

Name of Officer	Robert Smalley						
Type of Application	Review of a Premises Licence - Licensing Act 2003						
Name of Premises	Oxford Food & Wines						
Address	512 Oxford Road						
	Reading						
	RG30 1EG						
Premises Licence No.	LP2002472						
Licensable Activities	Sale of Alcohol by Retail - Off the Premises						
Finish Times	Mon	Tue	Wed	Thu	Fri	Sat	Sun
	2300	2300	2300	2300	2300	2300	2300
Content of Application:							
<p>The application was submitted on 27/01/2021 by Mr Declan Smyth on behalf of the Chief Constable of Thames Valley Police (TVP) for the review of the premises licence at the above address. The review has been submitted in order to address the wholesale purchasing of stolen alcohol by the Premises Licence Holder/Designated Premises Supervisor and other staff members at this premises. This behaviour causes a cascade effect in criminality, for example, supporting drug users within their habit and leading to their further perpetration of thefts in order to sell the stolen goods to this premises.</p> <p>On 11/01/2021, TVP attended this premises with the intention of conducting a premises licence inspection and to gather evidence in relation to the suspicion of handling stolen goods. This was triggered following intelligence that had been received by TVP regarding the purchase of stolen goods at this premises. During this visit, as explained in the review application, a number of bottles of spirits were found in the rear stock room at the premises, some with security tags still attached. A bag was also located that contained a substantial number of security tags that had been removed from stolen bottles of alcohol. A number of these bottles were Marks & Spencer branded with M&S security tags attached.</p> <p>Thames Valley Police submit that this review is necessary in order to promote all 4 licensing objectives: The Prevention of Crime and Disorder, The Prevention of Public Nuisance, Public Safety and The Protection of Children from Harm.</p>							

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

Licensing Officer's Comments:

Reading Borough Council, acting as a responsible authority, support the application to review the premises licence for Oxford Food & Wines. We believe that a suspension of the premises licence, addition of conditions and the removal of the Designated Premises Supervisor are appropriate and proportionate measures to assist the premises licence holder to promote the licensing objectives at this premises.

This premises is situated on Oxford Road which stretches over 3 miles from Reading town centre, west towards Purley on the A329. Unfortunately, this road and its surrounding areas suffer from high levels of crime and anti-social behaviour including street drinking, drug usage, prostitution, begging, graffiti and assaults.

Handling stolen goods is a criminal offence as listed in section 22(1) of the Theft Act 1968. As previously mentioned, the crimes committed in pursuit of obtaining goods to sell to premises such as the above and then any further crimes committed with the proceeds of these actions can result in an increase in overall crime in both Reading town centre and Oxford Road. The handling of stolen goods is a vital link in this chain of criminality, one that, if broken, causes the illegal chain of events to collapse.

Schedule 4, sub-section 5(o) of the Licensing Act 2003 identifies handling stolen goods as a relevant offence for personal licences.

The premises currently has the benefit of a premises licence (**LP2002472**) held by Mr Thinesh Sinniah that authorises the Sale of Alcohol by Retail for Consumption Off the Premises. The PLH utilises this licence to operate as a convenience store with off-licence which sells alcohol:

Monday to Sunday from 0800hrs to 2300hrs

Licensing team's interactions with the premises:

Mr Thinesh Sinniah has been the licence holder since May 2019. During his time as licence holder, 3 licensing inspections have been conducted by licensing officers from Reading Borough Council. 2 of these inspections have highlighted areas of non-compliance as detailed below:

Appendix RS-1 contains an e-mail sent by licensing enforcement officer Dan Fundrey to the licence holder following an inspection by licensing enforcement officer Anthony Chawama on 07/08/2020. This inspection identified 4 offences/ breaches of the premises licence, including: No Section 57 notice, no authorisation of staff for the sale of alcohol, no age verification policy being implemented, and no notices being displayed at exits requesting customers to leave quietly.

Appendix RS-2 contains a letter sent by licensing enforcement officer Robert Smalley to the licence holder following an inspection on 12/01/2021. This inspection found 4 offences/ breaches of the premises licence, including: No Part B of the premises licence on display, failure of the DPS to produce his personal licence as per section 135 of the Licensing Act 2003, failure to keep the premises tidy and provide waste bins, lack of signage explaining to customers that it is illegal to purchase or attempt to purchase alcohol under the age of 18. During this inspection it was also noted that no fire risk assessment had been completed. Links to guidance on how to complete this were provided to the licence holder in this letter. Following the inspection on 12/01/2021, licensing enforcement officer Robert Smalley re-visited the premises on 11/02/2021, following an e-mail from Mr Sinniah on 10/02/2021 that all issues raised from the previous inspection had been rectified. During this visit it was noted that all issues had been rectified, other than the fire risk assessment. Mr Sinniah explained that he didn't understand what he was supposed to do and asked for Officer Smalley's assistance in completing the risk assessment. Mr Sinniah was told that a council licensing officer cannot complete his risk assessment and that if he is unable to do it, then he can seek professional assistance. At the time of writing, no update has been received from Mr Sinniah on the status of the fire risk assessment. In addition to this, it was noted that the personal licence produced by Mr Sinniah contained his previous address, this is an offence under section 127 of the Licensing Act 2003.

