

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

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

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

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

*(Insert name of applicant)*

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

**Part 1 – Premises or club premises details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b>	
The Pheasant Inn 225 Southampton Street	
<b>Post town</b> Reading	<b>Post code (if known)</b> RG1 2RB

<b>Name of premises licence holder or club holding club premises certificate (if known)</b>
Admiral Taverns Ltd

<b>Number of premises licence or club premises certificate (if known)</b>
LP2002603

**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) Licensing@thamesvalley.pnn.police.uk

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

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

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

Thames Valley Police (TVP) as a responsible authority under the Licensing Act 2003 and under the objectives of prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm make an application for the review of Premises Licence No. **LP2002603**, The Pheasant Inn, 225 Southampton Street, Reading, RG1 2RB.

Thames Valley Police have serious concerns that this premises licence is undermining the licensing objectives due to the premises licence holders failure to ensure compliance with their licence conditions, as well as a failure to ensure that due diligence is suitably delivered and maintained. Within the last two years there have been three changes of designated premises supervisor appointed by the premises licence holder and each has failed under the auspices of the premises licence holder to deliver and maintain suitable standards sufficient to promote and not undermine the licensing objectives.

These failings have led to a number of extremely serious incidents at the pub, which include assaults involving weapons and glassware, general incidents of anti-social behaviour effecting residents, constant concerns surrounding drug usage supported by high swab readings within the premises, and their ongoing failure to comply with licence conditions or provide suitable measures to promoting the licensing objectives.

Therefore Thames Valley Police submit that this review is necessary in order to promote all four of the licensing objectives but with specific emphasis placed upon the prevention of crime and disorder and public safety.

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

The Pheasant Inn benefits from a premises licence that allows the sale of alcohol by retail between 1000 hours until 2330 hours Sunday to Thursday and between 1000 hours until 0030 hours on Friday and Saturday, and also includes a number of complimentary regulated entertainments restricted within the same time frames.

The premises hours open to the public provide a further 30 minutes after licensable activities cease to allow for dispersal.

Thames Valley Police provide the following chronology in order to detail fully the evidence which we intend to rely upon as part of this review process:

19<sup>th</sup> January 2018 – Premises Licence LP2002225 was issued with the details of a new Designated Premises Supervisor (DPS) Martin Forristal. (See Appendix 2)

20<sup>th</sup> January 2018 – Thames Valley Police receive a complaint that drug usage is openly taking place within the Pheasant and that youths were smoking cannabis in the beer garden. The report suggest that staff were not taking any action to prevent this. (See Appendix 3)

22<sup>nd</sup> January 2018 – Thames Valley Police received direct contact from a member of the public reporting that a named individual whom was not the DPS was running the pub. Amongst the allegations were that the named individual was drinking alcohol and drunk himself whilst serving others. The report also suggested the open taking of Cocaine and alluded to a number of other concerns surrounding fire safety and the safe numbers of patrons on the premises. (See appendix 4)

25<sup>th</sup> January 2018 – In response to the reports that had been received Thames Valley Police and Reading Borough Council attended the Pheasant to conduct a licensing inspection and drug swab process. During this process the DPS was not on the premises and instead another male was found to be in charge of the premises. Thames Valley Police at the time formed the opinion that Mr Forristal was DPS in name only and was certainly not involved in the day to day running of the business. The drug swab results showed low readings for Cocaine within the Gents toilets and high readings within the ladies toilets. (See Appendix 5)

27<sup>th</sup> January 2018 – At 0007 hours TVP receive a call for service to an incident in the car park of the Pheasant. The log records a report of a big fight involving 20 people and the victim whom is a female was reported to have punched to the face multiple times. Officers report that on arrival the scene calms down and the victim is located with a bloodied nose. (See Appendix 7)

30<sup>th</sup> January 2018 – Reading Borough Council sent a letter to the premises licence holders detailing the results of the inspection held on the 25<sup>th</sup> January. The letter details nine licence conditions that were in breach as well as there being no Part A of the licence available and the Part B summary was not displayed. The letter also provides a number of recommendations, and fully sets out the licensing offences that were found to be being committed due to the failure to comply with the licence and other requirements within the Licensing Act 2003. The outcome of the inspection is recorded as being unsatisfactory. (See Appendix 6)

