this is a breach of the mandatory conditions attached to your premises licence and should be rectified immediately.

5) There was no evidence of any staff training in regard to licensing matters. Staff could not tell officers what training they had received; were unaware of the age verification policy and did not know what to do in the event of having to deal with incidents and refusals. You are strongly recommended to undertake such training with your staff - once you have addressed the issues already outlined in points 4 and 6 of this letter. It is recommended that any training be refreshed on a regular basis.

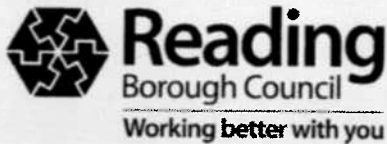
6) All staff seemed unaware of the four licensing objectives. You are a personal licence holder and part of that course is spent learning about and understanding the licensing objectives. All premises licence holders should be actively promoting the licensing objectives. If you do not know what they are then you cannot be actively promoting them. You are advised to refresh yourselves of these objectives and train your staff accordingly.

7) You produced a folder of some employees right to work documents however none of them were for the three people who were believed to be illegally working. There also appeared to be a lot of right to work documents in the folder. Please ensure that all right to work documents for ALL staff are kept securely and that documents for staff that no longer work at the premises are destroyed securely. You were advised about this during our last visit of 28th February 2018 and were given guidance about how to do this by colleagues from Immigration Enforcement.

Whilst we are considering what, if any, further action needs to be taken in relation to the visits of 12th May 2018 and 28th February 2018, you are advised to rectify the above as soon as possible. Once you believe the above matters have been rectified then please notify me. I note that I did not receive any correspondence from you in relation to the visit of 28th February 2018 when you were also asked to rectify these issues.

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 053405

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

1 March 2018

Mr [REDACTED] Gurung
 [REDACTED] Basingstoke Road
 Reading

└ RG2 0EL ─┘

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

Dear Mr Gurung

Licensing Act 2003
Premises Licence Number: LP3000425
Premises: Beijing Noodle House
Premises Address: 13 West Street, Reading

On the 28th February 2018 I visited your premises with my licensing colleague Mr Anthony Chawama and 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.

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

1) There was no valid Designated Premises Supervisor stated on the premises licence. By your own admission, Mrs Poh Choo Ong had left the business 'years ago' and had nothing to do with the premises. The mandatory conditions, stated on all premises licences that sell or supply alcohol, clearly state that no supply of alcohol may be made under the premises licence if there is no DPS. Therefore all alcohol sales made since Mrs Ong had left were arguably illegal. This is a serious offence under the Licensing Act 2003. At the conclusion of our licensing inspection you were advised that any sale of alcohol would be illegal and therefore to avoid committing further offences the sale of alcohol should cease until there is a valid DPS named on the premises licence. You were also advised that to prevent a further offence of displaying alcohol for sale - Section 137 of the Licensing Act 2003 - that alcohol should be removed from display. If you wish to carry on selling alcohol then you should apply to put a new DPS onto the licence immediately. Any sale that takes place without first adding a valid DPS would be an offence under the Licensing Act 2003.

- 2) Part A of your premises licence could not be produced. This is an offence under Section 57 of the Licensing Act 2003 and should be rectified immediately.
- 3) Part B of your premises licence could not be located and was displayed in a prominent position. This is an offence under the Licensing Act 2003 and should be rectified immediately.
- 4) There was no written authorisation list stating who had been authorised to sell alcohol. The mandatory conditions attached to all alcohol licences clearly states that every supply of alcohol made under the premises licence must be made or authorised by a personal licence holder. There was no evidence to suggest that anyone on the premises had been authorised. This is therefore a breach of the mandatory conditions attached to your premises licence. It was noted that you were not in attendance at the premises when we arrived and were therefore not selling alcohol.
- 5) No Section 57 notice could be located. This notice states where Part A of your premises licence is kept and who has custody of it. This is an offence under Section 57 of the Licensing Act 2003 and should be rectified immediately.
- 6) There was no evidence of any age policy being operated at the premises. The mandatory conditions attached to your premises licence clearly state that the premises licence holder must ensure that an age verification policy is adopted at the premises in relation to the sale of alcohol and must ensure that all sales are carried out in accordance with that policy. Failure to do this is a breach of the mandatory conditions attached to your premises licence and should be rectified immediately.
- 7) There was no evidence of any staff training in regard to licensing matters. Staff could not tell officers what training they had received; were unaware of the age verification policy and did not know what to do in the event of having to deal with incidents and refusals. You are strongly recommended to undertake such training with your staff - once you have addressed the issues already outlined in points 4 and 6 of this letter. It is recommended that any training be refreshed on a regular basis.
- 8) You were unaware of the four licensing objectives. You are a personal licence holder and part of that course is spent learning about and understanding the licensing objectives. All premises licence holders should be actively promoting the licensing objectives. If you do not know what they are then you cannot be actively promoting them. You are advised to refresh yourselves of these objectives and train your staff accordingly.
- 9) I briefly spoke to you about the three out of date food hygiene certificates you were displaying - two of which belonged to individuals that no longer work at the premises. You stated that you are training your staff yet you were not present when we attended the premises. I have referred this matter to our Environmental Health team.
- 10) I also briefly spoke to you about the room that is downstairs which seems to contain a DJ booth and seating. You are reminded that no licensable activity should take place in that room.

