LICENSING ACT 2003 HEARING TUESDAY 23rd APRIL 2019 @1700HRS
APPLICATION FOR THE GRANT OF A PREMISES LICENCE

1. Premises:
Berkshire Restaurant Ltd 130-134 Wokingham Road Reading RG6 1JL

2. Applicant:
Berkshire Restaurant Ltd
3. Premises Licence: A licence is currently in force at the premises and is held by a Mr Jamshed Miah for a premises called Miah's Garden of Gulab. This licence was revoked by the licensing sub committee on 1st November 2018 due to the employment of five illegal workers; the breach of employment law and breaches of licensing legislation. This decision was appealed by the applicant to the Magistrates Court meaning the licence is still in force. A court date of 24th June 2019 has been set to hear this appeal. An application to transfer the licence already in force to a Mouadjul Miah was refused by the licensing sub committee on 8th November 2018. This has also been appealed to the Magistrates Court.
4. Proposed licensable activities and hours:
The application is for the grant of a premises licence for the following activities: Live Music and Performance of Dance (Indoor) Monday to Sunday from 1100hrs until 0030hrs Recorded Music (Indoor) Monday to Sunday from 1100hrs until 0100hrs Late Night Refreshment (Indoor) Monday to Sunday from 2300hrs until 0030hrs Sale of Alcohol (On and Off the premises) Monday to Sunday from 1100hrs until 0030hrs Opening Hours Monday to Sunday from 2300hrs until 0030hrs **NB The applicant will need to provide clarity as to why they wish the premises to open only between 2300hrs and 0030hrs but have licensable activity taking place from 1100hrs onwards.**

5. Temporary Event Notices
In considering any application the Licensing Authority should be aware of the possible use of Temporary Event Notices to extend entertainment

activities or hours of operation. A premises may extend the hours or scope of their operation by the use of Temporary Event Notices. Up to 15 events per year can be held under this provision at a particular premises. These events may last for up to 168 hours provided less than 500 people are accommodated and provided the total number of days used for these events does not exceed 21 per year.

6. Date of receipt of application: 26th January 2019

A copy of the application form is attached at Appendix RF-1

7. Date of closure of period for representations: 23rd February 2019

8. Representations received:

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

Thames Valley Police (attached at appendix RF-2)
Reading Borough Council Licensing (attached at appendix RF-3)
Reading Borough Council Planning (attached at appendix RF-4)
Reading Borough Council Environmental Protection and Nuisance(attached at appendix RF-5)

9. Licensing Objectives and Reading Borough Council's Licensing Policy Statement

In considering representations received the Licensing Authority has a duty to carry out it's functions with a view to promoting the four licensing objectives, which are as follows:

- the prevention of crime and disorder;
- public safety
- the prevention of public nuisance
- the protection of children from harm

Any conditions that are placed on a premises licence should be appropriate and proportionate with a view to promoting the licensing objectives. The Licensing Authority can amend, alter or refuse an application should it be deemed appropriate for the promotion of the licensing objectives.

The Council's licensing policy also places an onus on applicant's who wish to open past 11pm to demonstrate how they will mitigate the issues of crime and disorder and potential public nuisance.

The Council's Licensing Policy Statement (October 2018)

Licensing and Planning Integration

2.4 Whilst there is a clear distinction and separation between the licensing authority and planning authority in terms of their remit, there are times

when there are overlapping considerations. In order to secure proper integration across the Council's range of policies, **the Licensing authority will expect applicants to demonstrate that their proposed use of a premises is lawful in planning terms, including complying with any conditions and timings that may be imposed upon a planning consent prior to any application being submitted under the Licensing Act.**

2.5 Where the planning authority has granted planning consent to a specific time, the Licensing authority would expect any applicants under the Licensing Act to not exceed that time within any application.

2.6 Where the planning authority has granted a planning consent that contains conditions that may undermine the promotion of the licensing objectives (such as a restriction in the opening hours based on potential public nuisance issues), the licensing authority would expect applicants to demonstrate how they will mitigate those issues within any application. Failure to do so could lead to representations being made against an application.

2.7 Whilst acknowledging that planning and licensing are separate regimes and that licensing authorities and not bound by the decisions of planning committees (and vice versa), the licensing authority shall aim for the proper integration between licensing and all other Council policies, strategies and initiatives in order to actively promote the licensing objectives.

2.8 When licensing applications are determined by officers of the Licensing Authority or by the Licensing Sub Committee, conditions may be imposed upon a licence in order to ensure consistency between the licensing objectives and any measures already determined by the planning authority that could impact the licensing objectives.

Crime and Disorder Act 1998

3.2 This Act requires local authorities and other bodies to consider crime and disorder reduction. Section 17 of the Act states that it shall be the duty of each authority, to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that is reasonably can to prevent, crime and disorder in its area (including anti social and other behaviour adversely affecting the local environment). This links specifically with the licensing objective of prevention of crime and disorder and the licensing authority will take into account all reasonable measures that actively promote this licensing objective.

Licensing Conditions – General Approach

6.1 Conditions shall be appropriate and proportionate for the promotion of the licensing objectives and shall be unambiguous and clear in their stated aims. Conditions will also be tailored to the type, location and characteristics of the particular premises and the relevant licensable

activities. Any condition imposed by the Authority shall also aim to avoid duplication of other legislation unless there is a requirement to impose such a condition in order to promote the licensing objectives (for example, a capacity limit for public safety reasons). This shall apply to all relevant applications (grant/variation of a premises licence or club premises certificate)

6.2 The operating schedule within an application should contain an assessment from the proposed licence holder of what they believe are appropriate and proportionate measures to enable them to carry out their proposed licensable activities. This assessment should be arrived at by taking cognisance of this policy and the Secretary of State's guidance which outlines the matters that an applicant should take into account such as issues in the locality and why their proposed measures are suitable for their proposed operation.

Restaurants and Cafes – General Approach to conditions

6.24 The licensing authority would expect all bona fide restaurants to take cognisance of the Secretary of State's Guidance and this policy and include measures that actively promote the four licensing objectives.

6.25 As well as the measures outlined above in relation to a Challenge 25 age verification policy, CCTV and staff training, the authority will expect all bona fide restaurants to include a condition within their operating schedule to the effect that the sale of alcohol will be ancillary to a sit down food order and that the premises will operate solely as a restaurant with waiters and waitresses providing table service. It is the authority's view that restaurants should not be a place where upright vertical drinking takes place.

6.26 Where a restaurant wishes to provide a delivery service for their products – including alcohol – the authority will expect measures to be included within the operating schedule of how those deliveries will operate. For example, to ensure that deliveries are being made to full postal addresses and not fields; that deliveries which contain alcohol are subject to the premises age verification policy with refusals logged accordingly and that delivery bikes are not causing a public nuisance to local residents.

Licensed premises in residential areas

7.6 When dealing with applications and issuing licences, the authority is likely to impose stricter conditions on premises operating in residential areas if it considers it appropriate and proportionate to do so. This will apply to all premises types.

7.7 Generally, any licensed premises looking to open past 11pm (2300hrs) in a residential area will need to demonstrate clearly in their operating schedule that public nuisance will not result from later operation. As part of the operating schedule, applicants should read the Secretary of State's

Guidance, this policy and any other relevant document and ensure that robust measures are included in any application.

7.8 Premises that wish to provide regulated entertainment may be subject to additional conditions to ensure that residents are not disturbed. This may include the use of sound limiters; keeping doors and windows closed and restricting the hours when music is played.

7.9 Premises with outdoor areas such as beer gardens and smoking areas may also be subject to further restrictions in regard to their operation and use.

7.10 Where any outside area is used for drinking and/or smoking – including the public highway outside of a licensed premises – and complaints of public nuisance or noise are received the authority will consider controls to limit the disturbance.

7.11 Premises that are planning to put on events that involve regulated entertainment may be required to provide the authority with a detailed event management plan of that event which may include a detailed noise risk assessment.

7.12 The licensing authority will seek the input of the Council's Environmental Protection and Nuisance team when looking at measures that may be appropriate for the prevention of public nuisance. This will include taking cognisance of any representations that are submitted as part of the application process or any enforcement action they have taken under their own legislation – such as noise abatement notices.

Drinking Up/Winding Down time/Dispersal

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

Amended Guidance issued under section 182 of the Licensing Act 2003 April 2018

Licensing Objectives and Aims:

1.5 However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:

• protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises

Steps to promote the licensing objectives:

8.41 In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.

8.42 Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:
• the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;
• any risk posed to the local area by the applicants' proposed licensable activities; and
• any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.

8.43 Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.

8.44 It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to

residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.

8.45 The majority of information which applicants will require should be available in the licensing policy statement in the area. Other publicly available sources which may be of use to applicants include:
• the Crime Mapping website;
• Neighbourhood Statistics websites;
• websites or publications by local responsible authorities;
• websites or publications by local voluntary schemes and initiatives; and
• on-line mapping tools.

8.46 While applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. Licensing authorities may wish to encourage co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.

8.47 Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.

8.48 All parties are expected to work together in partnership to ensure that the licensing objectives are promoted collectively. Where there are no disputes, the steps that applicants propose to take to promote the licensing objectives, as set out in the operating schedule, will very often translate directly into conditions that will be attached to premises licences with the minimum of fuss.

8.49 For some premises, it is possible that no measures will be appropriate to promote one or more of the licensing objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be precise and clear about the measures that are proposed to promote each of the licensing objectives.

The role of responsible authorities

9.11 Responsible authorities under the 2003 Act are automatically notified of all new applications. While all responsible authorities may make representations regarding applications for licences and club premises certificates and full variation applications, it is the responsibility of each responsible authority to determine when they have appropriate grounds to

do so.

9.12 Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area5. The police should usually therefore be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent. However, it remains incumbent on all responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

Licensing authorities acting as responsible authorities

9.13 Licensing authorities are included in the list of responsible authorities. A similar framework exists in the Gambling Act 2005. The 2003 Act does not require responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes. It is, therefore, for the licensing authority to determine when it considers it appropriate to act in its capacity as a responsible authority; the licensing authority should make this decision in accordance with its duties under section 4 of the 2003 Act.

Determining Actions that are appropriate for the promotion of the Licensing Objectives

9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

9.43 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

Proposed Conditions

10.4 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out before

making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.

10.5 It is not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention.

Hours of Trading

10.15 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

Designated Premises Supervisor

10.27 The main purpose of the 'designated premises supervisor' as defined in the 2003 Act is to ensure that there is always one specified individual among these personal licence holders who can be readily identified for the premises where a premises licence is in force. That person will normally have been given day to day responsibility for running the premises by the premises licence holder.

