

To: Councillors Edwards and Kitchingham

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31 January 2024

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

**NOTICE OF MEETING - LICENSING APPLICATIONS SUB-COMMITTEE 8 FEBRUARY 2024**

A meeting of the Licensing Applications Sub-Committee will be held on Thursday, 8 February 2024 at 9.30 am in the Mayors Parlour, Civic Offices, Bridge Street, Reading, RG1 2LU. The Agenda for the meeting is set out below.

**AFFECTED**    **Page No**  
**WARDS**

**1. DECLARATIONS OF INTEREST**

- (a) Councillors to declare any disclosable pecuniary interests they may have in relation to the items for consideration;
- (b) Councillors to declare whether they wish to speak on the grounds they:
  - i. Have submitted a relevant representation; or
  - ii. Will be speaking on behalf of someone who has submitted a relevant representation.

**2. APPLICATION FOR THE REVIEW OF A PREMISES LICENCE, GUN STREET, 5 GUN STREET, READING**

**3 - 144**

To consider an application for the Review of a Premises Licence in respect of Gun Street Garden, 5 Gun Street, Reading, RG1 2JR.



**LICENSING ACT 2003 HEARING THURSDAY 8 FEBRUARY 2024 AT 1830HRS APPLICATION FOR THE REVIEW OF A PREMISES LICENCE**

**1. Premises:**  
Gun Street Garden  
5 Gun Street  
Reading  
RG1 2JR

**2. Applicants Requesting Review:**  
Mr Declan Smyth on behalf of the Chief Constable of Thames Valley Police

**3. Grounds for review**  
The application is for the review of a 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, in regard to the objectives of Prevention of Crime and Disorder, Prevention of Public Nuisance, Public Safety and Protection of Children from Harm.  
  
This application for review has been submitted 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. Application is attached as **appendix TS-1**.

**4. Background:**  
The premises, Gun Street Garden offers patrons vertical drinking and music, as well as VIP areas, across 2 floors of the premisses, on Gun Street within the town centre since September 2019.  
  
The premises benefits from a on and off alcohol sales and late night refreshment licence, which was transferred from Barclub Trading LTD to the current licence holder, GTB Leisure Limited on 05/09/2019. Full licensable activities and hours are listed below.  
  
The designated premises supervisor is Theodore Barber.

**5. Licensable activities and hours:**  
Gun Street Garden is currently licenced for the following activities:

**Hours for the Exhibition of Films**  
Monday to Saturday      from 1000hrs until 0300hrs  
Sunday                      from 1200hrs until 0200hrs

**Hours for the Performance of Live Music**  
Monday to Saturday      from 1000hrs until 0300hrs  
Sunday                      from 1200hrs until 0200hrs

**Hours for the Playing of Recorded Music**  
Monday to Saturday      from 1000hrs until 0300hrs  
Sunday                      from 1200hrs until 0200hrs

**Hours for the Performance of Dance**

Monday to Saturday from 1000hrs until 0300hrs  
Sunday from 1200hrs until 0200hrs

**Hours for anything similar to Live Music, Recorded Music or Performance of Dance**

Monday to Saturday from 1000hrs until 0300hrs  
Sunday from 1200hrs until 0200hrs

**Hours for the Provision of Late Night Refreshment**

Monday to Saturday from 2300hrs until 0300hrs  
Sunday from 2300hrs until 0200hrs

**Hours for the Sale by Retail of Alcohol**

Monday to Saturday from 1000hrs until 0300hrs  
Sunday from 1200hrs until 0200hrs

All licensable activities to extend on Bank Holiday Sunday 1200hrs to 0430hrs

**Hours the Premises is Open to the Public**

Monday to Saturday from 1000hrs until 0330hrs  
Sunday from 1200hrs until 0230hrs

**6. Date of receipt of application:** 14 December 2023

**7. Date of closure of period for representations:** 11 January 2024

**8. Representations received:**

During the 28 day consultation period for the application, representations were received from:

1. Mr Ian Savill - Reading Borough Council - Attached as **Appendix TS-2**
2. Mr Robert Smalley - Reading Borough Council - Attached as **Appendix TS-3**

**9. Powers of the Licensing Authority on the determination of a Review**

The Licensing authority, when determining an application for the review of a premises licence may:

1. take no further action
2. 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.

## **10. Licensing Objectives and Reading Borough Council's Licensing Policy Statement**

In considering representations received 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

Any decision made in relation to the premises licence should be appropriate and proportionate with a view to promoting the licensing objectives. The Licensing Authority can amend, alter, or refuse an application should it be deemed appropriate for the promotion of the licensing objectives.

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.

## **11. The Council's Licensing Policy Statement (2023):**

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.

2.26 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.

## **3. Licensing and integration with other legislation**

3.1 Many other pieces of legislation impact directly or indirectly on the licensing regime. The Licensing Authority must have regard to the following when it discharges its responsibilities under the Licensing Act 2003 and in relation to the promotion of the four licensing objectives:

#### 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 it 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.

#### The Anti-social Behaviour, Crime and Policing Act 2014

3.3 This Act gives a wide range of powers to local authorities and the police to tackle incidents of crime, disorder and nuisance that may be impacting on residents. The Act introduced public spaces protection orders which allows the local authority to designate areas in the borough where anti-social behaviour such as street drinking will be prohibited. The Council has designated areas where street drinking is prohibited and is in the process of introducing a new public space protection order. The Act also gives powers to the local authority and police to close licensed premises where nuisance and anti-social behaviour is taking place or likely to take place. This Act therefore clearly supports and actively promotes the licensing objectives contained within the Licensing Act 2003.

#### Other Legislation that the Licensing Authority will consider

3.10 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)

#### 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.

## 6. Licensing Conditions

### General Approach

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.

6.27 The licensing authority is of the opinion that premises that are alcohol led; provide limited seating for customers; provide little food and provide entertainment facilities have the strongest potential to undermine the promotion of the licensing objectives. The licensing authority believes that venues that encourage up right vertical drinking and the sale of alcohol – often at cheap prices – leads to a negative impact on the town and only serves to promote drunkenness and crime and disorder. Any applicant who wishes to operate such a venue will have to demonstrate that its proposed use does not undermine the promotion of the licensing objectives and the authority would expect any operating schedule to contain stringent policies and procedures to achieve this. Measures such as CCTV, employment of door supervisors and the use of a club scan device will be expected as a minimum requirement. Door staff will also be expected to wear high visibility jackets and armbands so that they can be easily identified as well utilising – where appropriate – body worn video to help promote the prevention of crime and disorder licensing objective. The use of breathalysers is also to be encouraged in venues that are alcohol led and should – where appropriate - be advertised as a condition of entry to a licensed premises – particularly given the current prevalence for pre-loading.

### Drinking up/Winding down time/Dispersal

7.14 Premises that provide licensable activity that may undermine the promotion of the four licensing objectives; cause disturbance to residents or in any way exacerbate issues of anti-social behaviour and crime and disorder, are expected to adopt, implement and maintain a robust dispersal policy. Licensed premises in residential areas or within the Council's Cumulative Impact Areas (if there are any in force – see

4.3) are also expected to outline measures such as a suitable wind down time where licensable activities will come to a gradual conclusion before closing time to allow for a gradual and orderly dispersal from the premises and area. It is expected that all staff will be aware of any dispersal policy and wind down times so as to ensure that customers actively leave the premises and area within permitted hours and with the minimum of disturbance to local residents.

7.15 In the case of nightclubs, dance venues and similar premises, it is expected that licence holders and designated premises supervisors instigate and operate a wind down time starting at least thirty minutes before closing time. During this time, the pace, volume and type of music played should be slowed down and reduced to background levels. The sale of alcohol should also cease and staff should be available to assist in the gradual dispersal of patrons from the premises and the immediate area. It is expected that door supervisors should also assist with the gradual dispersal of patrons from the premises and the area and direct people to public transport if appropriate.

## 9. Enforcement

### Enforcement Approach

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

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

9.15 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.

## 10. Administration, Exercise and Delegation of Functions

10.1 The powers of the Licensing Authority under the Licensing Act 2003 may be carried out by the Licensing Committee; by a Sub Committee or by one or more officers acting under delegated authority. The Licensing Committee will consist of between 10-15 members and the committee may establish one or more sub-committees consisting of two or three members.

10.3 A Licensing Sub-Committee shall hear all applications where relevant representations have been received and applications for the review of a premises licence that may have been submitted by Responsible Authorities or any other persons.

## **12. Amended Guidance issued under section 182 of the Licensing Act 2003 (December 2023)**

### 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
- 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.

## 2. The licensing objectives

### Crime and disorder

2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).

2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority (“SIA”) as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.

