

To: Councillors Edwards (Chair), Rynn and Skeats

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18 November 2020

Your contact is: **Julie Quarmby - Committee Services**

NOTICE OF MEETING - LICENSING APPLICATIONS SUB-COMMITTEE 2 - 26 NOVEMBER 2020

A meeting of the Licensing Applications Sub-Committee 2 will be held on Thursday, 26 November 2020 at 9.30 am via Microsoft Teams. The Agenda for the meeting is set out below.

<u>ACTION</u>	<u>WARDS AFFECTED</u>	<u>Page No</u>
1. DECLARATION 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 - KB SUPERSTORES, OXFORD ROAD, READING		3 - 100
To consider an application for the review of a Premises Licence in respect of KB Superstores, 337-339 Oxford Road, Reading, RG30 1AY.		
3. APPLICATION FOR THE REVIEW OF A PREMISES LICENCE - I & R STORES, OXFORD ROAD, READING		101 - 190

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.

To consider an application for the review of a Premises Licence in respect of I & R Stores, 202 Oxford Road, Reading, RG30 1AB.

LICENSING ACT 2003 HEARING -THURSDAY 26 NOVEMBER 2020 @ 0930HRS
APPLICATION FOR THE REVIEW OF A PREMISES LICENCE

1. Premises:

K B Superstores
337-339 Oxford Road
Reading
Berkshire
RG30 1AY

2. Applicants Requesting Review:

Thames Valley Police

3. Grounds for Review

The application is for the review of premises licence in respect of the above-mentioned premises. The application has been submitted by Thames Valley Police, who are a named responsible authority under the Licensing Act 2003 to address the failure of the premises licence holder to promote the licensing objectives via their insufficient measures to ensure due diligence or compliance with their licence conditions. Poor processes, lack of compliance, breaches of conditions and failure by the PLH to address or improve their delivery of Licensing Act 2003 legislation is leading to a failure to promote the licensing objectives and therefore is negatively affecting all four licensing objectives in equal measure.

4. Date of receipt of application: 03 October 2020

A copy of the review application and appendices received are attached as **Appendix LIC-1**

5. Date of closure of period for representations: 30 October 2020

6. Representations received:

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

Reading Borough Council - Licensing team - Attached as **Appendix LIC-2**

Interested Party - Attached as **Appendix LIC-3**

Additional information from TVP - Attached as **Appendix LIC-4**

7. Background

The premises is a convenience store with an off-licence located on Oxford Road, just west of Reading town centre. The Licensing Act 2003 premises licence was first granted in 2005. The licence was transferred to the current owner on 28.07.2017.

The Premises Licence Holder is: Buddha Eye Ltd, 337-339 Oxford Road, Reading, RG30 1AY. The sole Director is stated as Prasanta Gurung

The Designated Premises supervisor is: Mrs Sarsati Gurung

The premises currently has the benefit of a premises licence. A copy of the current licence is attached at Appendix LIC-5

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

In determining this application the Licensing Authority has a duty to carry out its functions with a view to promoting the four licensing objectives, which are as follows:-

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

In determining this application, the Licensing Authority must also have regard to the representations received, the Licensing Authority's statement of licensing policy and any relevant section of the statutory guidance to licensing authorities.

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

In determining the review application the sub-committee can take such 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

1.2 The legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.

1.3 The licensing objectives are:

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

1.4 Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.

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;
- 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;

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.

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.

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.

Powers of a licensing authority on the determination of a review

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

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

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

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

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.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where

subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

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.

Reading Borough Council Licensing Policy Statement (2018)

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 cooperation.

Other Initiatives

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.

Other Legislation that the Licensing Authority will consider

3.7 The Licensing Authority will also have cognisance to the following legislation when it decides to discharge its responsibilities under the Licensing Act. This list is not exhaustive:

- Environmental Protection Act 1990 which deals with noise and nuisance
- Regulatory Reform Order 2005 which deals with fire safety
- Highways Act 1980 which deals with pavement café licences
- Reading Borough Council Act 2013 which deals with street trading and touting
- Health and Safety at Work Act 1974 and Food Hygiene regulations
- Planning legislation (see paragraphs 2.2-2.9 of this policy)

Licensable Activities

4.15 This policy relates to all applications for the following licensable activities:

- The sale of alcohol by retail
- The supply of alcohol to club members
- The provision of regulated entertainment:
 - Performance of a play
 - Performance of a film
 - An indoor sporting event
 - Boxing or wrestling

- Performance of live music
- Performance of recorded music
- Performance of dance
- The provision of late night refreshment (the sale of hot food and drink between 2300hrs and 0500hrs)

Review of a premises licence or club premises certificate

5.13 Any premises that has a premises licence or club premises certificate may have that licence reviewed by any of the named Responsible authorities - including the Licensing Authority in its role as a Responsible Authority. Thames Valley Police may also submit a Summary Review if there is a premises associated with serious crime and disorder. When the Licensing Authority instigates a review it will ensure that there is a clear separation of functions between the officer acting as the licensing authority and the officer acting as a responsible authority.

5.15 The Act provides strict guidelines, timescales and procedures for review applications and hearings and the Authority will deal with every review application in accordance with these rules.

General Approach

Conditions

6.1 Conditions shall be appropriate and proportionate for the promotion of the licensing objectives and shall be unambiguous and clear in their stated aims. Conditions will also be tailored to the type, location and characteristics of the particular premises and the relevant licensable activities. Any condition imposed by the Authority shall also aim to avoid duplication of other legislation unless there is a requirement to impose such a condition in order to promote the licensing objectives (for example, a capacity limit for public safety reasons). This shall apply to all relevant applications (grant/variation of a premises licence or club premises certificate)

6.5 Any conditions imposed upon a premises licence or club premises certificate will be tailored to that type of premises and the style of operation. Consideration will also be given to the locality of the premises; issues in the locality; the issues set out in the Guidance and any policy, initiative or other matter the licensing authority wishes to take into account in order to promote the four licensing objectives.

7. Licensing Hours

General Approach

7.1 The Licensing Act 2003 gives the licensing authority the power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of this policy. The licensing authority will make appropriate decisions on licensing hours for the locality of each premises. All applications will be considered on its individual merits.

7.2 When an application receives representations, the authority may consider reducing the opening hours and times for licensable activities if it considers it appropriate for the promotion of the licensing objectives.

7.4 Where it is deemed appropriate and proportionate to do so, the authority may seek to reduce the hours for licensable activities in order to promote an orderly and gradual dispersal from a certain area or certain premises.

Enforcement Approach

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. 9.12 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.

9.15 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.

9.18 Any responsible authority or person defined as 'any other person' within the Act can initiate a review of any premises licence or club premises certificate. When another responsible authority or other person initiates a review, the Authority will deal with it as the Licensing Authority and may also wish to make representation in support of the review within its role as a responsible authority if it has relevant information.

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 its own individual merits.

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

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

10. Summary

Thames Valley Police have applied for this review to address the failures of the premises licence holder to promote the four licensing objectives due to their insufficient measures to ensure due diligence and full, reasonably expected, compliance of their licence conditions. Reading Borough Council's Licensing Team and an interested party have made representations in support of Thames Valley Police and concur that the failures of the premises licence holder must be addressed. Thames Valley Police and Reading Borough Council Licensing put forward that the appropriate and proportionate measure to take is to attach suggested conditions contained in their representations and for a period of suspension to allow the premises licence holder time to ensure that they are able

to comply with any new conditions.

11. Relevant Case law for consideration

The British Beer and Pub Association, The Association of Licensed Multiple Retailers, The British Institute of Innkeeping v Canterbury City Council [2005]

R (on application of Hope and Glory Public House Ltd) v City of Westminster Magistrates' Court and Others (2011) EWCA Civ 312

East Lindsey District Council v Abu Hanif (t/a Zara's Restaurant) 2016

R (on application of Daniel Thwaites plc) v Wirral Magistrates' Court and Others (2008) EWHC 838 (Admin)

12. Appendices

Appendix LIC-1: Review Application & Appendices.

Appendix LIC-2: Representation from Reading Borough Council Licensing Team.

Appendix LIC-3: Representation from Interested Party.

Appendix LIC-4: Additional Information from TVP.

Appendix LIC-5 : Current Premises Licence

[lic/reviewhearing/kbsuperstorex/26.11.2020/pn](#)

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**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 Simon Wheeler, on behalf of the Chief Constable of Thames Valley Police.....

(Insert name of applicant)

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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
K B Superstores 337-339 Oxford Road	
Post town Reading	Post code (if known) RG30 1AY

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

Number of premises licence or club premises certificate (if known)
LP3000661

Part 2 - Applicant details

I am

Please tick ✓ yes

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

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

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

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

Please tick ✓ yes

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

Surname

First names

I am 18 years old or over

Please tick ✓ yes

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

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Thames Valley Police C/O Reading Licensing Dept Reading Police Station Castle Street Reading RG1 7 TH
Telephone number (if any) 101
E-mail address (optional) Licensing@thamesvalley.pnn.police.uk

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

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

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

Thames Valley Police (TVP) as a responsible authority under the Licensing Act 2003 and under the objectives of prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm make an application for the review of Premises Licence No. **LP3000661**, K B Superstores, 337 - 339 Oxford Road, Reading, Berkshire, RG30 1AY.

Thames Valley Police submit this application for review in order to address the failure of the premises licence holder to promote the licensing objectives via their insufficient measures to ensure due diligence or compliance with their licence conditions.

Steps were taken to address poor management of the premises in 2017 by Reading Borough Council via a letter detailing their non-compliance and required improvements. Since that date and as recoded in our recent inspection, there have been no significant improvements.

Consequently, Thames Valley Police recently attempted for a second time to address these ongoing concerns via a stepped performance improving approach by requesting voluntary improvements to the premises licence conditions. These were set out in a recent letter designed to improve the PLH understanding and delivery of their licence conditions and responsibilities and in order to aid their promotion of the licensing objectives.

Sadly and of concern is that no current response has been received from the PLH in relation to any of our recommendations contained within that letter.

In conclusion the poor processes, lack of compliance, breaches of conditions and failure by the PLH to address or improve their delivery of Licensing Act 2002 legislation is leading to a failure to promote the licensing objectives and therefore is negatively affecting all four of licensing objectives in equal measure.

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

K B Superstores benefits from a premises licence that allows the off sale of alcohol by retail between 0800 hours until 2300 hours Monday to Saturday and between 1000 hours until 2230 hours on Sunday.

The premises is situated on the Oxford Road, Reading in an area which suffers high levels of anti-social behaviour including street drinking and the consumption of super strength alcohol, drug usage, prostitution and other associated signal crimes such as begging, graffiti and assaults of all levels.

As an example in response to these concerns Reading Borough Council have implemented a Public Space Protection Order (PSPO) to tackle these problems. The PSPO specifically identifies street drinking via the consumption of alcohol on the streets and its interlinked anti-social behaviour as having a direct negative impact on the community. As such, the consumption of super strength alcohol on the streets enabled by poor retailing processes is one of the key areas requiring management to reduce anti-social behaviour and prevent crime and disorder.

In response, Thames Valley Police believe that it is imperative for licensed premises (and specifically those situated within this area of concern i.e. Oxford Road) act both responsibly, and in a manner that promotes the licensing objectives.

On the **25th July 2017** the following letter was sent by Mr Richard French from Reading Borough Council to the current Designated Premises Supervisor Mrs Sarsati Gurung detailing a number of issues that were recorded during a joint TVP and RBC inspection on that same day and which included a number of condition breaches, a failure to update the correct Premises Licence Holder and general poor due diligence.

The letter and its content are detailed below:

Dear Mrs Gurung

Licensing Act 2003

Premises Licence Number: LP2001823

Premises: K B Superstores

Premises Address: 337-339 Oxford Road, Reading

On the 25th July 2017 I visited your premises with PC Wheeler of Thames Valley Police to ensure you are complying with the above premises licence and advise on any matters that may arise during the inspection.

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

1) On inspection of the premises licence it states that Mr Jit Budhathoki is the premises licence holder. Upon speaking to you, you stated that you had owned the business since 14th February 2014 and that you had not known at the time how to transfer the licence. That means you have been trading illegally utilising someone else's licence for over three years. This is unacceptable. You were advised several times to rectify this with immediate effect and it was pointed out to you that you could do this by utilising a solicitor for legal advice; doing it yourself online via the Council's website or attending the Council offices where we would assist you with the application. At the time of writing this, you have not done this. If you do not rectify this situation immediately, then we will have to consider more formal action and you will have to stop selling alcohol.

2) The address on your Personal Licence was incorrect. This is an offence under the Licensing Act 2003 and should be rectified immediately.

3) There seemed to be confusion over what age verification policy you were operating at the premises. When questioned, the age verification policy was, at first, 18. Then it moved up to 21. And then 24. The condition on your premises licence states that the premises should be operating Challenge 25. You are therefore in breach of this condition (condition 4 on page 14) and the mandatory condition in relation to an age verification policy on page 5. Please utilise Challenge 25 immediately and ensure that it is appropriately advertised via posters and that all of your staff are aware. Please remove the 'Challenge 18' posters.

4) Condition 1 on page 14 in relation to the use of an incident book was not being complied with. No incident book was being used. Please ensure that a book is being used and that all staff are trained in how to use and maintain it.

5) Condition 2 on page 14 in relation to all authorised alcohol sellers having achieved the BIIAB Level 1 qualification could not be demonstrated as being complied with. Yourself and Mr Gurung have personal licences which is acceptable. However, the personal licence of BIIAB Level 1 qualification for one of the staff could not be produced. The fourth person stated as being authorised had neither a BIIAB Level certificate or a personal licence and should therefore not be selling alcohol at all. Please rectify this immediately either by sending the relevant people on the course or by not allowing them to sell alcohol.

6) Conditions 3 and 5 on page 14 in relation to staff training were not being complied with. No written documentation could be produced to show that any staff member had been trained on how to responsibly sell age restricted products or trained on the premises' age verification policy. No refresher training could be shown as being done as no records were produced. This is a breach of both of these conditions and should be rectified immediately.

7) Your written alcohol authorisation list needs updating and the person who does not have a BIIAB qualification removed from it.

8) No Section 57 notice could be produced. This notice states where Part A of the premises licence is kept and who has custody of it. Please ensure this is rectified.

9) Neither yourself or Mr Gurung could tell officers what the four licensing objectives were. This is particularly concerning given that you are both personal licence holders and are supposed to be actively promoting them to sell alcohol responsibly. You should also be training your staff in what they are and how they should be promoted. It leads to the question as to how the licensing objectives can be being actively promoted at your premises if nobody knows what they are. Please ensure that you refresh yourselves and your staff on this and include it in any training you do.

10) We spoke to you about a voluntary scheme the Council will be implementing to stop high strength alcohol being purchased by known street drinkers. Street drinking is having a detrimental impact on the local community and is known to cause anti social behaviour. You were given a document called a 'Retailer Passport' to assist you in your training and a poster which you stated you would use. You also stated that you had already implemented a policy to only sell cans of super strength beer and cider above 6.5% in packs of 4. This is welcomed. If you need any assistance on this matter then please contact me as we are looking to tackle the issue of super strength alcohol down the entirety of the Oxford Road.

Please ensure that point number 1 above is rectified immediately and that points 2-8 are rectified within 7 days. Please notify me at the above email address when you believe that all of the above have been completed.

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

Yours faithfully

Mr Richard French

Licensing Enforcement

On the **28th August 2020** Thames Valley Police conducted an inspection at the premises with the Designated Premises Supervisor Mrs Sarsati Gurung.

During this inspection a number of the areas of concern identical to those recorded by Mr French in 2017 were again observed. These are briefly outlined below:

- Part B of the licence was incorrectly displayed on initial arrival, and only eventually rectified with help from the inspecting officer.
- No Section 57 notice was available or displayed.
- Challenge 25 conditions (4 & 5) were not complied with and the age verification policy was incorrect in that it only required for age challenge under the age of 18, and no refresher training was being delivered.
- Condition 1 requiring an incident register was in breach.
- No further regular or refresher training in any aspect of the licensing act was being delivered.
- Neither the DPS nor her husband (the only other official member of staff) were aware of or could recall any of the four licensing objectives.
- From a due diligence perspective the premises CCTV system was not working.
- The refusals register had minimal entries.
- No fire risk assessment was available and neither any evidence of its implementation.
- A discussion took place surrounding the sale of super strength products. I note that in the letter written by Mr French it was noted the DPS suggested they may restrict the sales of single cans of these products. During this inspection the similar comments were made however they had clearly not been actioned in 2017.

A copy of the inspection sheet can be seen at **APPENDIX 1** and body worn video of the inspection can be identified as **APPENDIX 2**.

On the 4th September 2020 TVP sent a letter to the PLH/DPS (same address) detailing the failings of this inspection and requesting consideration for conditions to be applied to the premises licence via minor variation in order to improve the performance and delivery of the PLH/DPS.

