



Name of Officer	Robert Smalley						
Type of Application	Review of a Premises Licence – Licensing Act 2003						
Name of Premises	The Red Cow						
Address	56 Star Road						
	Reading						
	RG4 5BE						
Premises Licence No.	LP2002997						
Licensable Activities	Sale of Alcohol by Retail – On & Off the Premises						
	Performance of Live Music						
	Playing of Recorded Music						
	Performance of Dance						
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 23/09/2024 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 and meat by the Premises Licence Holder and staff members which undermines the promotion of the Licensing Objectives. This behaviour causes a cascade effect in criminality, for example, supporting drug users with their habit, anti-social behaviour, violence and leading to further perpetration of thefts in order to sell the stolen goods to this premises.</p> <p>On 11/07/2024, Thames Valley Police (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. As explained in the review application, during the inspection serious concerns were identified. Ms Sangita Gurung admits that there is stolen wine on the premises. She is arrested and a S32 PACE search is undertaken. About 30 bottles of alcohol and about 30 items of meat are</p>							

located and seized. The CCTV hard drive and Ms Gurung's mobile phone are also seized and Ms Gurung is taken into custody.

It is imperative for licensed premises to act both responsibly, and in a manner that promotes the licensing objectives. The premises management and staff are currently openly failing to prevent crime and disorder, in fact, they are instead promoting crime and disorder via the deliberate and knowledgeable receiving of stolen goods and it is for this reason that a review of the premises licence has been submitted.

Thames Valley Police submit that the only appropriate and proportionate measure is to revoke the premises licence in order to promote all 4 licensing objectives: The Prevention of Crime and Disorder, The Prevention of Public Nuisance, Public Safety and The Protection of Children from Harm.

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

Licensing Officer's Comments:

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

The premises is situated on Star Road, Reading, which is an area that suffers high levels of anti-social behaviour amongst other crimes such as: violence, sexual offences, vehicle crime, shoplifting, criminal damage and public order offences. Thames Valley Police's crime mapping website shows that within 400 metres of Star Road/Amersham Road, crime levels over the previous 12 months are almost consistently the highest in the Peppard/Caversham part of the town.

Handling stolen goods is a criminal offence as listed in section 22(1) of the Theft Act 1968. 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 the surrounding areas. Shoplifting is rampant in Reading and it is vital that action is taken to break this circle of criminality. It is the opinion of the Licensing team that only the revocation of this premises licence can guarantee the promotion of the licensing objectives, in particular, the prevention of crime and disorder.

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

The premises currently has the benefit of a premises licence (no. **LP2002997**) attached as **Appendix RS-1** held by Gurung & Family Ltd. The Premises Licence Holder utilises this licence to operate as a public house with the following licensable activities and hours:

Performance of Live Music, Playing of Recorded Music, Performance of Dance:

Friday to Saturday from 1900hrs to 2300hrs

Sale by Retail of Alcohol (On & Off the Premises):

Monday to Sunday from 1000hrs to 2300hrs

Hours the Premises is Open to the Public:

Monday to Sunday from 1000hrs to 2300hrs

Licensing team's interactions with the premises:

Gurung & Family Ltd have been the licence holder since **17/04/2018**. Ms Sangita Gurung is the sole director of Gurung & Family Ltd. During her time as licence holder, 4 visits have been made by licensing officers from Reading Borough Council. Please see the following summaries of these visits:

Appendix RS-2 contains a letter sent by police constable Simon Wheeler to the licence holder following an inspection conducted at 0010hrs on **16/06/2018** in conjunction with Reading Borough Council licensing officer Anthony Chawama. This inspection not only identified 12 breaches of the premises licence, but also that the premises was seemingly conducting licensable activities without an authorisation. As described in **Appendix RS-2**, officers entered the premises 70 minutes after the premises' terminal hour to find a number of persons still on the premises and many people were noted as having very full glasses, lending weight to the likelihood that they had been served after 2300hrs. This same letter goes on to state that observations made by officers on **20/07/2018** between the hours of 2330 and midnight, when the premises should have been closed to the public, a number of persons were seen to leave and re-enter the premises, including a small group that left the premises carrying away pint glassware. These breaches and unauthorised activities were observed only a few months into Ms Gurung's ownership of the premises.

Appendix RS-3 contains a letter sent by licensing enforcement officer Robert Smalley to the licence holder following a visit on **10/06/2021**. This visit was conducted to check on the premises' COVID compliance and to investigate a complaint the Council had received pertaining to unauthorised licensable activities and public nuisance on the night of **16/05/2021**. The letter explains that the premises was in breach of 2 COVID regulations as well as being in breach of the premises licence condition which states 'The external seating areas shall be cleared of patrons from 2300 hours and shall not be used between 2300 hours and 1000 hours.' **Appendix RS-4** contains still images taken from the CCTV showing these breaches.

Appendix RS-5 contains a letter sent by licensing enforcement officer Robert Smalley to the licence holder following a visit on **27/04/2024**. This visit identified 3 breaches of the premises licence and provided some recommendations to the premises licence holder to improve their due diligence.

Appendix RS-6 contains a letter sent by licensing enforcement officer Tabitha Shaw to the licence holder following a visit on **13/06/2024**. This visit did not find any major areas of concern.

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.

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

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

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

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

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

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

Secretary of State's Guidance (August 2023)

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.

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. We consider this offence serious enough to warrant revocation in the first instance and we do not consider any other power available to the sub-committee as appropriate to prevent this offence from reoccurring.

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

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

We do not consider the addition or amending of the conditions attached to the licence to be a pragmatic solution due to the serious nature of the offence of handling stolen goods. It is considered likely that, if the premises continues to be licensed to sell alcohol, that stolen goods will continue to be purchased and sold from the premises.

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

There are 4 licensable activities on the licence. To exclude any of the regulated entertainment authorisations will, in our opinion, have no impact on promoting the licensing objectives in relation to preventing further stolen goods being handled at the premises. To exclude the sale by retail of alcohol would render the licence effectively redundant due to this activity being the primary activity at the premises and, in practice, would have the same effect as revocation.

- **Revocation of the licence;**

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

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

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

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

This premises is, for the most part, a family run business. To simply remove the current Designated Premises Supervisor Anjali Gurung, only for Ms Sangita Gurung or another family member to be named as the Designated Premises Supervisor will not result in any substantial change to how the premises is operated. See 11.22 of the Secretary of State's section 182 guidance.

We believe that the contents of the review application and this representation show that the premises licence holder has consistently failed to promote the licensing objectives. Ms Gurung appears to not want to abide by the law, whether that be COVID regulations in place in 2021, handling stolen goods or trading within the hours and conditions of her premises licence. I believe these to not merely be an error of judgement, but, rather, a deliberate and calculated attempt to make a profit with little regard to the promotion of the licensing objectives. We respectfully ask the sub-committee to revoke the premises licence.

Relevant Case law for consideration

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

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

Appendices

Appendix RS-1: Copy of the current premises licence

Appendix RS-2: Premises inspection results letter from inspection conducted by PC Simon Wheeler & Anthony Chawama dated July 2018

Appendix RS-3: Formal warning letter dated June 2021

Appendix RS-4: Stills of CCTV from May 2021

Appendix RS-5: Premises inspection results letter from inspection conducted by Robert Smalley & Declan Smyth dated April 2023

Appendix RS-6: Premises inspection results letter from inspection conducted by Tabitha Shaw & Gary Clarke dated April 2024

Date Received	23/09/2024	Date Due	21/10/2024
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Date	16	10	2024
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