2.7 The objective to crime under the Licensing Act 2003 would include taking measures to prevent incidents of spiking which would usually be prosecuted under section 23 and 24 of the Offences Against the Person Act 1861, and section 61 of the Sexual Offences Act 2003. The following examples are within the range of behaviours that would be considered spiking. This list is not exhaustive:

- Putting alcohol into someone’s drink without their knowledge or permission
- Putting prescription or illegal drugs into an alcoholic or non-alcoholic drink without their knowledge or permission
- Injecting another person with prescription or illegal drugs without their knowledge or permission
- Putting prescription or illegal drugs into another person's food without their knowledge or permission
- Putting prescription or illegal drugs into another person's cigarette or vape without their knowledge or permission

### Licensing authorities acting as responsible authorities

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<sup>5</sup>. 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.

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.

#### Hearings

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

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

9.39 The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety. Any conditions added to the licence must be those imposed at the hearing or those agreed when a hearing has not been necessary.

#### 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.

## Reviews

### 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.

11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility. The applicant must give notice of the review application to the responsible authorities and holder of the licence or certificate. The licensing authority is required to advertise a review application.

11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.

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)<sup>10</sup>;
- 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.

#### Reviews arising in connection with crime

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.

### **13. Relevant Case law for consideration:**

(R) on the application of Hope and Glory Public House v Westminster City Council (2011) EWCA Civ31 illustrates that licensed premises, and the activities that take place in those premises, exist in a dynamic environment and should not be looked at entirely in isolation and confirms that this can include the impact that licensable activities have on a range of factors such as crime, the quality of life for residents and visitors to the area, and demand for licensed premises.

East Lindsey District Council v Abu Hanif (t/a Zara's Restaurant) (2016) this underpins the principles widely acknowledged within the Licensing Act 2003 that the licensing objectives are prospective, and that 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.

R (on application of Daniel Thwaites plc) v Wirral Magistrates' Court and Others (2008) EWHC 838 (Admin) This case, referred to as 'the Thwaites case', is important because it emphasises the important role that Responsible Authorities have in providing information to decision makers to contextualise the issue before them. The purpose of the Act is to prevent problems from happening. Decisions can and should be based on well-informed common sense. The case recognises that Responsible Authorities are experts in their fields, and that weight should be attached to their representations.

### **14. Appendices**

**Appendix TS-1: Premises Licence Application Form**

**Appendix TS-2: Representation by Mr Ian Savill – Principal Trading Standards Officer, Reading Borough Council**

**Appendix TS-3: Representation by Mr Robert Smalley – Licensing Officer, Reading Borough Council**

Reading Borough Council

**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 Declan Smyth, 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**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b>	
Gun Street Garden, 5 Gun Street	
<b>Post town</b> Reading	<b>Post code (if known)</b> RG1 2JR

<b>Name of premises licence holder or club holding club premises certificate (if known)</b>
GTB Leisure Limited

<b>Number of premises licence or club premises certificate (if known)</b>
LP2002988

**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 7TH
Telephone number (if any) <b>101</b>
E-mail address (optional) <a href="mailto:Licensing@thamesvalley.police.uk">Licensing@thamesvalley.police.uk</a>

**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. **LP2002988**, Gun Street Garden, 5 Gun Street, Reading, RG1 2JR

The premises is situated on Gun street in an area which suffers high levels of crime, anti-social behaviour including street drinking and the consumption of super strength alcohol, drug usage and other associated signal crimes such as graffiti and assaults of all levels. Gun Street Garden is a destination venue within the Reading Night Time Economy footprint.

On Saturday 2<sup>nd</sup> December at approximately 02:40 hours (INC202312020249 & Nice Number - 43230541145) Thames Valley Police attended the premises known as the Gun Street Garden. The attending officers' intention was to assist a female as the caller stated that her friend had been punched in the face and is bleeding.

A female customer became involved in an incident within the venue and was removed by the premises security. On reaching the front door of the premises and during the ensuing melee' a door supervisor has assaulted the female by throwing a punch to her head & face causing her to fall to the ground.

The victim had to attend hospital due to injuries to her face and pain in her leg which was injuries she sustained when punched by the suspect.

The Gun Street Garden has suffered a high number of disorders and incidents involving violence over the years linked to high risk events/evenings. Thames Valley Police and Reading Borough Council have made a number of interventions via performance meetings with the premises in order to reduce this type of incident, and to attempt to prevent the premises from undermining the licensing objectives.

Thames Valley Police submit this application for review in order to address the failures of the premises licence holder to promote the licensing objectives via their insufficient measures to ensure due diligence, best practice and promote the licensing objectives. The scale of incidents occurring at the premises, the actions of the Premises Licence Holder, DPS, staff and security team at this premises is alarming and steps need to be taken to safe guard the late night economy and the local community visiting the premises and area.

The above mentioned incident that has triggered this review was both predictable and preventable and had the premises licence holder, management team staff and security team adhered to police warnings and previous interventions this may have been averted.

Thames Valley Police believe that it is imperative for licensed premises to act both responsibly, and in a manner that promotes the licensing objectives.

Thames Valley Police have taken the reasonable step to submit this premises licence review rather than a summary review.

## Secretary of States Section 182 Guidance

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 cooperation.

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.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

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.

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 below.

**QBD, ADMINISTRATIVE COURT**

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

CO/345/2016

**IN THE HIGH COURT OF JUSTICE**

**QUEEN'S BENCH DIVISION**

**THE ADMINISTRATIVE COURT**

Royal Courts of Justice

Strand

London WC2A 2LL

Thursday, 14 April 2016

**B e f o r e:**

**MR JUSTICE JAY**

**Between:**

**EAST LINDSEY DISTRICT COUNCIL**

**Appellant**

v

**ABU HANIF**

**(TRADING AS ZARA'S RESTAURANT AND TAKEAWAY)**

**Respondent**

Computer- Aided Transcript of the Stenograph Notes of

WordWave International Limited trading as DTI

165 Fleet Street London EC4A 2DY

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

(Official Shorthand Writers to the Court)

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

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

J U D G M E N T

(Approved)

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1. MR JUSTICE JAY: This is an appeal by way of case stated from the decision

of the Lincoln Magistrates' Court, District Judge Veits, given on 23 June 2015, whereby he allowed an appeal from the revocation of a premises licence by the licensing authority.

2. The appellant, the East Lindsey District Council, is the licensing authority. The

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

3. The premises in question are Zara's Restaurant and Takeaway situated in North Summercoates on the Lincolnshire coast. They are licensed to sell alcohol ancillary to the supply of food. The restaurant is owned and managed by the licensee, Mr Hanif. On 29 April 2014, the premises were the subject of a joint visit by the police and immigration officers, and it was discovered that Mr Miah was working in the kitchen as a chef. It was common ground that Mr Miah had no current entitlement to remain in the UK, let alone to work. I was told that he arrived here illegally some years ago. Furthermore, it was also accepted by the respondent that he (i) employed Mr Miah without paperwork showing a right to work in the United Kingdom; (ii) paid Mr Miah cash in hand; (iii) paid Mr Miah less than the minimum wage; (iv) did not keep or maintain PAYE records; (v) purported to deduct tax from Mr Miah's salary; and (vi) did not account to HMRC for the tax deducted.
4. The police then applied for a review of the respondent's licence under section 51 of the Licensing Act 2003 and the matter came before the appellant's subcommittee on 30 June 2014. The subcommittee decided to revoke the respondent's licence. Its reasons were as follows:
5. "The subcommittee were satisfied that Mr Hanif did not take the appropriate checks of staff members having knowledge that there were problems previously at the other premises with overstayers, and that he continued to allow staff to work at Zara's restaurant without making appropriate checks.
6. The subcommittee were satisfied that Mr Hanif had not undertaken the relevant checks to ensure the employee concerned was eligible to work in the United Kingdom. Instead of not allowing employees to work if they had not provided the correct documentation he allowed them to work and paid cash in hand. With all this in mind the subcommittee were satisfied that Mr Hanif had knowingly employed person/s unlawfully in the United Kingdom.

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

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

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

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

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

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

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

12. The district judge also criticised the subcommittee for adopting an inconsistent approach because in other similar cases only warnings were issued. Finally, he considered that the subcommittee may have been influenced by comments

in the police report, leading them to believe that they were dealing with a serial offender.

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

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

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

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

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

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

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



objectives, namely the prevention of crime and disorder.

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

19. To the extent that the analysis must be retrospective, the issue is whether, in the opinion of the relevant court seized of the appeal, criminal offences have been committed. In the instant case they clearly had been: in relation to tax evasion (see the common law offence of cheating the Revenue and the offence of fraudulent evasion of tax contrary to section 106A of the Taxes and Management Act 1970); and the employment of Mr Miah at remuneration below the minimum wage (see section 31 of the National Minimum Wage Act 1998). Moreover, given the evidence that Mr Miah never provided the relevant paperwork, notwithstanding apparent requests, the obvious inference to be drawn is that the respondent well knew that he could not, and that no tax code and National Insurance number had been issued. The corollary inference in my judgment is that the respondent well knew that Mr Miah could not provide the relevant paperwork because he was here illegally.
20. I also accept Mr Kolvin's submission that each case must turn on its own facts. As a matter of law, unless it could be said that some sort of estoppel or related abuse of process arose in the light of warnings given in other cases, the alleged inconsistent approach led nowhere. In my judgment, it could not be so said.
21. Finally, I agree with Mr Kolvin that there is nothing in the point that the subcommittee could have been misled about the interested party being a serial offender. The point that the subcommittee was making was the fact that the respondent had worked at premises where illegal workers were also employed meant that he should have been vigilant to the issue.
22. Thus the answer to the district judge's two questions are as follows:
  - A. Q. "Was I correct to conclude that the crime prevention objective was not engaged as no crimes had been proceeded with, the appellant only receiving a civil penalty?"
  - B. No.
  - C. Q. "Was I correct in concluding that the respondent had been inconsistent in

similar decisions in not revoking the licence [sic]?"