A deadline for communication to discuss the recommendations was set for the 18th September 2020. As of the 1st October 2020, no communication in response to the letter has been received by Thames Valley Police. (See **APPENDIX 3**)

Conclusion

Both Reading Borough Council and Thames Valley Police have undertaken inspections at this premises over the previous three years. The outcomes of both inspections have shown identified holistic failures in relation to the implementation of due diligence, the promotion of the licensing objectives and a lack of compliance with current premises licence conditions.

Thames Valley Police have attempted to rectify this situation with the premises licence holder via a communicated stepped approach and recent letter. We had hoped to propose what we believe to be reasonable, necessary and proportionate conditions to be included within the licence to address our concerns and promote the licensing objectives.

Within the letter we included a number of detailed and pointed conditions to aid the PLH in delivering improved processes, and recommended a further condition that restricts the provision of certain high strength beer and cider above a 6.0%abv in order to protect the community.

Unfortunately, on this occasion, no response has been received from the Premises Licence Holder, and as this premises is failing to promote the licensing objectives we therefore are submitting this application for review by the licensing sub-committee.

As stated within the case law within East Lindsey District Council v Abu Hanif , “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”.

It is in response to this scenario that Thames Valley Police are making this application for the review of this premises licence in order that the licensing sub-committee may have the opportunity to assess both the impact of this premises licence and the ability of the premises licence holder to promote the licensing objectives.

Thames Valley Police set out our following recommendations for consideration of the licensing sub-committee:

- **the modification of the conditions of the premises licence;**

Thames Valley Police recommend that a number of conditions are required to be added to the premises licence to both replace the current five conditions and improve upon them with conditions that shall aid the PLH promotion of the licensing objectives.

Our recommended conditions shall be included at the end of our submission.

TVP believe that the proposed conditions shall aid the PLH to promote and not undermine the four licensing objectives.

- **the exclusion of a licensable activity from the scope of the licence;**

Thames Valley Police are not recommending any exclusion of licensable activity at this time.

- **Revocation of the licence;**

Thames Valley Police are of the opinion that currently it may be prudent to provide the PLH the opportunity to improve their compliance and promote the licensing objectives via improved conditions and support to increase their compliance; therefore we preclude to recommend this option at this time.

- **the suspension of the licence for a period not exceeding 3 months;**

Thames Valley Police believe that a suspension of the licence coupled with the imposition of the recommended improved licence conditions may provide the PLH a period of time to implement new policies and ensure compliance.

However, we do not believe that the proposed conditions are such that they overstep what would generally be expected of any responsible operator anyway and as such do not believe that an over burdensome period of time would be required to implement these processes.

- **the removal of the designated premises supervisor;**

Thames Valley Police would recommend that this option is initially precluded at this time to provide the opportunity to show competence.

Thames Valley Police recommended conditions:

1. Staff employed to sell alcohol shall undergo training upon induction before they are allowed to sell alcohol. This shall include, but not be limited to:-

- The premises age verification policy
- The Four Licensing objectives
- Dealing with refusal of sales
- Proxy purchasing
- Recognising valid identity documents not in the English language
- Identifying attempts by intoxicated persons to purchase alcohol
- Identifying signs of intoxication
- Conflict management
- How to identify and safeguard vulnerable persons who attend and leave the premises.

a) Refresher training shall be provided every 6 (six) months.

b) Signed induction and refresher training records are to be kept for a minimum of 2 (Two) years of the date of training, and made available for inspection by a Police Officer or authorised officer of Reading Borough Council upon request.

c) All staff authorised to sell alcohol shall be accredited to a minimum of BII Level 1 award in responsible alcohol retailing (ARAR) or any other similarly nationally recognised approved accreditation curriculum within four weeks for existing and subsequent employees.

2. All staff to be trained to record refusals of sales of alcohol in a refusals book or electronic register. The book/register shall contain:

- Details of the time and date the refusal was made
- The identity of the staff member refusing the sale.
- Details of the alcohol the person attempted to purchase.

a) This book/register shall be available for inspection to an authorised officer of Reading Borough Council or Thames Valley Police. A weekly review of the refusals book/register shall also be carried out and signed off by the Designated Premises Supervisor or their nominated representative.

3. An incident register/log shall be used, maintained and kept on the premises to record any incident which has an impact on any of the four licensing objectives, or instances when the police have had to attend the premises.

a) The register shall be made available for inspection to authorised officers of Reading Borough Council and Thames Valley Police upon request;

4. The premises shall at all times operate a Challenge 25 age verification policy to prevent any customers who attempt to purchase alcohol and who appear to the staff member to be under the age of 25 years from making such a purchase without having first provided identification. Only a valid British driver's licence showing a photograph of the person, a valid passport, military ID or proof of age card showing the 'Pass' hologram (or any other nationally accredited scheme) are to be accepted as identification. The age verification policy shall be in a written form and displayed in a prominent position.

5. Posters advertising the premises' Challenge 25 age verification policy shall be displayed in prominent positions on the premises.

6. The Premises Licence Holder shall display in a prominent position a copy of their written policy

on checking proof of age.

7. No beers and ciders above 6.0% ABV shall be sold at any time during permitted licensing hours.

8. The premises licence holder shall ensure the premises' digitally recorded CCTV system cameras shall continually record whilst the premises are open to the public and recordings shall be kept for a minimum of 31 days with time and date stamping. The entire licensable area shall be covered by the CCTV and an appropriate number of cameras shall be installed to cover the external areas immediately outside of the premises. Data recordings shall be made immediately available to an authorised officer of Thames Valley Police or Reading Borough Council together with facilities for viewing upon request, subject to the provisions of the Data Protection Act. Recorded images shall be of such quality as to be able to identify the recorded person in any light. At least one member of staff on the premises at any time during operating hours shall be trained to access and download material from the CCTV system.

9. The premises licence holder or nominated representative shall keep and maintain all right to work documents for all staff members. Right to work documents shall be kept at the premises and produced to authorised officers of Reading Borough Council and Thames Valley Police upon request.

10. A current written authorisation list shall be displayed in a prominent position on the premises confirming the details of all current staff that have been authorised to sell alcohol by a Personal Licence Holder. The authorisation list shall include, the name of the staff member authorised, the name and personal licence details of the person authorising them to sell alcohol. This list shall also contain the date and signature of the staff member authorised and countersigned by the authorising Personal Licence Holder.

11. The premises licence holder/designated premises supervisor shall ensure that they and staff who are authorised to sell alcohol, are able to converse with customers and representatives of Statutory Agencies to a level that they are able to satisfactorily meet the four licensing objectives as contained in the Licensing Act 2003.

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

12. A section 57 notice shall be displayed in a prominent position detailing the location of the Part A of the premises licence, and a list of staff members that have an awareness of its location and content.

Thames Valley Police submit the following sections from within the Reading Borough Council statement of licensing policy and the current Secretary of States section 182 guidance as relevant to our review application.

Secretary of States Section 182 Guidance

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- **modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;**
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- **suspend the licence for a period not exceeding three months;**
- **revoke the licence.**

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.

11.22 **Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented.** Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. **But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.**

Reading Borough Council Statement of Licensing Policy

6.1 Conditions shall be appropriate and proportionate for the promotion of the licensing objectives and shall be unambiguous and clear in their stated aims. Conditions will also be tailored to the type, location and characteristics of the particular premises and the relevant licensable activities. Any condition imposed by the Authority shall also aim to avoid duplication of other legislation unless there is a requirement to impose such a condition in order to promote the licensing objectives (for example, a capacity limit for public safety reasons). This shall apply to all relevant applications (grant/variation of a premises licence or club premises certificate)

6.5 Any conditions imposed upon a premises licence or club premises certificate will be tailored to that type of premises and the style of operation. Consideration will also be given to the locality of the premises; issues in the locality; the issues set out in the Guidance and any policy, initiative or other matter the licensing authority wishes to take into account in order to promote the four licensing objectives.

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.

9.15 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.

Furthermore Thames Valley Police recommend that 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. Thames Valley Police suggest that 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 and respectfully ask that the licensing Sub-Committee take cognisance of this factor with regards to this review application.

A full transcript of this Case Law is provided:

QBD, ADMINISTRATIVE COURT

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

CO/345/2016

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

THE ADMINISTRATIVE COURT

Royal Courts of Justice

Strand

London WC2A 2LL

Thursday, 14 April 2016

B e f o r e:

MR JUSTICE JAY

Between:

EAST LINDSEY DISTRICT COUNCIL

Appellant

v

ABU HANIF

(TRADING AS ZARA'S RESTAURANT AND TAKEAWAY)

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.

Please tick ✓ yes

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

If yes please state the date of that application

Day Month Year

--	--	--	--	--	--	--	--

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

Please tick ✓

yes

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

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

Part 3 – Signatures (please read guidance note 4)

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



Signature

.....

Date 02/10/2020

.....

Capacity **Thames Valley Police (Authorised officer) Reading LPA**

.....

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

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

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.

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PREMISES – RECORD OF INSPECTION DATED:

Licence No:	LP 3000661
Name:	KR SUPERSTORES
Address:	337-339 OXFORD ROAD READING, RG30 1AY
Type:	Premises Licence Club Premises Certificate

Licence Inspection

Summary on Display: Yes No ^{only 1 page} Correct Part A/Conditions held at Premises: Yes No

Premises Licence Holder: BUDDHAYE LTD DPS: MRS SANSATI CURUNG

DPS as per Licence: Yes No DPS Present? Yes No

If No, Reason: _____ Authorised Person: _____

Licensable Activities (Carried On)

Regulated Entertainment: Plays | Films | Indoor Sporting Events | Boxing/Wrestling | Live Music | Recorded Music | Performance of Dance | Anything Similar

Are there any gaming machines? If so, how many? _____
Gaming permit produced and correct? _____

Late Night Refreshment: Yes No Sale/Supply of Alcohol: Yes No Location: On | Off | Both

Does the Licence/Certificate permit activities carried on? Yes No

Conditions of Licence/Certificate

1. INCIDENT REGISTER - NONE

2+3 BIIAB LEVEL 1 TRAINING - ONLY DPS + HUSBAND SELL BOTH HAVE 2.

4 - CHALLENGE 25 - NOT COMPLIED WITH - AMENDED AT STORE

5 - REFRESHED TRAINING 3 MONTHLY - NONE

Summary of Key Points Discussed

CCTV - NOT WORKING

Part B Separated and deployed

Document Checklist

Age policy operated 18 Section 57 Training Records Authorisation List not required

Awareness of the Licensing Objectives by Licence Holder/DPS: A - Good | B - Fair | C - Bad (Circle Appropriate)

Inspection Outcome: Satisfactory Unsatisfactory

Lead Authority Inspecting Officer(s): PC 5787 WHEELER

Signature of licensee or representative(s): Eng Sansati

Date of Inspection: 28/08/2020

Time Started: _____ | Time Ended: _____

0/4

CONTINUATION SHEET OF ISSUES DISCUSSED:

CCTV - Not working

REPAIRS LOG - Seen - Minimal entries 2020 -

RIGHT TO WORK DOCUMENTATION -

FIRE RISK ASSESSMENT - DOESN'T HAVE ONE,

HIGH STRENGTH ALCOHOL?

High strength Jd would be happy to drop
Silly single cans.

INSPECTING OFFICER: PC 5787 WHEELER

SIGNATURE OF LICENSEE/REPRESENTATIVE: Eng Sarsafi

DATE OF INSPECTION: 28/08/2020

Buddha Eye Ltd
337-339 Oxford Road
Reading
RG30 1AY

Tel: 101 (07973231273)

Email:

simon.wheeler@thamesvalley.pnn.police.uk

Friday 4th September 2020

Licensing Act 2003

Premises Licence Number: LP3000661

Premises: K B Superstores

Premises Address: 337 - 339 Oxford Road, Reading, RG30 1AY

To whom it may concern (PLH) / Mrs Gurung (DPS)

On the 28th August 2020 I inspected your premises licence.

During the inspection I was assisted by the Designated Premises Supervisor (DPS) Mrs Sarsati Gurung.

As part of this process some areas of concern were identified regarding the levels of due diligence that are expected to sufficiently promote the licensing objectives as well as a failure to fully comply with all of your premises licence conditions.

On arrival Part B of your licence was incorrectly displayed, this was later rectified when you were able to locate the correct pages and arranged to display them together. Part A of your licence was available when requested after some extensive searching on your behalf.

You were not displaying a Section 57 notice and advice was provided to for you to ensure that staff are fully aware of where to locate the premises licence, and that good practice would be to display a Section 57 notice near to the summary part of the licence.

You were displaying a written age verification policy which stated that you check identification for persons looking under 18 years of age and the rationale supporting this. You have a condition on your licence which supersedes this policy and shall be discussed later within this letter; your written policy must reflect your actual premises policy and condition.

In relation to maintaining sufficient records to prove due diligence you were able to provide a refusals register which was partially completed with minimal entries

relating to 2020. We simply wish to advise you of the importance of this document so that you are able to record details of refusals evidence due diligence in this area.

Also during the inspection you confirmed that you do not have a working CCT V system and no fire risk assessment was available for the premises.

In relation to compliance with your licence conditions the following applies.

1. Condition 1 of your premises licence states that an incident register shall be maintained to record any incidents which impact upon any of the four licensing objectives. No such register is in use and you confirmed that you do not have an incident register. This is a breach of your licence conditions and advice has been provided that you must ensure that an incident register is available.
2. Condition 2 and 3 of your licence states that all persons authorised to sell alcohol must be trained to the BIIAB level 1 award or similar and stipulates the timescales for this. You stated that only yourself and your husband are allowed to sell alcohol and that both you have surpassed this level of training as you have each completed the level 2 qualification for personal licence holders.
3. Condition 4 of your licence relates to your age verification process which requires the active implementation of a "Challenge 25" policy which must also be advertised to customers. As briefly mentioned earlier your written age verification policy did not reflect this standard and no posters advertising Challenge 25 to customers were displayed. Advice was given that you must amend your written policy and that you should display posters in prominent areas as well as actively using Challenge 25 as a standard. This is also a breach of your licence conditions.
4. Condition 5 of your licence concerns regular refresher training relating to underage sales and utilising the Challenge 25 policy. This condition was not complied with and therefore is a further breach of your licence conditions.

Furthermore, we discussed the super strength alcohol products that you were displaying for sale, and raised concerns that the sale of these products may be exacerbating community issues surrounding alcohol related anti-social behaviour in the area. This is both of serious concern to the localised immediate community and arguably also undermines the four licensing objectives.

At the time of this discussion you indicated that you only sell a very few of these products and were open to the suggestion of restricting sales of these products.

In conclusion it is of serious concern that a number of your licence conditions were in breach and that your administrative documents were either out of date or inaccurate in terms of their compatibility with your licence conditions.

In 2017 an inspection was completed by officers of Reading Borough Council jointly with Thames Valley Police during which the majority of these same issues were identified at that time.

Unfortunately you have failed to remedy those concerns in the three years between this most recent visit and the visit in 2017. This raises very serious concerns in relation to your ability to promote the licensing objectives.

Therefore, in order to address our concerns relating to your due diligence and licence compliance we request that you consider amending a number of your premises licence conditions in order to enhance your ability to promote the licensing objectives.

This can be accomplished by ensuring that the conditions on your licence are both informative and understandable, and shall enhance your opportunities to improve due diligence and thus promote and not undermine the licensing objectives.

We therefore recommend the following new and amended conditions for addition to your premises licence which are written to either replace in some cases or run alongside other current conditions. These also include a condition to restrict the sale of high strength beers and cider, as follows:

1. Staff employed to sell alcohol shall undergo training upon induction before they are allowed to sell alcohol. This shall include, but not be limited to:-

- The premises age verification policy
- The Four Licensing objectives
- Dealing with refusal of sales
- Proxy purchasing
- Recognising valid identity documents not in the English language
- Identifying attempts by intoxicated persons to purchase alcohol
- Identifying signs of intoxication
- Conflict management
- How to identify and safeguard vulnerable persons who attend and leave the premises.

a) Refresher training shall be provided every 6 (six) months.

b) Signed induction and refresher training records are to be kept for a minimum of 2 (Two) years of the date of training, and made available for inspection by a Police Officer or authorised officer of Reading Borough Council upon request.

2. All staff to be trained to record refusals of sales of alcohol in a refusals book or electronic register. The book/register shall contain:

- Details of the time and date the refusal was made
- The identity of the staff member refusing the sale.
- Details of the alcohol the person attempted to purchase.

a) This book/register shall be available for inspection to an authorised officer of Reading Borough Council or Thames Valley Police. A weekly review of the refusals book/register shall also be carried out and signed off by the Designated Premises Supervisor or their nominated representative.

3. An incident register/log shall be used, maintained and kept on the premises to record any incident which has an impact on any of the four licensing objectives, or instances when the police have had to attend the premises.

a) The register shall be made available for inspection to authorised officers of Reading Borough Council and Thames Valley Police upon request;

4. The premises shall at all times operate a Challenge 25 age verification policy to prevent any customers who attempt to purchase alcohol and who appear to the staff member to be under the age of 25 years from making such a purchase without having first provided identification. Only a valid British driver's licence showing a photograph of the person, a valid passport, military ID or proof of age card showing the 'Pass' hologram (or any other nationally accredited scheme) are to be accepted as identification. The age verification policy shall be in a written form and displayed in a prominent position.