16<sup>th</sup> February 2018 – TVP receive a report from a concerned member of public that suggest the named DPS is still not running the Pheasant and instead another individual is still managing the pub. The report which is similar to earlier reports from January 2018 suggests the management team are allowing open drug usage in the premises and that each weekend fights occur whereby staff threaten patrons with a bat with a spike attached. (See Appendix 8)

24<sup>th</sup> February 2018 – TVP receive a call at 0111 hours of a fight involving approximately 6 people outside of the Pheasant. The caller who was screaming during the call said that there was a lot of blood. Officers record in the log that a large fight had taken place inside the pub and the victim had glass sticking out of their face, deep lacerations to their cheek and temple caused by “glassing to the face”. In a subsequent officer report they state evidence suggests the landlord let the fight spill out onto the street, locked the door and failed to report this to the police. The premises had no CCTV and it was suspected staff deliberately washed away the blood to remove the crime scene prior to police arrival. (See Appendix 9 & 10)

24<sup>th</sup> February 2018 – Reading Borough Council contact Admiral taverns via email asking for an update as to what actions were being taken in response to the incident that day.

26<sup>th</sup> February 2018 – Reading Borough Council re-contact Admiral Taverns via email again requesting an update and information regarding the incident as well as an update regarding the letter sent to them on the 30<sup>th</sup> January 2018. (See Appendix 11)

2<sup>nd</sup> March 2018 – TVP receive a further email from a member of the public detailing concerns in relation to drugs, after-hours activity and children being allowed in the premises. (See Appendix 12)

12<sup>th</sup> March 2018 - At 1711 hours Police attended the Pheasant to a report of a male who had been punched and was bleeding from the head. The caller reporting the incident stated the suspect had done this at the pub. On attendance at the pub although a person matching the suspect description was within, no other person in the pub would provide information in relation to the incident or knowledge of it. (See Appendix 13)

11<sup>th</sup> May 2018 - Premises Licence LP2002274 was issued with the details of a new Designated Premises Supervisor (DPS) John Aitken. (See Appendix 14)

16<sup>th</sup> May 2018 – TVP conduct a licensing inspection at the premises. The report notes that the authorisation list was out of date, training was in the process of being implemented and required polishing and a written age verification policy was required; albeit this had been provided previously by the council. There was no fire risk assessment and a number of conditions were still in breach even after the Council and Police interventions in January 2018. The outcome of the inspection was unsatisfactory. Drug swabbing was undertaken and the results for Cocaine usage had increased since January. Very high levels were now discovered in both the gents and ladies toilets. (See appendix 15 & 16)

24<sup>th</sup> June 2018 – At 2312 hours TVP receive a report that a male had been “bottled” to the head at the Pheasant and had a major bleed. The reports states he had been hit three times to the rear of the head and was also bleeding from his ear. As part of the investigation it was discovered that no CCTV was available within the premises, officers state bar staff had been drinking and seemed intoxicated. As previously staff had not reported the incident to police and had begun clearing up the blood reducing the potential for forensic evidence. (See Appendix 17 & 18)

10<sup>th</sup> August 2018 – At 2305 hours TVP received a call from the DPS Mr Aitken for assistance as he had served a group of travellers’ alcohol all evening and they were demanding their money back. (See Appendix 19)

10<sup>th</sup> November 2019 – An incident occurred at the Pheasant involving three patrons and a member of bar staff. One male is punched another is slapped by a female whom is then also punched and a member of staff is head-butted. The reporting officer notes that staff provided a limited statement and were reluctant to provide a detailed account due to working. (See appendix 20)

27<sup>th</sup> December 2019 – TVP receive a call for assistance from the DPS at the Pheasant after he had refused to serve a group of travellers anymore alcohol and they had demanded their money back. (See Appendix 21)

17<sup>th</sup> March 2020 – At 1905 hours police receive a call stating that a male was at the Pheasant and that he has a Stanley knife, was smashing windows and had cut someone across the neck. The incident which led to an investigation of an attempted GBH with Intent was not aided by staff at the pub. In a report written by initial investigating officers they state that the landlady “Jane Brooker” (whom was not the DPS at the time) refused to provide a statement).