D. No.

23. Having identified errors of law in the district judge's decision, the next issue which arises is whether I should remit this case for determination in the light of my ruling or whether I have sufficient material to decide the issue for myself. I should only adopt the latter course if satisfied that the issue is so obvious that no useful purpose would be served by remission. I am so satisfied. Having regard in particular to the twin requirements of prevention and deterrence, there was in my judgment only one answer to this case. The respondent exploited a vulnerable individual from his community by acting in plain, albeit covert, breach of the criminal law. In my view his licence should be revoked. Another way of putting the matter is that the district judge had no proper basis for overturning the subcommittee's assessment of the merits.
24. It follows in my judgment that the only conclusion open to the district judge in the present case was to uphold the revocation of the respondent's licence. This appeal must be allowed and the respondent's licence must be revoked.
25. MR KOLVIN: My Lord, I'm very grateful. Can I deal with the question of costs, both here and below.
26. MR JUSTICE JAY: Yes.
27. MR KOLVIN: Should I start with here.
28. MR JUSTICE JAY: Yes.
29. MR KOLVIN: My Lord, we would ask for the costs before this court. I just want to pray in aid four very brief points. The first is the result. The second is that the district judge's approach was expressly urged on him by the respondent's legal team. Thirdly, that the respondent was expressly urged to concede this appeal to stop costs running, he was given that opportunity at pages 42 and 43 of the bundle. Fourthly, perhaps a little bit tugging at the heart strings, but there's no reason why the Council Tax payers of East Lindsey should bear the cost of establishing what has been established in this court. So we would ask for the costs up here.
30. There is a schedule and the schedule has been served upon Mr Hanif by letter dated 16 March of 2016. I don't know whether the schedule has found its way to my Lord, if not I can hand up a copy.

31. MR JUSTICE JAY: It has.
32. MR KOLVIN: It has. My Lord, I can see that VAT has been added on. It doesn't need to be because of course the Council can retrieve the VAT, so my application is for £16,185. I know there's not a lot of explanation around my fee, but it was taken on a single fee for all work involved in relation to the case stated; advice, the skeleton argument and attendance today, so it's one single - -
33. MR JUSTICE JAY: What about your junior's fees?
34. MR KOLVIN: My learned junior is also my instructing solicitor, he wears two hats.
35. MR JUSTICE JAY: I see.
36. MR KOLVIN: He has his own firm which is Dadds LLP, and he is also a member of the bar, so although he has appeared as my junior, his fee is wrapped up in the solicitors' fees set out in the schedule.
37. MR JUSTICE JAY: Okay. What about the costs below?
38. MR KOLVIN: My Lord, I'm just trying to ascertain what the position is.
39. MR JUSTICE JAY: I thought there was no order for costs below.
40. MR KOLVIN: There was no order for costs below, that was on the basis that the appeal had been allowed. The situation in relation to costs of licensing appeals are set out in section 181 of the Act, which enables the court to make such order as it thinks fit. Normally when appeals are dismissed there is no real question about it, costs follow the event. When appeals are allowed, some further considerations come into play, which are expressed by the Master of the Rolls in a case which you may have come across called City of Bradford v Booth, which is the case where the Master of the Rolls said that local authorities shouldn't be put off from trying to make honest and reasonable decisions in the public interest. And so one has to take account additionally of the means of the parties and their conduct in relation to the dispute, but in this case of course the appeal has now been dismissed, and so we would say that the ordinary rule is that the costs should follow the event, the appeal having failed. I'm just trying to ascertain whether schedules were ever served below, in the light of the way the case came out. **(Pause)**
41. My Lord, I'm really sorry that we don't actually have the schedule here, apparently it was £15,000. If you were minded to order costs below the options are either I suppose to wait and we will have the thing emailed up, or

to say, "Look, it was below, it's a little bit more complex, they should be assessed if not agreed."

42. MR JUSTICE JAY: This is going to wipe him out, isn't it?
43. MR KOLVIN: Well he has already said, I have to say, I'm just telling you frankly what I've been told this morning, that when the bundles and the schedules were served on him, he had clearly read them, but he said, "If you win in the High Court and get costs against me, then I'm just going to declare myself bankrupt." So there may well be a bit of football(?) about this, but nonetheless it was his appeal, his team raised a point which in retrospect was very surprising, and caused an awful lot of costs to be incurred.
44. MR JUSTICE JAY: Yes. Well I am going to assess the costs here in the round figure of £15,000.
45. MR KOLVIN: Thank you.
46. MR JUSTICE JAY: If there was a schedule, which you tell me there was, below, it is proportionate that I assess those costs rather than put you to the trouble of a detailed assessment, so if you could have that emailed to my clerk in due course, I will assess the costs below.
47. MR KOLVIN: Thank you, my Lord.
48. MR JUSTICE JAY: On the basis of that schedule.
49. MR KOLVIN: We're not trying to be too ambitious, but we would like to see what we can - -
50. MR JUSTICE JAY: I'll take a broad brush approach to that.
51. MR KOLVIN: Thank you.
52. My Lord, the only other thing to mention is that this isn't the only case which is kicking around the east of England where licensing subcommittees are being urged to take no action because there has been no prosecution in these immigration cases. Although I appreciate that this is hardly stellar law making, it's an application of pretty well established legal principles to the facts, I'm asking whether my Lord would be minded to certify this so that we can adduce the authority in other cases, because it's a clear statement of the law that there doesn't need to have been a prosecution. So with the practice direction in mind, would my Lord be minded to - -

53. MR JUSTICE JAY: Just remind me of the practice direction.
54. MR KOLVIN: Yes, can I hand it up?
55. MR JUSTICE JAY: Yes. **(Handed)**
56. MR KOLVIN: If Mr Hanif had come I wouldn't need to make the application. It's paragraph 6.1. The judgment has to clearly indicate that it purports to establish a new principle or extends the present law and that has to take the form of an express statement to that effect, and then 6.2 says what categories of judgment we're dealing with, which include applications attended by one party only.
57. So that's the situation we're in. In reality these judgments get around anyway, because we're dealing with administrative tribunals and not courts, but sometimes the point is taken, "Ah yes, but the court didn't certify".
58. MR JUSTICE JAY: But where's the new principle I've established?
59. MR KOLVIN: My Lord, what you have said clearly, which hasn't been said before, by dint of the fact that not many licensing cases reach the lofty heights of this building, is that there does not need to have been a prosecution in order for the crime to have - -
60. MR JUSTICE JAY: Oh, I see. Well that's so obvious it almost goes without saying, that's why it hasn't been said before.
61. MR KOLVIN: My Lord, it was obvious to everyone except the district judge, the appellant and other licensees in the east of England.
62. MR JUSTICE JAY: Okay.
63. In terms of the logistics, if you want a copy of the judgment, don't you have to pay for it?
64. MR KOLVIN: We may have to, and we would be obviously very pleased to do so.
65. MR JUSTICE JAY: Because I'm not sure that all judgments are, in the Administrative Court, they're not all transcribed and published.
66. MR KOLVIN: That is correct, and I have no doubt that my client would be -

this isn't a matter about the costs of the judgment.

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

68. MR KOLVIN: Yes.

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

70. MR KOLVIN: Yes, they are.

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

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

73. MR JUSTICE JAY: No- one objects.

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

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

76. MR KOLVIN: Thank you very much indeed.

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

78. MR KOLVIN: No.

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

80. MR KOLVIN: I don't know, my Lord, what the normal practice is. I don't think that I have previously been on a legal team which has sent judgments,

but we're very happy to undertake to do so.

81. MR JUSTICE JAY: Yes, I think if you're going to get a copy, obviously you're going to send it to the respondent - -
82. MR KOLVIN: Indeed.
83. MR JUSTICE JAY: - - so he can ingest it. I think you should send it to the district judge, just saying that the judge directed that out of courtesy he should see it.
84. MR KOLVIN: We're very happy to do that. Thank you very much indeed.
85. MR JUSTICE JAY: Thank you very much.

Thames Valley Police respectfully ask the Licensing Sub – Committee to consider the immediate revocation of the premises licence relating to Gun Street Garden, 5 Gun Street, Reading RG1 2JR as the only proportionate and necessary step available to prevent the undermining of the four licensing objectives.



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 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**

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.

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

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

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

Appendices currently provided:

- **TVP1 -Gun Street Garden -Premises Summary Report**
- **TVP2 - Drug Results Letter - Gun Street Garden**

**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 *D.Smyth*  
.....

Date 14<sup>th</sup> December 2023  
.....