5. Posters advertising the premises' Challenge 25 age verification policy shall be displayed in prominent positions on the premises.

6. The Premises Licence Holder shall display in a prominent position a copy of their written policy on checking proof of age.

7. No beers and ciders above 6.0% ABV shall be sold at any time during permitted licensing hours.

8. The premises licence holder shall ensure the premises' digitally recorded CCTV system cameras shall continually record whilst the premises are open to the public and recordings shall be kept for a minimum of 31 days with time and date stamping. The entire licensable area shall be covered by the CCTV and an appropriate number of cameras shall be installed to cover the external areas immediately outside of the premises. Data recordings shall be made immediately available to an authorised officer of Thames Valley Police or Reading Borough Council together with facilities for viewing upon request, subject to the provisions of the Data Protection Act. Recorded images shall be of such quality as to be able to identify the recorded person in any light. At least one member of staff on the premises at any time during operating hours shall be trained to access and download material from the CCTV system.

Thames Valley Police believe that in order to promote the four licensing objectives, and improve your ability to comply with your licence conditions that it is necessary for all of the above conditions to be applied to the premises licence.

With that in mind we would ask you to consider applying them to the licence via a minor variation in order to both support this process and also support the wider community by reducing alcohol related anti-social behaviour within the vicinity of your shop caused by the consumption of super strength beers and ciders within the public realm.

You may also be aware that Reading has a Public Space Protection Order (PSPO) in place which identifies the street consumption of alcohol as an issue serious enough to be included within the local legislation, and of course your agreement to reduce the strength of alcohol that you sell would also support this local legislative initiative.

Please consider this proposal in detail and I would encourage you to contact us to either discuss any concerns you may have in relation to this proposal or your intention to support this process.

We are willing to discuss this with you via the telephone or to meet with you as part of a formal performance meeting process? You may also wish to obtain some licensing advice in the meantime. However, we would ask that you please contact us no later than Friday 18th September 2020 with your written formal decision via the email provided at the head of this letter.

Thames Valley Police are making this proposal as part of a formalised stepped approach. As such a failure to address the identified concerns in this letter via the manner proposed (via voluntary agreement) may result in further action being considered if it is deemed necessary to ensure the promotion of the four licensing objectives.

Thames Valley Police are keen to work in partnership with licensees to promote the licensing objectives and improve both the standards of your operation whilst addressing community concerns regarding the sale of alcohol in the area.

Yours Faithfully

A small, rectangular image containing a handwritten signature in blue ink. The signature appears to be 'Simon Wheeler' and is written over a light blue background. Below the signature, the number '5787' is printed in a small, black font.

PC 5787 Simon Wheeler

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Name of Officer	Robert Smalley						
Type of Application	Review of a Premises Licence - Licensing Act 2003						
Name of Premises	K B Superstore						
Address	337-339 Oxford Road						
	Reading						
	RG30 1AY						
Premises Licence No.	LP3000661						
Licensable Activities	Sale of Alcohol by Retail - Off the Premises						
Finish Times	Mon	Tue	Wed	Thu	Fri	Sat	Sun
	2300	2300	2300	2300	2300	2300	2230
Content of Application:							
<p>The application was submitted on 02/10/2020 by PC Simon Wheeler on behalf of the Chief Constable of Thames Valley Police (TVP) for the review of the premises licence at the above address. The review has been submitted in order to address the failure of the premises licence holder (PLH) to promote the licensing objectives via their insufficient measures to ensure due diligence or compliance with their licence conditions.</p> <p>In 2017, Reading Borough Council Licensing sent a letter to the PLH detailing the areas of non-compliance at the premises following an inspection. As is evident from the results of the inspection by TVP in August 2020, there has been no significant improvements. TVP, following their recent inspection, attempted to address the issues of non-compliance via a stepped performance improving approach by requesting voluntary improvements to the premises licence conditions. Unfortunately, the PLH did not respond and therefore this review application has been submitted.</p> <p>Thames Valley Police submit that this review is necessary in order to promote all 4 licensing objectives: The Prevention of Crime and Disorder, The Prevention of Public Nuisance, Public Safety and The Protection of Children from Harm.</p> <p>The police are a named responsible authority under the Licensing Act 2003.</p>							
Licensing Officer's Comments:							

Reading Borough Council, acting as a responsible authority, fully support the application to review the premises licence for K B Superstore with the aim to modify the conditions on the licence to assist the PLH to promote the 4 licensing objectives. We believe this is an appropriate and proportionate measure to address some of the issues that plague the area, such as high levels of crime, anti-social behaviour and alcohol related health problems fuelled, in part, by the sale of super strength beers and ciders.

Oxford Road stretches over 3 miles from Reading town centre, west towards Purley on the A329. Unfortunately, this road and its surrounding areas suffer from high levels of crime and anti-social behaviour including street drinking, drug usage, prostitution, begging, graffiti and assaults. Oxford Road falls within a Public Space Protection Order (PSPO) which identifies street drinking of alcohol and its associated anti-social behaviour as having a direct negative impact on those that live and work in the area. The sale of super strength beers and ciders via retailers with poor processes and a lack of due diligence only exacerbates the issues. The low cost of some of these products, (in the region of £1.30 to £2 per can) and the fact that they can be 2 times stronger than many other beers and ciders, greatly appeals to 'problem drinkers'. These problem drinkers save up just enough money from activities like begging to purchase a single can that is then consumed outside, or nearby, the premises while they save up enough money for another can. During this time the individuals are getting more intoxicated which can lead to intimidating behaviour, public indecency and general public nuisance.

The premises currently has the benefit of a premises licence (**LP3000661**) attached as **Appendix RS-1** held by Buddha Eye Ltd that authorises the Sale of Alcohol by Retail for Consumption Off the Premises. The PLH utilises this licence to operate as a convenience store with off-licence which sells alcohol:

Monday to Saturday	from 0800hrs to 2300hrs
Sunday	from 1000hrs to 2230hrs

Licensing team interactions with the premises:

Buddha Eye Ltd has been the licence holder since July 2017. During their time as licence holder, 2 licensing inspections have been conducted by licensing officers from Reading Borough Council. Both of these inspections have highlighted areas of non-compliance and poor due diligence practices as detailed below:

Appendix RS-2 contains a letter sent by licensing enforcement officer Richard French to the licence holder following an inspection on 25th July 2017. This inspection identified a number of breaches and concerns, including the incorrect address listed on the DPS's personal licence, confusion over the age verification policy, no incident book, lack of required training, outdated alcohol authorisation list, no section 57, among other breaches. The PLH informed Mr French that they had been operating the business since February 2014. This means that the PLH had been illegally utilising someone else's licence for over 3 years. This is a very serious offence and does not reflect

well on the PLH. Furthermore, the PLH stated that they only sold super strength beer and cider (above 6.5%) in packs of 4. This was later found not to be in practice during the premises licence inspection in October 2020. Many of the breaches identified during this inspection were later found to still be in breach during TVP's inspection conducted on 28/08/2020, showing that little improvement had been made in 3 years.

Appendix RS-3 contains a letter sent by licensing enforcement officer Robert Smalley to the licence holder following an inspection on 19th October 2020. This inspection recorded general compliance with the conditions of the premises licence, however, Condition 1 which pertains to the use of an incident register was still in breach. This is particularly concerning because the PLH had informed TVP in an e-mail dated 12/10/2020, that all breaches had been rectified and requested a reinspection. When asked to provide the incident register, the PLH instead provided the refusal register. Due to the PLH's poor comprehension of English, it was difficult to explain what an incident register is, however, I believe that the PLH eventually understood what this condition means. During this inspection, I asked the premises licence holder if they are willing to accept the conditions proposed by TVP in a letter sent to the PLH on 04/09/2020. They confirmed that they had read the conditions and are willing to accept them being placed on the licence. I then conducted an inspection as if the proposed conditions already applied to the licence to see if the PLH had done any work towards complying with the proposed conditions. My inspection found that only 4 of the 8 proposed conditions were being complied with. This is disappointing because it shows that, despite being willing to accept the proposed conditions from TVP, none of which overstep what would generally be expected of a responsible operator anyway, the PLH hadn't made a concerted effort to raise their standards of best practice and due diligence in-line with the proposed conditions. For more information on this, please refer to **Appendix RS-3**.

On the 13/11/2017 an officer from Reading Borough Council's Community Alcohol Partnership team and an officer from Reading Borough Council's Licensing team visited the premises and noted that the premises was not implementing a refusal log or displaying any posters explaining the 'Challenge 25' age verification scheme. Although not a condition of the licence, it is expected that a responsible retailer, selling age restricted products, would utilise a refusal register as part of their due diligence measures. The lack of age verification scheme posters was a clear breach of condition.

On the 01/04/2019 the PLH failed a 'Challenge 25' test purchase in which a 21 year old successfully bought alcohol in direct contravention of the premises' age verification policy. This is evidence that the PLH is not ensuring that the premises' age verification policy is effectively implemented and is a serious breach of condition. Mr Prasanta Gurung subsequently attended a retailers training day on 09/04/2019 organised by Reading Borough Council's Community Alcohol Partnership officer.

The approach of the Licensing Team:

The Responsible Authorities named in the Licensing Act 2003 must ensure that the licensing objectives are all actively promoted to prevent crime and disorder, prevent public nuisance, protect children from harm and ensure public safety. All four licensing objectives are of equal importance.

Secretary of State's Guidance (April 2018)

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

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.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will

always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

The Council's Statement of Licensing Policy (2018):

6.1 Conditions shall be appropriate and proportionate for the promotion of the licensing objectives and shall be unambiguous and clear in their stated aims. Conditions will also be tailored to the type, location and characteristics of the particular premises and the relevant licensable activities. Any condition imposed by the Authority shall also aim to avoid duplication of other legislation unless there is a requirement to impose such a condition in order to promote the licensing objectives (for example, a capacity limit for public safety reasons). This shall apply to all relevant applications (grant/variation of a premises licence or club premises certificate)

6.5 Any conditions imposed upon a premises licence or club premises certificate will be tailored to that type of premises and the style of operation. Consideration will also be given to the locality of the premises; issues in the locality; the issues set out in the Guidance and any policy, initiative or other matter the licensing authority wishes to take into account in order to promote the four licensing objectives.

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.

9.15 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.

Summary of Representation:

The Premises Licence Holder has been unwilling or unable to promote the licensing objectives due to poor processes and a lack of due diligence. This is despite attempts from Reading Borough Council and Thames Valley Police to assist them via inspections, retailer training/ conferences and proposing conditions. The poor processes at the premises have led to breaches of the premises licence conditions as identified via inspections conducted by Reading Borough Council and Thames Valley Police. Although no offence of selling to intoxicated persons, or evidence that sales of single cans of super strength alcohol to street drinkers have been recorded at the premises, it is prudent to remember the case law of East Lindsey District Council v Abu Hanif which stated “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”. This can be applied in this instance to infer that if the premises ceased selling super strength alcohol, levels of anti-social behaviour caused by street drinkers would decrease.

Reading Borough Council Licensing believe that the appropriate and proportionate step that the sub-committee should take when deciding on the outcome of this hearing is the modification of the conditions of the premises licence to those listed below to enable the PLH to promote the licensing objectives and help ‘raise the bar’ of retailers on Oxford Road back up to the level that is expected of all alcohol retailers.

Reading Borough Council licensing propose the removal of the Licensing Act 1964 conditions as well as all current conditions contained in Annex 3 of the premises licence to be replaced with the following conditions:

1. Staff employed to sell alcohol shall undergo training upon induction before they are allowed to sell alcohol. This shall include, but not be limited to:-
 - The premises age verification policy
 - The Four Licensing objectives
 - Dealing with refusal of sales
 - Proxy purchasing
 - Recognising valid identity documents not in the English language
 - Identifying attempts by intoxicated persons to purchase alcohol
 - Identifying signs of intoxication
 - Conflict management
 - How to identify and safeguard vulnerable persons who attend and leave the premises.

- a) Refresher training shall be provided every 6 (six) months.
 - b) Signed induction and refresher training records are to be kept for a minimum of 2 (Two) years of the date of training, and made available for inspection by a Police Officer or authorised officer of Reading Borough Council upon request.
 - c) All staff authorised to sell alcohol shall be accredited to a minimum of BII Level 1 award in responsible alcohol retailing (ARAR) or any other similarly nationally recognised approved accreditation curriculum within four weeks for existing and subsequent employees.
2. All staff to be trained to record refusals of sales of alcohol in a refusals book or electronic register. The book/register shall contain:
- Details of the time and date the refusal was made
 - The identity of the staff member refusing the sale.
 - Details of the alcohol the person attempted to purchase.
- a) This book/register shall be available for inspection to an authorised officer of Reading Borough Council or Thames Valley Police. A weekly review of the refusals book/register shall also be carried out and signed off by the Designated Premises Supervisor or their nominated representative.
3. An incident register/log shall be used, maintained and kept on the premises to record any incident which has an impact on any of the four licensing objectives, or instances when the police have had to attend the premises.
- a) The register shall be made available for inspection to authorised officers of Reading Borough Council and Thames Valley Police upon request;
4. The premises shall at all times operate a Challenge 25 age verification policy to prevent any customers who attempt to purchase alcohol and who appear to the staff member to be under the age of 25 years from making such a purchase without having first provided identification. Only a valid British driver's licence showing a photograph of the person, a valid passport, military ID or proof of age card showing the 'Pass' hologram (or any other nationally accredited scheme) are to be accepted as identification. The age verification policy shall be in a written form and displayed in a prominent position.
5. Posters advertising the premises' Challenge 25 age verification policy shall be displayed in prominent positions on the premises.
6. The Premises Licence Holder shall display in a prominent position a copy of their written policy on checking proof of age.
7. No beers and ciders of 6.0% ABV and above shall be sold at any time during permitted licensing hours.

8. The premises licence holder shall ensure the premises' digitally recorded CCTV system cameras shall continually record whilst the premises are open to the public and recordings shall be kept for a minimum of 31 days with time and date stamping. The entire licensable area shall be covered by the CCTV and an appropriate number of cameras shall be installed to cover the external areas immediately outside of the premises. Data recordings shall be made immediately available to an authorised officer of Thames Valley Police or Reading Borough Council together with facilities for viewing upon request, subject to the provisions of the Data Protection Act. Recorded images shall be of such quality as to be able to identify the recorded person in any light. At least one member of staff on the premises at any time during operating hours shall be trained to access and download material from the CCTV system.
9. The premises licence holder or nominated representative shall keep and maintain all right to work documents for all staff members. Right to work documents shall be kept at the premises and produced to authorised officers of Reading Borough Council and Thames Valley Police upon request.
10. A current written authorisation list shall be displayed in a prominent position on the premises confirming the details of all current staff that have been authorised to sell alcohol by a Personal Licence Holder. The authorisation list shall include, the name of the staff member authorised, the name and personal licence details of the person authorising them to sell alcohol. This list shall also contain the date and signature of the staff member authorised and countersigned by the authorising Personal Licence Holder.
11. The premises licence holder/designated premises supervisor shall ensure that they and staff who are authorised to sell alcohol, are able to converse with customers and representatives of Statutory Agencies to a level that they are able to satisfactorily meet the four licensing objectives as contained in the Licensing Act 2003.
 - I. The Prevention of Crime and Disorder.
 - II. Public Safety.
 - III. Public Nuisance.
 - IV. The Protection of Children from Harm.
12. A section 57 notice shall be displayed in a prominent position detailing the location of the Part A of the premises licence, and a list of staff members that have an awareness of its location and content.

NB: The applicant shall not conduct licensable activities until the above measures are in place and it is confirmed to the Licensing Authority that the conditions are being fully complied with. Any licensable activity that takes place at the premises not in accordance with a licence is an offence under Section 136 of the Licensing Act 2003.

Relevant Case law for consideration

The British Beer and Pub Association, The Association of Licensed Multiple Retailers, The British Institute of Innkeeping v Canterbury City Council [2005] EWHC 1318 (Admin)

(R) on the application of Hope and Glory Public House v Westminster City Council (2011) EWCA Civ31

East Lindsey District Council v Abu Hanif (t/a Zara's Restaurant) 2016

R (on application of Daniel Thwaites plc) v Wirral Magistrates' Court and Others (2008) EWHC 838 (Admin)

Appendices

Appendix RS-1: Copy of the current premises licence

Appendix RS-2: Premises inspection results letter from inspection conducted by Richard French dated July 2017

Appendix RS-3: Premises inspection results letter from inspection conducted by Robert Smalley dated October 2020

Date Received	02/10/2020	Date Due	30/10/2020
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Date	22	10	2020
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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	LP3000661
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Premises Details

Trading name of Premises and Address	
K B Superstores 337-339 Oxford Road Reading Berkshire RG30 1AY	
Telephone Number	[REDACTED]

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

Licensable Activities

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

Authorised Hours for Licensable Activities

The times the licence authorises the carrying out of licensable activities	
Hours for the Sale by Retail of Alcohol	
Monday	from 0800hrs until 2300hrs
Tuesday	from 0800hrs until 2300hrs
Wednesday	from 0800hrs until 2300hrs
Thursday	from 0800hrs until 2300hrs
Friday	from 0800hrs until 2300hrs
Saturday	from 0800hrs until 2300hrs
Sunday	from 1000hrs until 2230hrs
Good Friday	from 0800hrs until 2230hrs
Christmas Day	from 1200hrs until 1500hrs and 1900hrs until 2230hrs

Opening Hours

N/A

Alcohol

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

Sale of Alcohol by Retail - Off the Premises

Premises Licence Holder

Name, (registered) address of holder of premises licence

Name: Buddha Eye Ltd

Address: 337-339 Oxford Road, Reading, RG30 1AY

Additional Details

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

Name: Mrs Sarsati Gurung

Address: [REDACTED]

Designated Premises Supervisor

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

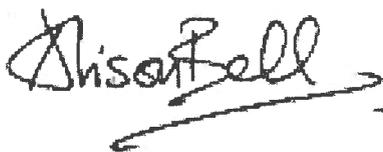
Personal Licence Number: LP7002557

Issuing Authority: Reading Borough Council

This Licence shall continue in force from **28/07/2017** unless previously suspended or revoked.

