

## LICENSING TEAM REPRESENTATION

<b>Name of Officer</b>	Peter Narancic Senior Licensing and Enforcement Officer						
<b>Type of Application</b>	Review of a Premises Licence - Licensing Act 2003						
<b>Name of Premises</b>	Butts Convenience Stores						
<b>Address</b>	205 Oxford Road, Reading RG1 7PX						
<b>Licensable Activities</b>	Sale of Alcohol by Retail - Off the Premises						
<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>
	X	X	X	X	X	X	X

**Content of Application:**

On 19 October 2020, 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 made an application for the review of Premises Licence No. LP2002385, Butts Convenience Stores, 205 Oxford Road, Reading, Berkshire, RG1 7PX.

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

An inspection was completed on 26th August 2020 which resulted in the premises failing to provide evidence in relation to compliance with a number of their conditions. (The inspection was recorded on body worn video which is attached to the review application).

Two members of staff were also found working on the premises whom stated that they had not provided right to work documentation and no right to work documentation was available for inspection.

Consequently, in response Thames Valley Police recently attempted to address these ongoing concerns via a stepped performance improving approach by requesting consideration for voluntary improvements to the premises licence conditions, as this did not work, a review application was submitted to Reading Borough Council.

The Licensing Authority is making this representation in support of Thames Valley Police in relation to the review of the premises licence for Butts Convenience Stores, 205 Oxford Road, Reading, Berkshire, RG1 7PX. At this time, there are five other reviews of premises in Oxford Road, with similar issues to these premises.

The Oxford Road stretches over three miles from Reading town centre, west towards Purley on the A329. Unfortunately, this road and its surrounding areas suffer from high levels of crime and anti-social behaviour including street drinking, drug usage, prostitution, begging, graffiti and assaults. Oxford Road falls within a Public Space Protection Order (PSPO) which identifies street drinking of alcohol and its associated anti-social behaviour as having a direct negative impact on those that live and work in the area. The sale of super strength beers and ciders via retailers with poor processes and a lack of due diligence only exacerbates the issues.

#### Background

The premises operates as an off licence /convenience store. The premises licence holder at the time of this submission are stated as Mr Daljit Khurana. The licence was transferred on 10/10/2018.

The Designated Premises Supervisor is stated as Mr Daljit Khurana

The premises licence pursuant to the Licensing Act 2003 which permit the provision of the sale of alcohol

#### Hours for the Sale by Retail of Alcohol (Off licence)

Monday to Saturday from 0800hrs until 2300hrs

Sunday from 1000hrs until 2230hrs

Good Friday from 0800hrs until 2230hrs

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

#### Hours open to the Public

Not specified on licence but advertised as 0700 to 2300 on premises. As shown at Appendix PN-1

#### Conditions

Annex 2

Conditions Consistent with the Operating Schedule

General

Conditions agreed with Thames Valley Police via a Minor Variation  
27/05/2011 (amended by Review Hearing 25/11/2011)

1. Notices advertising the Challenge 25 and checking proof of age policy shall be displayed in prominent positions on the premises.

2. All Staff, with the exception of Personal Licence Holders, shall be trained in the requirements of the Licensing Act 2003 in relation to age restricted sales of alcohol before being authorised to sell alcohol.

3. Staff authorised to sell alcohol shall be accredited to BII Level 1 Award in Responsible Alcohol Retailing (ARAR) or any other similarly recognised nationally approved accreditation curriculum within four weeks for existing and subsequent new employees.

4. The Premises Licence Holder or Designated Premises Supervisor shall ensure staff receive training on a regular basis (every four months) in relation to the four licensing objectives contained within the Licensing Act 2003 for those authorised to sell alcohol.

### Annex 3

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

a) All incidents which undermine any of the four licensing objectives shall be recorded in a register kept at the premises for this purpose. The names of the person recording the information and those members of staff who deal with the incident shall also be recorded. Where known, any offenders' names shall also be recorded. The register shall be made available to an authorised officer of Reading Borough Council or a Police Officer on request;

(b) All persons authorised to sell alcohol shall be trained to at least the BIIAB Level 1 Award for Responsible Alcohol Retailing or any other similarly recognised nationally approved accreditation curriculum;

(c) All new members of staff shall be initially trained on age restricted sales before they are permitted to sell alcohol and registered within the 28 days of employment to attend, at a minimum, the BIIAB Level 1 Award for Responsible Alcohol Retailing or any other similarly recognised nationally approved accreditation curriculum;

(d) That the premises operate a Challenge 25 policy which must require individuals, who appear to the responsible person to be under the age of 25, to produce, on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark. The policy shall be effectively advertised to customers;

(e) All staff shall be refresher trained on the law relating to underage sales every three to four months and how to question and refuse sales if necessary, utilising the Challenge 25 policy. Records of training and reminders given shall be retained and made available to authorised officers of Reading Borough Council or Police Officers on request;

(f) The premises digitally recorded CCTV system shall ensure all cameras shall continually record whilst the premises are open to the public and the recordings shall be kept for a minimum of 31 days with time and date stamping. Data recordings shall be made immediately available to an authorised officer of Reading Borough Council or Police Officers, together with viewing facilities on request. Recorded images shall be of such quality as to be able to identify the recorded person.