10.28 The 2003 Act does not require a designated premises supervisor or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the designated premises supervisor and the premises licence holder remain responsible for the premises at all times including compliance with the terms of the 2003 Act and conditions attached to the premises licence to promote the licensing objectives.

Integrating strategies

14.63 It is recommended that statements of licensing policy should provide clear indications of how the licensing authority will secure the proper integration of its licensing policy with local crime prevention, planning, transport, tourism, equality schemes, cultural strategies and any other plans introduced for the management of town centres and the night-time economy. Many of these strategies are not directly related to the promotion of the licensing objectives, but, indirectly, impact upon them. Co-ordination and integration of such policies, strategies and initiatives are therefore important.

Planning and building control

14.64 The statement of licensing policy should indicate that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing

regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa. However, as set out in chapter 9, licensing committees and officers should consider discussions with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.

14.65 There are circumstances when, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee.

Licensing Act 2003

The Licensing Act 2003 under Section 18 (6) also states that any relevant representation should be considered in the context of:

(a) the likely effect of the grant of the premises licence on the promotion of the licensing objectives.

Therefore in the context of the grant of a licence, it is reasonable for the Licensing Authority to base it's decision on an application on what the likely effects of granting a licence would have on the promotion of the licensing objectives.

Case Law

East Lindsey DC v Abu Hanif (2016) case law underpins the principles widely acknowledged within the Licensing Act 2003 that the licensing objectives are prospective, and that the prevention of crime and disorder requires a prospective consideration of what is warranted in the public interest, having regard to the twin considerations of prevention and deterrence.

Similarly the case law of British Beer and Pub Association v Canterbury City Council (2005) underpins the value of the Council's licensing policy. Mr Justice Richards stated: "The council is entitled to indicate in the policy its own expectations with regard to the promotion of the licensing objectives; and I do not think that an applicant can legitimately complain if a failure to take account of those expectations gives rise to representations…An applicant who does not tailor his application to the policy therefore faces an uphill struggle."

Application for a premises licence to be granted

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/We Berkshire Restaurant Ltd

(Insert name(s) of applicant)

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description **130-134 Wokingham Road**			
Post town	Reading	Postcode	**RG6 1JL**

Telephone number at premises (if any)	
Non-domestic rateable value of premises	**£20,250**

Part 2 - Applicant details

Please state whether you are applying for a premises licence as		Please tick as appropriate	
a)	an individual or individuals *	☐	please complete section (A)
b)	a person other than an individual *		
	i as a limited company/limited liability partnership	☒	please complete section (B)
	ii as a partnership (other than limited liability)	☐	please complete section (B)
	iii as an unincorporated association or	☐	please complete section (B)
	iv other (for example a statutory corporation)	☐	please complete section (B)
c)	a recognised club	☐	please complete section (B)
d)	a charity	☐	please complete section (B)
e)	the proprietor of an educational establishment	☐	please complete section (B)

f)	a health service body	☐	please complete section (B)
g)	a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales	☐	please complete section (B)
ga)	a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England	☐	please complete section (B)
h)	the chief officer of police of a police force in England and Wales	☐	please complete section (B)

* If you are applying as a person described in (a) or (b) please confirm (by ticking yes to one box below):

I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or	☒
I am making the application pursuant to a	
statutory function or	☐
a function discharged by virtue of Her Majesty's prerogative	☐

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr ☐	Mrs ☐	Miss ☐	Ms ☐	Other Title (for example, Rev)			
Surname				**First names**			
Date of birth	I am 18 years old or over ☐ Please tick yes						
Nationality							
Current residential address if different from premises address							
Post town				Postcode			
Daytime contact telephone number							
E-mail address (optional)							

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr ☐	Mrs ☐	Miss ☐	Ms ☐	Other Title (for example, Rev)	
Surname			**First names**		
Date of birth	I am 18 years old or over ☐ Please tick yes				
Nationality					
Current postal address if different from premises address					
Post town			Postcode		
Daytime contact telephone number					
E-mail address (optional)					

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name Berkshire Restaurant Ltd
Address [redacted]Shinfield Rise, Reading, RG2 8EA
Registered number (where applicable) 11734653
Description of applicant (for example, partnership, company, unincorporated association etc.) Private Limited Company
Telephone number (if any)
E-mail address (optional)

Part 3 Operating Schedule

When do you want the premises licence to start? **As soon as possible**

DD MM YYYY

If you wish the licence to be valid only for a limited period, when do you want it to end?

DD MM YYYY

Please give a general description of the premises (please read guidance note 1)

Restaurant

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

What licensable activities do you intend to carry on from the premises?

(please see sections 1 and 14 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment (please read guidance note 2)		Please tick all that apply
a)	plays (if ticking yes, fill in box A)	☐
b)	films (if ticking yes, fill in box B)	☐
c)	indoor sporting events (if ticking yes, fill in box C)	☐
d)	boxing or wrestling entertainment (if ticking yes, fill in box D)	☐
e)	live music (if ticking yes, fill in box E)	☒
f)	recorded music (if ticking yes, fill in box F)	☒
g)	performances of dance (if ticking yes, fill in box G)	☒
h)	anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)	☐

Provision of late night refreshment (if ticking yes, fill in box I) ☒

Supply of alcohol (if ticking yes, fill in box J) ☒

In all cases complete boxes K, L and M

A

Plays Standard days and timings (please read guidance note 7)			**Will the performance of a play take place indoors or outdoors or both – please tick** (please read guidance note 3)		
				Indoors	☐
				Outdoors	☐
Day	Start	Finish		Both	☐
Mon			**Please give further details here** (please read guidance note 4)		
Tue					
Wed			**State any seasonal variations for performing plays** (please read guidance note 5)		
Thur					
Fri			**Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list** (please read guidance note 6)		
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 7)			**Will the exhibition of films take place indoors or outdoors or both – please tick** (please read guidance note 3)	Indoors	☐
				Outdoors	☐
Day	Start	Finish		Both	☐
Mon			**Please give further details here** (please read guidance note 4)		
Tue					
Wed			**State any seasonal variations for the exhibition of films** (please read guidance note 5)		
Thur					
Fri			**Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list** (please read guidance note 6)		
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 7)			**Please give further details** (please read guidance note 4)
Day	Start	Finish	
Mon			
Tue			**State any seasonal variations for indoor sporting events** (please read guidance note 5)
Wed			
Thur			**Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list** (please read guidance note 6)
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 7)			**Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick** (please read guidance note 3)		
				Indoors	☐
				Outdoors	☐
Day	Start	Finish		Both	☐
Mon			**Please give further details here** (please read guidance note 4)		
Tue					
Wed			**State any seasonal variations for boxing or wrestling entertainment** (please read guidance note 5)		
Thur					
Fri			**Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list** (please read guidance note 6)		
Sat					
Sun					

E

Live music Standard days and timings (please read guidance note 7)			**Will the performance of live music take place indoors or outdoors or both – please tick** (please read guidance note 3)		
				Indoors	☒
				Outdoors	☐
Day	Start	Finish		Both	☐
Mon	00:00	00:30	**Please give further details here** (please read guidance note 4)		
	11:00	00:00			
Tue	00:00	00:30			
	11:00	00:00			
Wed	00:00	00:30	**State any seasonal variations for the performance of live music** (please read guidance note 5)		
	11:00	00:00			
Thur	00:00	00:30			
	11:00	00:00			
Fri	00:00	00:30	**Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list** (please read guidance note 6)		
	11:00	00:00			
Sat	00:00	00:30			
	11:00	00:00			
Sun	00:00	00:30			
	11:00	00:00			

F

Recorded music Standard days and timings (please read guidance note 7)			**Will the playing of recorded music take place indoors or outdoors or both – please tick** (please read guidance note 3)	Indoors	☒
				Outdoors	☐
Day	Start	Finish		Both	☐
Mon	00:00	01:00	**Please give further details here** (please read guidance note 4)		
	11:00	00:00			
Tue	00:00	01:00			
	11:00	00:00			
Wed	00:00	01:00	**State any seasonal variations for the playing of recorded music** (please read guidance note 5)		
	11:00	00:00			
Thur	00:00	01:00			
	11:00	00:00			
Fri	00:00	01:00	**Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list** (please read guidance note 6)		
	11:00	00:00			
Sat	00:00	01:00			
	11:00	00:00			
Sun	00:00	01:00			
	11:00	00:00			

G

Performances of dance Standard days and timings (please read guidance note 7)			**Will the performance of dance take place indoors or outdoors or both – please tick** (please read guidance note 3)		
				Indoors	☒
				Outdoors	☐
Day	Start	Finish		Both	☐
Mon	00:00	00:30	**Please give further details here** (please read guidance note 4)		
	11:00	00:00			
Tue	00:00	00:30			
	11:00	00:00			
Wed	00:00	00:30	**State any seasonal variations for the performance of dance** (please read guidance note 5)		
	11:00	00:00			
Thur	00:00	00:30			
	11:00	00:00			
Fri	00:00	00:30	**Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list** (please read guidance note 6)		
	11:00	00:00			
Sat	00:00	00:30			
	11:00	00:00			
Sun	00:00	00:30			
	11:00	00:00			

H

<table>
<tr><td colspan="3">Anything of a similar description to that falling within (e), (f) or (g)
Standard days and timings (please read guidance note 7)</td><td colspan="3">Please give a description of the type of entertainment you will be providing</td></tr>
<tr><td>Day</td><td>Start</td><td>Finish</td><td rowspan="3"><u>Will this entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 3)</td><td>Indoors</td><td>☐</td></tr>
<tr><td rowspan="2">Mon</td><td rowspan="2"></td><td rowspan="2"></td><td>Outdoors</td><td>☐</td></tr>
<tr><td>Both</td><td>☐</td></tr>
<tr><td rowspan="2">Tue</td><td rowspan="2"></td><td rowspan="2"></td><td colspan="3" rowspan="2"><u>Please give further details here</u> (please read guidance note 4)</td></tr>
<tr><td rowspan="2">Wed</td><td rowspan="2"></td><td rowspan="2"></td></tr>
<tr><td rowspan="2">Thur</td><td rowspan="2"></td><td rowspan="2"></td><td colspan="3" rowspan="2"><u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u> (please read guidance note 5)</td></tr>
<tr><td rowspan="2">Fri</td><td rowspan="2"></td><td rowspan="2"></td></tr>
<tr><td rowspan="2">Sat</td><td rowspan="2"></td><td rowspan="2"></td><td colspan="3" rowspan="2"><u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u> (please read guidance note 6)</td></tr>
<tr><td rowspan="2">Sun</td><td rowspan="2"></td><td rowspan="2"></td></tr>
</table>