Dated: 15 August 2017

Head of Environment & Consumer Services



Annex 1

Mandatory Conditions

Supply of Alcohol

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

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

Film Exhibitions

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

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

Door Supervisors

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

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

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

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

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

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

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

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

S.86A

Ports - Permitted Hours

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

S87

Airports - Permitted Hours

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

S95

Restaurant licence. Restaurant and residential licence - Permitted Hours

1 Alcohol may be sold or supplied:

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

2 The above restrictions do not prohibit:

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

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

1 Alcohol may be sold or supplied:

- (1) On weekdays, other than Christmas Day, Good Friday or New Year's Eve, from 11am to 11pm.
- (2) On Sundays, other than Christmas Day or New Year's Eve, and on Good Friday, from 12 noon to 10:30pm.
- (3) On Christmas Day, from 12 noon to 3pm and 7pm to 10:30pm
- (4) On New Year's Eve, except on a Sunday, 11 a.m. to midnight;
- (5) On New Year's Eve on a Sunday, 12 noon to 11.30 p.m.
- (6) Alcohol may be sold or supplied between 3pm and 7pm on Christmas Day to persons taking table meals for consumption as an ancillary to the meal.
- (6) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).

2 The above restrictions do not prohibit:

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

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

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

S164**Off - Licence - Alcohol Consumption**

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

S166**Licensed Premises - Credit Sales**

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

- (a) with and for consumption at a meal supplied at the same time, consumed with the meal and paid for together with the meal;
- (b) for consumption by a person residing in the premises or his guest and paid for together with his accommodation;

(c) to a canteen or mess.

Licensed Canteens & Club Premises - Credit Sales

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

S.168, 171, 201

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

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

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

S.168, 171, 179, 201

Seamen's Canteens - Children in Canteens

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

On-licensed premises with children's certificates

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

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

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

Annex 2

Conditions Consistent with the Operating Schedule

N/A

Annex 3

Conditions attached after a hearing by the Licensing Authority

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

2. All persons authorised to sell alcohol shall be trained to the BIIAB Level 1 award in responsible alcohol retailing (ARAR) or any other similarly recognised nationally approved accreditation curriculum.

3. All new members of staff must undertake initial training on age restricted sales before they are permitted to sell alcohol and registered within 28 days of employment to attend the BIIAB Level 1 award in responsible alcohol retailing or any other similarly recognised nationally approved accreditation curriculum.

4. The premises operate a Challenge 25 policy and this is effectively advertised to its customers. A passport or photo driving licence shall be requested from customers who appear under the age of 25 years old.

5. All staff shall be refresher trained on the law relating to underage sales every three months on how to question and refuse sales if necessary utilising the Challenge 25 policy. Records of the training and reminders given shall be retained.

Annex 4

Plans

As attached plan dated 04/08/2005



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

Our Ref:EVU 053056

e-mail: [REDACTED]

25 July 2017

Sarsati Gurung
K B Superstores
337-339 Oxford Road
Reading
RG30 1AY

Your contact is: Mr Richard French, Licensing

Dear Mrs Gurung

Licensing Act 2003
Premises Licence Number:LP2001823
Premises: K B Superstores
Premises Address: 337-339 Oxford Road, Reading

On the 25th July 2017 I visited your premises with PC Wheeler of Thames Valley Police to ensure you are complying with the above premises licence and advise on any matters that may arise during the inspection.

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

- 1) On inspection of the premises licence it states that Mr Jit Budhathoki is the premises licence holder. Upon speaking to you, you stated that you had owned the business since 14th February 2014 and that you had not known at the time how to transfer the licence. That means you have been trading illegally utilising someone else's licence for over three years. This is unacceptable. You were advised several times to rectify this with immediate effect and it was pointed out to you that you could do this by utilising a solicitor for legal advice; doing it yourself online via the Council's website or attending the Council offices where we would assist you with the application. At the time of writing this, you have not done this. If you do not rectify this situation immediately, then we will have to consider more formal action and you will have to stop selling alcohol.
- 2) The address on your Personal Licence was incorrect. This is an offence under the Licensing Act 2003 and should be rectified immediately.
- 3) There seemed to be confusion over what age verification policy you were operating at the premises. When questioned, the age verification policy was, at first, 18. Then it moved up to 21. And then 24. The condition on your premises licence states that the premises should be operating Challenge 25. You are therefore in breach of this condition (condition 4 on page 14) and the mandatory condition in relation to an age verification policy on page 5. Please utilise Challenge 25 immediately and ensure that it is

appropriately advertised via posters and that all of your staff are aware. Please remove the 'Challenge 18' posters.

3) Condition 1 on page 14 in relation to the use of an incident book was not being complied with. No incident book was being used. Please ensure that a book is being used and that all staff are trained in how to use and maintain it.

4) Condition 2 on page 14 in relation to all authorised alcohol sellers having achieved the BIIAB Level 1 qualification could not be demonstrated as being complied with. Yourself and Mr Gurung have personal licences which is acceptable. However, the personal licence of BIIAB Level 1 qualification for one of the staff could not be produced. The fourth person stated as being authorised had neither a BIIAB Level certificate or a personal licence and should therefore not be selling alcohol at all. Please rectify this immediately either by sending the relevant people on the course or by not allowing them to sell alcohol.

5) Conditions 3 and 5 on page 14 in relation to staff training were not being complied with. No written documentation could be produced to show that any staff member had been trained on how to responsibly sell age restricted products or trained on the premises' age verification policy. No refresher training could be shown as being done as no records were produced. This is a breach of both of these conditions and should be rectified immediately.

6) Your written alcohol authorisation list needs updating and the person who does not have a BIIAB qualification removed from it.

7) No Section 57 notice could be produced. This notice states where Part A of the premises licence is kept and who has custody of it. Please ensure this is rectified.

8) Neither yourself or Mr Gurung could tell officers what the four licensing objectives were. This is particularly concerning given that you are both personal licence holders and are supposed to be actively promoting them to sell alcohol responsibly. You should also be training your staff in what they are and how they should be promoted. It leads to the question as to how the licensing objectives can be being actively promoted at your premises if nobody knows what they are. Please ensure that you refresh yourselves and your staff on this and include it in any training you do.

9) We spoke to you about a voluntary scheme the Council will be implementing to stop high strength alcohol being purchased by known street drinkers. Street drinking is having a detrimental impact on the local community and is known to cause anti social behaviour. You were given a document called a 'Retailer Passport' to assist you in your training and a poster which you stated you would use. You also stated that you had already implemented a policy to only sell cans of super strength beer and cider above 6.5% in packs of 4. This is welcomed. If you need any assistance on this matter then please contact me as we are looking to tackle the issue of super strength alcohol down the entirety of the Oxford Road.

Please ensure that point number 1 above is rectified immediately and that points 2-8 are rectified within 7 days. Please notify me at the above email address when you believe that all of the above have been completed.

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

Yours faithfully

Mr Richard French
Licensing Enforcement Officer



Frances Martin
Executive Director of Economic
Growth & Neighbourhood Services
Civic Offices, Bridge St, Reading, RG1
2LU

Our Ref: 054769

e-mail: [REDACTED]

☎ 0118 9372 846

Date: 21 October 2020

E-mailed to: [REDACTED]

Your contact is: Robert Smalley, Licensing

Dear Sirs,

Licensing Act 2003

Premises Name: K B Superstore

Premises Address: 337-339 Oxford Road, Reading, RG30 1AY

On 19/10/2020, myself and Thames Valley Police Licensing Officer, Declan Smyth visited your premises to ensure you are complying with the above premises licence and to advise on any matters that may arise during the inspection.

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

Conditions agreed with licensing

- Condition 1 on page 14 states that an incident register must be in use at the premises to record any incidents which impact on any of the 4 licensing objectives. You stated that no incident book was used at the premises and didn't appear to understand what the condition meant; presenting your refusal register instead. I believe that you eventually understood what is required to comply with this condition, so please ensure that this is rectified immediately.

Advisories

- During my inspection, I asked if you had read the letter from Thames Valley Police dated 04/09/2020 which contains their findings following an inspection they conducted on 28/08/2020. You confirmed that you had read this letter and replied to it stating that all issues had been remedied. I then asked if you had read and understood the proposed conditions contained in the letter and if you were willing to have those conditions replace the current conditions on your licence. You stated that you are willing to have the proposed conditions added to the licence. I then conducted an inspection as if the proposed conditions already applied to the licence to see if you had done any work towards complying with the proposed conditions. My results are as follows:

1. Staff employed to sell alcohol shall undergo training upon induction before they are allowed to sell alcohol. This shall include, but not be limited to:-

- The premises age verification policy
- The Four Licensing objectives
- Dealing with refusal of sales
- Proxy purchasing
- Recognising valid identity documents not in the English language
- Identifying attempts by intoxicated persons to purchase alcohol
- Identifying signs of intoxication
- Conflict management
- How to identify and safeguard vulnerable persons who attend and leave the premises.

a) Refresher training shall be provided every 6 (six) months.

b) Signed induction and refresher training records are to be kept for a minimum of 2 (Two) years of the date of training, and made available for inspection by a Police Officer or authorised officer of Reading Borough Council upon request.

Your current training does not include proxy purchasing or recognising foreign ID's

2. All staff to be trained to record refusals of sales of alcohol in a refusals book or electronic register. The book/register shall contain:

- Details of the time and date the refusal was made
- The identity of the staff member refusing the sale.
- Details of the alcohol the person attempted to purchase.

a) This book/register shall be available for inspection to an authorised officer of Reading Borough Council or Thames Valley Police. A weekly review of the refusals book/register shall also be carried out and signed off by the Designated Premises Supervisor or their nominated representative.

You were complying with this condition

3. An incident register/log shall be used, maintained and kept on the premises to record any incident which has an impact on any of the four licensing objectives, or instances when the police have had to attend the premises.

a) The register shall be made available for inspection to authorised officers of Reading Borough Council and Thames Valley Police upon request;

As per your current licence, you were not complying with this condition

4. The premises shall at all times operate a Challenge 25 age verification policy to prevent any customers who attempt to purchase alcohol and who appear to the staff member to be under the age of 25 years from making such a purchase without having first provided identification. Only a valid British driver's licence showing a photograph of the person, a valid passport, military ID or proof of age card showing the 'Pass' hologram (or any other nationally accredited scheme) are to be accepted as identification. The age verification policy shall be in a written form and displayed in a prominent position.

You were complying with this condition

5. Posters advertising the premises' Challenge 25 age verification policy shall be displayed in prominent positions on the premises.

You were complying with this condition

6. The Premises Licence Holder shall display in a prominent position a copy of their written policy on checking proof of age.

You were complying with this condition

7. No beers and ciders above 6.0% ABV shall be sold at any time during permitted licensing hours.

You were currently displaying beers and ciders above 6.0%

8. The premises licence holder shall ensure the premises' digitally recorded CCTV system cameras shall continually record whilst the premises are open to the public and recordings shall be kept for a minimum of 31 days with time and date stamping. The entire licensable area shall be covered by the CCTV and an appropriate number of cameras shall be installed to cover the external areas immediately outside of the premises. Data recordings shall be made immediately available to an authorised officer of Thames Valley Police or Reading Borough Council together with facilities for viewing upon request, subject to the provisions of the Data Protection Act. Recorded images shall be of such quality as to be able to identify the recorded person in any light. At least one member of staff on the premises at any time during operating hours shall be trained to access and download material from the CCTV system.

You did have a CCTV system installed and connected to a monitor, however, when asked to provide evidence that you were complying with this condition, you were unable to operate the system and, in fact, managed to seemingly disconnect or switch off the system. Please refer to the user instructions to ensure that you are able to operate the system fully and, in turn, comply with the above condition.

Whilst we consider what, if any, further action to take in respect of the findings detailed in this letter, please rectify all of the above within 28 days. Once you believe all of the above has been rectified, please contact me so that we can arrange a re-inspection.

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

Yours faithfully



Robert Smalley
Licensing Enforcement Officer

From: [Narancic, Peter](#)
To: [Narancic, Peter](#)
Subject: FW: Representation - premises license review - K B Superstores
Date: 03 November 2020 13:04:07

-----Original Message-----

From: Peter Bowyer [<mailto:peter@@@>]
Sent: 30 October 2020 17:44
To: Licensing
Subject: Representation - premises license review - K B Superstores

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

Dear Licensing

Please record the following representation in respect of the ongoing Premises License Review for K B Superstores, 337-339 Oxford Road.

I write on behalf of the Oxford Road Safer Neighbourhood Forum

The area immediately around these premises has, along with other locations on and around Oxford Road, problems with anti-social and criminal behaviour by street drinkers. They are seen to gather nearby the premises, causing distress to passing pedestrians and local residents. One or more will enter to buy alcohol, and the group will set off around the streets drinking until they run out, and congregate again outside the premises. The purchases are frequently funded by begging, and are generally of single cans of strong beer or cider.

The individuals are often obviously intoxicated and a properly-run outlet should refuse to serve them. It's concerning that this outlet does not seem to have a functioning refusal system.

Experience of premises further along Oxford Road has demonstrated that a license condition preventing sale of > 6% ABV beer and cider reduces the ASB in the immediate area.

It is disappointing that the license holder initially seemed keen to implement a voluntary scheme to restrict sale of strong alcohol, thus acknowledging its benefit, but has failed to put it in place.

In the pursuance of the licensing principles of the Prevention of Crime and Disorder and the Prevention of Public Nuisance, the Safer Neighbourhood Forum specifically supports Thames Valley Police's request for a license condition preventing sale of beer and cider above 6.0% ABV. Any other conditions which help enforce this premises' operation in pursuance of all 4 licensing objectives are also welcome.

Regards
Peter Bowyer
Chair, Oxford Road Safer Neighbourhood Forum

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From: [Wheeler Simon](#)
To: [Licensing](#)
Subject: Off Licence reviews
Date: 27 October 2020 14:33:43
Attachments: [image001.gif](#)
Importance: High

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

To whom it may concern

Can the following please be added to the Thames Valley Police submission for the benefit of the licensing sub-committee in relation to the reviews for:

Today's Express
Anrish News
Butts convenience store
I & R Convenience Store
KB Superstore

We wish to update the proposed wordings of condition regarding the restricted sales of certain ABV products.

Option 1 updates a "typo" from each original submission; and Option 2 is designed to capture a number of high strength Eastern European beers which are also deemed high strength and potentially link into categories of alcohol which exacerbate ASB.

Both conditions have successfully been observed in operation in two other Oxford Road premises, and we provide them for the consideration of the sub-committee.

(Option 1) Singular condition

No beers and ciders of 6.0% ABV and above shall be sold at any time during permitted licensing hours.

(Option 2) Three part condition

- a) The premises licence holder shall not sell super strength beer, lager or cider with an alcohol content of 5.5% ABV (alcohol by volume) or greater.
- b) All alcohol sold from the premises will be marked in a way that can be used to identify that the alcohol has been purchased from the shop.
- c) There shall be no self-service of spirits except for spirit mixtures.

Kindest Regards

Police Constable 5787 Simon Wheeler (Q.Inst.Pa) | Neighbourhood Officer/ Licensing

Address: Thames Valley Police, Reading Police Station, Castle Street, Reading, RG1 7TH
Email simon.wheeler@thamesvalley.pnn.police.uk | Mobile 07973 231273 Switchboard 101



Thames Valley Police currently use the Microsoft Office 2013 suite of applications. Please be aware of this if you intend to include an attachment with your email. This communication contains information which is confidential and may also be privileged. Any views or opinions expressed are those of the originator and not necessarily those of Hampshire Constabulary. It is for the exclusive use of the addressee(s). If you are not the intended recipient(s) please note that any form of distribution, copying or use of this communication or the information in it is strictly prohibited and may be unlawful. If you have received this communication in error please forward a copy to: informationsecurity@thamesvalley.pnn.police.uk and to the sender. Please then delete the e-mail and destroy any copies of it. DO NOT use this email address for other enquiries as the message will not be responded to or any action taken upon it. If you have a non-urgent enquiry, please call the police non-emergency number '101'. If it is an emergency, please call 999. Thank you.