Of interest are later comments that Jane Brooker also made in relation to 1) there being no CCTV available and 2) the reason for this being that the DPS had “gone missing” and taken the equipment with him! She also stated that “the management company” had asked her to look after the pub in his absence. However it was not known at the time if this referred to Admiral Taverns or another holding company, and at which earlier date Mr Aitken had no longer been available as the DPS. It raises the concern that the premises had been without a DPS for a considerable amount of time prior to this incident. (See Appendix 22 & 23)

18<sup>th</sup> March 2020 – Communication was initiated by TVP with Admiral Taverns in response to the incident on the 17<sup>th</sup> March 2020 and concerns surrounding the DPS or lack thereof. At this early stage TVP via Declan Smyth provided a number of conditions including CCTV and training for agreement by Admiral Taverns.

Admiral Taverns provided an undertaking to close the premises until such time as new DPS was in place and in order to discuss proposals with the Admiral management team. (See Appendix 24)

19<sup>th</sup> June 2020 - Premises Licence LP2002603 was issued with the details of a new Designated Premises Supervisor (DPS) Jane Brooker. (See Appendix 25)

21<sup>st</sup> July 2020 – TVP receive a report from a member of public concerned with social distancing measures that may or may not be in place at the premises during a Wake. The caller states that they approximate 200 persons within the premises. Police were unable to respond and due to no CCTV being available no evidence is available. (See Appendix 26)

29<sup>th</sup> July 2020 – TVP receive a report at 2335 hours of a fight occurring within the premises based on noise coming from within. On this occasion call takers believe that this is caused by shouting noisy drunk persons and officers confirm nothing to report when they drive by later. However, this does raise concerns over Covid compliance (aerosol effect etc) and advice was provided to the caller for contact with EHO. (See Appendix 27)

28<sup>th</sup> August 2020 – TVP receive a call at 2329 hours reporting a fight at the Pheasant. Officers attended and produced a report stating that staff indicated a fight had taken place between two individuals whom had since left the pub. Officers also suggest that there was potential hostility between two groups whom all left during dispersal on police arrival.

Of specific concern to the officers was a lack of Covid control measures and social distancing and they estimated 100 – 150 persons in the rear garden of the premises. (The capacity is limited to 80 on the licence) (See Appendix 28 & 29)

9<sup>th</sup> September 2020 – Thames Valley Police conducted an inspection at the premises in response to the report from officers relating to 28<sup>th</sup> August 2020 and also to investigate whether the premises processes had improved and compliance of the licence was now available since the last inspection in May 2015 and the various interventions by Reading borough Council and Thames Valley Police over the previous two years.

During the inspection eleven (11) conditions were discovered to either be not complied with or proof of compliance could not be provided. The Licence summary was not separated or displayed correctly, the authorisation list was out of date and the age verification policy was not understood. There was no training available and neither the staff member on site or the DPS Jane Brooker knew any of the four licensing objectives. It was confirmed that no refusals register or incident book was available and no operational CCTV was available within the premises.

The DPS stated that she had not had time to gain compliance with the licence or understand it fully because she had not had time since the premises re-opened to arrange this with her company. The DPS appeared to blame her employer for failing to provide her with the information and processes in order that she could understand and deliver compliance.

Due to the failure to ensure compliance with the premises licence conditions, total lack of due diligence and or knowledge of how to even begin to deliver the most basic levels of compliance the inspection outcome has been recorded as unsatisfactory. (See Appendix 30)

- Body Worn Video (BWV) is available of both the officers' visit to the Pheasant on the 28<sup>th</sup> August 2020 which shows the number of persons in the rear garden and lack of social distancing measures and controls as well as full BWV of the licensing inspection conducted on the 9<sup>th</sup> September 2020.
- These are identified as Appendix 31 (BWV 28/08/20) and Appendix 32 (BWV 09/09/20)

### Conclusion

Thames Valley Police are extremely concerned with the ability of Admiral Taverns as the premises licence holder of The Pheasant Inn to ensure that the four licensing objectives are promoted in order to protect the public and prevent crime and disorder.