I

Late night refreshment Standard days and timings (please read guidance note 7)			**Will the provision of late night refreshment take place indoors or outdoors or both – please tick** (please read guidance note 3)		
				Indoors	☒
				Outdoors	☐
Day	Start	Finish		Both	☐
Mon	00:00	00:30	**Please give further details here** (please read guidance note 4)		
	23:00	00:00			
Tue	00:00	00:30			
	23:00	00:00			
Wed	00:00	00:30	**State any seasonal variations for the provision of late night refreshment** (please read guidance note 5)		
	23:00	00:00			
Thur	00:00	00:30			
	23:00	00:00			
Fri	00:00	00:30	**Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list** (please read guidance note 6)		
	23:00	00:00			
Sat	00:00	00:30			
	23:00	00:00			
Sun	00:00	00:30			
	23:00	00:00			

J

Supply of alcohol Standard days and timings (please read guidance note 7)			**Will the supply of alcohol be for consumption – please tick** (please read guidance note 8)		
				On the premises	☐
				Off the premises	☐
Day	Start	Finish		Both	☒
Mon	00:00	00:30	**State any seasonal variations for the supply of alcohol** (please read guidance note 5)		
	11:00	00:00			
Tue	00:00	00:30			
	11:00	00:00			
Wed	00:00	00:30			
	11:00	00:00			
Thur	00:00	00:30	**Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list** (please read guidance note 6)		
	11:00	00:00			
Fri	00:00	00:30			
	11:00	00:00			
Sat	00:00	00:30			
	11:00	00:00			
Sun	00:00	00:30			
	11:00	00:00			

State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor (Please see declaration about the entitlement to work in the checklist at the end of the form):

Name James Philip Southern	
Date of birth [redacted]**1985**	
Address [redacted] Adwell Drive, Earley, Berks,	
Postcode	RG6 4JY
Personal licence number (if known) PL1553	
Issuing licensing authority (if known) Wokingham Borough Council	

☐☐☐☐

K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 9).

None

L

Hours premises are open to the public
Standard days and timings (please read guidance note 7)

Day	Start	Finish
Mon	00:00	00:30
	23:00	00:00
Tue	00:00	00:30
	23:00	00:00
Wed	00:00	00:30
	23:00	00:00
Thur	00:00	00:30
	23:00	00:00
Fri	00:00	00:30
	23:00	00:00
Sat	00:00	00:30
	23:00	00:00
Sun	00:00	00:30
	23:00	00:00

State any seasonal variations (please read guidance note 5)

Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 6)

M Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 10)

The primary use of the premises shall be as a restaurant/takeaway venue and not as a public house or predominantly as a drinking establishment.

All staff will be provided with training in relation to the licensing objectives that are commensurate with their duties. This will include the individual's responsibilities, age verification and licensing offences, as appropriate. Details of the training will be recorded in a personnel file or log book and will be refreshed at regular intervals.

A log book shall be maintained at the premises to record any incidents that are pertinent to the licensing objectives, including refusals of sale of alcohol, disturbance, crime or disorder. This log book or a copy shall be kept available for inspection at the premises for a period of no less than 6 months from the date of last entry.

b) The prevention of crime and disorder

A CCTV system shall be installed to any standard agreed in writing with Thames Valley Police. The system will be maintained and operated at all times the premises are open to the public. The system shall cover all areas to which the public have access (excluding toilets) including entrances and exits. Images shall be kept for a minimum of 31 days from the date of recording

The images shall be produced to an authorised Police employee in a readily playable format immediately upon request when the premises are open and at all other times as soon as reasonably practical. There will be sufficient staff training to facilitate the above.

c) Public safety

All safety matters at the premises are adequately covered by statutory provisions such as The Health and Safety at Work (etc) Act 1974 and The Regulatory Reform (Fire Safety) Order 2005.

d) The prevention of public nuisance

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.

All external doors and windows must be kept closed after 21:00, other than for access and egress, when events involving amplified music are taking place.

Prominent, clear and legible notices will be displayed at all public exits requesting the public to respect the needs of local residents and to leave the premises quickly and quietly.

e) The protection of children from harm

A challenge 25 scheme will be adopted in compliance with the age verification condition. Customers who appear be under 25 years of age will be required to prove their age when purchasing alcohol. Suitable forms of identification will be a passport, 'pass' card or other identification recognised by the licensing authority in its statement of licensing policy.

Checklist: **Please tick to indicate agreement**

- I have made or enclosed payment of the fee. ☒
- I have enclosed the plan of the premises. ☒
- I have sent copies of this application and the plan to responsible authorities and others where applicable. ☐
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable. ☒
- I understand that I must now advertise my application. ☒
- I understand that if I do not comply with the above requirements my application will be rejected. ☒
- [Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents demonstrating my entitlement to work in the United Kingdom (please read note 15). ☒

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.

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

Part 4 – Signatures (please read guidance note 11)

Signature of applicant or applicant's solicitor or other duly authorised agent (see guidance note 12). **If signing on behalf of the applicant, please state in what capacity.**

Declaration	~~[Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15).~~ • The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licesable activity) and I have seen a copy of his or her proof of entitlement to work, if appropriate (please see note 15)
Signature	Licensing Lawyers
Date	25/01/2019
Capacity	Solicitors and agents for the applicant

For joint applications, signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent (please read guidance note 13). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 14) **Licensing Lawyers, The Old Counting House, 82e High Street**			
Post town	**Wallingford**	Postcode	**OX10 0BS**
Telephone number (if any)	**0844 556 1192**		
If you would prefer us to correspond with you by e-mail, your e-mail address (optional) **applications@licensinglawyers.co.uk**			

Notes for Guidance

1. Describe the premises, for example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.
2. In terms of specific regulated entertainments please note that:
    - Plays: no licence is required for performances between 08:00 and 23.00 on any day, provided that the audience does not exceed 500.
    - Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
    - Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
    - Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
    - Live music: no licence permission is required for:
        - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
        - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
        - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
        - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
        - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
    - Recorded Music: no licence permission is required for:
        - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
        - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
        - any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

APPENDIX RF-2

THAMES VALLEY POLICE

Division/Station : Reading Police Station Licensing Dept

From : C2107 Declan Smyth To : Reading Borough Council

Ref :Berkshire Restaurant Ltd, 130-134 Wokingham Road, Reading, RG6 1JL

Subject : Date :21st February 2019

Objection

To whom it may concern

I C2107 Declan Smyth on behalf of the Chief Officer of Thames Valley Police wish to formally object to the proposed application for a premises licence submitted by Berkshire Restaurant Ltd, 130-134 Wokingham Road, Reading, RG6 1JL (currently Miah's Garden Of Gulub) as it is believed that this application is likely to undermine the Licensing objectives with specific regard to that of the prevention of crime and disorder.

Thames Valley Police have established direct links between the applicant Berkshire Restaurant Ltd (James Southern) and the current premises licence holder, designated premises supervisor and directors of Miah's (Reading) Limited.

Thames Valley Police believe that there is a likely potential that the new applicant will either maintain business links with the current owners and management of the business; or will have a direct involvement on their behalf i.e. acting as a "front" for the business. Thus allowing them to maintain control of the restaurant and circumvent the current ongoing licence revocation decision that was made in 2018 by the Reading Borough Council Licensing Sub-Committee.

The background to concerns at the premises are as follows:-

On 13th May 2018 – Home office immigration inspected the premises and discovered five illegal workers within the restaurant.

On 30th August 2018 – Home Office Immigration submitted a premises licence review in relation to Miah's Garden of Gulab, 130-134 Wokingham Road, Reading, RG6 1JL.

On 20th September 2018 – Thames Valley Police submitted a representation in support of the Home Office premises licence review.

On 8th October 2018 – An application to transfer the premises licence and vary the designated premises supervisor from Jamshed Miah to his son Mouadjal Miah was received.

On 16th October 2018 – Thames Valley Police objected to the PLH transfer on the grounds that it was believed this step was taken to **1) circumvent the licensing process** and **2) due to the direct links between the applicant and previous PLH and DPS and exceptional circumstances of the case this would lead to the undermining of the licensing objectives, and specifically the prevention of crime and disorder.**

On 25rd October 2018 – The review hearing was held and a decision to revoke the licence was taken by the licensing sub-committee (Decision currently under appeal by the appellant)

On 8th November 2018 – A hearing was held in relation to the application to transfer the licence and vary the DPS from Mr Jamshed Miah to Mr Mouadjal Miah. The decision by the sub-committee was to refuse both applications.

On 27th January 2019 – Licensing Lawyers submitted an application for a new premises licence for Berkshire Restaurant Ltd, 130-134 Wokingham Road, Reading (The site of Miah's Garden Of Gulub) under the directorship of Mr James Southern.

The opening line of the covering letter attached to the premises licence application reads **"*Further to our previous correspondence, we are pleased to report that negotiations have concluded with a new operator in respect of the above premises, for whom we also act.*"**

This opening sentence suggests that this application is made on behalf of "a new" operator; and we believe is thus written in a manner to suggest a total separation from the current premises licence holder and previous owners and associates of the Miah family.

As the sub-committee may be aware Thames Valley Police have suggested throughout the process that has been undertaken involving this premises over the past five months that the Miah family and associated business partners have undertaken a number of steps to circumvent the licensing process by adding and subtracting various company directors and applying for licence transfers, whilst always maintaining overall control of the business.

On this occasion the application submitted clearly suggests a separation from the current incumbents at this premises.

However, Thames Valley Police suspect this to be a misleading statement for the following reasons:

1) The address of Berkshire Restaurant Ltd was changed on 21/01/2019 from the home address of Mr Southern to [redacted] Shinfield Rise, RG2 8EA.

2) A voters register check completed on 29th January 2019 confirms that Mr Southern is not registered at the address, and in fact five other persons are registered at the address. Four of whom share the surname "Islam".

3) One of these persons Mr Abadul Islam (also currently shares a surname with a current Miah's (Pangbourne Ltd) director Fakrul Islam).

4) Mr Abadul Islam has also been linked to the current owners of Miah's in the following way:

i) On 7th September 2010 Thames Valley Police recorded an incident of theft at [redacted] Shinfield Rise. The named person reporting the incident was Mr Jamshed Miah with his address provided at the time as Miahs'Indian Restaurant, Basingstoke Road, Spencers Wood.
The aggrieved listed by Mr Miah on the crime report was Mr Abadul Islam who provided his address as The Garden of Gulab, 130 Wokingham Road, Reading. (This is the second of three Miahs restaurants)

This provides a direct link between the address at [redacted] Shinfield Rise and both Jamshed Miah (the father of Mouadjal Miah) and Mr Abadul Islam.

ii) On 1st December 2011 Mr Abadul Islam is named as involved in an incident which took place at the Garden of Gulab. He is clearly within the notes discussed as a member of staff which again provides a link between himself as an employee and the Miahs chain of restaurants.