Click [here](#) to report this email as spam.

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	LP3000661
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Premises Details

Trading name of Premises and Address	
K B Superstores 337-339 Oxford Road Reading Berkshire RG30 1AY	
Telephone Number	0118

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

Licensable Activities

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

Authorised Hours for Licensable Activities

The times the licence authorises the carrying out of licensable activities	
Hours for the Sale by Retail of Alcohol	
Monday	from 0800hrs until 2300hrs
Tuesday	from 0800hrs until 2300hrs
Wednesday	from 0800hrs until 2300hrs
Thursday	from 0800hrs until 2300hrs
Friday	from 0800hrs until 2300hrs
Saturday	from 0800hrs until 2300hrs
Sunday	from 1000hrs until 2230hrs
Good Friday	from 0800hrs until 2230hrs
Christmas Day	from 1200hrs until 1500hrs and 1900hrs until 2230hrs

Opening Hours

N/A

Alcohol

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

Sale of Alcohol by Retail - Off the Premises

Premises Licence Holder

Name, (registered) address of holder of premises licence

Name: Buddha Eye Ltd

Address: 337-339 Oxford Road, Reading, RG30 1AY

Additional Details

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

Name: Mrs Sarsati Gurung

Address:

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: LP7002557

Issuing Authority: Reading Borough Council

This Licence shall continue in force from **28/07/2017** unless previously suspended or revoked.

Dated: 15 August 2017

Head of Environment & Consumer Services



Mandatory Conditions

Supply of Alcohol

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

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

Film Exhibitions

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

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

Door Supervisors

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

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

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

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

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

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

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

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

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

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

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

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

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

Age Verification Policy (commencement 01/10/2014)

1. The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

2. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

3. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

(a) a holographic mark, or

(b) an ultraviolet feature.

Drink Measurements (commencement date 01/10/2014)

1. The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

Minimum Permitted Pricing (commencement 28th May 2014)

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

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

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

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

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

where—

(i) P is the permitted price,

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

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

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

(i) the holder of the premises licence,

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

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

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

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

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

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

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

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

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

Licensing Act 1964

Children & Young Persons Act 1933

Cinematograph (Safety) Regulations 1955

Cinemas Act 1985 - Film Exhibition Licence Conditions

Sporting Events (Control of Alcohol etc) Act 1985

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

Acts applicable to this licence for the purposes of embedded restrictions

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

Licensing Act 1964

On-licences - Permitted hours

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

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

2 The above restrictions do not prohibit:

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

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

S.86A

Ports - Permitted Hours

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

S87

Airports - Permitted Hours

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

S95

Restaurant licence. Restaurant and residential licence - Permitted Hours

1 Alcohol may be sold or supplied:

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

2 The above restrictions do not prohibit:

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

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

1 Alcohol may be sold or supplied:

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

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

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

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

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

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

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

2 The above restrictions do not prohibit:

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

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

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

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

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

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

S164**Off - Licence - Alcohol Consumption**

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

S166**Licensed Premises - Credit Sales**

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

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

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

(c) to a canteen or mess.

Licensed Canteens & Club Premises - Credit Sales

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

S.168, 171, 201

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

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

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

S.168, 171, 179, 201

Seamen's Canteens - Children in Canteens

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

On-licensed premises with children's certificates

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

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

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

Annex 2

Conditions Consistent with the Operating Schedule

N/A

Annex 3

Conditions attached after a hearing by the Licensing Authority

1. All incidents which impact on any of the four licensing objectives shall be recorded in a register kept at the premises for this purpose. The names of the person recording the information and those members of staff who deal with the incident shall also be recorded. Where known, any offenders names shall also be recorded. The register must be made available to responsible authorities on request.
2. All persons authorised to sell alcohol shall be trained to the BIIAB Level 1 award in responsible alcohol retailing (ARAR) or any other similarly recognised nationally approved accreditation curriculum.
3. All new members of staff must undertake initial training on age restricted sales before they are permitted to sell alcohol and registered within 28 days of employment to attend the BIIAB Level 1 award in responsible alcohol retailing or any other similarly recognised nationally approved accreditation curriculum.
4. The premises operate a Challenge 25 policy and this is effectively advertised to its customers. A passport or photo driving licence shall be requested from customers who appear under the age of 25 years old.
5. All staff shall be refresher trained on the law relating to underage sales every three months on how to question and refuse sales if necessary utilising the Challenge 25 policy. Records of the training and reminders given shall be retained.

Annex 4

Plans

As attached plan dated 04/08/2005

LICENSING ACT 2003 HEARING -THURSDAY 26 NOVEMBER 2020 @ 0930HRS
APPLICATION FOR THE REVIEW OF A PREMISES LICENCE

1. Premises:

I & R Convenience Store
202 Oxford Road
Reading
RG30 1AB

2. Applicants Requesting Review:

Thames Valley Police

3. Grounds for Review

The application is for the review of premises licence in respect of the above-mentioned premises. The application has been submitted by Thames Valley Police, who are a named responsible authority under the Licensing Act 2003 to address the failure of the premises licence holder to promote the licensing objectives via their insufficient measures to ensure due diligence and promote the licensing objectives. Poor processes, lack of general due diligence and quality of practice including poor training processes encompass the failure by the premises licence holder to promote the licensing objectives, and therefore Thames Valley Police are applying for the review of this premises licence in order to ensure that they are promoted and not undermined by this premises licence.

4. Date of receipt of application: 09 October 2020

A copy of the review application and appendices received are attached as **Appendix LIC-1**

5. Date of closure of period for representations: 05 November 2020

6. Representations received:

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

Reading Borough Council - Licensing team - Attached as **Appendix LIC-2**

Interested Party - Attached as **Appendix LIC-3**

Additional Information from Thames Valley Police - Attached as **Appendix LIC-4**

7. Background

The premises is a convenience store with an off-licence located on Oxford Road, just west of Reading town centre. The Licensing Act 2003 premises licence was first granted in 2006. The licence was transferred to the current owner on 28.07.2017.

The Premises Licence Holder is: Mr Farzath Mohamed

The Designated Premises supervisor is: Mr Farzath Mohamed

The premises currently has the benefit of a premises licence. A copy of the current licence is attached at Appendix LIC-5

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

In determining this application the Licensing Authority has a duty to carry out its functions with a view to promoting the four licensing objectives, which are as follows:-

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

In determining this application, the Licensing Authority must also have regard to the representations received, the Licensing Authority's statement of licensing policy and any relevant section of the statutory guidance to licensing authorities.

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

In determining the review application the sub-committee can take such 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

1.2 The legislation provides a clear focus on the promotion of four statutory

objectives which must be addressed when licensing functions are undertaken.

1.3 The licensing objectives are:

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

1.4 Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.

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;
- 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;

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.

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.

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.

Powers of a licensing authority on the determination of a review

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

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

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

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

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.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a

clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

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.

Reading Borough Council Licensing Policy Statement (2018)

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 cooperation.

Other Initiatives

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.

Other Legislation that the Licensing Authority will consider

3.7 The Licensing Authority will also have cognisance to the following legislation when it decides to discharge its responsibilities under the Licensing Act. This list is not exhaustive:

- Environmental Protection Act 1990 which deals with noise and nuisance
- Regulatory Reform Order 2005 which deals with fire safety
- Highways Act 1980 which deals with pavement café licences
- Reading Borough Council Act 2013 which deals with street trading and touting
- Health and Safety at Work Act 1974 and Food Hygiene regulations
- Planning legislation (see paragraphs 2.2-2.9 of this policy)

Licensable Activities

4.15 This policy relates to all applications for the following licensable activities:

- The sale of alcohol by retail
- The supply of alcohol to club members
- The provision of regulated entertainment:
 - Performance of a play
 - Performance of a film
 - An indoor sporting event
 - Boxing or wrestling
 - Performance of live music
 - Performance of recorded music

- Performance of dance
- The provision of late night refreshment (the sale of hot food and drink between 2300hrs and 0500hrs)

Review of a premises licence or club premises certificate

5.13 Any premises that has a premises licence or club premises certificate may have that licence reviewed by any of the named Responsible authorities - including the Licensing Authority in its role as a Responsible Authority. Thames Valley Police may also submit a Summary Review if there is a premises associated with serious crime and disorder. When the Licensing Authority instigates a review it will ensure that there is a clear separation of functions between the officer acting as the licensing authority and the officer acting as a responsible authority.

5.15 The Act provides strict guidelines, timescales and procedures for review applications and hearings and the Authority will deal with every review application in accordance with these rules.

General Approach

Conditions

6.1 Conditions shall be appropriate and proportionate for the promotion of the licensing objectives and shall be unambiguous and clear in their stated aims. Conditions will also be tailored to the type, location and characteristics of the particular premises and the relevant licensable activities. Any condition imposed by the Authority shall also aim to avoid duplication of other legislation unless there is a requirement to impose such a condition in order to promote the licensing objectives (for example, a capacity limit for public safety reasons). This shall apply to all relevant applications (grant/variation of a premises licence or club premises certificate)

6.5 Any conditions imposed upon a premises licence or club premises certificate will be tailored to that type of premises and the style of operation. Consideration will also be given to the locality of the premises; issues in the locality; the issues set out in the Guidance and any policy, initiative or other matter the licensing authority wishes to take into account in order to promote the four licensing objectives.

7. Licensing Hours

General Approach

7.1 The Licensing Act 2003 gives the licensing authority the power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of this policy. The licensing authority will make appropriate decisions on licensing hours for the locality of each premises. All applications will be considered on its individual merits.

7.2 When an application receives representations, the authority may consider

reducing the opening hours and times for licensable activities if it considers it appropriate for the promotion of the licensing objectives.

7.4 Where it is deemed appropriate and proportionate to do so, the authority may seek to reduce the hours for licensable activities in order to promote an orderly and gradual dispersal from a certain area or certain premises.

Enforcement Approach

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. 9.12 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.

9.15 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.

9.18 Any responsible authority or person defined as 'any other person' within the Act can initiate a review of any premises licence or club premises certificate. When another responsible authority or other person initiates a review, the Authority will deal with it as the Licensing Authority and may also wish to make representation in support of the review within its role as a responsible authority if it has relevant information.

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 its own individual merits.

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

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

10. Summary

Thames Valley Police have applied for this review to address the failures of the premises licence holder to promote the four licensing objectives due to their insufficient measures to ensure due diligence and full, reasonably expected, compliance of their licence conditions. Reading Borough Council's Licensing Team and other another interested party have made a representation in support of Thames Valley Police and concur that the failures of the premises licence holder must be addressed. Thames Valley Police and Reading Borough Council Licensing put forward that the appropriate and proportionate measure to take is to attach suggested conditions contained in their representations and for a period of suspension to allow the premises licence holder time to ensure that they are able to comply with any new conditions.

11. Relevant Case law for consideration

The British Beer and Pub Association, The Association of Licensed Multiple Retailers, The British Institute of Innkeeping v Canterbury City Council [2005]

R (on application of Hope and Glory Public House Ltd) v City of Westminster Magistrates' Court and Others (2011) EWCA Civ 312

East Lindsey District Council v Abu Hanif (t/a Zara's Restaurant) 2016

R (on application of Daniel Thwaites plc) v Wirral Magistrates' Court and Others (2008) EWHC 838 (Admin)

12. Appendices

Appendix LIC-1: Review Application & Appendices.

Appendix LIC-2: Representation from Reading Borough Council Licensing Team.

Appendix LIC-3: Representation from Interested party

Appendix LIC-4: Additional information from TVP.

Appendix LIC-5 :Current Premises Licence

[lic/reviewhearing/iandconveniencestore/26.11.2020/pn](#)

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 Simon Wheeler, on behalf of the Chief Constable of Thames Valley Police

(Insert name of applicant)

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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
I & R Convenience Store 202 Oxford Road	
Post town Reading	Post code (if known) RG30 1AB

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

Number of premises licence or club premises certificate (if known)
LP2001917

Part 2 - Applicant details

I am

Please tick ✓ yes

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

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

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

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

Please tick ✓ yes

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

Surname

First names

I am 18 years old or over

Please tick ✓ yes

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

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Thames Valley Police C/O Reading Licensing Dept Reading Police Station Castle Street Reading RG1 7 TH
Telephone number (if any) 101
E-mail address (optional) Licensing@thamesvalley.pnn.police.uk

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

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

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

Thames Valley Police (TVP) as a responsible authority under the Licensing Act 2003 and under the objectives of prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm make an application for the review of Premises Licence No. **LP2001917**, I & R Convenience Store, 202 Oxford Road, Reading, Berkshire, RG30 1AB.

Thames Valley Police submit this application for review in order to address the failure of the premises licence holder to promote the licensing objectives via their insufficient measures to ensure due diligence and promote the licensing objectives.

An inspection was completed in March 2015 by Thames Valley Police and follow up response action completed by Reading Borough Council. Following those steps in 2015 and the recorded failures discovered in Thames Valley Police recent inspection on 26th August 2020, there have been no significant additional improvements made within this five year period.

Consequently, Thames Valley Police recently attempted to address these ongoing concerns via a stepped performance improving approach by requesting consideration for voluntary improvements to the premises licence conditions.

These were set out in a recent letter with reasonable and proportionate recommended conditions included that were designed to improve the PLH understanding of their responsibilities and required levels of due diligence in order that they could promote the licensing objectives.

Sadly, and of concern is that no current response has been received from the PLH in relation to any of our recommendations contained within that letter.

In conclusion the poor processes, lack of general due diligence and quality of practice including poor training processes encompass the failure by the PLH to promote the licensing objectives, and therefore Thames Valley Police are applying for the review of this premises licence in order to ensure that they are promoted and not undermined by this premises licence.

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

I & R Convenience Store benefits from a premises licence that allows the off sale of alcohol by retail between 0800 hours until 2300 hours Monday to Saturday and between 1000 hours until 2230 hours on Sunday.

The premises is situated on the Oxford Road, Reading in an area which suffers high levels of anti-social behaviour including street drinking and the consumption of super strength alcohol, drug usage, prostitution and other associated signal crimes such as begging, graffiti and assaults of all levels.

As an example in response to these concerns Reading Borough Council have implemented a Public Space Protection Order (PSPO) to tackle these problems. The PSPO specifically identifies street drinking via the consumption of alcohol on the streets and its interlinked anti-social behaviour as having a direct negative impact on the community. As such, the consumption of super strength alcohol on the streets enabled by poor retailing processes is one of the key areas requiring management to reduce anti-social behaviour and prevent crime and disorder.

In response, Thames Valley Police believe that it is imperative for licensed premises (and specifically those situated within this area of concern i.e. Oxford Road) act both responsibly, and in a manner that promotes the licensing objectives.

On the **23rd March 2015** Thames Valley Police conducted an inspection at the premises with Mr Farzath Mohamed. At the time Mr Mohamed (whom is now the current Premises Licence Holder (PLH) and Designated Premises Supervisor (DPS) was stated to be the shop manager).

During this inspection the following areas of concern were recorded:

- Staff working at the shop did not know who the DPS was.
- The licence summary (Part B) was not on display.
- Part A of the licence was not available and no one including Mr Mohamed had access to it.
- No one knew whom authorised them to sell alcohol.
- No written age verification policy was available.
- No training records were available or detail of any training content known.
- A suitable refusal log was not available.
- CCTV only recorded for 7 days.
- Details were passed to the TVP licensing officer Mr King and Reading Borough Council with a recommendation for follow up action.

See **APPENDIX 1**

On the **26th August 2020** Thames Valley Police conducted an inspection at the premises with staff member Thasim Nagoorichaj.

During this inspection a number of the areas of concern were recorded including many which mirrored concerns that were recorded in 2015:

- The summary of the licence was incorrectly displayed in that neither page of Part B were shown. Instead a single page of an out of date Part A was displayed.
- Part A of the licence was not available when requested.
- No written age verification policy was available.
- The most recent training document located dated to 2018 and most others 2017 and older.
- No refresher training was available and all training detail was inadequate and did not

cover all aspects of the licensing objectives.

- No written authorisation list was being utilised.
- The refusals log since 2019 had not been completed fully.
- The CCTV system retained footage for 27 days and staff were able to view but not produce copies of footage.
- The staff member did not know any of the four licensing objectives.
- No Section 57 notice was available or displayed.
- Officers noted sales of drug paraphernalia, including “crack” pipes and plastic baggies for containing and separating substances.

See **APPENDIX 2**

On the **4th September 2020** Thames Valley Police sent a letter to the Premises Licence Holder detailing the findings of the inspection and outlining a number of proposed conditions for consideration and discussion which it were felt were reasonably and necessarily required to be added to the licence to aid the PLH in the promotion of the licensing objectives.

The letter included a deadline date of 18th September 2020 for the PLH to respond to this stepped approach to dealing with the ongoing concerns at the premises.

As of the 8th October 2020, no communication in response to the letter has been received by Thames Valley Police.

See **APPENDIX 3**

Body worn video of the inspection on the 26th August 2020 can be identified as **APPENDIX 4**.