Capacity **Thames Valley Police (Licensing officer) Reading LPA on behalf of the Chief Constable of Thames Valley Police.**  
.....

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 6)	
<b>Post town</b>	<b>Post Code</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b>	

**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.





Gun Street Garden,  
5 Gun Street,  
Reading,  
RG1 2JR

**Declan Smyth**  
Licensing Officer  
Reading

Police Station  
Castle Street  
Reading  
Berkshire  
RG1 7TH

Tel: 01865 845249

Fax:

declan.smyth@thamesvalley.pnn.police.uk  
[www.thamesvalley.police.uk](http://www.thamesvalley.police.uk)

7<sup>th</sup> February 2020

### Licensing Act 2003

**Premises Licence Number: LMV000361**

**Premises:** Gun Street Garden

**Premises Address:** 5 Gun Street, Reading, RG1 2JR

On the 23<sup>rd</sup> January 2020 a performance meeting with the DPS, Theodore Barber was held at Reading Police Station. The meeting was called to discuss URN 389 - 29/12/19 @ 03:00 (43200019464)

Summary of URN: **The aggd and the suspect spoke and the aggd did not want to listen, she pushed the suspect as to move him, he struck her in the face causing her nose to bleed - Aggd is only 17 and therefore under age to be in the premise. Aggd is only 17**

### Advisories

1) **ECHO TANGO RADIO**. The use of the town safe radio is a major benefit to all premises in the town center to aid in the prevention of crime and disorder. You are advised to make use of this scheme.

2) **Refusals Log**. Thames Valley Police would recommend that as a minimum the premises management team have documentation to show that the staff are using a log and that the management are using the information to show any trends.

3) **Incidents Log**. Thames Valley Police would recommend that as part of the daily routine that the staff, door staff and management document any and all incidents. It was stated that on this occasion the female had possibly used her sisters' driving licence. If incidents like this were to become a common occurrence (School Holidays) it would be beneficial to be able to prove a pattern and what action was or is been taken by the site to show prevention of crime and disorder and Protecting Children from Harm.

Serving with Pride and Confidence

**4) Door Staff/ Training.** Thames Valley Police would recommend that the premises train all security and staff on a regular basis (every 4 months) to aid in increasing the levels of scrutiny required to ensure that incidents of this nature do not happen again. These training sessions should be documented and signed by the trainer and staff members who attend, this would prove to show good due diligence.

**5) Admissions Policy.** Thames Valley Police would recommend additional measures to assist in the management of admissions. Currently you are using a Scanning system to aid in the Challenge 25 age verification policy for all potential customers and their admissions. Recommended minimum steps:

- a) All ID's must be in date and be a valid form of ID. No expired passports allowed.
- b) All ID's must be checked by hand before being processed through the ID Scanner.
- c) A second form of ID should be required or requested from individuals who appear young or picture image looks different. A Credit/ debit card or social media verification on their personal phone would assist in making a more informed decision to the validity of the ID in question.
- d) The premises management should validate all door supervisors' actions, if the door supervisor has a questionable ID being produced for admissions.
- e) Implement the usage of the Reading PubWatch Bailment Form. Thames Valley Police would recommend that you have a number of copies printed and be made available to all security at the front door. These forms can be located on DISC.

Whilst we are considering what, if any, further actions needs to be taken in relation to the meeting on the 23<sup>rd</sup> January 2020, you are advised to rectify the above as soon as possible. I expect that all the above will be address with immediate effect.

Yours faithfully



Mr Declan Smyth  
Licensing Officer





Any serious incidents are to be attended by a manager where possible.

An assessment will be made of the incident with 3 possible outcomes:

- **Eject** – Walker supervises ejection, customer handed to front door team
- **Police** – Customer is taken to holding area police contacted
- **Welfare** – Customer is taken to a quiet area and looked after by a member of staff until they are able to leave safely via an agreed method – Friend, Taxi, Parent.

All Ejections should take place via the main entrance to the club, where multiple parties are involved then the decision may be made by the Manager or Walker to eject one party via the secondary exit route to help keep parties separate, this route is covered by camera and notified to the front door team. The security team should walk with the party until they are out of the loading area and back on the public roadways.

All ejections are communicated to the front door, this will allow them to halt ingress if required and ensure the exit route out of the premises is clear of other customers and a clear flow out of the venue can be achieved.

The front door will take over situations once outside to aid in defusing them, where required Echo Tango will be used to request assistance to aid to defuse and disperse the situation.

Where the decision is made that the police is required and someone is detained then the parties will be detained at the top of the secondary exit route between the fire exit doors, covered by CCTV, this area is away from the general flow of people.

Welfare incidents will be dealt with on an individual basis, where someone is deemed to be intoxicated or require intervention then a check will be made to who they are with and how they are getting home, if necessary then they will be taken to a quiet location and spoken to by a manager so that a safe outcome for them getting home safely can be achieved.

A note of every Incident should be completed for every ejection in the door book after it has occurred with an in-depth Incident report being completed at the end of every night for any major incidents have occurred or staff have needed to restrain customers or emergency services have had to be called.

All incident reports should include where possible

- customer's name
- Date of Birth (this can be obtained from the scanners)
- A Description,
- Location of the Incident
- Outcome



- Time of the Incident.

Where required or issued bans should be noted in the incident report.

All ejections and incidents in the door book are to be discussed between the head of security after the shift and any trends or further action identified.



- Condition 6 on page 9 of your licence which relates to recording refusals was not being fully complied with. The time of refusals and details of the alcohol attempting to be purchased were not being recorded.
- Condition 13 on page 10 of your licence which relates to staff training was not being fully complied with. There was no training being provided on: Proxy Purchasing - Identifying signs of intoxication - Conflict Management - How to identify and safeguard vulnerable persons who attend and leave the premises - Identifying signs of drug use and prevention. Please ensure these areas are added into your training material.
- Condition 16 on page 10 of your licence which relates to producing a written risk assessment to manage the queuing of patrons outside of the venue was not being complied with. There was no written risk assessment. Please rectify this immediately. Whilst observing the premises on 13/05/2022, the queue for the premises was large and stretched across the frontage of other businesses.
- Condition 19a on page 11 of your licence which relates to producing a written risk assessment to decide on the employment of SIA registered door staff was not being complied with. There was no written risk assessment.
- Condition 23 on page 11 of your licence which relates to illegal drug and weapon searches was not being fully complied with. There were no notices informing customers that searches may be conducted as a condition of entry.

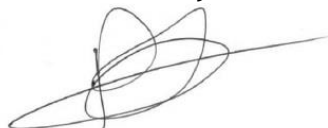
#### Advisories

- Whilst Body Worn Video (BWV) is being used at the premises, as per condition 22, no log of recordings and any action taken based on recordings, or lack thereof, was being kept. It is recommended that, when reviewing the incident register and door log, a check is made to see if any incident recorded in those logs has corresponding BWV footage and what action, if any, will be taken by the manager/DPS. This will assist you in being able to check if BWV is being used effectively and also to address any issues with staff not utilising BWV as they should be.

**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 14 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

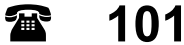


Robert Smalley  
Licensing Enforcement Officer



Theodore Barber  
Gun Street Garden  
5 Gun Street  
Reading  
RG1 1EP

Licensing Department  
Thames Valley Police  
E-Block, TVP Headquarters South  
Oxford Road  
Kidlington  
OX5 2NX  
licensing@thamesvalley.police.uk



2<sup>nd</sup> January 2024

Dear Licensee,

As you may be aware, on Friday 22<sup>nd</sup> December 2023 your premises was swabbed for traces of drugs.

I have listed the full set of results in the table below but based on this result overall, in relation to drugs misuse, we consider your premises to currently be of **concern**.

Because of this, it is vital that you give the matter your urgent attention. Advice and guidance is available to assist you in addressing the issue (see below).

It should be noted that if such advice is declined or ignored and the problem persists, then the police will seriously consider taking licensing enforcement action.

LOCATION	RESULTS
<b>Gents Toilets:</b>	
Sink Area	Pass/No Trace Of Drugs Found
Cubicle No.1	Cocaine
Cubicle No.2	Cocaine
Cubicle No.3	Cocaine
<b>Ladies Toilets ONE:</b>	
Cubicle No.1	Cocaine/Oxycodone
Cubicle No.2	Cocaine/Oxycodone
Cubicle No.3	Cocaine
Cubicle No.4	Cocaine/Oxycodone
Sink Area	Cocaine/Oxycodone

**Ladies Toilets TWO:**

<b>Cubicle No.1</b>	<b>Cocaine/Oxycodone</b>
<b>Cubicle No.2</b>	<b>Cocaine</b>
<b>Sink Area</b>	<b>Cocaine/Oxycodone</b>

Overleaf you will find some advice on combatting the misuse of drugs on your premises.

Should you wish to discuss the above results or seek further advice, then please feel free to make contact either with your local police licensing officer or a member of your local neighbourhood policing team.