Therefore Thames Valley Pollice are again of the opinion that this is a further attempt to circumvent the licensing decision to revoke this premises licence by the submission of an application that purports to be “a new” application but is in effect an application by persons with direct links to the Miah family and its associates and business partners.

The application suggests total separation and a new operator; but is in fact suspected to be another attempt by them to maintain control of the premises under the façade of a brand new and unlinked operator.

Clearly due to the serious immigration offences committed at the premises under its current licence, as well as poor licensing compliance you may understand that there is even more concern in relation to this application due to the very real possibility of tangible links between Berkshire Restaurant Ltd and their association to Jamshed Miah, Mouadjal Miah and other linked business associates.

The concern of Thames Valley Police as previously discussed is that this application has been made in an attempt to circumvent the current review process relating to this premises licence revocation, and if granted will likely lead to the continuation of poor practice and a failure to uphold the licensing objectives.

We strongly recommend that based on these concerns extreme scrutiny and due diligence be carried out by the licensing sub-committee to ensure that this is indeed a “New” application, and not a “rebranded” application that will likely undermine the four licensing objectives.

In a recent appeal court judgement in June 2018 District Judge Julie Cooper at Camberwell Green Magistrates Court regarding Peckham Food & Wine v London Borough of Southwark upheld the decision of the London Borough of Southwark to revoke a convenience store’s premises licence following allegations of illegal workers being employed.

The Council argued, in reliance on Griffiths LJ’s observations in R v Knightsbridge Crown Court ex p International Sporting Club (London) Ltd [1982] 1 QB 304**, that it risks bringing the licensing regime into disrepute if reckless licence holders can avoid the consequences of their behaviour by simply transferring the licence into someone else’s name or selling the business when they got caught and so, effectively, get away with it. The deterrent effect of licensing enforcement would be lost and licensing authorities are right to take a robust stance against such transfers, particularly those which appeared to be a ruse.**

Furthermore, As stated by Justice Jay within the East Lindsey District Council V Abu Hanif appeal:

“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 Licensing Objectives are therefore prospective and preventative, and as such we submit that in order to ensure that the licensing objectives are upheld with specific regard to the prevention of crime and disorder that this application should be refused.

Appendices:-

Appendix TVP 1 – Berkshire Restaurant Ltd Companies House report (as of 14/02/2019)

Appendix TVP 2 – Voters register linked to [redacted] Shinfield Rise, RG2 8EA (as of 29/01/2019)

Appendix TVP 3 – Crime occurrence at [redacted] Shinfield Rise on 07/09/2010 linking Jamshed miah and Abadul Islam.

Appendix TVP 4 – Crime occurrence linked to Garden of Gulab, 130 Wokingham Road, detailing Mr Abadul Islam as a member of staff working with or for the Miah family.

Appendix TVP 5 – Current Miahs'(Reading) limited Companies House report detailing the current directors.

Appendix TVP 6 – Thames Valley Police review representation dated 20/09/2018.

Appendix TVP 7 – Thames Valley Police premises licence transfer objection dated 14/10/2018.

Appendix TVP 8 – Peckham Food & wine V London Borough of Southwark.

Appendix TVP 9 – East Lindsey District Council V Abu Hanif T/A Zaras Restaurant and Takeaway.

TVP 1

BERKSHIRE RESTAURANT LTD

Company number **11734653**

Follow this company | File for this company

Overview | Filing history | People

Registered office address
[redacted]**Shinfield Rise, Reading, England, RG2 8EA**

Company status
Active

Company type
Private limited Company

Incorporated on
19 December 2018

Accounts

First accounts made up to **31 December 2019**
due by **19 September 2020**

Confirmation statement

First statement date **18 December 2019**
due by **1 January 2020**

Nature of business (SIC)

Companies House

AD01 (ef)

Change of Registered Office Address

Company Name: **BERKSHIRE RESTAURANT LTD**
Company Number: **11734653**

Received for filing in Electronic Format on the: **21/01/2019**

X7XNAR36

New Address Details

New Address: **[redacted]SHINFIELD RISE**
READING
ENGLAND
RG2 8EA

Please Note:
The change in the Registered Office does not take effect until the Registrar has registered this form. For 14 days, beginning with the date that a change of Registered Office is registered, a person may validly serve any documentation on the company at its previous Registered Office.

Authorisation

Authenticated

This form was authorised by one of the following:

Director, Secretary, Person Authorised, Liquidator, Administrator, Administrative Receiver, Receiver, Receiver Manager, Charity Commission Receiver and Manager, CIC Manager, Judicial Factor.

BERKSHIRE RESTAURANT LTD

Company number **11734653**

Follow this company | File for this company

Overview | Filing history | People

Officers | Persons with significant control

Filter officers

☐ Current officers

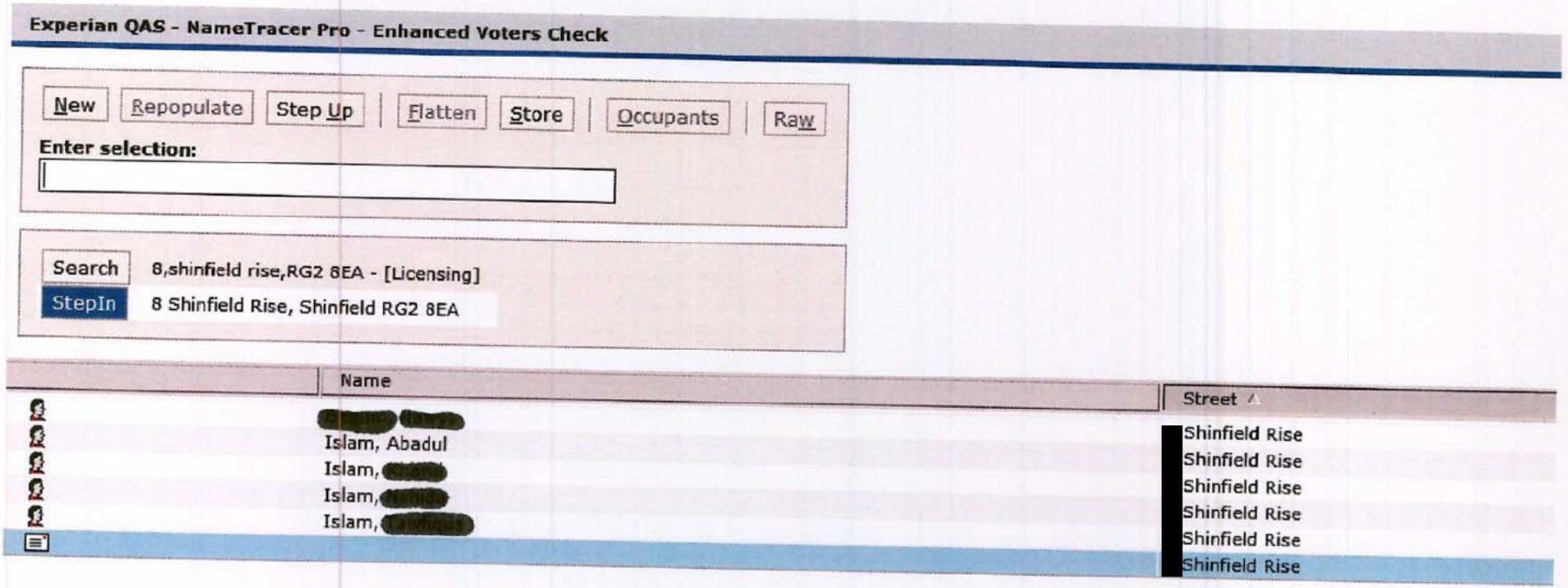
1 officer / 0 resignations

SOUTHERN, James

Correspondence address
[redacted]**Adwell Drive, Lower Earley, Reading, Berkshire, United Kingdom, RG6 4JY**

Role	Date of birth	Appointed on
ACTIVE **Director**	**March 1985**	**19 December 2018**

Nationality	Country of residence	Occupation
British	**United Kingdom**	**Security Manager**



Voters register search completed on 29th January 2019 at 12:48 hours, for the current recorded address in relation to Berkshire Restaurant Ltd.

TVP 2

Occurrence details

Thames Valley Police

Printed: 29/01/2019 13:36

Occurrence: **EF3667817/10**

Occurrence details:

Report no.:	EF3667817/10
Occurrence Type:	Theft Not Classified Elsewhere [49.10]
Occurrence time:	06/09/2010 17:30 - 07/09/2010 07:30
Reported time:	07/09/2010 16:07
Place of offence:	[redacted]SHINFIELD RISE, SHINFIELD RISE ESTATE, READING, BERKSHIRE RG2 8EA (County: BERKSHIRE, Neighbourhood: EF FIELDS, LPA: Wokingham) (CEDAR Beat Code - EF07 COA Reference - W1330 CEDAR RV Count - 13)
Clearance status:	Filed
Concluded:	Yes
Concluded date:	08/09/2010
Summary:	
Remarks:	

Associated tasks:

Associated occurrences:

Involved persons:

- MIAH, JAMSHED / Reported by / DOB: 10/10/1964 (54) Gender: Male (MIAHS INDIAN RESTAURANT, BASINGSTOKE ROAD, SPENCERS WOOD, READING, BERKSHIRE RG7 1AE (County: BERKSHIRE, Neighbourhood: EF FIELDS, LPA: Wokingham) (CEDAR Beat Code - EF08 COA Reference - W1332 CEDAR RV Count - 22)) Id #: 91992712
  (Land line) [redacted]
  (Land line)
  (Land line)
- ISLAM, ABADUL / Aggrieved / DOB: [redacted](38) Gender: Male (THE GARDEN OF GULAB, 130 WOKINGHAM ROAD, READING, BERKSHIRE RG6 1JL (County: BERKSHIRE, Neighbourhood: EA REDLANDS / PARK, LPA: Reading) (CEDAR Beat Code - EA59 COA Reference - X1267 CEDAR RV Count - 19)) Id #: 93170620
  (Mobile) [redacted]

Involved addresses:

- [redacted]SHINFIELD RISE / Occurrence address / READING RG2 8EA (County: BERKSHIRE, Neighbourhood: EF FIELDS, LPA: Wokingham)

Involved comm addresses:

Involved vehicles:

Involved officers:

- Reporting officer / 9 / WHITTLESEA, L. / #XC1590 / LIVE / Inactive employee / 07/09/2010 / 20100907 --:--:--:--
-
- Officer in case / 9 / BRC-STAFF MEMBER NOT FOUND. CHECK REMARKS / #Z0001 / LIVE / Police other / 08/09/2010 / 20100908 --:--:--:---

TVP 3

Involved property:

- [Garden: Gate] Value:500.00 (CEDAR Property type - Major: BUILD.MATRLS/FIXTURES/FITTINGS Minor: GATES/FENCING / Other: PANELS & POSTS / Identifiable Indicator: N / Antique Indicator: N /) (Stolen)
- [Building materials: Guttering/Pipes] Value:600.00 (CEDAR Property type - Major: BUILD.MATRLS/FIXTURES/FITTINGS Minor: PIPING / Other: COPPER PIPING / Identifiable Indicator: N / Antique Indicator: N /) (Stolen)

Modus operandi:

- Location: Public/open place/Park/garden.