Conclusion

Both Reading Borough Council and Thames Valley Police have undertaken inspections at this premises over the previous five years. The outcomes of these inspections have identified holistic failures in relation to the implementation of due diligence and the promotion of the licensing.

Thames Valley Police have attempted to rectify this situation with the premises licence holder via a communicated stepped approach and recent letter. We had hoped to propose what we believe to be reasonable, necessary and proportionate conditions to be included within the licence to address our concerns and promote the licensing objectives.

Within the letter we included a number of detailed and pointed conditions to aid the PLH in delivering improved processes, and recommended a further condition that restricts the provision of certain high strength beer and cider above a 6.0% abv in order to protect the community.

Unfortunately, on this occasion, no response has been received from the Premises Licence Holder, and as this premises is failing to promote the licensing objectives we therefore are submitting this application for review by the licensing sub-committee.

As stated within the case law within East Lindsey District Council v Abu Hanif, “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”.

It is in response to this scenario that Thames Valley Police are making this application for the review of this premises licence in order that the licensing sub-committee may have the opportunity to assess both the impact of this premises licence and the ability of the premises licence holder to promote the licensing objectives.

Thames Valley Police set out our following recommendations for consideration of the licensing sub-committee:

- **the modification of the conditions of the premises licence;**

Thames Valley Police recommend that a number of conditions are required to be added to the premises licence that shall aid the PLH promotion of the licensing objectives.

Our recommended conditions shall be included at the end of our submission.

TVP believe that the proposed conditions shall aid the PLH to promote and not undermine the four licensing objectives.

- **the exclusion of a licensable activity from the scope of the licence;**

Thames Valley Police are not recommending any exclusion of licensable activity at this time.

- **Revocation of the licence;**

Thames Valley Police are of the opinion that currently it may be prudent to provide the PLH the opportunity to improve their promotion of the licensing objectives via improved conditions and support to increase their compliance; therefore we preclude to recommend this option at this time.

- **the suspension of the licence for a period not exceeding 3 months;**

Thames Valley Police believe that a suspension of the licence coupled with the imposition of the recommended improved licence conditions may provide the PLH a period of time to implement new policies and ensure compliance.

However, we do not believe that the proposed conditions are such that they overstep what would generally be expected of any responsible operator anyway and as such do not believe that an over burdensome period of time would be required to implement these processes.

- **the removal of the designated premises supervisor;**

Thames Valley Police would recommend that this option is initially precluded at this time to provide the opportunity to show competence.

Thames Valley Police recommended conditions:

1. Staff employed to sell alcohol shall undergo training upon induction before they are allowed to sell alcohol. This shall include, but not be limited to:-

- The premises age verification policy
- The Four Licensing objectives
- Dealing with refusal of sales
- Proxy purchasing
- Recognising valid identity documents not in the English language
- Identifying attempts by intoxicated persons to purchase alcohol
- Identifying signs of intoxication
- Conflict management
- How to identify and safeguard vulnerable persons who attend and leave the premises.

a) Refresher training shall be provided every 6 (six) months.

b) Signed induction and refresher training records are to be kept for a minimum of 2 (Two) years of the date of training, and made available for inspection by a Police Officer or authorised officer of Reading Borough Council upon request.

c) All staff authorised to sell alcohol shall be accredited to a minimum of BII Level 1 award in responsible alcohol retailing (ARAR) or any other similarly nationally recognised approved accreditation curriculum within four weeks for existing and subsequent employees.

2. All staff to be trained to record refusals of sales of alcohol in a refusals book or electronic register. The book/register shall contain:

- Details of the time and date the refusal was made
- The identity of the staff member refusing the sale.
- Details of the alcohol the person attempted to purchase.

a) This book/register shall be available for inspection to an authorised officer of Reading Borough Council or Thames Valley Police. A weekly review of the refusals book/register shall also be carried out and signed off by the Designated Premises Supervisor or their nominated representative.

3. An incident register/log shall be used, maintained and kept on the premises to record any incident which has an impact on any of the four licensing objectives, or instances when the police have had to attend the premises.

a) The register shall be made available for inspection to authorised officers of Reading Borough Council and Thames Valley Police upon request;

4. The premises shall at all times operate a Challenge 25 age verification policy to prevent any customers who attempt to purchase alcohol and who appear to the staff member to be under the age of 25 years from making such a purchase without having first provided identification. Only a valid British driver's licence showing a photograph of the person, a valid passport, military ID or proof of age card showing the 'Pass' hologram (or any other nationally accredited scheme) are to be accepted as identification. The age verification policy shall be in a written form and displayed in a prominent position.

5. Posters advertising the premises' Challenge 25 age verification policy shall be displayed in prominent positions on the premises.

6. The Premises Licence Holder shall display in a prominent position a copy of their written policy

on checking proof of age.

7. No beers and ciders above 6.0% ABV shall be sold at any time during permitted licensing hours.

8. The premises licence holder shall ensure the premises' digitally recorded CCTV system cameras shall continually record whilst the premises are open to the public and recordings shall be kept for a minimum of 31 days with time and date stamping. The entire licensable area shall be covered by the CCTV and an appropriate number of cameras shall be installed to cover the external areas immediately outside of the premises. Data recordings shall be made immediately available to an authorised officer of Thames Valley Police or Reading Borough Council together with facilities for viewing upon request, subject to the provisions of the Data Protection Act. Recorded images shall be of such quality as to be able to identify the recorded person in any light. At least one member of staff on the premises at any time during operating hours shall be trained to access and download material from the CCTV system.

9. The premises licence holder or nominated representative shall keep and maintain all right to work documents for all staff members. Right to work documents shall be kept at the premises and produced to authorised officers of Reading Borough Council and Thames Valley Police upon request.

10. A current written authorisation list shall be displayed in a prominent position on the premises confirming the details of all current staff that have been authorised to sell alcohol by a Personal Licence Holder. The authorisation list shall include, the name of the staff member authorised, the name and personal licence details of the person authorising them to sell alcohol. This list shall also contain the date and signature of the staff member authorised and countersigned by the authorising Personal Licence Holder.

11. The premises licence holder/designated premises supervisor shall ensure that they and staff who are authorised to sell alcohol, are able to converse with customers and representatives of Statutory Agencies to a level that they are able to satisfactorily meet the four licensing objectives as contained in the Licensing Act 2003.

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

12. A section 57 notice shall be displayed in a prominent position detailing the location of the Part A of the premises licence, and a list of staff members that have an awareness of its location and content.

Thames Valley Police submit the following sections from within the Reading Borough Council statement of licensing policy and the current Secretary of States section 182 guidance as relevant to our review application.

Secretary of States Section 182 Guidance

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- **modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;**
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- **suspend the licence for a period not exceeding three months;**
- **revoke the licence.**

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.

11.22 **Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented.** Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. **But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.**

Reading Borough Council Statement of Licensing Policy

6.1 Conditions shall be appropriate and proportionate for the promotion of the licensing objectives and shall be unambiguous and clear in their stated aims. Conditions will also be tailored to the type, location and characteristics of the particular premises and the relevant licensable activities. Any condition imposed by the Authority shall also aim to avoid duplication of other legislation unless there is a requirement to impose such a condition in order to promote the licensing objectives (for example, a capacity limit for public safety reasons). This shall apply to all relevant applications (grant/variation of a premises licence or club premises certificate)

6.5 Any conditions imposed upon a premises licence or club premises certificate will be tailored to that type of premises and the style of operation. Consideration will also be given to the locality of the premises; issues in the locality; the issues set out in the Guidance and any policy, initiative or other matter the licensing authority wishes to take into account in order to promote the four licensing objectives.

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.

9.15 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.

Furthermore Thames Valley Police recommend that 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. Thames Valley Police suggest that 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 and respectfully ask that the licensing Sub-Committee take cognisance of this factor with regards to this review application.

A full transcript of this Case Law is provided:

QBD, ADMINISTRATIVE COURT

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

CO/345/2016

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

THE ADMINISTRATIVE COURT

Royal Courts of Justice

Strand

London WC2A 2LL

Thursday, 14 April 2016

B e f o r e:

MR JUSTICE JAY

Between:

EAST LINDSEY DISTRICT COUNCIL

Appellant

v

ABU HANIF

(TRADING AS ZARA'S RESTAURANT AND TAKEAWAY)

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.

Please tick ✓ yes

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

If yes please state the date of that application

Day Month Year

--	--	--	--	--	--	--	--

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

Please tick ✓

yes

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

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

Part 3 – Signatures (please read guidance note 4)

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



Signature

.....

Date 08/10/2020

.....

Capacity **Thames Valley Police (Authorised officer) Reading LPA**

.....

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

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

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.

Submitting Officer	
Shoulder No/Name: PC 5787 WHEELER	Station: Reading LPA: Reading
Incident References	
Premises Name/Location:	I & R Convenience store, 202 Oxford Rd, Reading, RG30 1AB
Incident Date:	23/03/15
Incident Time:	1631 hrs
Command & Control URN:	N/A
Crime Report(s):	N/A
CCTV Seized?	N/A
Sources of Information:	Licensing check based on information received from Oxford Rd NHPT officers

Nature of Incident – what happened?
<p>Carried out a licensing check where the following questions and aspects of the license were investigated after concerns had been raised by NHPT officers that sales to drunks and street drinkers were being undertaken:-</p> <ol style="list-style-type: none"> 1. Who is the Designated Premises supervisor? 2. Can I see part A and Part B of the license? 3. Who authorises the sale of alcohol? 4. How is authorisation given, written or verbally? 5. Do you have a written age verification policy? 6. Do you have any training records relating to underage sales: what training have you received? 7. Can I see a refusals log? 8. Do you have a CCTV system and how long does it hold images for? 9. What forms of identification do you accept as proof of ID? 10. Do you have any posters or signs displayed informing customers that you have CCTV in use?

Premises Response – what part did staff play? How did they react/assist (include good/poor performance)?
<p>The first seller working in the shop stated he thought the DPS was his manager Farzadh Mohamed, however when Mohamed arrived at the store he stated that it was Mr BUTT.</p> <p>Part B of the license was not displayed and Part A was not provided and Mohamed stated he had no idea where it was and that Mr BUTT must have it. (Therefore conditions could not be checked)</p> <p>Mohamed stated that he thought the sale of alcohol was authorised by another member of staff "Raham", but could not provide details of this person and could not say if authorisation was in writing or verbally. (Basically he had no idea).</p> <p>Mohamed stated he did not know of a written age verification policy and pointed to a challenge 25 poster when asked for further detail.</p> <p>The original staff member had said he thought he could not sell to under 18's and could ask people under 25.</p> <p>Neither could provide any training records or provide detail or describe any training that they had received.</p> <p>A refusal log was not provided except for two pieces of A4 paper with a supposed refusal detailed on the 12/09/13 and 13/11/14. Mohamed stated that the other refusal logs had been sent to the accountant!</p> <p>Mohamed showed that he could review CCTV and stated it held images for 7 days only.</p> <p>Mohamed stated there was no written policy for proof of ID and admitted that no poster or sign informing customers that CCTV was in use was anywhere on display in the store.</p>

Police Response – what action was taken? Please identify the main officers who dealt with the incident.
<p>I found failings in relation to the knowledge of staff and their ability to provide key elements required within my check.</p> <p>Breaches of legislation were found by me in relation to non display of Part B and the fact part A could not be seen on my request and no person was contactable to obtain Part a of the license.</p> <p>Concerns were also raised regarding the authorisation to sell alcohol and who actually was in control of the premise Mohamed presented as the manager and person with responsibility, however he is not the DPS and had an extremely minimal knowledge of any requirement placed upon him in relation to responsible retailing of alcohol.</p>

In short the personnel appeared unable to uphold the licensing objectives and tangible records and paperwork required within legislation were not presented for viewing thus questioning the due diligence being carried out.

Details passed to Police licensing officer and RBC licensing enforcement officer for immediate action and performance meeting to be arranged as soon as possible.

Persons Involved - to add more rows click into the final cell of this table

Name	Date of Birth	Role	Action Taken	Ref No. <small>(e.g. Custody, PND etc)</small>

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

PREMISES – RECORD OF INSPECTION DATED:

Licence No:	LP2001917
Name:	1 & 2 CONVENIENCE STORE
Address:	202 OXFORD ROAD READING, RG30 1AB.
Type:	Premises Licence Club Premises Certificate

Licence Inspection

Summary on Display: Yes No ^{1 PAGE OLD PART A} Correct Part A/Conditions held at Premises: Yes No

Premises Licence Holder: MR FARZAN MOHAMMED DPS: MR FARZAN MOHAMMED

DPS as per Licence: Yes No DPS Present? Yes No

If No, Reason: _____ Authorised Person: THAKIM MAGDOONPICKAT.

Licensable Activities (Carried On)

Regulated Entertainment: Plays | Films | Indoor Sporting Events | Boxing/Wrestling | Live Music | Recorded Music | Performance of Dance | Anything Similar

Are there any gaming machines? If so, how many? _____
Gaming permit produced and correct? _____

Late Night Refreshment: Yes No Sale/Supply of Alcohol: Yes No Location: ~~On~~ | Off | Both

Does the Licence/Certificate permit activities carried on? Yes No

Conditions of Licence/Certificate

Summary of Key Points Discussed

TRAINING RECORDS OLD - NEED IMPROVEMENT FOR ALL STAFF.
CCN needs 27 days
↑ strength sales discussed and sale of days paraphernalia,

Document Checklist

Age policy operated 25 Section 57 _____ Training Records 2 Authorisation List _____

Awareness of the Licensing Objectives by Licence Holder/DPS: A – Good | B – Fair | C – Bad (Circle Appropriate)

Inspection Outcome: Satisfactory Unsatisfactory 6/4-

Lead Authority Inspecting Officer(s): PC SUE WILSON

Signature of licensee or representative(s): [Signature]

Date of Inspection: 26/02/2020

Time Started: 1745 | Time Ended: _____

CONTINUATION SHEET OF ISSUES DISCUSSED:

Basic refresher training document seen for one member of staff from 2016 relating only to under age sales. Staff member states he had training at TESCO. Requires improvement to show due diligence. Records are old and could be more comprehensive.

States has provided right to work documentation; but maybe held in safe - unable to check.

Newsdate 1/21² - One entry only 2020 Feb

CCTV² - Think staff. Do not know how to record but can show - records for 27 days.

INSPECTING OFFICER: PC 5787 WHEELER

SIGNATURE OF LICENSEE/REPRESENTATIVE: 

DATE OF INSPECTION: 26/03/2020

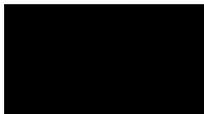


APPENDIX 3

PC 5787
Reading Licensing Dept

Reading Police Station
Castle Street
Reading
Berkshire
RG1 7TH

Mr Farzath Mohamed



Tel: 101 [REDACTED]
Email:
simon.wheeler@thamesvalley.pnn.police.uk

Friday 4th September 2020

Licensing Act 2003

Premises Licence Number: LP2001917

Premises: I & R Convenience Store

Premises Address: 202 Oxford Road, Reading, RG30 1AB

Dear Mr Mohamed (DPS/PLH)

On the 26th August 2020 I inspected your premises licence with Mr Richard Hall from Reading Borough Council.

During the inspection I was assisted by your staff member Mr Thasim Nagoorpichai.

Some areas of concern were identified regarding the levels of due diligence that are expected to sufficiently promote the licensing objectives.

On arrival Part B of your licence was incorrectly displayed, as the first page of the summary had been replaced with the front page of an out of date Part A (page 1) of your licence. The second page of the summary was not displayed at all.

Part A of your licence was NOT available when requested this is an offence within the Licensing Act 2003. Advice was provided at the time that contact should be made with Reading Borough Council for the correct copy of your licence to be provided to you.

Your member of staff stated that your age verification policy was "Challenge 25" and I note that a poster was displayed. However, no written age verification policy was available to be seen or on display.

In relation to training for staff I was shown two different styles of training documents, the first dated 2016. This training document only covered under age sales and no other elements that may help to prove diligence were covered. Further documents headed "training statement" were also produced and the majority were dated 2015 and 2016. Both types of documents presented to me failed to expand upon key elements that would be deemed suitable to prove due diligence. As a minimum training should include at the very least; the four licensing objectives,

proxy sales, signs of intoxication and conflict resolution, albeit this is not an exhaustive list.

I noted that at the time of the inspection that eventually the most up to date signed (but minimal) training record belonged to the member of staff on duty on the day and even so this was dated 2018, with a number of others 2017.

From the information provided during this inspection in my professional judgement your staff training appears on face value to be insufficient, and the available records provided were outdated and no up to date refresher training was available.

No written authorisation list was available either on public view or that could be located within the premises so as to ensure that all staff including those whom were not personal licence holders were legally authorised to serve alcohol.

In relation to your premises refusals log it was noted that a number of entries had been made till December 2019 with regularity. However since 2019 only one entry was documented within the log dated February 2020. Potentially this means that the log has not been completed correctly or maintained for a substantial period of time. During the inspection your staff member suggested that the rationale for this was that due to staff refusing many people in the past that they no longer visited the shop to attempt to purchase alcohol or other age limited products.