As you shall have read within this application for review a number of very serious incidents of assaults have occurred at this premises. These incidents have included serious assault with Stanley knives, serious assaults using glassware and serious assaults with bottles.

This has been supplemented with physical assaults not involving weapons or glassware and constant concerns surrounding drug usage within the premises.

It is a sad fact that this premises attracts challenging individuals with a propensity to cause serious harm and violence if and when the circumstance presents itself. This situation therefore dictates the requirement for strong and professional management.

Unfortunately it has been demonstrated over a number of years that the premises licence holder and potentially their business structure have failed to deliver strong or professional management of this premises by employing a series of holding companies whom have been shown as incapable of promoting the licensing objectives.

Over the previous two years there have been three Designated Premises Supervisors whom have been placed into that position to rectify the issues and lack of capabilities of their predecessor. On each of these occasions the individuals have failed appallingly to deliver on that task. This has led to constant incompetent management, failure to abide by the licence, failure to provide any due diligence and arguably enabled a number of serious incidents of crime and disorder.

Admiral Taverns have the responsibility for this licence as the premises licence holders and ensuring the pre-requisite standards are met. Unfortunately, however we suggest the evidence submitted within this bundle casts serious doubt over their ability to prevent the licensing objectives from being undermined by this premises licence.

Thames Valley Police are respectfully asking the licensing sub-committee too seriously consider revocation of this premises licence in the first instance in order to promote the licensing objectives with special regard for the prevention of crime and disorder. We believe that it is necessary and reasonable in the given circumstances to require you to consider this option in order to protect the public and prevent serious harm or injury in the future.



As the sub-committee shall be aware there are also a number of other options available to you as part of this review process.

Therefore we set out our recommendations below with regards to those options for your consideration:

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

If the sub-committee wish to allow the premises licence to continue in force, Thames Valley Police recommend a number of conditions to be included within the operating schedule and to replace the current conditions that are set out within the licence. The conditions are designed in order to address the very specific problems which are involved at this premises.

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

PNB. Please note the concerns of Thames Valley Police with regards to the abilities of the premises licence holder to ensure compliance with any licence conditions.

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

Thames Valley Police recommend the consideration for the reduction of the hours for both the sale of alcohol and regulated entertainment if made in tandem with the imposition of relevant conditions as set out above. Recommended reductions below.

- Removal of all non-standard timing extensions.
- Reduce the hours for sale by retail of alcohol to 1000 until 2230 (Mon – Sun)
- Reduce the hours open to the public to 1000 until 2300 (Mon – Sun)
- Reduce the provision of late night refreshment to 1000 until 2230 (Mon – Sun)
- Reduce all provisions of regulated entertainment to 1000 until 2230 (Mon – Sun)

- **Revocation of the licence;**

Thames Valley Police would highly recommend that the sub-committee seriously considers the revocation of this premises licence in the first instance as the most appropriate and proportionate measure in order to prevent this premises continuing to undermine the licensing objectives. There has been a history of poor management and processes linked to this premises licence and numerous incidents of crime and disorder involving both individuals and groups involving serious crimes and serious injuries.

We submit that this is the only method that shall both protect public safety and promote the licensing objectives as a whole.

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

Thames Valley Police believe that a suspension of the licence coupled with reductions of hours as set out above and the imposition of licence conditions may provide the premises licence a period of time to implement new policies and ensure compliance.

However, as before Thames Valley Police would only recommend these options as a secondary measure if the sub-committee were of a mind not to revoke the premises licence.