Author: *Report time:*

Entered by: *Entered time:*

Reports:

Occurrence enquiry log:

Type	*Entry time*	*Event time*	*Author*	*Link*	*Log entry*
Notes	07/09/2010 16:20		#XC1590 WHITTLESEA, L.	No	CEDAR USER: C1590 BMT OFFENDERS UNKNOWN HAVE WALKED AROUND SIDE OF OFF LOC INTO REAR GARDEN AND STOLEN FENCING PANELS & POSTS AND COPPER PIPING THAT WAS BEING STORED UNDER SHEETING IN GARDEN. OFF LOC IS CURRENTLY UNDER RENOVATION ATT. AGGD STATES THAT THIS IS ABOUT THE THIRD TIME THAT ITEMS HAVE BEEN STOLEN FROM OUTSIDE OFF LOC. RB HAS SPOKEN WITH NEIGHBOURS & NO ONE REPORTS SEEING ANYTHING SUSPICIOUS DESPITE FACT THAT OFFENDERS UNKNOWN WOULD HAVE NEEDED A VEHICLE TO TRANSPORT THE STOLEN ITEMS. NO CCTV. NO SOCO POTENTIAL NOTED.
Notes	08/09/2010 08:51			No	CEDAR USER: C0651 VIEWED CIMU. NO KNOWN WITNESSES SUSPECTS OR CCTV ATT. NEG ISO AND ISC OF BEATCODE BMT. NEG QBE OF SAME. AT THIS TIME THERE ARE NO FURTHER LINES OF ENQUIRIES OR IT IS NOT ECONOMICAL, REASONABLE OR PROPORTIONATE TO PROCEED WITH ANY FURTHER ENQUIRIES INTO THIS MATTER. INVESTIGATION CONCLUDED AT THIS TIME PENDING FURTHER INFORMATION COMING TO LIGHT NO SI SCREENED OUT WITH AGREEMENT FROM SGT IAN LAY 2948. FILED 1A2A3A4A5B COMPLIED WITH.

Occurrence details

Thames Valley Police

Printed: 29/01/2019 13:38

Occurrence: **EA3954266/11**

Occurrence details:

Report no.:	EA3954266/11
Occurrence Type:	Assault Without Injury [105.A]
Occurrence time:	01/12/2011 16:30 - 01/12/2011 16:30
Reported time:	01/12/2011 19:42
Place of offence:	THE GARDEN OF GULAB, 130 WOKINGHAM ROAD, READING, BERKSHIRE RG6 1JL (County: BERKSHIRE, Neighbourhood: EA REDLANDS / PARK, LPA: Reading) (CEDAR Beat Code - EA59 COA Reference - X1267 CEDAR RV Count - 19)
Clearance status:	Filed
Concluded:	Yes
Concluded date:	03/01/2012
Summary:	
Remarks:	

Associated tasks:

Associated occurrences:

Involved persons:

- ISLAM, [redacted] DOB: [redacted] (43) Gender: Male (THE GARDEN OF GULAB, 130 WOKINGHAM ROAD, READING, BERKSHIRE RG6 1JL (County: BERKSHIRE, Neighbourhood: EA REDLANDS / PARK, LPA: Reading) (CEDAR Beat Code - EA59 COA Reference - X1267 CEDAR RV Count - 19)) Id #: 93245280
  (Mobile) [redacted]
- [redacted] DOB: [redacted] (39) Gender: Male [redacted] (County: BERKSHIRE, Neighbourhood: LF BRACKNELL CENTRAL SOUTH, LPA: BracknellForest) (CEDAR Beat Code - LF16 COA Reference - Z1245 CEDAR RV Count - 3)) Id #: 92260978
  (Mobile) 07886982533
- ISLAM, ABADUL / [redacted] DOB: [redacted] (38) Gender: Male (THE GARDEN OF GULAB, 130 WOKINGHAM ROAD, READING, BERKSHIRE RG6 1JL (County: BERKSHIRE, Neighbourhood: EA REDLANDS / PARK, LPA: Reading) (CEDAR Beat Code - EA59 COA Reference - X1267 CEDAR RV Count - 19)) Id #: 93170620
  (Mobile) [redacted]

Involved addresses:

- THE GARDEN OF GULAB 130 WOKINGHAM ROAD / Occurrence address / READING RG6 1JL (County: BERKSHIRE, Neighbourhood: EA REDLANDS / PARK, LPA: Reading)

Involved comm addresses:

Involved vehicles:

Involved officers:

- Reporting officer / 9 / BRC-STAFF MEMBER NOT FOUND. CHECK REMARKS / #Z0001 / LIVE / Police other / 01/12/2011 / 20111201 --:--:--:---

- Officer in case / 9 / JENKINS, J. / #P6634 / LIVE / Police officer / LOCAL CID TEAM 6 - READING LPA / #P6835 CHEN, J. / 02/12/2011 / 20111202 --:--:--:---
- Officer in case / 9 / BRC-STAFF MEMBER NOT FOUND. CHECK REMARKS / #Z0001 / LIVE / Police other / 01/12/2011 / 20111201 --:--:--:---

Involved property:

- [Weapons: Weapons - other] (CEDAR Firearm / Weapon Type: 8 - PHYSICAL /) (Used in commission of crime)
- [Personal accessories: Mobile phone] SAMSUNG Value:40.00 (CEDAR Property type - Major: COMMUNICATIONS Minor: MOBILE PHONE / Other: / Colour: BLACK / Distinguishing Marks: TEL [redacted] dentifiable Indicator: N / Antique Indicator: N /) (Sto

Modus operandi:

- Location: Hospitality/Restaurant. Weapons used: Other weapons.

Author: *Report time:*
Entered by: *Entered time:*

Reports:

Occurrence enquiry log:

Type	*Entry time*	*Event time*	*Author*	*Link*	*Log entry*
Notes	01/12/2011 19:42		#C2076 STEVENS, E.	No	CEDAR USER: C2076 ORC
Notes	01/12/2011 19:52		#C2076 STEVENS, E.	No	CEDAR USER: C2076 AGGD HAS BEEN WORKING IN RESTAURANT FOR APPROX 2 DAYS. A MEETING WAS HELD TONIGHT REGARDING HOW BEST TO DEAL WITH BIGGER NUMBER OF CUSTOMERS. THIS LED TO A DISAGREEMENT BETWEEN AGGD AND OTHER MEMBERS OF STAFF. AGGD GOT UPSET AND DECIDED TO LEAVE AT WHICH POINT HE WAS STOPPED FROM LEAVING AND PUNCHED IN THE HEAD A NUMBER OF TIMES. AGGD HAS MANAGED TO BREAK FREE AND RUN INTO STREET AND CALL POLICE. AGGD WAS PURSUED BY MALES BEFORE POLICE INTERVENTION.
Notes	01/12/2011 21:28		#C1732 BEAUMONT, R.	No	CEDAR USER: C1732 FURTHER UPDATE - ANOTHER SUSPECT ADDED (AI)
Notes	02/12/2011 02:10		#P6634 JENKINS, J.	No	CEDAR USER: P6634 SUSPECTS HAVE BEEN INTERVIEWED AND BAILED PENDING ENQUIRIES INTO CCTV
Notes	02/12/2011 08:04		#C0560 MELLOR, M.	No	CEDAR USER: C0560 SCRUTINEERREVIEW (MM) COMPLETE FLAG SET CLASSIFICATION APPEARS CORRECT FROM THE INFORMATION AVAILABLE UPDATE FROM CUSTODY PIC SHEET SUSPECTS (X2) ARRESTED AND BAILED FOR FURTHER ENQUIRIES
Notes	02/12/2011 12:24		#XC1748 WOOD, E.	No	CEDAR USER: C1748 AGGD CALLING FOR UPDATE. I HAVE ADVISED HIM THAT OFFICERS WILL BE LOOKING INTO CCTV FROM SIG. AGGD IS WORRIED ABOUT REPERCUSSIONS, 9'S ADVICE GIVEN. OIC TO CALL AGGD WHEN BACK ON DUTY PLEASE.
Notes	02/12/2011 14:21			No	CEDAR USER: C4473 CALL BACK FROM THE AGGD HE WOULD LIKE TO ADD SOME INFORMATION TO HIS STATMENT AND WOULD LIKE TO OIC TO MAKE CONTACT PLEASE
Notes	02/12/2011 20.22			No	CEDAR USER: C1624 FURTHER CALL FROM THE AGGD.. HE BELIEVES HIS PHONE WAS LOST IN THE COURSE OF THE INCIDENT.. DETAILS ADDED TO PROPERTY SCREEN..
Notes	11/12/2011 10:24		#C1017 MURPHY, S.	No	CEDAR USER: C1017 AGGD CALLED ASKING FOR THE OIC TO MAKE CONTACT WITH ANY UPDATES
Notes	22/12/2011 14:04		#P6634 JENKINS, J.	No	CEDAR USER: P6634 ALL OTHER LINES OF NEQUIRY COMPLETED, NAMELY CCTV. THERE ARE NO NEW LINES OF EVIDENCE. IT IS THE AGGD WORD AGAINST THE TWO SUSPECTS. NO CCTV. NO CRIME PROPERTY. THE VICTIM HAS BEEN UPDATED THAT THE SUSPECTS WILL BE RELEASED FROM BAIL - NFA.
Notes	23/12/2011 09:12		#C9004 BATEMAN, I.	No	CEDAR USER: C9004 SCRUTINEER (IDB) REVIEW UPDATED FROM CUSTODY PIC SHEET SUSPECTS (AI & AI) ARRESTED AND RELEASED NFA
Hist - BRC arrest	21/11/2014 17:15			No	CEDAR ARREST RECORD DETAILS Custody Ref: 43EU10157/11 Arrest Disposal Type: N/A Arrest Disposal Date: N/A Arrest Disposal - Charged: N Bail Details Bail Details - Time of Return: N/A Bail return location: N/A Bail Details - Bail Conditions / notes: N/A Imposed by: N/A Refused Charge / NFA (If relevant) Refused Charge: Y Refused Charge / NFA Reason: N/A Refused Charge NFA Other Reason: N/A Court Details Court Date: N/A Court Details: N/A
Hist - BRC arrest	21/11/2014 17:15			No	CEDAR ARREST RECORD DETAILS Custody Ref: 43EU10158/11 Arrest Disposal Type: N/A Arrest Disposal Date: N/A Arrest Disposal - Charged: N Bail Details Bail Details - Time of Return: N/A Bail return location: N/A Bail Details - Bail Conditions / notes: N/A