As part of the inspection we also viewed your CCTV system and it was discovered that the hard drive retains images for 27 days and that staff are able to view but not download.

Your staff member was asked if he knew any of the four licensing objectives and although he was unable to name them specifically he did make reference to problems with drunks around the premises and the prevention of that behaviour as well as not selling alcohol to children.

Following on from this it was discovered that you had not provided a Section 57 notice within your licensing folder or on display. This document is useful to allocate members of staff in your absence that are aware of how to locate the premises licence. Advice is thus provided for you to ensure staff that are fully aware of where to locate the premises licence and relevant paperwork and that good practice would be to display the Section 57 notice near to the summary of the licence in a public area.

When visually scanning the store it was also noticed that you were selling at point of sale a number of drug paraphernalia items. These included silver metal pipes contained within "cannabis leaf" designed packaging of the style most recognised as used for the smoking of Crack cocaine. You also had for sale a number of sealable clear plastic baggies of varying sizes that are regularly used for the storage of herbal cannabis, cocaine, crack, speed, ketamine and heroin. These were also displayed on the counter near to point of sale.

May I remind you that although these items are not illegal to sell per se', that they certainly are likely to attract individuals to your shop involved in the usage and supply of illegal substances. The Oxford Road area for which your premises is situated suffers from high levels of anti-social behaviour linked to drug usage and the consumption of super strength beer and cider and we would encourage you to seriously consider the items that you sell within your shop.

You should risk assess the sale of all articles with specific regard for the four licensing objectives as well as supporting your community to reduce the anti-social behaviour linked to both the consumption of alcohol on the streets of which is often also linked to persons involved in drug abuse and related offences.

Finally, we discussed with your staff member the super strength alcohol products that you were displaying for sale, and raised concerns that the sale of these products may be exacerbating community issues surrounding alcohol related anti-social behaviour in the area. This is both of serious concern to the localised immediate community and arguably also undermines the four licensing objectives as mentioned earlier.

At the time of this discussion he indicated that you only sell a very few of these products and attempt to sell them in "fours" rather than singularly.

As a conclusion and in order to address our concerns relating to your due diligence we recommend that you consider including a number of conditions onto your premises licence conditions in order to enhance your ability to promote the licensing objectives.

It is possible to help you accomplish this by ensuring that the conditions on your licence are both informative and understandable, and also reflect any areas of good practice that you may already employ.

We therefore recommend for your serious consideration a number of licence conditions that we believe would enhance your promotion of the licensing objectives as well as including a condition to restrict the sale of super strength beers and cider, as follows:

1. Staff employed to sell alcohol shall undergo training upon induction before they are allowed to sell alcohol. This shall include, but not be limited to:-

- The premises age verification policy
- The Four Licensing objectives
- Dealing with refusal of sales
- Proxy purchasing
- Recognising valid identity documents not in the English language
- Identifying attempts by intoxicated persons to purchase alcohol
- Identifying signs of intoxication
- Conflict management
- How to identify and safeguard vulnerable persons who attend and leave the premises.

a) Refresher training shall be provided every 6 (six) months.

b) Signed induction and refresher training records are to be kept for a minimum of 2 (Two) years of the date of training, and made available for inspection by a Police Officer or authorised officer of Reading Borough Council upon request.

2. All staff to be trained to record refusals of sales of alcohol in a refusals book or electronic register. The book/register shall contain:

- Details of the time and date the refusal was made
- The identity of the staff member refusing the sale.
- Details of the alcohol the person attempted to purchase.

a) This book/register shall be available for inspection to an authorised officer of Reading Borough Council or Thames Valley Police. A weekly review of the refusals book/register shall also be carried out and signed off by the Designated Premises Supervisor or their nominated representative.

3. An incident register/log shall be used, maintained and kept on the premises to record any incident which has an impact on any of the four licensing objectives, or instances when the police have had to attend the premises.

a) The register shall be made available for inspection to authorised officers of Reading Borough Council and Thames Valley Police upon request;

4. The premises shall at all times operate a Challenge 25 age verification policy to prevent any customers who attempt to purchase alcohol and who appear to the staff member to be under the age of 25 years from making such a purchase without having first provided identification. Only a valid British driver's licence showing a photograph of the person, a valid passport, military ID or proof of age card showing the 'Pass' hologram (or any other nationally accredited scheme) are to be accepted as identification. The age verification policy shall be in a written form and displayed in a prominent position.

5. Posters advertising the premises' Challenge 25 age verification policy shall be displayed in prominent positions on the premises.

6. The Premises Licence Holder shall display in a prominent position a copy of their written policy on checking proof of age.

7. No beers and ciders above 6.0% ABV shall be sold at any time during permitted licensing hours.

8. The premises licence holder shall ensure the premises' digitally recorded CCTV system cameras shall continually record whilst the premises are open to the public and recordings shall be kept for a minimum of 31 days with time and date stamping. The entire licensable area shall be covered by the CCTV and an appropriate number of cameras shall be installed to cover the external areas immediately outside of the premises. Data recordings shall be made immediately available to an authorised officer of Thames Valley Police or Reading Borough Council together with facilities for viewing upon request, subject to the provisions of the Data Protection Act. Recorded images shall be of such quality as to be able to identify the recorded person in any light. At least one member of staff on the premises at any time during operating hours shall be trained to access and download material from the CCTV system.

Thames Valley Police believe that in order to promote the four licensing objectives, and to ensure that your due diligence processes improve and are maintained it is necessary for all of the above conditions to be applied to the premises licence.

With that in mind we would ask you to consider applying them to the licence via a minor variation in order to both support this process and also support the wider

community by reducing alcohol related anti-social behaviour within the vicinity of your shop caused by the consumption of super strength beers and ciders within the public realm.

You may also be aware that Reading has a Public Space Protection Order (PSPO) in place which identifies the street consumption of alcohol as an issue serious enough to be included within the local legislation, and of course your agreement to reduce the strength of alcohol that you sell would also support this local legislative initiative.

Please consider this proposal in detail and I would encourage you to contact us to either discuss any concerns you may have in relation to this proposal or your intention to support this process.

We are willing to discuss this with you via the telephone or to meet with you as part of a formal performance meeting process? You may also wish to obtain some licensing advice in the meantime. However, we would ask that you please contact us no later than Friday 18th September 2020 with your written formal decision via the email provided at the head of this letter.

Thames Valley Police are making this proposal as part of a formalised stepped approach. As such a failure to address the identified concerns in this letter via the manner proposed (via voluntary agreement) may result in further action being considered if it is deemed necessary to ensure the promotion of the four licensing objectives.

Thames Valley Police are keen to work in partnership with licensees to promote the licensing objectives and improve both the standards of your operation whilst addressing community concerns regarding the sale of alcohol in the area.

Yours Faithfully



PC 5787 Simon Wheeler

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Name of Officer	Robert Smalley						
Type of Application	Review of a Premises Licence - Licensing Act 2003						
Name of Premises	I & R Convenience Store						
Address	202 Oxford Road						
	Reading						
	RG30 1AB						
Premises Licence No.	LP2001917						
Licensable Activities	Sale of Alcohol by Retail - Off the Premises						
Finish Times	Mon	Tue	Wed	Thu	Fri	Sat	Sun
	2300	2300	2300	2300	2300	2300	2230
Content of Application:							
<p>The application was submitted on 08/10/2020 by PC Simon Wheeler on behalf of the Chief Constable of Thames Valley Police (TVP) for the review of the premises licence at the above address. The review has been submitted in order to address the failure of the premises licence holder (PLH) to promote the licensing objectives via their insufficient measures to ensure due diligence or compliance with their licence conditions.</p> <p>Following inspections in 2016 and 2019, Reading Borough Council Licensing sent letters to the PLH detailing the areas of non-compliance and highlighted the poor due diligence practices in place at the premises. As is evident from the results of the inspection by TVP in August 2020, there had been no significant improvements. Basic mandatory conditions were still not being complied with, such as maintaining a copy of part A of the premises licence on the premises, displaying Part B of the premises licence and displaying a section 57 notice. TVP, following their recent inspection, attempted to address the issues of non-compliance via a stepped performance improving approach by requesting voluntary improvements to the premises licence conditions. Unfortunately, the PLH did not respond and therefore this review application has been submitted.</p> <p>Thames Valley Police submit that this review is necessary in order to promote all 4 licensing objectives: The Prevention of Crime and Disorder, The Prevention of Public Nuisance, Public Safety and The Protection of Children from Harm.</p>							

The police are a named responsible authority under the Licensing Act 2003.

Licensing Officer's Comments:

Reading Borough Council, acting as a responsible authority, fully support the application to review the premises licence for I & R Convenience Store with the aim to modify the conditions on the licence to assist the PLH to promote the 4 licensing objectives. We believe this is an appropriate and proportionate measure to address some of the issues that plague the area, such as high levels of crime, anti-social behaviour and alcohol related health problems fuelled, in part, by the sale of super strength beers and ciders.

Oxford Road stretches over 3 miles from Reading town centre, west towards Purley on the A329. Unfortunately, this road and its surrounding areas suffer from high levels of crime and anti-social behaviour including street drinking, drug usage, prostitution, begging, graffiti and assaults. Oxford Road falls within a Public Space Protection Order (PSPO) which identifies street drinking of alcohol and its associated anti-social behaviour as having a direct negative impact on those that live and work in the area. The sale of super strength beers and ciders via retailers with poor processes and a lack of due diligence only exacerbates the issues. The low cost of some of these products, (in the region of £1.30 to £2 per can) and the fact that they can be 2 times stronger than many other beers and ciders, greatly appeals to 'problem drinkers'. These problem drinkers save up just enough money from activities like begging to purchase a single can that is then consumed outside, or nearby, the premises while they save up enough money for another can. During this time the individuals are getting more intoxicated which can lead to intimidating behaviour, public indecency and general public nuisance.

The premises currently has the benefit of a premises licence (LP2001917) attached as **Appendix RS-1** held by Mr Farzath Mohamed that authorises the Sale of Alcohol by Retail for Consumption Off the Premises. The PLH utilises this licence to operate as a convenience store with off-licence which sells alcohol:

Monday to Saturday	from 0800hrs to 2300hrs
Sunday	from 1000hrs to 2230hrs

Licensing team's interactions with the premises:

Mr Farzath Mohamed has been the licence holder since April 2015. During his time as licence holder, 3 licensing inspections have been conducted by licensing officers from Reading Borough Council. 2 of these inspections have highlighted areas of non-compliance and poor due diligence practices as detailed below:

Appendix RS-2 contains a letter sent by licensing enforcement officer Richard French to the licence holder following an inspection on 09th June 2016. This inspection identified a number of breaches and concerns, including, a lack of clarity about whom the Designated Premises Supervisor was, confusion over

the age verification policy, poor recording of refusals, no training records, outdated alcohol authorisation list, outdated section 57 notice and Part A and B of the premises licence could not be produced. Not all of these issues are breaches, however, it is expected that a responsible alcohol retailer would have implemented all of the above as a matter of due diligence, in particular a robust refusals register to help prevent the sale of alcohol to street drinkers.

Appendix RS-3 contains a letter sent by licensing enforcement officer Richard French to the licence holder following an inspection on 24th April 2019. This inspection found similar issues to those identified during the inspection in June 2016, including issues surrounding a section 57 notice, Part B of the premises licence and it was unclear who was authorised to sell alcohol.

Appendix RS-4 contains a letter sent by licensing enforcement officer Robert Smalley to the licence holder following an inspection on 19th October 2020. This inspection did not identify any breaches of the premises licence. This improvement over the recent poor inspection by Thames Valley Police in August 2020 is welcomed, however, it is unfortunate that the submission of a review application was necessary to prompt the licence holder to take action. The licence currently has no conditions, other than the mandatory conditions. Reading Borough Council Licensing submit that with the addition of further conditions, the PLH will be in a better position to address the issues raised in the review application pertaining to street drinking and its associated anti-social behaviour. A list of recommended conditions will be included in the summary of this representation.

On the 07/11/2017 an officer from Reading Borough Council's Community Alcohol Partnership team and an officer from Reading Borough Council's Licensing team visited the premises and noted that the premises was not displaying any age verification posters. Although not a condition of the licence, it is expected that a responsible retailer, selling age restricted products, would utilise age verification posters to explain to customers what scheme the premises is implementing in terms of checking that someone is old enough to purchase alcohol. This is a basic example of good due diligence.

On the 01/04/2019 the premises failed a 'Challenge 25' test purchase in which a 21 year old successfully bought alcohol in direct contravention of the premises' age verification policy. Thasim Nagoorpichai subsequently attended a retailers training day on 09/04/2019 organised by Reading Borough Council's Community Alcohol Partnership officer.

The approach of the Licensing Team:

The Responsible Authorities named in the Licensing Act 2003 must ensure that the licensing objectives are all actively promoted to prevent crime and disorder, prevent public nuisance, protect children from harm and ensure public safety. All four licensing objectives are of equal importance.

Secretary of State's Guidance (April 2018)

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

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.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate

to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

The Council's Statement of Licensing Policy (2018):

6.1 Conditions shall be appropriate and proportionate for the promotion of the licensing objectives and shall be unambiguous and clear in their stated aims. Conditions will also be tailored to the type, location and characteristics of the particular premises and the relevant licensable activities. Any condition imposed by the Authority shall also aim to avoid duplication of other legislation unless there is a requirement to impose such a condition in order to promote the licensing objectives (for example, a capacity limit for public safety reasons). This shall apply to all relevant applications (grant/variation of a premises licence or club premises certificate)

6.5 Any conditions imposed upon a premises licence or club premises certificate will be tailored to that type of premises and the style of operation. Consideration will also be given to the locality of the premises; issues in the locality; the issues set out in the Guidance and any policy, initiative or other matter the licensing authority wishes to take into account in order to promote the four licensing objectives.

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.

9.15 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.

Summary of Representation:

The Premises Licence Holder has been unwilling or unable to promote the licensing objectives due to poor processes and a lack of due diligence. This is despite attempts from Reading Borough Council and Thames Valley Police to assist them via inspections, retailer training/ conferences and proposing conditions. The poor processes at the premises have led to breaches of the mandatory premises licence conditions as identified via inspections conducted by Reading Borough Council and Thames Valley Police. Although no offence of selling to intoxicated persons, or evidence that sales of single cans of super strength alcohol to street drinkers have been recorded at the premises, it is prudent to remember the case law of East Lindsey District Council v Abu Hanif which states “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”. This can be applied in this instance to infer that if the premises ceased selling super strength alcohol, levels of anti-social behaviour caused by street drinkers would decrease.

Reading Borough Council Licensing believe that the appropriate and proportionate step that the sub-committee should take when deciding on the outcome of this hearing is the modification of the conditions of the premises licence to add those listed below to enable the PLH to promote the licensing objectives and help ‘raise the bar’ of retailers on Oxford Road back up to the level that is expected of all alcohol retailers.

Reading Borough Council Licensing propose the following conditions be attached to the premises licence:

1. Staff employed to sell alcohol shall undergo training upon induction before they are allowed to sell alcohol. This shall include, but not be limited to:-
 - The premises age verification policy
 - The Four Licensing objectives
 - Dealing with refusal of sales
 - Proxy purchasing
 - Recognising valid identity documents not in the English language
 - Identifying attempts by intoxicated persons to purchase alcohol
 - Identifying signs of intoxication
 - Conflict management
 - How to identify and safeguard vulnerable persons who attend and leave the premises.
- a) Refresher training shall be provided every 6 (six) months.
- b) Signed induction and refresher training records are to be kept for a minimum of 2 (Two) years of the date of training, and made available for inspection by a Police Officer or authorised officer of Reading Borough Council upon request.

- c) All staff authorised to sell alcohol shall be accredited to a minimum of BII Level 1 award in responsible alcohol retailing (ARAR) or any other similarly nationally recognised approved accreditation curriculum within four weeks for existing and subsequent employees.
2. All staff to be trained to record refusals of sales of alcohol in a refusals book or electronic register. The book/register shall contain:
 - Details of the time and date the refusal was made
 - The identity of the staff member refusing the sale.
 - Details of the alcohol the person attempted to purchase.
- a) This book/register shall be available for inspection to an authorised officer of Reading Borough Council or Thames Valley Police. A weekly review of the refusals book/register shall also be carried out and signed off by the Designated Premises Supervisor or their nominated representative.
3. An incident register/log shall be used, maintained and kept on the premises to record any incident which has an impact on any of the four licensing objectives, or instances when the police have had to attend the premises.
 - a) The register shall be made available for inspection to authorised officers of Reading Borough Council and Thames Valley Police upon request;
4. The premises shall at all times operate a Challenge 25 age verification policy to prevent any customers who attempt to purchase alcohol and who appear to the staff member to be under the age of 25 years from making such a purchase without having first provided identification. Only a valid British driver's licence showing a photograph of the person, a valid passport, military ID or proof of age card showing the 'Pass' hologram (or any other nationally accredited scheme) are to be accepted as identification. The age verification policy shall be in a written form and displayed in a prominent position.
5. Posters advertising the premises' Challenge 25 age verification policy shall be displayed in prominent positions on the premises.
6. The Premises Licence Holder shall display in a prominent position a copy of their written policy on checking proof of age.
7. No beers and ciders of 6.0% ABV and above shall be sold at any time during permitted licensing hours.
8. The premises licence holder shall ensure the premises' digitally recorded CCTV system cameras shall continually record whilst the premises are open to the public and recordings shall be kept for a minimum of 31 days with time and date stamping. The entire licensable area shall be covered by the CCTV and an appropriate number of cameras shall be installed to cover the external areas immediately outside of the premises. Data recordings shall be made immediately available to an authorised officer

of Thames Valley Police or Reading Borough Council together with facilities for viewing upon request, subject to the provisions of the Data Protection Act. Recorded images shall be of such quality as to be able to identify the recorded person in any light. At least one member of staff on the premises at any time during operating hours shall be trained to access and download material from the CCTV system.