Thames Valley Police recommended conditions:

1. The licensee shall participate in any Pub Watch or equivalent scheme if such a scheme is operative;
2. The Premises Licence holder shall ensure the premises' digitally recorded CCTV system cameras shall continually record whilst the premises are open to the public and recordings shall be kept for a minimum of 31 days with time and date stamping. The entire licensable area shall be covered by the CCTV and an appropriate number of cameras shall be installed to cover the external areas immediately outside the premises. Data recordings shall be made immediately available to an authorised officer of Reading Borough Council or a Thames Valley Police officer, together with facilities for viewing upon request, subject to the provisions of the Data Protection Act. Recorded images shall be of such a quality as to be able to identify the recorded person in any light. At least one member of staff on the premises at any time during operating hours shall be trained to access and download material from the CCTV system.
  - a) A sign advising customers that CCTV is in use shall be positioned in a prominent position. A fully trained person who can operate the system shall be available at all times when the premises is open to the public.
3. 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 driver's licence showing a photograph of the person, a valid passport, military ID or proof of age card showing the 'Pass' hologram (or any other nationally accredited scheme) are to be accepted as identification.
  - a) Notices advertising the Challenge 25 policy shall be displayed in prominent positions on the premises.
  - b) The Premises Licence Holder shall display in a prominent position a copy of their written policy on checking proof of age (age verification policy).
4. An effective written policy against the use and supply of illegal drugs in the premises shall be implemented and signs promoting that policy shall be displayed at the premises. The written policy shall be made available to a Police Officer or authorised officer of the Reading Borough Council upon request;
5. Staff employed to sell alcohol shall undergo training upon induction before they are allowed to sell alcohol. This shall include, but not be limited to:-
  - The premises age verification policy
  - 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
  - Drug Policy and substance awareness and effects
  - Search Policy
  - Dispersal Policy
  - Crime scene preservation
  - Child Sexual Exploitation

- a) Refresher training shall be provided every 6 (six) months.
- b) Signed induction and refresher training records are to be kept for a minimum of 2 (Two) years of the date of training, and made available for inspection by a Police Officer or authorised officer of Reading Borough Council upon request.
- c) Staff authorised to sell alcohol shall be accredited to BII Level 1 award in responsible alcohol retailing (ARAR) or any other similarly nationally recognised approved accreditation curriculum within four weeks for existing and subsequent employees.

6. 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 immediate area quietly. Staff shall be available to assist in the dispersal of customers at the cessation of licensable activities each evening.

7. Existing fire safety precautions shall be maintained and the premises licence holder shall ensure that a written fire risk assessment is available upon request for inspection by a Police Officer or authorised officer of Reading Borough Council;

8. The placing of refuse, such as bottles, into receptacles outside the premises shall only take place between the hours of 0800 hours and 2000 hours;

9. Arrangements must be put in place to ensure that waste collection contractors do not collect refuse between 2000 hours and 0800 hours;

10. Noise from the licensable activities shall be monitored to prevent nuisance and a daily written or electronic log shall be maintained and available to a Police Officer or authorised officer of Reading borough Council upon request ;

11. No person under 18 years of age shall be admitted to any part of the Premises at any time;

a) Notices shall be displayed outside the premises or relevant part thereof advising of the restrictions on the admission of children;

12. The licensee shall monitor the number of people on the premises and shall ensure that a maximum permitted occupancy of 80 people, including staff members, is not exceeded;

13. The beer garden shall not be used for the consumption of food and drink between 2200hrs and 2300hrs.

14. All external doors/windows must be kept closed, other than for access and egress, when events involving amplified music or speech are taking place and in any case after 2200 hours whenever the premises is open for licensable activity. Where such doors and windows remain shut, a suitable ventilation system shall be provided allowing a minimum of eight air changes per hour;

15. The licensee shall ensure that no noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to undue disturbance to local residents;

16. During operating hours, the licensee or a nominated representative shall be available to receive and respond to nuisance-related complaints. A contact number shall be readily available to residents upon request;

17. Dancing shall be limited to the public bar area only, providing all furniture has been removed and no drinking shall be permitted in that area during dancing;

18. An entry, re-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;

19. A written risk assessment shall be carried out before any licensable activity involving music is carried out. The risk assessment must be available upon request by a Police Officer or authorised officer of Reading Borough Council.

20. The premises licence holder shall ensure that all draught alcoholic, draught non-alcoholic and spirits are served in polycarbonate containers.  
All alcoholic and non-alcoholic bottled drinks shall be served in plastic bottles where possible, and where not possible all glass bottles shall be decanted into polycarbonate containers.