					Imposed by: N/A Refused Charge / NFA (If relevant) Refused Charge: Y Refused Charge / NFA Reason: N/A Refused Charge NFA Other Reason: N/A Court Details Court Date: N/A Court Details: N/A
Hist - BRC arrest	21/11/2014 17:15	23/12/2011 09:11	#C9004 BATEMAN, I.	No	CEDAR USER: C9004 CEDAR ARREST DISPOSAL HISTORY RECORD DETAILS Custody Ref: 43EU10157/11 Arrest Disposal Type: N/A Arrest Disposal Relevant Date: 2011-12-23 09:11:46 Arrest Disposal - Charged: N Bail Details Bail Details - Time of Return: N/A Bail return location: N/A Bail Details - Bail Conditions / notes: N/A Imposed by: N/A Refused Charge / NFA (If relevant) Refused Charge: Y Refused Charge / NFA Reason: N/A Refused Charge NFA Other Reason: N/A Court Details Court Date: N/A Court Details: N/A
Hist - BRC arrest	21/11/2014 17:15	23/12/2011 09:12	#C9004 BATEMAN, I.	No	CEDAR USER: C9004 CEDAR ARREST DISPOSAL HISTORY RECORD DETAILS Custody Ref: 43EU10158/11 Arrest Disposal Type: N/A Arrest Disposal Relevant Date: 2011-12-23 09:12:17 Arrest Disposal - Charged: N Bail Details Bail Details - Time of Return: N/A Bail return location: N/A Bail Details - Bail Conditions / notes: N/A Imposed by: N/A Refused Charge / NFA (If relevant) Refused Charge: Y Refused Charge / NFA Reason: N/A Refused Charge NFA Other Reason: N/A Court Details Court Date: N/A Court Details: N/A
Hist - BRC arrest	21/11/2014 17:15	02/12/2011 08:03	#C0560 MELLOR, M.	No	CEDAR USER: C0560 CEDAR ARREST DISPOSAL HISTORY RECORD DETAILS Custody Ref: 43EU10157/11 Arrest Disposal Type: 47(3) Bail Arrest Disposal Relevant Date: 2011-12-02 08:03:17 Arrest Disposal - Charged: N Bail Details Bail Details - Time of Return: 13:30:00.0000000 Bail return location: Loddon Valley Bail Details - Bail Conditions / notes: N/A Imposed by: N/A Refused Charge / NFA (If relevant) Refused Charge: N/A Refused Charge NFA Other Reason: N/A Court Details Court Date: N/A Court Details: N/A
Hist - BRC arrest	21/11/2014 17:15	02/12/2011 08:03	#C0560 MELLOR, M.	No	CEDAR USER: C0560 CEDAR ARREST DISPOSAL HISTORY RECORD DETAILS Custody Ref: 43EU10158/11 Arrest Disposal Type: 47(3) Bail Arrest Disposal Relevant Date: 2011-12-02 08:03:41 Arrest Disposal - Charged: N Bail Details Bail Details - Time of Return: 14:30:00.0000000 Bail return location: Loddon Valley Bail Details - Bail Conditions / notes: N/A Imposed by: N/A Refused Charge / NFA (If relevant) Refused Charge: N/A Refused Charge NFA Other Reason: N/A Court Details Court Date: N/A Court Details: N/A

Companies House

BETA This is a trial service — your feedback (https://www.research.net/r/chbeta) will help us to improve it.

Search for companies

MIAH'S (READING) LIMITED

Company number **04246311**

Registered office address
130-134 Wokingham Road, Reading, RG6 1JL

Company status
Active

Company type
Private limited Company

Incorporated on
4 July 2001

Accounts

Next accounts made up to **31 July 2018**
due by **30 April 2019**

Last accounts made up to **31 July 2017**

Confirmation statement

Next statement date **12 November 2019**
due by **26 November 2019**

Last statement dated **12 November 2018**

Nature of business (SIC)

- 56101 - Licensed restaurants

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Companies House

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Search for companies

MIAH'S (READING) LIMITED

Company number **04246311**

- Officers
- Persons with significant control (https://beta.companieshouse.gov.uk/company/04246311/persons-with-significant-control)

Filter officers

☐ Current officers

Apply filter

6 officers / 4 resignations

FAKRUL, Islam

Correspondence address [redacted] **Hillside, Maidenhead, Berkshire, SL6 2RX**

Role Active **Director**

Date of birth **July 1962**

Appointed on **30 October 2001**

Nationality **British**

Country of residence **United Kingdom**

Occupation **Company Director**

MIAH, Mouadjul Mohammed

Correspondence address **130-134 Wokingham Road, Reading, RG6 1JL**

Role Active **Director**

Date of birth **August 1998**

Appointed on **20 October 2018**

Nationality **British**

Country of residence **England**

Occupation **Co Ordinator**

MIAH, Jamshed

Correspondence address [redacted] **Elm Road, Earley, Reading, RG6 5TB**

Role Resigned **Secretary**

Appointed on **6 July 2001**

Resigned on **9 November 2018**

Nationality **British**

Occupation **Restaurateur**

HCS SECRETARIAL LIMITED

Correspondence address [redacted] **Upper Belgrave Road, Clifton, Bristol, Uk, BS8 2XN**

Role Resigned **Nominee Secretary**

Appointed on **4 July 2001**

Resigned on **6 July 2001**

MIAH, Jamshed

Correspondence address [redacted] **Elm Road, Earley, Reading, RG6 5TB**

Role Resigned **Director**

Date of birth **October 1964**

Appointed on **6 July 2001**

Resigned on **12 November 2018**

Nationality **British**

Country of residence **England**

Occupation **Restaurateur**

HANOVER DIRECTORS LIMITED

Correspondence address [redacted] **Upper Belgrave Road, Bristol, BS8 2XN**

Role Resigned **Nominee Director**

Appointed on **4 July 2001**

Resigned on **6 July 2001**

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Companies House

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Search for companies

MIAH'S (READING) LIMITED

Company number **04246311**

- Officers (https://beta.companieshouse.gov.uk/company/04246311/officers)
- Persons with significant control

1 active person with significant control / 0 active statements

Mr Mouadjul Mohammed Miah Active

Correspondence address **130-134 Wokingham Road, Reading, RG6 1JL**

Notified on **20 October 2018**

Date of birth **August 1998**

Nationality **British**

Nature of control **Ownership of shares – More than 50% but less than 75%**

Country of residence **England**

Mr Fakrul Islam Ceased

Correspondence address **130-134 Wokingham Road, Reading, RG6 1JL**

Notified on **4 July 2016**

Ceased on **9 November 2018**

Date of birth **July 1962**

Nationality **British**

Nature of control **Ownership of shares – More than 25% but not more than 50%**

Country of residence **England**

Mr Jamshed Miah Ceased

Correspondence address **130-134 Wokingham Road, Reading, RG6 1JL**

Notified on **4 July 2016**

Ceased on **8 November 2018**

Date of birth **October 1964**

Nationality **British**

Nature of control **Ownership of shares – More than 25% but not more than 50%**

Country of residence **England**

Mr Jamshed Miah Ceased

Correspondence address **130-134 Wokingham Road, Reading, RG6 1JL**

Notified on **6 April 2016**

Ceased on **9 November 2018**

Date of birth **October 1964**

Nationality **British**

Nature of control **Ownership of shares – More than 25% but not more than 50%**

Country of residence **England**

Mr Jamshed Miah Ceased

Correspondence address **130-134 Wokingham Road, Reading, RG6 1JL**

Notified on **6 April 2016**

Ceased on **9 November 2018**

Date of birth **October 1964**

Nationality **British**

Nature of control **Ownership of shares – 75% or more**

Country of residence **England**

Is there anything wrong with this page?

THAMES VALLEY POLICE

Division/Station : Reading Police Station Licensing Dept

From : C2107 Declan Smyth To : Reading Borough Council

Ref : Miah's Garden Of Gulab, 130-134 Wokingham Road, Reading, RG6 1JL Date : 20th September 2018

Subject :

Supportive review representation

I C2107 Declan Smyth on behalf of the Chief Officer of Thames Valley Police wish to provide this representation in support of the review process relating to Miah's Garden Of Gulab, 130-134 Wokingham Road, Reading, RG6 1JL.

This representation is based on this premises and Mr Jamshed Miah complany's failure to uphold the licensing objectives by committing offences in relation to immigration and the employment of illegal workers, as well as various breaches of the licence conditions.

Therefore this representation gives due regard to the failure of this premises, Mr Jamshed Miah and his complany to support the licensing objective of prevention of crime and disorder as well as impacting negatively on all other licensing objectives.

On 13th May 2018 – The Home Office Immigration and Reading Borough Council (RBC) inspection took place at Miah's Garden Of Gulab,130-134 Wokingham Road, Reading, RG6 1JL.

On arrival at the premises it was confirmed by the Home Office Immigration officers that 5 members of staff working within the premises were working illegally

A Reading Borough Council Licensing enforcement officer carried out an inspection of the premises licence during this process and found:

1. Part A of the premises licence was not available for inspection.
2. A current copy of summary Part B of the premises licence was not displayed.
3. The premises was not displaying a Section 57 (in relation to Part A Premises licence).
4. The manager could not produce an authorisation list in regard to which staff can sell alcohol under the personal licence.
5. The manager could not confirm what age verification policy that is in place.
6. A premise plan was not available for inspection.
7. The manager could not produce staff training records to show that they have trained the staff about the licensing Act 2003.
8. The manager did not know what the four licensing objectives are.

Thames Valley Police are also aware that of the three Miah's restaurants included within the local Bekshire chain that currently all of them have been found employing illegal workers within a four month period in 2018, and all premises licences are currently now under review.

(Please see Appendix TVP-Miah's-1 and TVP-Miah's-2)

On 26th June 2018 –Of Pangbourne, 26 Reading Road, Pangbourne, Reading, Berkshire, RG8 7LY.
As a result of this visit 2 Bangladeshi nationals were arrested as persons liable to be detained and served papers as overstayers and illegal entrants respectively. Both subjects were detained. 1 Bangladeshi male was escorted off of the premises having been working illegally and served papers to report to the home office whilst his case is decided. All 3 males were named on the Civil Penalty Illegal working notice.