9. The premises licence holder or nominated representative shall keep and maintain all right to work documents for all staff members. Right to work documents shall be kept at the premises and produced to authorised officers of Reading Borough Council and Thames Valley Police upon request.
10. A current written authorisation list shall be displayed in a prominent position on the premises confirming the details of all current staff that have been authorised to sell alcohol by a Personal Licence Holder. The authorisation list shall include, the name of the staff member authorised, the name and personal licence details of the person authorising them to sell alcohol. This list shall also contain the date and signature of the staff member authorised and countersigned by the authorising Personal Licence Holder.
11. The premises licence holder/designated premises supervisor shall ensure that they and staff who are authorised to sell alcohol, are able to converse with customers and representatives of Statutory Agencies to a level that they are able to satisfactorily meet the four licensing objectives as contained in the Licensing Act 2003.
 - I. The Prevention of Crime and Disorder.
 - II. Public Safety.
 - III. Public Nuisance.
 - IV. The Protection of Children from Harm.
12. A section 57 notice shall be displayed in a prominent position detailing the location of the Part A of the premises licence, and a list of staff members that have an awareness of its location and content.

NB: The applicant shall not conduct licensable activities until the above measures are in place and it is confirmed to the Licensing Authority that the conditions are being fully complied with. Any licensable activity that takes place at the premises not in accordance with a licence is an offence under Section 136 of the Licensing Act 2003.

Relevant Case law for consideration

The British Beer and Pub Association, The Association of Licensed Multiple Retailers, The British Institute of Innkeeping v Canterbury City Council [2005] EWHC 1318 (Admin)

(R) on the application of Hope and Glory Public House v Westminster City Council (2011) EWCA Civ31

East Lindsey District Council v Abu Hanif (t/a Zara's Restaurant) 2016

R (on application of Daniel Thwaites plc) v Wirral Magistrates' Court and Others (2008) EWHC 838 (Admin)

Appendices

Appendix RS-1: Copy of the current premises licence

Appendix RS-2: Premises inspection results letter from inspection conducted by Richard French dated June 2016

Appendix RS-3: Premises inspection results letter from inspection conducted by Richard French dated April 2019

Appendix RS-4: Premises inspection results letter from inspection conducted by Robert Smalley dated October 2020

Date Received	08/10/2020	Date Due	05/11/2020
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Date	28	10	2020
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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	LP2001917
--------------------------------	-----------

Premises Details

Trading name of Premises and Address	
I & R Convenience Store 202 Oxford Road Reading RG30 1AB	
Telephone Number	0118 950 2910

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

Licensable Activities

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

Authorised Hours for Licensable Activities

The times the licence authorises the carrying out of licensable activities	
Hours for the Sale by Retail of Alcohol	
Monday	from 0800hrs until 2300hrs
Tuesday	from 0800hrs until 2300hrs
Wednesday	from 0800hrs until 2300hrs
Thursday	from 0800hrs until 2300hrs
Friday	from 0800hrs until 2300hrs
Saturday	from 0800hrs until 2300hrs
Sunday	from 1000hrs until 2230hrs

Opening Hours

Hours the Premises is Open to the Public	
Monday	from 0800hrs until 2300hrs
Tuesday	from 0800hrs until 2300hrs
Wednesday	from 0800hrs until 2300hrs
Thursday	from 0800hrs until 2300hrs
Friday	from 0800hrs until 2300hrs
Saturday	from 0800hrs until 2300hrs
Sunday	from 1000hrs until 2230hrs

Alcohol

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

Sale of Alcohol by Retail - Off the Premises

Premises Licence Holder

Name, (registered) address of holder of premises licence

Name: Mr Farzath Mohamed

Address: [Redacted]

Additional Details

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

Name: Mr Farzath Mohamed

Address: [Redacted]

Designated Premises Supervisor

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

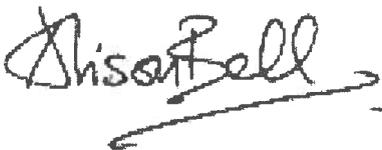
Personal Licence Number: LP7002643

Issuing Authority: Reading Borough Council

This Licence shall continue in force from **15/06/2016** unless previously suspended or revoked.

Dated: 30 June 2016

Head of Environment & Neighbourhood Services



Annex 1

Mandatory Conditions

Supply of Alcohol

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

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

Film Exhibitions

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

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

Door Supervisors

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

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

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

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

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

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

Annex 2

Conditions Consistent with the Operating Schedule

None

Annex 3

Conditions attached after a hearing by the Licensing Authority

None

Annex 4

Plans

As attached plan



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

Our Ref: EVU 052459

e-mail:

9 June 2016

Farzath Mohamed
I & R Convenience Store
202 Oxford Road
Reading
RG30 1AB

Your contact is: Mr Richard French, Licensing

Dear Mr Mohamed

Licensing Act 2003

Premises Licence Number: LP2001694

Premises: I & R Convenience Store

Premises Address: 202 Oxford Road, Reading

On the 3rd June 2016 a licensing officer visited your premises to ensure you are complying with the above premises licence and advise on any matters that may arise during the inspection.

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

- 1) Part A of the premises licence could not be produced. This is an offence under Section 57 of the Licensing Act 2003.
- 2) Part B of the premises licence was not on display. This is an offence under Section 57 of the Licensing Act 2003.
- 3) The DPS named on the premises licence is Fasal Haq. Please confirm that Mr Haq is still the DPS at this premises as you seemed to indicate that you were the only member of staff. If Mr Haq is not the DPS then you should cease selling alcohol immediately.
- 4) No training records could be produced for any staff member. This training should have been given to all staff by the DPS. Please provide me with your training records.
- 5) Please ensure that your Section 57 notice and notice of authorised alcohol sellers is up to date. These are requirements under the Licensing Act 2003.
- 6) You could not tell us what the 4 licensing objectives were. Given that this is part of the personal licence training and you state that you are the only member of staff, you are strongly advised to refresh yourselves as to what they are. All licence holders should

actively be promoting the licensing objectives. Clearly, this is not being done if you don't know what they are.

7) The refusal log used at the premises does not contain sufficient details. Details of any person refused age restrictive products should be recorded fully. Generic descriptions such as 'white male' or 'young person' do not assist in the promotion of the licensing objectives.

8) Please confirm to me what age verification policy is used at the premises (Challenge 21 or Challenge 25)

According to our records, the premises licence was emailed to your licensing consultant on 1st April 2015 when you applied to transfer the licence into your name. Therefore, please contact him for both parts of the licence that are missing from your premises. If you do not have them, then you need to pay the Council £10.50 for a replacement Part A and £10.50 for a replacement Part B. This should be done right away.

Please action all of the points raised in this letter within 7 days.

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

Yours faithfully

Mr Richard French
Licensing Enforcement Officer

Giorgio Framalico
Acting Director of Environment and
Neighbourhood Services
Civic Offices, Bridge St, Reading, RG1 2LU
☎ 0118 937 3787

Our Ref:EVU 054055

e-mail: licensing@reading.gov.uk

24 April 2019

Mr Farzath Mohamed
I & R Convenience Store
202 Oxford Road
Reading
RG30 1AB

Your contact is: Mr Richard French, Licensing

Dear Sirs

Licensing Act 2003
Premises Licence Number: LP2001917
Premises: I & R Convenience Store
Premises Address: 202 Oxford Road, Reading

On the 17th April 2019 I visited your premises to ensure you are complying with the above premises licence and advise on any matters that may arise during the inspection.

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

- 1) No Section 57 notice could be located at the premises. This notice states where Part A of the premises licence is kept and who has custody of it. Please ensure this is rectified.
- 2) All pages of Part B of the premises licence are required to be displayed. Please ensure this is rectified.
- 3) No list of authorised alcohol sellers could be produced. The mandatory conditions attached to your premises licence state that all alcohol sales must be made by or authorised by a person with a personal licence. Paragraph 10.33 of the Guidance to the Licensing Act 2003 states that it is best practice that this authorisation is given to all staff members, individually and in writing. Please ensure this is rectified.
- 4) Please confirm what your correct address is. Page 2 of Part A of your licence states two different addresses. One is for Bray Road and the other is for 202A Oxford Road. If one of these is incorrect then you will need to update your premises licence with the correct details. You may also need to update your personal licence if the 202A Oxford Road address is incorrect. Please ensure this is rectified.

Advisories

5) No training records could be produced for any staff member. We would expect that all responsible alcohol retailers to carry out staff training. The staff training should include details of the premises age verification policy; how to log refusals of age restricted products and identifying signs of intoxication. This training should be documented in writing and refreshed accordingly. You are strongly recommended to carry out staff training for all staff.

Please ensure points 1-4 above are rectified within 28 days. When you believe the issues have been rectified please email licensing@reading.gov.uk to confirm as a re-inspection may be required.

Please contact the licensing team if you have any questions in relation to the contents of this letter.

Yours faithfully

Mr Richard French
Licensing Enforcement Officer



APPENDIX RS-4

Frances Martin
Executive Director of Economic
Growth & Neighbourhood Services
Civic Offices, Bridge St, Reading, RG1
2LU

Our Ref: LIC/054771

Direct: ☎ 0118 9373 762/Option 3
e-mail: [redacted]@reading.gov.uk

22 October 2020

E-mailed to [redacted]

Your contact is: Robert Smalley, Licensing

Dear Sir,

Licensing Act 2003

Name of Premises: I & R Convenience Store

Address of premises 202 Oxford Road, Reading, RG30 1AB

On the 19/10/2020 I visited your premises to ensure you are complying with the above premises licence.

My inspection did not identify any area of concern.

Should you wish to speak to me regarding this matter, please telephone me on the number above.

Yours faithfully

Robert Smalley
Licensing Enforcement Officer

From: [Narancic, Peter](#)
To: [Narancic, Peter](#)
Date: 09 November 2020 17:43:52

-----Original Message-----

From: Peter Bowyer
Sent: 05 November 2020 18:01
To: Licensing <Licensing@reading.gov.uk>
Subject: FWD TO pn by sr 6.11.20 Representation - Premises License Review - I & R Convenience Store

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

Dear Licensing

Please record the below as a representation in connection with the ongoing Premises License Review relating to I & R Convenience Store,
202 Oxford Road.

I write on behalf of the Oxford Road Safer Neighbourhood Forum.

Oxford Road, and in particular the area immediately around these premises has chronic problems with antisocial and criminal behaviour by street drinkers. They are seen to gather nearby the premises, causing distress to passing pedestrians and local residents. One or more will enter to buy alcohol, and the group will set off around the streets drinking until they run out, and congregate again outside the premises. The purchases are frequently funded by begging, and are generally of single cans of strong beer or cider.

The area around these particular premises seems especially prone to ASB, being opposite McDonalds which is a well-lit and hospitable location to congregate. After many years of representations, RBC has now removed the street bench which was situated immediately opposite these premises which, it is hoped, will help with the ASB but no results have yet been recorded.

The individuals are often obviously intoxicated and a properly-run outlet should refuse to serve them. It's concerning that this outlet does not seem to have a functioning refusal system.

It's important that all licensed premises recognise their contribution to the level of ASB in the neighbourhood. In pursuance of the licensing objectives of the prevention of crime and ASB, and the prevention of public nuisance, the SNF supports Thames Valley Police's request for a license condition preventing sale of beer and cider above 6.0% ABV. Any other conditions which help enforce this premises' operation in pursuance of all 4 licensing objectives are also welcome.

Regards
Peter Bowyer
Chair, Oxford Road Safer Neighbourhood Forum

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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	LP2001917
--------------------------------	------------------

Premises Details

Trading name of Premises and Address	
I & R Convenience Store 202 Oxford Road Reading RG30 1AB	
Telephone Number	

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

Licensable Activities

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

Authorised Hours for Licensable Activities

The times the licence authorises the carrying out of licensable activities	
Hours for the Sale by Retail of Alcohol	
Monday	from 0800hrs until 2300hrs
Tuesday	from 0800hrs until 2300hrs
Wednesday	from 0800hrs until 2300hrs
Thursday	from 0800hrs until 2300hrs
Friday	from 0800hrs until 2300hrs
Saturday	from 0800hrs until 2300hrs
Sunday	from 1000hrs until 2230hrs

Opening Hours

Hours the Premises is Open to the Public	
Monday	from 0800hrs until 2300hrs
Tuesday	from 0800hrs until 2300hrs
Wednesday	from 0800hrs until 2300hrs
Thursday	from 0800hrs until 2300hrs
Friday	from 0800hrs until 2300hrs
Saturday	from 0800hrs until 2300hrs
Sunday	from 1000hrs until 2230hrs

Alcohol

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

Sale of Alcohol by Retail - Off the Premises

Premises Licence Holder

Name, (registered) address of holder of premises licence

Name: Mr Farzath Mohamed

Address:

Additional Details

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

Name: Mr Farzath Mohamed

Address:

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: LP7002643

Issuing Authority: Reading Borough Council

This Licence shall continue in force from **15/06/2016** unless previously suspended or revoked.

Dated: 30 June 2016

Head of Environment & Neighbourhood Services



Mandatory Conditions

Supply of Alcohol

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

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

Film Exhibitions

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

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

Door Supervisors

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Age Verification Policy (commencement 01/10/2014)

1. The 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.

Annex 2

Conditions Consistent with the Operating Schedule

None

Annex 3

Conditions attached after a hearing by the Licensing Authority

None

Annex 4

Plans

As plan

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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	LP9000510
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Premises Details

Trading name of Premises and Address	
Reading West Foods 202 Oxford Road Reading RG30 1AB	
Telephone Number	0118 950 2910

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

Licensable Activities

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

Authorised Hours for Licensable Activities

The times the licence authorises the carrying out of licensable activities	
Hours for the Sale by Retail of Alcohol	
Monday	from 0800hrs until 2300hrs
Tuesday	from 0800hrs until 2300hrs
Wednesday	from 0800hrs until 2300hrs
Thursday	from 0800hrs until 2300hrs
Friday	from 0800hrs until 2300hrs
Saturday	from 0800hrs until 2300hrs
Sunday	from 1000hrs until 2230hrs

Opening Hours

Hours the Premises is Open to the Public	
Monday	from 0800hrs until 2300hrs
Tuesday	from 0800hrs until 2300hrs
Wednesday	from 0800hrs until 2300hrs
Thursday	from 0800hrs until 2300hrs
Friday	from 0800hrs until 2300hrs
Saturday	from 0800hrs until 2300hrs
Sunday	from 1000hrs until 2230hrs

Alcohol

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

Sale of Alcohol by Retail - Off the Premises

Premises Licence Holder

Name, (registered) address of holder of premises licence

Name: Mr Farzath Mohamed
Address: 202 Oxford Road, Reading, RG30 1AB

Additional Details

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

Name: Mr Farzath Mohamed
Address: 202 Oxford Road, Reading, RG30 1AB

Designated Premises Supervisor

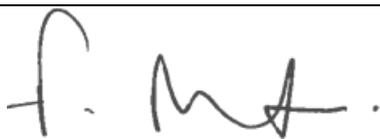
Personal Licence number and issuing authority of personal licence held by the designated premises supervisor where the premises licence authorises the supply of alcohol

Personal Licence Number: LP7002643
Issuing Authority: Reading Borough Council

This Licence shall continue in force from **18/11/2020** unless previously suspended or revoked.

Dated: 18 November 2020

Signed on behalf of the issuing licensing authority



Frances Martin
Executive Director for Economic Growth and Neighbourhood Services

Mandatory Conditions

Supply of Alcohol

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

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

Film Exhibitions

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

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

Door Supervisors

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Age Verification Policy (commencement 01/10/2014)

1. The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

2. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

3. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

(a) a holographic mark, or

(b) an ultraviolet feature.

Drink Measurements (commencement date 01/10/2014)

1. The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

Minimum Permitted Pricing (commencement 28th May 2014)

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

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

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

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

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

where—

(i) P is the permitted price,

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

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

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

(i) the holder of the premises licence,

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

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

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

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

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

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

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

Conditions Consistent with the Operating Schedule

None

Annex 3

Conditions attached after a hearing by the Licensing Authority

None

Annex 4

Plans

As attached plan

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