Yours sincerely,



Declan Smyth  
On behalf of the Licensing Team  
Thames Valley Police

## **About Drug Swabbing**

Few licensees would welcome, much less condone, drugs on their premises. However, since it is rare for drug users to be open about it in public, the problem tends to be hidden and licensees can be forgiven for believing that – particularly in the absence of much other criminality – it doesn't exist.

Although drug swab results (positive and negative) can be used as part of formal proceedings such as licence reviews, Thames Valley Police's drug swabbing programme is primarily intended to inform the licensee of the extent of drug misuse on their premises so that they can do something about it.

Powdery materials – in this case illicit drugs – leave behind particulate contamination which is not visible to the naked eye and which is only removed after vigorous and/or repeated cleaning.

The swabbing process simply involved firmly wiping a swab across the relevant surface (we focus on smooth, level areas which are larger than the size of a credit card) before sending it to be analysed using a sophisticated drugs itemiser that tells us which drugs are on the swab.

## **Combating Drugs**

A more comprehensive range of advice can be found in our document "Combating Drugs: A Guide For Licensees" - if you don't already have a copy, please contact your local police licensing officer.

Generally, vigilance and proactivity are key, which you can achieve by doing (amongst other things) the following:

- Frequent glass collection/table wiping to allow staff to monitor customers
- Regular checks of all toilet, car park and garden areas
- Train staff in unobtrusive monitoring techniques and what to look out for
- Ensure staff inform you immediately, but discreetly, of any suspicious activity
- If you have a separate disabled toilet, keep it locked with the key behind the bar so patrons have to ask for it

Another useful technique is to grease the flat surfaces in your toilet areas - drugs will stick to the grease and the user will be unable to take them.

There are two vital points to remember though:

- DO NOT use WD40 or any other solvent-based product as you could be liable if someone snorts it and causes themselves harm! Vegetable oil is most commonly used.
- Check the toilets more frequently because once attempted, the drug residue will stick to the grease, and will therefore be visible to other customers.

As an alternative to the greasing, you can 'design out' drug use by ensuring there are no suitable surfaces available. This can be done by blocking in cisterns and toilet tissue dispensers, or by giving them sloping tops that are at an angle of at least 45 degrees, as well as removing toilet seats etc.

To: Licensing

Date: 19/12/23

From: Trading Standards

Ref: GSG Review

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## **Representations to support the licence review of Gun Street Garden made by Thames Valley Police on behalf of the Chief Inspector of Weights & Measures**

Trading Standards is a responsible authority under the Licensing Act 2003 and makes the follow representation regarding the review application by Thames Valley Police of the Gun Street Garden, Gun Street, Reading, RG1 2JR.

The review by Thames Valley Police, in essence, draws attention to the general poor management of the venue over a relatively sustained period. This representation sets out the experience the Service had with the venue during covid controls in 2020.

In 2020 and 2021, the Trading Standards Service was responsible, with other Council Services, for the implementation of the various covid/coronavirus controls.

It is acknowledged that this was a challenging time for all businesses, particularly the hospitality sector, but stipulations were in place to try to control the spread of the Covid 19 virus. The incident to which this representation cites took place during October 2020 and it is perhaps pertinent to note that the UK went back into lockdown measures in January 2021.

At the end of October 2020, the Service received complaints from a number of sources relating to noise emanating from the venue during the period which venues could be open, but music, which was permitted, had to remain at “background levels”. Whilst this is a relatively subjective term, guidance issued around the time indicated that conversations should be able to take place without voices being raised to be heard. The complaints indicated that the volume of music was excessive in the circumstances.

Around the same time, social media footage of an event that took place at the venue on the 31<sup>st</sup> October 2020 emerged that, whilst isolated in nature, indicated breaches of the controls in place at the time, which included a ban on dancing, with patrons having to remain seated. The sound on the social media footage suggests that the volume was beyond what could be described as a background level. Two clips are produced at Annex 1.

On the 2/11/2020, in order to verify the allegations, a request was made to the venue to provide CCTV footage, under its licence conditions, of the event on the 31 October 2020, which ran during the day time (due to early closing restrictions), and it was duly provided and assessed. The email conversation is produced at Annex 2.



It is relatively evident, as the event progresses and even without the benefit of sound, that the music was not maintained at background level. It does not take a body language expert to conclude that the behaviour of the patrons and some of the staff members is indicative that the music was not at background level as a close proximity between people was required to determine what was being said. There is also evidence of patrons singing along to the songs, which it is submitted, would be unlikely behaviour if the music was at background levels. Two clips of the CCTV are attached at Annex 3.

There are some attempts by staff to stop patrons from dancing but as the event progresses this becomes futile and, it is further submitted, the volume of the music is a significant contributing factor to the deterioration in the control of the event.

It is assumed that this was a decision made by the management of the venue, or as a result of a lack of controls/ instructions to staff on duty. As a consequence, an email was sent to the Designated Premises Supervisor, produced at Annex 4, essentially advising/ warning about future conduct.

The Trading Standards Service has had no cause to interact with the business since then, but as is evidenced by this and the review application by Thames Valley Police, this appears to be a business prepared to take unacceptable risks with the safety of patrons and the public. As such, the Trading Standards Service supports the recommendation of Thames Valley Police to revoke the premises licence.

**From:** [Savill, Ian](#)  
**To:** [REDACTED]  
**Subject:** RE: Saturday 31st October 2020  
**Date:** 10 November 2020 17:11:00

---

Ok, smashing, yes, I wondered! Thanks, I'll try and collect on Friday.  
Ian

---

**From:** TheoGSG <theo@gunstreetgarden.co.uk>  
**Sent:** 10 November 2020 17:09  
**To:** Savill, Ian <ian.savill@reading.gov.uk>  
**Subject:** Re: Saturday 31st October 2020

Hi Ian, I have burnt of some CCTV footage for you already as requested. I am not in Reading much at the moment due to being back on lockdown however I am passing through next week on Wednesday evening and can pop it into the Civic offices for you.  
The memory sticks should work fine on your laptop, if any issues let me know.

Regards,  
Theo Barber  
Gun Street Garden

On 10 Nov 2020, at 09:45, Savill, Ian <[ian.savill@reading.gov.uk](mailto:ian.savill@reading.gov.uk)> wrote:

Hi Theo  
Is this Friday (13<sup>th</sup>) any use?  
Thanks  
Ian

---

**From:** TheoGSG [REDACTED]  
**Sent:** 02 November 2020 18:01  
**To:** Savill, Ian <[ian.savill@reading.gov.uk](mailto:ian.savill@reading.gov.uk)>  
**Subject:** Re: Saturday 31st October 2020

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

Hi Ian, I am well.  
Hope you are well too.  
As always we are happy to comply with your request. I hope you can understand that small video clips can be miss leading and once you have watched the cctv from Saturday you will see that we are continuously monitoring customers to ensure we are complying with the government guidelines. This request is going to take me a long time due to the length of footage you have requested, I am also not back in the venue until Friday. I shall contact you when I have completed it. Where would you like me to take the footage? It shall be on a few memory sticks.

Regards,  
Theo Barber  
Gun Street Garden

On 2 Nov 2020, at 15:32, Savill, Ian <[ian.savill@reading.gov.uk](mailto:ian.savill@reading.gov.uk)> wrote:

Dear Theo

I trust you are well.

It has been drawn to our attention, via video clips, that your event on Saturday 31<sup>st</sup> October 2020 may not have been implementing Covid controls, as required by Regulations, Gov't guidance and your own risk assessment.

In order to clarify matters, one way or the other, this is a formal request, as required by Condition 1b of your premises licence, to provide CCTV footage of the event on the 31<sup>st</sup> October 2020 for further assessment.

Please could you let me know as soon as possible in what format you are able to provide the footage.

Kind regards

<image001.png>

Ian Savill LLB(Hons) DTS, DCA, Chartered Practitioner

Principal Trading Standards Officer

Regulatory Services | Directorate of Environment & Neighbourhood Services

Reading Borough Council

Civic Offices

Bridge Street

RG1 2LU

0118 9372477

0780 3760627

[ian.savill@reading.gov.uk](mailto:ian.savill@reading.gov.uk)

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

<image002.jpg>

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**From:** TheoGSG [REDACTED]

**Sent:** 12 August 2020 23:20

**To:** Savill, Ian <[ian.savill@reading.gov.uk](mailto:ian.savill@reading.gov.uk)>

**Subject:** Gun Covid-19.xlsx

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

Hi Ian, I missed our general COVID risk assessment off the previous email.

Please see attached.

If you would like to contact me at any time you can also contact me on my mobile number.

[REDACTED]

Regards,  
Theo Barber  
Gun Street Garden

The information in this e-mail is confidential to the intended recipient to whom it has been addressed and may be covered by legal professional privilege and protected by law. Reading Borough Council does not accept responsibility for any unauthorised amendment made to the contents of this e-mail following its dispatch. If received in error, you must not retain the message or disclose its contents to anyone. Please notify us immediately quoting the name of the sender and the addressee and then delete the e-mail. Reading Borough Council has scanned for viruses. However, it is your responsibility to scan the e-mail and attachments (if any) for viruses. Reading Borough Council also operates to the Protective Document Marking Standard as defined for the Public Sector. Recipients should ensure protectively marked emails and documents are handled in accordance with this standard (Re: Cabinet Office - Government Security Classification).