On 10th August 2018 - The Home Office Immigration conducted an enforcement visit at Miah's, Spencers Wood, Tankerton House, Basingstoke Road, Spencers Wood, Berkshire, RG7 1AE.
There were 5 males in the kitchen. Of the 5 in the kitchen, 1 was reported to the Home Office and was not seen working, with all parties denying that he worked there. He was asked to leave the premises.
The other 4 males in the kitchen were found to be in the UK illegally with no right to work. All 4 were arrested and detained.

We understand that you must consider the elements of this case singularly and on its own merit, but we believe that it is pertinent for you to understand that the employment of illegal workers and poor compliance with the Licensing Act 2003 legislation is endemic of this Premises Licence Holder Mr Miah's premises.

It is the job of any responsible employer to ensure that the correct right to work checks are carried out. Carrying out right to work checks has been a requirement since the late 1990's and this is underpinned by the various Immigration Acts:

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 licence holder is exploiting potentially vulnerable people and engaging in a multitude of criminal offences by employing them at all 3 of the licensed premises within the Berkshire area. These offences are covered under a multitude of different pieces of legislation and clearly engage the crime and disorder licensing objective.

In conclusion we have a host of issues relating to this premises and the holding company including the employment of illegal workers and a number of breaches of licence conditions and noncompliance.

In itself the employment of an illegal worker is enough to consider a revocation of this licence, and as such the employment of illegal workers is a criminal activity which has serious impacts on society and can in certain circumstances have a serious and real implications connected to modern day slavery.

The current Secretary of State Guidance pursuant to the Licensing Act 2003 specifically deals with this in section 11.27 & 11.28

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 the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
• For the sale and distribution of illegal firearms;
• For the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
• For the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
• For prostitution or the sale of unlawful pornography;
• By organised groups of paedophiles to groom children;
• As the base for the organisation of criminal activity, particularly by gangs;
• For the organisation of racist activity or the promotion of racist attacks;
• **For employing a person who is disqualified from that work by reason of their immigration status in the UK;**
• For unlawful gambling; and
• For the sale or storage of smuggled tobacco and alcohol.

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.**

Allowing this premises to continue to operate with the benefit of a premises licence will merely serve to perpetuate the criminal activity and human exploitation already apparent from the findings of the Thames Valley Police and colleagues in Immigration Enforcement.

For these reasons Thames Valley Police respectfully recommend that the licensing Sub-committee take the only appropriate and proportionate step available to them in a situation as serious as this and revoke the licence as the only possible means to promote the licensing objectives and further support the prevention of crime and disorder.

Appendices
TVP-Miah's-1 (Miah's Of Pangbourne, West Berkshir Council review)
TVP-Miah's-2 (Miah's Spencers Wood, Wokingham Council review)

THAMES VALLEY POLICE

Division/Station : Reading Licensing Dept

From : C2107 Declan Smyth

To : Reading Borough Council

Ref : Miah's Garden Of Gulab, 130-134 Wokingham Road, Reading, RG6 Date : 16th October 2018

Subject :

Objection

I C2107 Declan Smyth, Licensing Officer on behalf of the Chief Officer of Thames Valley Police wish to formally object to the proposed application to transfer a Premises Licence from Jamshed Miah to Mouadjul Miah, relating to Miah's Garden Of Gulab, 130-134 Wokingham Road, Reading, RG6 (Premises licence Number LP8000154) under Section 42(6) of the Licensing Act 2003.
(See Appendix TVP-DS-1)

It is believed that the exceptional circumstance of this case is such that the granting of this application for transfer would undermine the crime prevention objective.

This premises licence is currently under review and awaits a hearing date having been discovered in 13th May 2018 to have been employing five illegal workers by Home Office immigration enforcement officers.
(See Appendix TVP – DS-2)

This is further compounded by a number of failures to comply with licensing legislation and breaches of licence conditions discovered in a consequent inspection undertaken by Thames Valley Police.

Thames Valley Police believe that this transfer is an attempt to circumvent the legal process (review proceeding and potential revocation of the licence). We state that due to the close personal relationship existing between the applicant Mr Mouadjul Miah (whom is the son of the current Premises Licence Holder), and Mr Jamshed Miah, who presided over the failings that led to the review of the licence That if this application to transfer the premises licence is allowed to take place that it will undermine the crime prevention objective.

The current Section 182 Secretary of States Guidance provides the following:

8.101 ***In exceptional circumstances where the chief officer of police believes the transfer may undermine the crime prevention objective, the police may object to the transfer.*** *The Home Office (Immigration Enforcement) may object if it considers that granting the transfer would be prejudicial to the prevention of illegal working in licensed premises.*
Such objections are expected to be rare and arise because the police or the Home Office (Immigration Enforcement) have evidence that the business or individuals seeking to hold the licence, or businesses or individuals linked to such persons, are involved in crime (or disorder) or employing illegal workers.

Paragraph 8.101 is quite specific when it states that objections although rare should be based on an exceptional circumstance where the chief officer of police believes the transfer may undermine the crime prevention objective, and where there is evidence that the individual seeking to hold the licence is linked to persons involved in crime or employing illegal workers.

In this circumstance Mr Mouadjul Miah is directly linked to Mr Jamshed Miah, and Mr Jamshed Miah has been involved in employing illegal workers at three of his restaurants in Berkshire, which is also a criminal activity.

Thames Valley Police therefore strongly believe that on the balance of probabilities it is likely that the current applicant is applying for this licence transfer on behalf of the current premises licence holder, and that it is more than possible that he is applying for the role as purely a "figure head", with the objective of enabling a ruse to prevent sanction against the illegal activity carried out within the business.

In a recent recent appeal court judgement in June 2018 District Judge Julie Cooper at Camberwell Green Magistrates Court regarding Peckham Food & Wine v London Borough of Southwark upheld the decision of the London Borough of Southwark to revoke a convenience store's premises licence following allegations of illegal workers being employed.

The Council argued, in reliance on Griffiths LJ's observations in R v Knightsbridge Crown Court ex p International Sporting Club (London) Ltd [1982] 1 QB 304**, that it risks bringing the licensing regime into disrepute if reckless licence holders can avoid the consequences of their behaviour by simply transferring the licence into someone else's name or selling the business when they got caught and so, effectively, get away with it. The deterrent effect of licensing enforcement would be lost and licensing authorities are right to take a robust stance against such transfers, particularly those which appeared to be a ruse.**
(See Appendix TVP-DS-3)

In conclusion Thames Valley Police submit that this application in relation to Mouadjul Miah constitutes exceptional circumstances, and therefore invite the Sub-Committee to refuse this application as it may specifically undermine the licensing objective for the prevention of crime and disorder, and is unlikely to promote the licensing objectives as a whole.

Appendices

APPENDIX TVP-DS-1 – Licensing Act 2003 Section 42

APPENDIX TVP-DS-2 – Thames Valley Police review representation Miah's Garden Of Gulab, 130-134 Wokingham Road, Reading, RG6 1JL Date: 20th September 2018

APPENDIX TVP-DS-3 – Camberwell Green Magistrates Appeal Court decision June 2018 (Peckham Food & Wine v London Borough of Southwark)

42 Application for transfer of premises licence

(1) Subject to this section, any person mentioned in section 16(1) (applicant for premises licence) may apply to the relevant licensing authority for the transfer of a premises licence to him.

(2) Where the applicant is an individual he must be aged 18 or over.

(2A)Where the applicant is an individual who is resident in the United Kingdom and the premises licence authorises premises to be used for a licensable activity within section 1(1)(a) or (d) he must also be entitled to work in the United Kingdom.

(3) Subsection (1) is subject to regulations under—

(a) section 54 (form etc. of applications etc.);

(b) section 55 (fees to accompany applications etc.).

(4) An application under this section must also be accompanied by the premises licence or, if that is not practicable, a statement of the reasons for the failure to provide the licence.

(5) The relevant person must give notice of the application to the chief officer of police for the police area (or each police area) in which the premises are situated.

(5ZA) Where the premises licence authorises premises to be used for a licensable activity within section 1(1) (a) or (d), the relevant person must also give notice of the application to the Secretary of State.

(5A) In subsections (5) and (5ZA), “relevant person” means—

(a) the relevant licensing authority, in a case where the applicant submitted the application to the relevant licensing authority by means of a relevant electronic facility;

(b) the applicant, in any other case.

(6) Where a chief officer of police notified under subsection (5) is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, he must give the relevant licensing authority a notice stating the reasons why he is so satisfied.

(7) The chief officer of police must give that notice within the period of 14 days beginning with the day on which he is notified of the application under subsection (5).

(8) Where the Secretary of State is given notice under subsection (5ZA) and is satisfied that the exceptional circumstances of the case are such that granting the application would be prejudicial to the prevention of illegal working in licensed premises, the Secretary of State must give the relevant licensing authority a notice stating the reasons for being so satisfied.

(9) The Secretary of State must give that notice within the period of 14 days beginning with the day on which the Secretary of State is notified of the application under subsection (5ZA).

THAMES VALLEY POLICE

Division/Station : Reading Police Station Licensing Dept

From : C2107 Declan Smyth To : Reading Borough Council

Subject :

Ref : Miah's Garden Of Gulab, 130-134 Wokingham Road, Reading, RG6 1JL Date : 20th September 2018

Supportive review representation

I C2107 Declan Smyth on behalf of the Chief Officer of Thames Valley Police wish to provide this representation in support of the review process relating to Miah's Garden Of Gulab, 130-134 Wokingham Road, Reading, RG6 1JL.

This representation is based on this premises and Mr Jamshed Miah complany's failure to uphold the licensing objectives by committing offences in relation to immigration and the employment of illegal workers, as well as various breaches of the licence conditions.

Therefore this representation gives due regard to the failure of this premises, Mr Jamshed Miah and his complany to support the licensing objective of prevention of crime and disorder as well as impacting negatively on all other licensing objectives.

On 13th May 2018 – The Home Office Immigration and Reading Borough Council (RBC) inspection took place at Miah's Garden Of Gulab,130-134 Wokingham Road, Reading, RG6 1JL.