The above premises is now compliant with the conditions on its premises licence and has also implemented recommended good practices in the form of a refusals register and an incident book. It is noted that the conditions on this premises licence are not as robust as would typically be found on a new convenience store premises licence on Oxford Road and we believe the conditions included at the end of this representation would better assist the premises licence holder in promoting the licensing objectives and to maintain the new due diligence practices started at the premises following the most recent visit.

The approach of the Licensing Team:

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

Secretary of State's Guidance (April 2018)

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

- **modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an**

existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;

- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

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

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

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

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

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

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

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

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

Summary of Representation:

Reading Borough Council Licensing appreciates the serious nature of the offence of handling stolen goods that has been committed at this premises and the negative impact such offences have on those businesses that the goods are stolen from. It is also understood that the proceeds of such crimes can be used to support further criminality. However, taking into account the good level of compliance with the premises licence and the premises licence holder's receptiveness to improving standards at the premises we believe it prudent to allow the premises licence holder to keep the premises licence

and if this is what members are minded to do, we respectfully ask for the following measures to be applied:

1. The removal of Mr Thinesh Sinniah as DPS. Mr Sinniah has proven that he is not currently capable of the responsible retail of alcohol as is expected of a designated premises supervisor. It is believed that the hiring of a new DPS at the premises, that has experience running similar premises, will provide better focus on the promotion of the licensing objectives and improve employee standards.
2. The removal of the current conditions on the licence to be replaced by those listed at the end of this document. As previously explained, it is believed that these conditions will form a solid foundation for the premises licence holder to work on to maintain compliance and good practices.
3. The suspension of the premises licence. We believe a suspension of the premises licence will allow the premises licence holder adequate time to source a new DPS and implement the below conditions.

Reading Borough Council Licensing propose that all conditions currently on the premises licence be replaced with the following:

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

- a) This book/register shall be available for inspection to an authorised officer of Reading Borough Council or Thames Valley Police. A weekly review of the refusals book/register shall also be carried out and signed off by the Designated Premises Supervisor or their nominated representative.
3. An incident register/log shall be used, maintained and kept on the premises to record any incident which has an impact on any of the four licensing objectives, or instances when the police have had to attend the premises.
 - a) The register shall be made available for inspection to authorised officers of Reading Borough Council and Thames Valley Police upon request.
 4. The premises shall at all times operate a Challenge 25 age verification policy to prevent any customers who attempt to purchase alcohol and who appear to the staff member to be under the age of 25 years from making such a purchase without having first provided identification. Only a valid British driver's licence showing a photograph of the person, a valid passport, military ID or proof of age card showing the 'Pass' hologram (or any other nationally accredited scheme) are to be accepted as identification. The age verification policy shall be in a written form and displayed in a prominent position.
 5. Posters advertising the premises' Challenge 25 age verification policy shall be displayed in prominent positions on the premises.
 6. The Premises Licence Holder shall display in a prominent position a copy of their written policy on checking proof of age.
 7. The premises licence holder shall ensure the premises' digitally recorded CCTV system cameras shall continually record whilst the premises are open to the public and recordings shall be kept for a minimum of 31 days with time and date stamping. The entire licensable area shall be covered by the CCTV and an appropriate number of cameras shall be installed to cover the external areas immediately outside of the premises. Data recordings shall be made immediately available to an authorised officer of Thames Valley Police or Reading Borough Council together with facilities for viewing upon request, subject to the provisions of the Data Protection Act. Recorded images shall be of such quality as to be able to identify the recorded person in any light. At least one member of staff on the premises at any time during operating hours shall be trained to access and download material from the CCTV system.
 8. The premises licence holder or nominated representative shall keep and maintain all right to work documents for all staff members. Right to work documents shall be kept at the premises and produced to authorised officers of Reading Borough Council and Thames Valley Police upon request.

9. 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.
10. The premises licence holder/designated premises supervisor shall ensure that they and staff who are authorised to sell alcohol, are able to converse with customers and representatives of Statutory Agencies to a level that they are able to satisfactorily meet the four licensing objectives as contained in the Licensing Act 2003.
 - I. The Prevention of Crime and Disorder.
 - II. Public Safety.
 - III. Public Nuisance.
 - IV. The Protection of Children from Harm.
11. 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.
12. The Premises Licence Holder shall have available on the premises, for inspection by an authorised officer of Reading Borough Council or Thames Valley Police at any reasonable time, true copies of invoices, receipts or other records of transactions for all alcohol products purchased in the preceding six months. All alcohol products shall only be purchased from outlets registered with HMRC's Alcohol Wholesale Registration Scheme.
13. Clearly legible and suitable notices shall be displayed at all exits requesting customers to respect the needs of local residents and to leave the premises and area quietly.

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

Relevant Case law for consideration

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

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

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

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

Appendices

Appendix RS-1: Copy of the current premises licence

Appendix RS-2: Premises inspection results letter from inspection conducted by Anthony Chawama dated August 2020

Appendix RS-3: Premises inspection results letter from inspection conducted by Robert Smalley dated January 2021

Date Received	27/01/2021	Date Due	24/02/2021
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Date	18	02	2021
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