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

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**From:** [Savill, Jan](#)  
**To:** [REDACTED]  
**Subject:** Footage from the 31st October 2020  
**Date:** 09 December 2020 17:02:00  
**Attachments:** [image001.png](#)  
**Importance:** High

---

Good afternoon Theo

Apologies for the delay, for various covid related reasons, it's taken me until this week to make a proper assessment of the footage.

I've been mindful not to get too carried away with over judging situation, as it does seem that we've become the anti-fun police during the pandemic, but we are continuing to take our public health role particularly seriously at the moment as we certainly don't want to see us moving into Tier 3.

Notwithstanding the different rules on the 31<sup>st</sup> October 2020, when this event took place, I am of the view that the footage you provided does give us cause for concern.

There are numerous examples of dancing "breaking out", as it seems the customers just can't quite sit still, though I recognise that plenty attempt to dance from their seats, so it is reasonably evident that instructions have been given to them about acceptable behaviour. I can also see that the customer liaison officers do try and keep on top of things by getting customers to sit back down again but it gradually becomes more futile and harder to manage as the time goes on.

Probably more telling though, while I accept we've not got the sound via the CCTV, is that both the staff and customers when trying to be understood/ heard are leaning into one another, to the extent that they are speaking directly into the ear of the person they're trying to communicate with and, based on the sample footage we received from the complaint, the volume of the music suggests that they're not whispering but actually having to talk/ shout loudly.

One customer liaison officer in particular spends a significant time with his face covering around his neck but leaning in very closely to speak to customers. Accepting the "what if" scenario, had he had the virus, I'm pretty sure everyone would've had it by the time they left the venue. Music levels, at the time of the event should've been background only. I'm afraid the footage suggests it was far from that, which is also reflected in the behaviour of the customers when dancing and singing along, even recognising that this was probably lubricated due to the consumption of alcohol.

As such, in discussion with RBC Licensing, you are to regard this email as something of a strong recommendation (if in doubt, read "warning") to reflect on the management of risk for your events, in particular to the propensity for the customers to want to begin dancing, which is intrinsically linked to the volume of music. I'd suggest that if the music was at background levels we may not have seen the response of the customers that we did.

If we become aware of similar transgressions at future events, we will consider invoking some of the new tools available:

<https://www.legislation.gov.uk/ukxi/2020/1375/contents/made>

Or some of the old ones, such as a licence review. I am, of course happy to discuss these conclusions but please don't doubt that we need to see improvement in compliance from your venue.

Kind regards



Ian Savill LLB(Hons) DTS, DCA, Chartered Practitioner  
Principal Trading Standards Officer  
Regulatory Services | Directorate of Environment & Neighbourhood Services  
Reading Borough Council  
Civic Offices  
Bridge Street  
RG1 2LU  
0118 9372477  
0780 3760627  
[ian.savill@reading.gov.uk](mailto:ian.savill@reading.gov.uk)  
[Website](#) | [Facebook](#) | [Twitter](#) | [YouTube](#)



<b>Name of Officer</b>	Robert Smalley						
<b>Type of Application</b>	Review of a Premises Licence – Licensing Act 2003						
<b>Name of Premises</b>	Gun Street Garden						
<b>Address</b>	5 Gun Street						
	Reading						
	RG1 2JR						
<b>Premises Licence No.</b>	LP2002988						
<b>Licensable Activities</b>	Sale of Alcohol by Retail – On & Off the Premises						
	Exhibition of Films						
	Performance of Live Music						
	Playing of Recorded Music						
	Performance of Dance						
	Anything similar to Live Music, Recorded Music or Performance of Dance						
	Late Night Refreshment						
<b>Finish Times</b>	<b>Mon</b>	<b>Tue</b>	<b>Wed</b>	<b>Thu</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
	0300	0300	0300	0300	0300	0300	0200

**Content of Application:**

The application was submitted on **14/12/2023** by Mr Declan Smyth 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 failures of the premises licence holder to promote the licensing objectives via their insufficient measures to ensure due diligence, best practice and promote the licensing objectives. The scale of incidents occurring at the premises, the actions of the Premises Licence Holder, DPS, staff and security team at this premises is alarming and steps need to be taken to safeguard the late night economy and the local community visiting the premises and area.

On **02/12/2023** at approximately 0240hrs Thames Valley Police attended the premises known as the Gun Street Garden. The attending officers' intention was to assist a female as the caller stated that her friend had been punched in the face and is bleeding. A female customer became involved in an incident within the venue and was removed by the premises security. On reaching the front door of the premises and during the ensuing melee a door supervisor has assaulted the female by throwing a punch to her head & face causing her to fall

to the ground. The victim had to attend hospital due to injuries to her face and pain in her leg which were injuries she sustained when punched by the suspect. It is imperative for licensed premises to act both responsibly, and in a manner that promotes the licensing objectives. The premises management and staff are currently openly failing to prevent crime and disorder.

During the 4 years they have traded Gun Street Garden has suffered a high number of disorders and incidents involving violence linked to high risk events/evenings. Thames Valley Police and Reading Borough Council have made a number of interventions via performance meetings with the premises in order to reduce these types of incidents, and to attempt to prevent the premises from undermining the licensing objectives.

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.

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

**Licensing Officer's Comments:**

The premises currently has the benefit of a premises licence (**LP2002988**) attached as **Appendix RS-1** held by GTB Leisure Limited that authorises:

**Sale of Alcohol by Retail – On & Off the Premises**

Monday to Saturday – 1000hrs to 0300hrs  
Sunday – 1200hrs to 0200hrs

**Exhibition of Films**

Monday to Saturday – 1000hrs to 0300hrs  
Sunday – 1200hrs to 0200hrs

**Performance of Live Music**

Monday to Saturday – 1000hrs to 0300hrs  
Sunday – 1200hrs to 0200hrs

**Playing of Recorded Music**

Monday to Saturday – 1000hrs to 0300hrs  
Sunday – 1200hrs to 0200hrs

**Performance of Dance**

Monday to Saturday – 1000hrs to 0300hrs  
Sunday – 1200hrs to 0200hrs



**Anything similar to Live Music, Recorded Music or Performance of Dance**

Monday to Saturday – 1000hrs to 0300hrs  
Sunday – 1200hrs to 0200hrs

**Late Night Refreshment**

Monday to Saturday – 2300hrs to 0300hrs  
Sunday – 2300hrs to 0200hrs

**Hours the Premises is Open to the Public**

Monday to Saturday – 1000hrs to 0330hrs  
Sunday – 1200hrs to 0230hrs

The premises licence holder utilises this licence to operate as a nightclub, with the predominant activities of vertical drinking, playing music and dancing.

Reading Borough Council, acting as a responsible authority, support the application to review the premises licence for Gun Street Garden with the aim to revoke the premises licence. We believe that no other powers available to the sub-committee, namely, a suspension of the premises licence, modification of conditions, exclusion of licensable activities and the removal of the Designated Premises Supervisor are sufficient to prevent the undermining of the Licensing Objectives at this premises.

The premises is situated on Gun Street in Reading Town Centre which is an area that suffers from high levels of crime and anti-social behaviour. Between 01/01/2022 and 27/04/2023, Gun Street ranked as the 5<sup>th</sup> highest road in the town centre for number of offences of the following types: Violence without injury, public order, violence with injury, ASB, Criminal damage and arson (CD&A) and Sexual offences (when excluding offences committed at the police station on Castle Street) and ranked 2<sup>nd</sup> in the town centre for violence with injury and Rape and Serious Sexual Offences (RASSO), 72% of these offences were committed in the night time economy (NTE), specifically. For the purposes of this representation, the NTE is considered to be Friday - 1700hrs to 2359hrs, Saturday - 0000hrs to 0500hrs & 1700hrs to 2359hrs and Sunday - 0000hrs to 0500hrs.

As can be seen in **Appendix TVP1**, Gun Street Garden has had over 40 calls to service for a range of issues including minor and major assaults, underage drinking, and disorder amongst others. When spoken to on these matters, the premises licence holder appeared willing to engage with Thames Valley Police and Reading Borough Council, however, this has not materialised into any substantial improvement at the premises, nor a reduction in the types and seriousness of incidents. Of particular concern at this premises, which has previously been highlighted to the premises licence holder, is the poor quality

of SIA door supervision. 15 of the incidents listed in **Appendix TVP1** record the premises' response to the given incidents as negative due to the actions or inaction of the door supervisors. This includes admitting an underage drinker, allowing intoxicated persons into the premises, refusing to deal with incidents, ineffective queue management and ejecting people en masse leading to serious disorder and police officers being assaulted. Had the premises had effective management and door supervisors then a number of these incidents would likely not have occurred.