Please rectify all of the above points within 7 days and notify me when you believe all of the issues have been resolved so that we can arrange a revisit. If you wish to carry on selling alcohol then you should arrange to complete a DPS variation form immediately. Until there is a valid DPS on the licence, then no alcohol is permitted to be sold under the premises licence. Please note that we are still considering whether we need to take any further action in relation to the issues raised in this letter and will notify you in due course if we decide that further action is required.

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

Yours faithfully

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	LP2002270
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Premises Details

Trading name of Premises and Address	
Beijing Noodle House 13 West Street Reading Berkshire RG1 1TT	
Telephone Number	0118 958 8188

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

Licensable Activities

Licensable Activities authorised by the Licence
Late Night Refreshment - Indoor & Outdoor Sale of Alcohol by Retail - On & Off the Premises

Authorised Hours for Licensable Activities

The times the licence authorises the carrying out of licensable activities	
Hours for the Provision of Late Night Refreshment	
Monday	from 2300hrs until 2330hrs
Tuesday	from 2300hrs until 2330hrs
Wednesday	from 2300hrs until 2330hrs
Thursday	from 2300hrs until 2330hrs
Friday	from 2300hrs until 2330hrs
Saturday	from 2300hrs until 2330hrs
Hours for the Sale by Retail of Alcohol	
Monday	from 1000hrs until 2300hrs
Tuesday	from 1000hrs until 2300hrs
Wednesday	from 1000hrs until 2300hrs
Thursday	from 1000hrs until 2300hrs
Friday	from 1000hrs until 2300hrs
Saturday	from 1000hrs until 2300hrs
Sunday	from 1200hrs until 2230hrs

Good Friday from 1200hrs until 2230hrs
Christmas Day from 1200hrs until 1500hrs and 1900hrs until 2230hrs
New Year's Eve in addition to the permitted hours for that day, the period between the end of permitted hours on that day and the beginning of permitted hours the following day.

Opening Hours

N/A

Alcohol

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

Sale of Alcohol by Retail - On & Off the Premises

Premises Licence Holder

Name, (registered) address of holder of premises licence

Name: Mr Dipak Gurung

Address: ■ Basingstoke Road, Reading, Berkshire, RG2 0EL

Additional Details

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

Name: Mr Dipak Gurung

Address: ■ Basingstoke Road, Reading, Berkshire, RG2 0EL

Designated Premises Supervisor

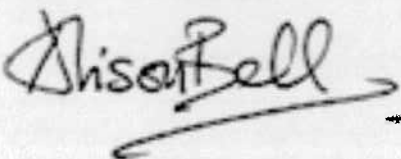
Personal Licence number and issuing authority of personal licence held by the designated premises supervisor where the premises licence authorises the supply of alcohol

Personal Licence Number: LP7002202

Issuing Authority: Reading Borough Council

This Licence shall continue in force from 16/04/2018 unless previously suspended or revoked.