21. The premises licence holder shall ensure that a refusal log (either written or electronic) is in operation at the premises. All staff involved in the sale of alcohol shall be trained in how to use and maintain said log. The log shall contain the following:

- a) Description of person attempting to purchase alcohol
- b) Time said person attempted to purchase alcohol
- c) The reason for refusing a person alcohol
- d) Name of staff member dealing with the refusal

The log shall be signed off weekly by the designated premises supervisor or nominated representative and shall be made available for inspection to officers of Reading Borough Council and Thames Valley Police.

22. An incident log (either written or electronic) shall be used, maintained and kept at the premises. The log shall record any incident that undermines the promotion of the licensing objectives and any incident that involves police attendance at the premises. The log should contain the following:

- Description of incident
- Time of incident
- Action taken in relation to the incident
- Description of any person involved in the incident

The incident log shall be made available to authorised officers of Reading Borough Council and Thames Valley Police upon request.

23. Before any person is employed at the premises sufficient checks will be made of their right to work documents to ensure they are legally entitled to employment in the UK. Such checks will include:

- Proof of identity (such as a copy of their passport)
- Nationality
- Current immigration status
- Employment checks will be subject of making copies of any relevant documents produced by an employee, which will be retained on the premises and kept for a minimum period of one year. Employment records as they relate to the checking of a person's right to work will be made available to an authorised officer of Reading Borough Council or Thames Valley Police upon request.

24. A current written authorisation list shall be displayed in a prominent position on the premises confirming the details of all current staff that have been authorised to sell alcohol by a Personal Licence Holder. The authorisation list shall include, the name of the staff member authorised, the

name and personal licence details of the person authorising them to sell alcohol. This list shall also contain the date and signature of the staff member authorised and countersigned by the authorising Personal Licence Holder.

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

26. The premises shall have **FOUR** SIA approved door supervisors on a Thursday nights trade, Friday nights trade and Saturday nights trade from 1900 hours until the last customer has left the premises at closing time whenever licensable activities are being conducted;

a) The premises shall risk assess the requirement SIA approved door supervisor(s) on a Sunday nights trade, Monday nights trade, Tuesday nights trade and Wednesday nights trade from 1900 hours until the last customer has left the premises at closing time whenever licensable activities are being conducted.

The risk assessment must take cognisance of local events such as, Bank Holiday weekends, Christmas and New Year's Eve as non-exhaustive examples. The risk assessment must be in writing and available immediately upon request to authorised officers of Reading Borough Council and Thames Valley Police.

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

(i) Full SIA registration number and name.

(ii) Date and time that the Door Supervisor commenced duty, countersigned by the Duty Manager.

(iii) Date and time that the Door Supervisor finished work, countersigned by the Duty Manager.

(iv) Any occurrence or incident of interest involving crime & disorder or public safety must be recorded giving names of the Door Supervisor involved.

(v) A record will be kept on site of all monthly SIA checks that are made via the register of licence holders via the [www.sia.homeoffice.gov.uk](http://www.sia.homeoffice.gov.uk) website to check the validity of all door staff licences. A scan, photocopy or photographic image of the SIA badge held by each door supervisor shall be recorded and retained in a register along with an ID photo of the individual to ensure that the badge is held by the "correct" person. All records to be retained for twelve months in line with (vi) below.

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

28. The Premises Licence Holder (PLH) shall ensure that all door supervisors whilst employed at the premises shall wear hi visibility jackets/ tabards in bright green, yellow or orange in order that they can be clearly visible and identifiable at all times to the public and via CCTV both internally and externally. When tabards are worn, hi visibility armbands must also be worn that incorporate displaying SIA badges. If hi visibility full sleeved jackets are worn the PLH must ensure that all door supervisors badges are also displayed via an easily visible arm band of a different hi visibility colour to the jacket that is being worn.

29. Whilst Door Supervisors are employed at the premises ALL Door Supervisors working at the premises will be deployed with digitally recording Body Worn Video (BWV). The BWV will be used to record any incidents which occur both inside and outside of the premises involving customers either entering, exiting or gathering in the vicinity of the premises or in any queue that impact any of the four licensing objectives. Data recordings shall be made immediately available

to an authorised officer of Reading Borough Council or Thames Valley Police together with facilities for viewing upon request, subject to the provisions of the Data Protection Act.