#### **Licensing team's interactions with the premises:**

GTB Leisure Limited has been the licence holder since **04/09/2019**. During his time as licence holder, 2 licensing inspections have been conducted by licensing officers from Reading Borough Council. Below is a summary of these inspections:

**Appendix TVP6** contains a letter sent by licensing enforcement officer Robert Smalley to the licence holder following an inspection on **11/05/2022**. This inspection identified 8 breaches of the premises licence, including: Not all pages of Part B of the premises licence on display, no Section 57 notice on display, only partial compliance with the requirement to record refusals, only partial compliance with the requirement to train staff, CCTV that did not cover the entire licensable area, failure to have a written policy on managing queuing, failure to have a written risk assessment to decide on the required numbers of door supervisors and no notices informing customers that searches may be conducted as a condition of entry in relation to illegal weapons and drugs. On **30/06/2022** a follow-up visit was made that only recorded 1 breach of the premises licence, namely a failure to have a written risk assessment to decide on the required numbers of door supervisors. On **19/07/2022** the premises was deemed to be compliant with its premises licence conditions.

On **13/05/2022** licensing enforcement officer Robert Smalley and Thames Valley Police licensing officer Declan Smyth visited Gun Street Garden while the premises was open and operating in order to conduct SIA door supervisor checks. All licences checked during this visit showed that the SIA operatives held valid licences, however, 2 offences were committed by one of the door supervisors in that he failed to surrender his badge when asked to do so and did not have his badge correctly on display. The door supervisor in question, which is also the door supervisor at the centre of the incident that took place on **02/12/2023**, acted unprofessionally, spoke in a confrontational manner, displayed a lack of knowledge in relation to the requirements placed on him when being inspected by an officer with delegated authority from the SIA and ultimately failed to surrender the badge for a physical inspection, only allowing

the badge to be observed while it remained in its armband holder on the arm of the door supervisor. Theodore Barber was working at the premises on **13/05/2022** and our concerns about the conduct of said door supervisor were expressed to Theodore when he spoke to us outside the venue. Theodore was shocked to hear about the conduct of said door supervisor and confirmed to me that he would no longer be employing him. As is evidenced by the incident on **02/12/2023**, Theodore did not follow through with dismissing said door supervisor, neither after this conversation on **13/05/2022** nor after the incident on **02/12/2023** as the door supervisor logbook for the premises shows that said door supervisor continued working at the premises on subsequent nights.

#### 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, ensure public safety and protect children from harm. All four licensing objectives are of equal importance.

#### **The Council's Statement of Licensing Policy (2023):**

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.

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.

### **Secretary of State's Guidance (December 2023)**

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 cooperation.

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.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

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.

**Summary of Representation:**

Reading Borough Council Licensing and Thames Valley Police have worked with the premises licence holder with the aim of assisting them to promote the 4 licensing objectives. This has included performance meetings, inspections and multiple visits, however, the premises consistently has issues with crime and disorder, despite the most recent inspection showing that, on paper, the premises is compliant with the conditions of the premises licence. This is evidence that the premises is poorly managed and is incapable of operating while promoting the 4 licensing objectives. We propose that the only measure to ensure the licensing objectives are promoted is to revoke the premises licence.

We appreciate that the determination of this review is solely down to those members of the sub-committee at the hearing, however, we respectfully provide the following breakdown of the powers available to the sub-committee, each accompanied by an explanation as to whether we consider the power appropriate or not to address the current undermining of the licensing objectives:

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

We do not consider the addition or amendment of the conditions attached to the licence to be a pragmatic solution due to the licence already containing robust conditions and the premises was, at the conclusion of the most recent inspection, compliant with their premises licence conditions, showing that it is the poor management of the premises which is in fact leading to the undermining of the licensing objectives.

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

We do not consider the exclusion of licensable activities to be an effective measure because to remove anything other than the sale of alcohol and the playing of live and recorded music would have no impact on the premises and to remove alcohol and the playing of live and recorded music would simply act as a punitive measure and in real terms would be the same as the revocation of the licence because the premises could not function as a nightclub without alcohol and music.

- **Revocation of the licence;**

For the previously stated reasons, we believe this is the only way to prevent further undermining of the licensing objectives.

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

We do not believe that this option would serve as anything other than a punitive measure with the premises likely to return to how it currently operates at the end of the suspension period.

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

The designated premises supervisor (Theodore Barber) is one of the directors of GTB Leisure Limited, and, along with his brother, George Barber, are actively involved with the business, attending and working at the premises on a regular basis. To simply remove Theodore as the DPS would be unlikely to lead to the promotion of the licensing objectives because the premises would still be directly managed by Theodore and George.

**Relevant Case law for consideration**

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)

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

**Appendices**

**Appendix RS-1: Copy of the current premises licence**

<b>Date Received</b>	14/12/2023	<b>Date Due</b>	11/01/2024
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<b>Date</b>	10	01	2024
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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.

<b>Premises Licence Number</b>	<b>LP2002988</b>
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**Premises Details**

<b>Trading name of Premises and Address</b>	
Gun Street Garden 5 Gun Street Reading RG1 2JR	
<b>Telephone Number</b>	<b>0118 958 6839</b>

<b>Where the Licence is time limited the dates the Licence is valid</b>
N/A

**Licensable Activities**

<b>Licensable Activities authorised by the Licence</b>
Exhibition of Films - Indoor Performance of Live Music - Indoor Playing of Recorded Music - Indoor Performance of Dance - Indoor Anything similar to Live Music, Recorded Music or Performance of Dance - Indoor Late Night Refreshment - Indoor Sale of Alcohol by Retail- On & Off the Premises

**Authorised Hours for Licensable Activities**

<b>The times the licence authorises the carrying out of licensable activities</b>	
<b>Hours for the Exhibition of Films</b>	
Monday	from 1000hrs until 0300hrs
Tuesday	from 1000hrs until 0300hrs
Wednesday	from 1000hrs until 0300hrs
Thursday	from 1000hrs until 0300hrs
Friday	from 1000hrs until 0300hrs
Saturday	from 1000hrs until 0300hrs
Sunday	from 1200hrs until 0200hrs
<b>Hours for the Performance of Live Music</b>	
Monday	from 1000hrs until 0300hrs
Tuesday	from 1000hrs until 0300hrs
Wednesday	from 1000hrs until 0300hrs
Thursday	from 1000hrs until 0300hrs
Friday	from 1000hrs until 0300hrs



Saturday from 1000hrs until 0300hrs  
Sunday from 1200hrs until 0200hrs

#### **Hours for the Playing of Recorded Music**

Monday from 1000hrs until 0300hrs  
Tuesday from 1000hrs until 0300hrs  
Wednesday from 1000hrs until 0300hrs  
Thursday from 1000hrs until 0300hrs  
Friday from 1000hrs until 0300hrs  
Saturday from 1000hrs until 0300hrs  
Sunday from 1200hrs until 0200hrs

#### **Hours for the Performance of Dance**

Monday from 1000hrs until 0300hrs  
Tuesday from 1000hrs until 0300hrs  
Wednesday from 1000hrs until 0300hrs  
Thursday from 1000hrs until 0300hrs  
Friday from 1000hrs until 0300hrs  
Saturday from 1000hrs until 0300hrs  
Sunday from 1200hrs until 0200hrs

#### **Hours for anything similar to Live Music, Recorded Music or Performance of Dance**

Monday from 1000hrs until 0300hrs  
Tuesday from 1000hrs until 0300hrs  
Wednesday from 1000hrs until 0300hrs  
Thursday from 1000hrs until 0300hrs  
Friday from 1000hrs until 0300hrs  
Saturday from 1000hrs until 0300hrs  
Sunday from 1200hrs until 0200hrs

#### **Hours for the Provision of Late Night Refreshment**

Monday from 2300hrs until 0300hrs  
Tuesday from 2300hrs until 0300hrs  
Wednesday from 2300hrs until 0300hrs  
Thursday from 2300hrs until 0300hrs  
Friday from 2300hrs until 0300hrs  
Saturday from 2300hrs until 0300hrs  
Sunday from 2300hrs until 0200hrs

#### **Hours for the Sale by Retail of Alcohol**

Monday from 1000hrs until 0300hrs  
Tuesday from 1000hrs until 0300hrs  
Wednesday from 1000hrs until 0300hrs  
Thursday from 1000hrs until 0300hrs  
Friday from 1000hrs until 0300hrs  
Saturday from 1000hrs until 0300hrs  
Sunday from 1200hrs until 0200hrs

All licensable activities to extend on Bank Holiday Sunday 1200hrs to 0430hrs

## Opening Hours

### Hours the Premises is Open to the Public

Monday from 1000hrs until 0330hrs  
Tuesday from 1000hrs until 0330hrs  
Wednesday from 1000hrs until 0330hrs  
Thursday from 1000hrs until 0330hrs  
Friday from 1000hrs until 0330hrs  
Saturday from 1000hrs until 0330hrs  
Sunday from 1200hrs until 0230hrs

## Alcohol

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

Sale of Alcohol by Retail - On & Off the Premises

## Premises Licence Holder

### Name, (registered) address of holder of premises licence

Name: GTB Leisure Limited

Address: Brent House, 382 Gloucester Road, Cheltenham, Gloucester, GL51 7AY

### Registered number of holder, for example company number or charity number [where applicable]

12006392

## Additional Details

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

Name: Theodore Barber

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: 19/02621/PERL

Issuing Authority: Cheltenham Borough Council

This Licence shall continue in force from **03/06/2023** unless previously suspended or revoked.