Dated: 16/04/2018



Head of Environment & Consumer Services

Mandatory Conditions

Supply of Alcohol

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

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

Film Exhibitions

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

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

Door Supervisors

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

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

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

1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

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

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

Age Verification Policy (commencement 01/10/2014)

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

Drink Measurements (commencement date 01/10/2014)

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

Minimum Permitted Pricing (commencement 28th May 2014)

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

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

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

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

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

where—

(i) P is the permitted price,

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

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

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

(i) the holder of the premises licence,

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

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

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

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

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

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

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

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

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

Licensing Act 1964

Children & Young Persons Act 1933

Cinematograph (Safety) Regulations 1955

Cinemas Act 1985 - Film Exhibition Licence Conditions

Sporting Events (Control of Alcohol etc) Act 1985

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

Acts applicable to this licence for the purposes of embedded restrictions

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

Licensing Act 1964

Licence Conditions/Undertakings attached to Justices 'ON' Licence

No sale of intoxicating liquor for consumption on the premises except with a table meal consumed on the premises

Licensing Act 1964

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

On-licences - Permitted hours

- 1 Alcohol shall not be sold or supplied except during permitted hours. In this condition, permitted hours means:
 - a) On weekdays, other than Christmas Day, Good Friday or New Year's Eve, 11 a.m. to 11 p.m.
 - b) On Sundays, other than Christmas Day or New Year's Eve, 12 noon to 10.30 p.m.
 - c) On Good Friday, 12 noon to 10.30 p.m.
 - d) On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.
 - e) On New Year's Eve, except on a Sunday, 11 a.m. to 11 p.m.
 - f) On New Year's Eve on a Sunday, 12 noon to 10.30 p.m.
 - g) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).

- 2 The above restrictions do not prohibit:
 - a) during the first twenty minutes after the above hours the consumption of the alcohol on the premises;
 - b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
 - c) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking meals there if the alcohol was supplied for consumption as ancillary to the meals;
 - d) consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;
 - e) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
 - f) the sale of alcohol to a trader or club for the purposes of the trade or club;
 - g) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
 - h) the taking of alcohol from the premises by a person residing there; or
 - i) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied; or
 - j) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

s. 60, 63, 86

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

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

- a) On weekdays, other than Christmas Day, 8 a.m. to 11 p.m.
- b) On Sundays, other than Christmas Day, 10 a.m. to 10.30 p.m.
- c) On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m
- d) On Good Friday, 8 a.m. to 10.30 p.m.

2 The above restrictions do not prohibit:

- a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;
- b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- c) the sale of alcohol to a trader or club for the purposes of the trade or club;
- d) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;

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

Club premises - Permitted hours

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

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

2 The above restrictions do not prohibit:

- (a) during the first twenty minutes after the above hours, the consumption of the alcohol on the premises;
- (b) during the first twenty minutes after the above hours, the taking of alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;
- (c) during the first thirty minutes after the above hours, the consumption of the alcohol on the premises by persons taking meals

- (d) there if the alcohol was supplied as ancillary to the meals; the supply to, or consumption by, any person of alcohol in any premises where they are residing.

S.86A

Ports - Permitted Hours

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

S87

Airports - Permitted Hours

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

S95

Restaurant licence. Restaurant and residential licence - Permitted Hours

1 Alcohol may be sold or supplied:

(1) On weekdays, other than Christmas Day, Good Friday or New Year's Eve from 11am to 12pm.

(2) On Sundays, other than Christmas Day or New Year's Eve, and on Good Friday: 12 noon to 11:30pm

(3) On Christmas Day: 12 noon to 11:30pm;

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

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

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

2 The above restrictions do not prohibit:

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

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

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

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

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

1 Alcohol may be sold or supplied:

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

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

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

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

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

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

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

2 The above restrictions do not prohibit:

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

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

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

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

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

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

S164**Off - Licence - Alcohol Consumption**

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

S166**Licensed Premises - Credit Sales**

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

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

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

(c) to a canteen or mess.

Licensed Canteens & Club Premises - Credit Sales

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

S.168, 171, 201

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

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

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

S.168, 171, 179, 201

Seamen's Canteens - Children in Canteens

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

On-licensed premises with children's certificates

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

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

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

Annex 2

Conditions Consistent with the Operating Schedule

N/A

Annex 3

Conditions attached after a hearing by the Licensing Authority

N/A

Annex 4

Plans

As attached plan no. HKR/READ/01 dated 18/10/2012

As attached plan no.

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