Condition imposed by the Magistrates Court at hearing of 9th March 2016

1. The purchase of alcoholic liquor by the said Butts Convenience Store, through its owners and/or premises licence holder, be from suppliers recognised by the said Licensing Authority - Reading Borough Council. Purchase of alcoholic liquor from other suppliers, including sole traders, may only be done after consultation with the Licensing Authority to ensure integrity and compliance with any relevant duty or tax applicable to the said alcohol.

Annex 4

Plans

As attached plan dated 5th August 2005

The Licensing Authority believe that this review is necessary given the non-compliance in regard to conditions and Licensing law and would invite the Licensing Committee to take the steps it deems appropriate and proportionate to promote the licensing objectives.

As stated in the review paperwork, the sales of super strength cheap beers and ciders in the area of the Oxford road are believed by Thames Valley Police to be fuelling incidents of alcohol related crime and disorder in the area of this premises, and it is of extreme concern and a priority for the Oxford road residents and community to resolve this issue.

#### **Licensing Officer's Comments:**

The Licensing team in partnership with Thames Valley Police and Home Office Immigration Enforcement jointly visit and inspect licensed premises within the Borough of Reading. Particular attention is paid to premises where there have been previous incidents where the Licensing Objectives have not been fully supported by the premises licence holder.

Licensing records show these premises have been visited on previous occasions when under previous ownership, when there were serious issues were found surrounding non-compliance including illegal alcohol being found on the premises.

It is alleged by TVP that workers without right to work documentation were found in the premises during the inspection of the premises on 26 August 2020, although not confirmed, no documentation or other evidence to the contrary been offered by Mr Daljit Khurana the Premises licence holder to identify who the male found in his premises. In the footage, PC Wheeler had a conversation with the male wearing the blue shirt and cap who was heard to say he was paid in food in return for stacking shelves at the premises, when further questioned, then says he is paid money to buy food.

Every premises licence holder will be aware it is the job of any responsible employer to ensure that the correct right to work checks are carried out. This has been a legal requirement since the late 1990's. The premises licence holder has employed a person who has no right to work or live in the UK. Clearly, right to work checks were not being carried out. The Immigration Act 2016 amended Section 21 of the Immigration, Asylum and Nationality Act 2006 and is the relevant legislation that deals with the employment of illegal workers. It states:

1) A person commits an offence if he employs another ("the employee") knowing that the employee is [disqualified from employment by reason of the employee's immigration status].

(1A) A person commits an offence if the person—

(a) employs another person ("the employee") who is disqualified from employment by reason of the employee's immigration status, and (b) has reasonable cause to believe that the employee is disqualified from employment by reason of the employee's immigration status.

(1B) For the purposes of subsections (1) and (1A) a person is disqualified from employment by reason of the person's immigration status if the person is an adult subject to immigration control and—

(a) the person has not been granted leave to enter or remain in the United Kingdom, or (b) the person's leave to enter or remain in the United Kingdom—  
(i) is invalid,  
(ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), or  
(iii) is subject to a condition preventing the person from accepting the employment.]

(2) A person guilty of an offence under this section shall be liable—

(a) on conviction on indictment—

(i) to imprisonment for a term not exceeding [five] years,  
(ii) to a fine, or  
(iii) to both

The Immigration Act 2016 also inserted paragraph 24B into the Immigration Act 1971 which states:

(1) A person ("P") who is subject to immigration control commits an offence if—

(a) P works at a time when P is disqualified from working by reason of P's immigration status, and

(b) at that time P knows or has reasonable cause to believe that P is disqualified from working by reason of P's immigration status.

(2) For the purposes of subsection (1) a person is disqualified from working by reason of the person's immigration status if—

(a) the person has not been granted leave to enter or remain in the United Kingdom, or (b) the person's leave to enter or remain in the United Kingdom—  
(i) is invalid,

- (ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), or
- (iii) is subject to a condition preventing the person from doing work of that kind.

The offence of employing illegal workers is now also a relevant offence in the Licensing Act 2003. The Licensing Act 2003 Guidance at 11.27 and 11.28 now states that the employment of illegal workers is to be regarded as a crime that should be taken particularly seriously and that revocation of the premises licence - even in the first instance - should be seriously considered. The licence holder is undermining the crime and disorder licensing objective as well as failing to ensure that the people he employs are legally in the country or entitled to work. There are potentially numerous other criminal offences which may apply to the employment of illegal workers and these are summarised as follows:

1. Illegal workers are often paid 'off the record' or cash in hand by the employer meaning that the correct tax and national insurance deductions are not taken into account or declared to HMRC. This would be contrary to the Fraud Act 2006.
2. People who are living in the UK or who are working illegally are often not paid anything close to the Minimum wage which is illegal and again this only benefits the employer financially.
3. Illegal entrants into the country will not have been subject to the usual immigration checks and health screenings. This could seriously impact on public protection and the health and wellbeing of the general public as a whole. This could be particularly pertinent if the illegal entrant has arrived from a country with health issues and the employer has then decided to employ that person in a kitchen or other function where food is served to the public. There are also numerous other issues that stem from the employment and exploitation of illegal workers - particularly as illegal workers can be wholly dependent on their employer for their continued stay in this country. Again, the only person who benefits from their employment and exploitation are unscrupulous employers:
  1. The exploitation of illegal workers by unscrupulous employers means that the only person who benefits from their employment is the licence holder through financial gain.
  2. Illegal workers - being in the country illegally or working illegally - are unable to declare themselves to the authorities and seek public assistance should they require it.
  3. Illegal workers - because of being deliberately underpaid by their employers - are often only provided with the most basic accommodation and standard of living which is often linked to their continued employment at a licensed premises.
  4. The employment of illegal workers is often done at the expense of people who are living and working in the country legally and is only done to financially benefit the licence holder and to undercut legitimate, law abiding competitors.
  5. Illegal entrants - who have not undergone appropriate checks or immigration clearance at the border - could be being unwittingly employed by the licence holder despite them having current or previous criminal convictions which may endanger the

public. The employer or licence holder is exploiting potentially vulnerable people and engaging in a multitude of criminal offences by employing them at this licensed premises. These offences are covered under a multitude of different pieces of legislation and clearly engage the crime and disorder licensing objective.

## General

### Breach of premises licence conditions

Under the Licensing Act, every breach of condition is a criminal offence and means that licensable activity is being carried on not in accordance with an authorisation. Each breach of condition is contrary to Section 136 (1) of the Licensing Act 2003. It is worth remembering a further two points: Firstly, that conditions are attached to a premises licence as they are deemed appropriate and proportionate to promote the four licensing objectives at that premises.

### Illegal Workers

The detection of immigration offences that may be being committed on licensed premises which therefore undermine the prevention of crime and disorder licensing objective. This, more often and not, is the detection of persons working in a licensed premises who have no legal right to work in the UK which would be contrary to Immigration law.

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

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

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

### Exposed alcohol

It is noted that the premises is open to the public at from 0700 hours each day, however the sale of alcohol is permitted from 0800 hours Monday to Saturday, and from 1000 hours to 2230 hours on Sundays (apart from Bank holidays). Therefore the premises is open for one hour each morning Monday to Saturday and two hours on Sunday on the morning and 30 minutes at night time uncovered alcohol is displayed and exposed for sale in the premises.

Section 137 of the Licensing Act 2003, makes it an offence where there is no sale or attempted sale of alcohol but the alcohol is exposed for an unauthorised sale. This is likely to occur where alcohol is exposed outside the authorised hours. If a person is convicted of this offence, Section 139, provides the defence of due diligence, and if a person is convicted of this offence it is a summary conviction to a term not exceeding

six months or to a fine not exceeding £20,000 or both. In addition, the court may order that the alcohol in question be forfeited or destroyed or dealt with in such a manner as the court may order.

### Summary

The Licensing team is very concerned that by Mr Daljit Khurana, the premises licence holder and the designated premises supervisor has clearly failed to uphold the licensing objectives in operating his premises.

Reading Borough Council's Licensing Policy statement clearly states that its Vision is "To promote Reading as a safe and healthy environment in which responsible operators provide lawful and responsible facilities for the enjoyment of the Town's residents and visitors".

The statement of Licensing Policy is underpinned by four core objectives:

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

It is the Licensing team's respectful submission that the only appropriate and proportionate step to promote the licensing objectives and safeguard the public as a whole, is for the licence for Butts News, 205 Oxford Road, Reading to be have more robust improved conditions attached to the premises licence and if required, a period of suspension to fully implement them before recommencing the sale of alcohol. However, a more serious step may be considered by the Committee if it is confirmed that there were illegal workers in the premises on 26 August 2020.

Hours open to public???

### Recommended conditions

- 1) Staff employed and authorised to sell alcohol shall undergo training upon induction. This training shall include, but not be limited to:-
  - Understanding of the four licensing objectives
  - The premises age verification policy (Challenge 25)
  - 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, recognise their effects and types of drug paraphernalia i.e. “any equipment, product or accessory that is intended or modified for making, using, or concealing drugs, bongs, pipes, clips, grinders, plastic baggies and similar items”
- Child Sexual Exploitation

Refresher training shall be provided every six months and signed records made available for inspection by an authorised officer of Reading Borough Council or Thames Valley Police together with facilities for viewing upon request. Written records are to be kept for a minimum of two years of the date of training.

- 2) Before any person is employed at the premises sufficient checks will be made of their bona fides to ensure they are legally entitled to employment in the UK. Such checks shall 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 the employee, which will be retained on the premises. 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, Thames Valley Police or Immigration Service upon request.

- 3) The premises licence holder shall use secure screening shutters to cover all alcohol while the premises is open to the public outside the permitted hours for the sale of alcohol.

<b>Date Received</b>	19.10.2020	<b>Date Due</b>	15.11.2020
	<i>Peter Narancic</i>	<b>Date</b>	13.10.2020