Dated: 8 June 2023

Signed on behalf of the issuing licensing authority



Emma Gee  
Interim 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**

**General**

Conditions attached via Variation October 2018

1. 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.

- a) The entire licensable area shall be covered by CCTV.
- b) Data recordings shall be made immediately available to an authorised officer of Thames Valley Police or Reading Borough Council subject to the provisions of the Data Protection Act, together with facilities for viewing upon request.
- c) Recorded images shall be of such quality as to be able to identify the recorded person in any light.
- d) 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.

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

3. When employed, a register of Door Supervisors shall be kept. The register must show the following details:

- Full SIA registration number.
- Date and time that the door supervisor commenced duty, countersigned by the DPS or Duty Manager.
- Date and time that the door supervisor finished work, countersigned by the DPS or Duty Manager.
- Any occurrence or incident of interest impacting on any of the four licensing objectives must be recorded giving names of the door supervisor involved.

a) The Door Supervisor register shall be kept at the premises and be available for inspection by an authorised officer of Thames Valley Police, or an authorised officer from Reading Borough Council and shall be retained for a period of twelve months.

4. The premises and area immediately outside the premises shall be kept clear of all forms of litter whilst the premises is open for licensable activities.

5. Clearly legible and suitable notices shall be displayed at all exits, requesting customers to respect the needs of local residents and to leave the premises and area quietly. Staff shall be available to ensure that customers disperse quietly.

6. All cashiers shall be trained to record refusals of sales of alcohol in a refusals book /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.

This book /register will be available for inspection when requested by a Police Officer or authorised officer of Reading Borough Council and shall be retained for six months.

7. 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 incident and those members of staff who deal with any incident shall also be recorded. Where known, any offenders name shall also be recorded.

a) This record shall be available for inspection by a Police Officer or an authorised officer of Reading Borough Council upon request and shall be retained for one year. The record shall be signed off by the DPS or nominated representative at the end of each trading session.

b) A weekly review of the incident register shall also be carried out by the DPS.

8. All incidents that are recorded in the incident register shall be signed off by the Designated Premises Supervisor or nominated representative. A weekly review of the incident register shall also be carried out by the Designated Premises Supervisor.

9. The placing of refuse - such as bottles - into receptacles shall not cause a noise nuisance at any time.

10. An entry, closure and dispersal policy for controlling the opening and closing of the premises and the departure of customers from the premises at the conclusion of the licensed activities shall be put in place and shall be actively operated. The policy shall be in written format and made available upon request to an authorised officer of Reading Borough Council and Thames Valley Police.

11. The licensee shall take all reasonable precautions and exercise all due diligence to ensure that no patron removes glasses or open bottles from the premises. The licensee shall display notices advising that glasses and bottles must not be removed from the premises at all exit points normally used by patrons.

12. All cashiers involved in the sale of alcohol shall be trained to record refusals of sale of alcohol in a refusals log (whether written or electronic). The log 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 will be available for inspection by a Police Officer or authorised officer of Reading Borough Council upon request.

13. Staff employed to sell alcohol shall undergo training upon induction. This shall include, but not be limited to:

- The premises age verification policy.
- The law relating to underage sales.
- 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.
- Identifying signs of drug usage and prevention.
- The four licensing objectives.

a) Such training sessions are to be documented and refreshed every six months. All training sessions are to be documented in English. Records of training shall be kept for a minimum of one year and be made available to an authorised officer of Thames Valley Police and Reading Borough Council upon request.

14. An active policy shall be put in place at the premises in relation to the searching and detection of illegal drugs and weapons. This shall include detection on the way into the premises and active monitoring of all areas of the premises for illegal drug use when the premises is open to members of the public. Any incidents or findings are to be documented in writing.

15. The premises licence holder shall ensure that advertising or promotional material for licensable activities at the premises is not placed on any street furniture, structure or public highway not belonging to the premises licence holder. Failure by the premises licence holder to remove any promotional material illegally displayed will be a breach of this condition and any other legislation that applies in Reading in relation to unlawful advertising on street furniture.

16. A written risk assessment shall be put in place to manage the queuing of patrons outside of the venue on the public highway. This risk assessment shall be reviewed on a regular basis, be provided in written form and be made available for inspection to officers of Reading Borough Council and Thames Valley Police upon request.

17. Children shall only be permitted on the premises when accompanied by a responsible adult. No children shall be permitted on the premises after 2100hrs.

18. The last permitted entry time to the premises on any given night shall be one hour prior to the venue's closing time, with the exception of the re-entry of smokers.

19. A minimum of two Security Industry Authority (SIA) registered door staff shall be employed at the premises on a Friday and Saturday night from 21:00 . Door

staff shall be employed from 21:00 hours until 03:00 hours or until all customers have dispersed from inside and outside the premises, whichever is later, and at least two door staff will remain outside the premises during this time;

a) At all other times, SIA registered door staff shall be employed at the premises in accordance with a written risk assessment, to be carried out by the Designated Premises Supervisor. The risk assessment shall be produced to an authorised officer of Reading Borough Council or Thames Valley Police.

b) When employed, door staff will wear clearly visible clothing that clearly distinguishes them from patrons. Hi visibility armbands shall be worn at all times displaying their SIA badge. The uniform worn by door staff must be suitable to ensure that they are clearly visible via both internal and external CCTV camera systems. Hi visibility fluorescent tabards must be worn by door staff at any time when stationed at the entry/exit of the premises and whenever on the public highway, and during dispersal.

c) When employed, door staff shall monitor customers as they queue and enter the premises.

20. A scanner type ID system will be in operation when licensable activities are permitted at the point of entry to be used by the premises to promote the licensing objective.

21. There should at all times be available a breathalyser test for use at the discretion of the premises licence holder on customers entering the premises.

22. A body worn video camera will at all times be used by one member of the SIA door team, during the times in which the premises are open for licensable activities.

23. An active search policy shall be put in place to prevent illegal drugs and weapons being brought on to the premises. The policy shall include, but not be limited to, methods of search, detection, confiscation and disposal and shall be actively operated. The policy shall be in written format and made available upon request to an authorised officer of Reading Borough Council and Thames Valley Police. Notices shall also be put in place informing customers that the management reserve the right to conduct an outer body search and or bag as a condition of entering the premises.

24. Regular checks of high risk areas for drug use (including the toilets) shall be carried out by door staff and premises staff when door staff are not available. A written record of all checks shall be maintained and made available upon request by an authorised officer of the Thames Valley Police and Reading Borough Council.

25. The premises licence holder shall participate in the Local Town Radio Scheme when the premises are opened for licensable activities Monday to Sunday inclusive.

26. The licensee shall monitor the audience numbers and must ensure that the maximum permitted occupancy of 350, including all staff members, is not exceeded.

27. The premises licence holder or duly nominated representative shall be an active member of the local pub watch scheme if such a scheme is operative.

28. Noise from amplified music or voices shall not such as to cause a noise nuisance to occupants of nearby premises.

29. The exterior of the building shall be cleared of litter at regular intervals.

30. Clearly legible and suitable notices shall be displayed at all exits requesting customers to respect the needs of local residents and to leave the premises and area quietly. After 00:00 staff shall be available to ensure that customers disperse quietly.

31. Doors and windows at the premises are to remain closed after 11pm save for access and egress.

### 32. Dispersal Policy

a) At the end of the evening management and staff shall assist with the orderly and gradual dispersal of patrons in line with the written dispersal policy;

b) Staff members (including door personnel when employed) shall advise patrons to leave the premises quickly and quietly out of respect for neighbours;

c) Notices shall be displayed requesting customers to leave quietly and in an orderly manner out of consideration to neighbours and their attention shall be drawn to these notices by members of staff;

d) Bottle and drinking receptacles shall be removed from any patron before exiting the premises;

e) Customers shall be actively discouraged from assembling outside the premises at the end of the permissible hours.

33. Any outside area used by the customers wishing to drink or smoke shall be clearly delineated and covered by the CCTV system which shall be installed at the premises;

a) The outside area shall be monitored by staff or door staff (when employed);

b) The area shall be cleaned regularly;

c) Suitable receptacles shall be provided for smokers to dispose of cigarette butts;

d) Signs shall be displayed in the area requesting customers to keep noise to a minimum;

e) Patrons who disregard signage and verbal instructions regarding noise shall be asked to move inside and/or leave the premises;

f) Open containers of alcohol shall not be permitted to be taken beyond the boundary of the outside area.

34. The emptying of bins into skips, and refuse collections shall not take place between 11pm and 8am.

35. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

### **Annex 3**

#### **Conditions attached after a hearing by the Licensing Authority**

N/A

### **Annex 4**

#### **Plans**

As attached plan dated 30.06.2021

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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