30. All SIA door supervisors employed at the premises will be trained in respect of a Door Supervisors Operational Policy which must be written and provided by the premises licence holder (PLH) and a signed training record to confirm the same will be maintained for production to authorised officers of Reading Borough Council and Thames Valley Police upon request.

31. The Premises Licence Holder (PLH) shall ensure that a written operational policy relating to the safe removal of persons from the premises and/or its immediate vicinity by staff and door supervisors shall be put in place, actively operated and included within the Door Supervisors Operational policy. The policy shall be in written format and made available upon request to an authorised officer of Reading Borough Council and Thames Valley Police.

This shall include but not be limited to:

- (a) Persons who have been identified by staff as being vulnerable or at risk.
- (b) Persons who are refused entry to the premises or refused service within the premises.
- (c) Persons who are ejected from the premises

32. The Premises Licence Holder (PLH) shall ensure that upon induction all door supervisors employed at the premises receive as a minimum standard written training in a) control and restraint techniques and b) legal training covering the powers and policies relevant to their role. Refresher training shall be provided every 6 (six) months and signed records shall be produced upon request to authorised officers of Thames Valley Police and Reading Borough Council. Written records for both induction and refresher training are to be kept for a minimum of 2 (two) years of the date of training.

33. No externally promoted events or bookings shall be undertaken and no external promoters utilised at the premises.

34. The Premises Licence Holder shall implement a written search policy (following discussion with Thames Valley Police), to minimise the risk of illegal weapons and drugs being brought onto the premises, including search, detection, confiscation, storage and disposal of drugs procedures. The search policy shall provide, as a minimum:

- (a) For 100% bag search of all customers attempting to enter the premises, whenever door supervisors are employed.
- (b) For full “pat down” body searches of all customers entering the premises whenever door supervisors are employed, to prevent weapons and drugs being carried onto the premises.
- (c) For the use of “wands” or other metal detection device to search all persons entering the premises whenever door supervisors are employed.

35. Notices shall be displayed advising the public that the right to conduct an outer body search is reserved as a condition of entry, and that Thames Valley Police shall be informed if anyone is found in possession of illegal drugs or offensive weapons.

36. The venue shall also actively partake in drugs initiatives run by TVP (including, but not exclusively, drug itemiser, passive drug dogs and spiked drinks campaigns);

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

### **Secretary of States Section 182 Guidance**

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

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

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

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

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

### **Reading Borough Council Statement of Licensing Policy**

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

or club premises certificate)

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

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 Area 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.

8.12 There is an increasing connection between the use of licensed premises and the sexual exploitation of children and vulnerable people. There have been high profile cases nationwide of such abuse. This has included the use of licensed premises to exploit, groom and assault children and vulnerable people as well as exposing them to drugs and alcohol. The authority places the highest priority on the protection of children and vulnerable people from this kind of harm and expects all licence holders and potential licence holders to take cognisance of all national guidance in relation to preventing this kind of activity taking place at their premises.

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

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

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

**Furthermore Thames Valley Police recommend that when considering what enforcement action to take, the Authority will always consider what is the most appropriate and proportionate step to promote the licensing objectives. Thames Valley Police suggest that the authority is not required to wait for offences to occur before deciding it needs to take appropriate action. Case law – notably *East Lindsey District Council v Abu Hanif* – states that the promotion of the licensing objectives requires a prospective consideration of what is warranted in the public interest having regard to the twin considerations of prevention and**



**deterrence and respectfully ask that the licensing Sub-Committee take cognisance of this factor with regards to this review application.**

A full transcript of this Case Law is provided 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**

**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)

Crown copyright©

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.

**Please tick ✓ yes**

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

If yes please state the date of that application

Day    Month    Year

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

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

--

Please tick ✓

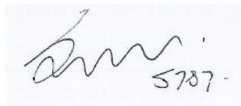
yes

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

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

**Part 3 – Signatures** (please read guidance note 4)

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



Signature

.....

Date 20/09/2020

.....

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

.....

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

Post town

Post Code

Telephone number (if any)

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

## **Notes for Guidance**

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