On arrival at the premises it was confirmed by the Home Office Immigration officers that 5 members of staff working within the premises were working illegally

A Reading Borough Council Licensing enforcement officer carried out an inspection of the premises licence during this process and found:

1. Part A of the premises licence was not available for inspection.
2. A current copy of summary Part B of the premises licence was not displayed.
3. The premises was not displaying a Section 57 (in relation to Part A Premises licence).
4. The manager could not produce an authorisation list in regard to which staff can sell alcohol under the personal licence.
5. The manager could not confirm what age verification policy that is in place.
6. A premise plan was not available for inspection.
7. The manager could not produce staff training records to show that they have trained the staff about the licensing Act 2003.
8. The manager did not know what the four licensing objectives are.

Thames Valley Police are also aware that of the three Miah's restaurants included within the local Bekshire chain that currently all of them have been found employing illegal workers within a four month period in 2018, and all premises licences are currently now under review.

(Please see Appendix TVP-Miah's-1 and TVP-Miah's-2)

On 26th June 2018 –Of Pangbourne, 26 Reading Road, Pangbourne, Reading, Berkshire, RG8 7LY.
As a result of this visit 2 Bangladeshi nationals were arrested as persons liable to be detained and served papers as overstayers and illegal entrants respectively. Both subjects were detained. 1 Bangladeshi male was escorted off of the premises having been working illegally and served papers to report to the home office whilst his case is decided. All 3 males were named on the Civil Penalty Illegal working notice.

On 10th August 2018 - The Home Office Immigration conducted an enforcement visit at Miah's, Spencers Wood, Tankerton House, Basingstoke Road, Spencers Wood, Berkshire, RG7 1AE.
There were 5 males in the kitchen. Of the 5 in the kitchen, 1 was reported to the Home Office and was not seen working, with all parties denying that he worked there. He was asked to leave the premises.
The other 4 males in the kitchen were found to be in the UK illegally with no right to work. All 4 were arrested and detained.

We understand that you must consider the elements of this case singularly and on its own merit, but we believe that it is pertinent for you to understand that the employment of illegal workers and poor compliance with the Licensing Act 2003 legislation is endemic of this Premises Licence Holder Mr Miah's premises.

It is the job of any responsible employer to ensure that the correct right to work checks are carried out. Carrying out right to work checks has been a requirement since the late 1990's and this is underpinned by the various Immigration Acts:

<u>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:</u>
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 licence holder is exploiting potentially vulnerable people and engaging in a multitude of criminal offences by employing them at all 3 of the licensed premises within the Berkshire area. These offences are covered under a multitude of different pieces of legislation and clearly engage the crime and disorder licensing objective.

In conclusion we have a host of issues relating to this premises and the holding company including the employment of illegal workers and a number of breaches of licence conditions and noncompliance.

In itself the employment of an illegal worker is enough to consider a revocation of this licence, and as such the employment of illegal workers is a criminal activity which has serious impacts on society and can in certain circumstances have a serious and real implications connected to modern day slavery.

The current Secretary of State Guidance pursuant to the Licensing Act 2003 specifically deals with this in section 11.27 & 11.28

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 the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
• For the sale and distribution of illegal firearms;
• For the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
• For the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
• For prostitution or the sale of unlawful pornography;
• By organised groups of paedophiles to groom children;
• As the base for the organisation of criminal activity, particularly by gangs;
• For the organisation of racist activity or the promotion of racist attacks;
• **For employing a person who is disqualified from that work by reason of their immigration status in the UK;**
• For unlawful gambling; and
• For the sale or storage of smuggled tobacco and alcohol.

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.**

Allowing this premises to continue to operate with the benefit of a premises licence will merely serve to perpetuate the criminal activity and human exploitation already apparent from the findings of the Thames Valley Police and colleagues in Immigration Enforcement.

For these reasons Thames Valley Police respectfully recommend that the licensing Sub-committee take the only appropriate and proportionate step available to them in a situation as serious as this and revoke the licence as the only possible means to promote the licensing objectives and further support the prevention of crime and disorder.

Appendices
TVP-Miah's-1 (Miah's Of Pangbourne, West Berkshir Council review)
TVP-Miah's-2 (Miah's Spencers Wood, Wokingham Council review)

Appeal Court upholds revocation of Premises Licence following “modern slavery” review June 2018 (Peckham Food & Wine v London Borough of Southwark)

District Judge Julie Cooper, sitting at Camberwell Green Magistrates’ Court, has upheld the decision of the London Borough of Southwark to revoke a convenience store’s premises licence following allegations of illegal workers being employed in conditions akin to “modern slavery”. Peckham Food and Wine had been found, on six separate occasions, to be employing illegal immigrant workers. A broom cupboard was being used as sleeping quarters for two workers who slept on a filthy mattress with only a small electric fan for ventilation. They were being paid a salary well below the minimum wage.

Super strength Polish lager was being sold at a price so low it must have been smuggled alcohol where duty had been evaded. Numerous breaches of the licence conditions were found.

A review application was made by Bill Masini on behalf of Southwark Trading Standards. Prior to the review hearing, an application to transfer the licence was received by the council and objected to by police. The transferee was a Mr Safeer Shah who claimed to be untainted by the past behaviour and pledged to turn around the operation. Following questioning it turned out Mr Shah was the estranged husband of the premises licence holder and related to the other directors of the operating company. The licensing sub-committee refused the transfer and revoked the premises licence.

On appeal Mr Shah argued that it was wrong to judge him by his family relationships. He was his own “autonomous” individual and had demonstrated his commitment to promote the licensing objectives. Under cross-examination it became apparent that Mr Shah had been involved in the running of the business prior to the review application. It was also revealed that two of his current employees had worked at the venue when the litany of transgressions had taken place. One was, and continued to be, an illegal worker. On inspection visits prior to the appeal hearing further breaches of the licence had been found and, under Mr Shah’s stewardship, the premises had failed a test purchase exercise by selling alcohol to a 17 year old.

The Council submitted that not only was Mr Shah properly to be tainted by the previous operation, but he had failed to demonstrate the promised turn around of the operation since he took over. The judge found him to be a discredited witness.

The Council also argued, in reliance on Griffiths LJ’s observations in R v Knightsbridge Crown Court ex p International Sporting Club (London) Ltd [1982] 1

QB 304**, that it risks bringing the licensing regime into disrepute if reckless licence holders can avoid the consequences of their behaviour by simply transferring the licence into someone else's name or selling the business when they got caught and so, effectively, get away with it. The deterrent effect of licensing enforcement would be lost and licensing authorities are right to take a robust stance against such transfers, particularly those which appeared to be a ruse.**

In refusing the appeals on 28 June 2018, DJ Cooper awarded the Council its costs of over £11,000.

TVP 8

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TVP 09

QBD, ADMINISTRATIVE COURT

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

CO/345/2016

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

THE ADMINISTRATIVE COURT

Royal Courts of Justice

Strand

London WC2A 2LL

Thursday, 14 April 2016

B e f o r e:

MR JUSTICE JAY

Between:

EAST LINDSEY DISTRICT COUNCIL

Appellant

v

ABU HANIF

(TRADING AS ZARA'S RESTAURANT AND TAKEAWAY)

Respondent

Computer- Aided Transcript of the Stenograph Notes of

WordWave International Limited trading as DTI

165 Fleet Street London EC4A 2DY

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

(Official Shorthand Writers to the Court)

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

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

J U D G M E N T

(Approved)

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1. MR JUSTICE JAY: This is an appeal by way of case stated from the decision of the Lincoln Magistrates' Court, District Judge Veits, given on 23 June 2015, whereby he allowed an appeal from the revocation of a premises licence by the licensing authority.

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

3. The premises in question are Zara's Restaurant and Takeaway situated in North Summercoates on the Lincolnshire coast. They are licensed to sell alcohol ancillary to the supply of food. The restaurant is owned and managed by the licensee, Mr Hanif. On 29 April 2014, the premises were the subject of a joint visit by the police and immigration officers, and it was discovered that Mr Miah was working in the kitchen as a chef. It was common ground that Mr Miah had

no current entitlement to remain in the UK, let alone to work. I was told that he arrived here illegally some years ago. Furthermore, it was also accepted by the respondent that he (i) employed Mr Miah without paperwork showing a right to work in the United Kingdom; (ii) paid Mr Miah cash in hand; (iii) paid Mr Miah less than the minimum wage; (iv) did not keep or maintain PAYE records; (v) purported to deduct tax from Mr Miah's salary; and (vi) did not account to HMRC for the tax deducted.

4. The police then applied for a review of the respondent's licence under section 51 of the Licensing Act 2003 and the matter came before the appellant's subcommittee on 30 June 2014. The subcommittee decided to revoke the respondent's licence. Its reasons were as follows:

5. "The subcommittee were satisfied that Mr Hanif did not take the appropriate checks of staff members having knowledge that there were problems previously at the other premises with overstayers, and that he continued to allow staff to work at Zara's restaurant without making appropriate checks.

6. The subcommittee were satisfied that Mr Hanif had not undertaken the relevant checks to ensure the employee concerned was eligible to work in the United Kingdom. Instead of not allowing employees to work if they had not provided the correct documentation he allowed them to work and paid cash in hand. With all this in mind the subcommittee were satisfied that Mr Hanif had knowingly employed person/s unlawfully in the United Kingdom.

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

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

9. Looking now at the stated case, the district judge noted that the respondent had received a civil penalty for employing an illegal worker under section 15 of the Immigration, Asylum and Nationality Act 2006. An immigration officer gave evidence to the effect that although by virtue of section 21 a criminal offence was

committed, such proceedings were rarely brought. The district judge also noted that the police and the Council's licensing officer were no longer saying that the respondent was a serial offender, but a redacted report which was placed before the subcommittee still gave the impression that he "was in a much worse position than he actually was". As for the failure to pay the minimum wage, the district judge said this:

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

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

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

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

12. The district judge also criticised the subcommittee for adopting an inconsistent approach because in other similar cases only warnings were issued. Finally, he considered that the subcommittee may have been influenced by comments in the police report, leading them to believe that they were dealing with a serial offender.

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

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

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

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

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

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

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

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

19. To the extent that the analysis must be retrospective, the issue is whether, in the opinion of the relevant court seized of the appeal, criminal offences have been committed. In the instant case they clearly had been: in relation to tax evasion (see the common law offence of cheating the Revenue and the offence of fraudulent evasion of tax contrary to section 106A of the Taxes and Management Act 1970); and the employment of Mr Miah at remuneration below the minimum wage (see section 31 of the National Minimum Wage Act 1998). Moreover, given the evidence that Mr Miah never provided the relevant paperwork, notwithstanding apparent requests, the obvious inference to be drawn is that the respondent well knew that he could not, and that no tax code and National Insurance number had been issued. The corollary inference in my judgment is that the respondent well knew that Mr Miah could not provide the relevant paperwork because he was here illegally.

20. I also accept Mr Kolvin's submission that each case must turn on its own facts. As a matter of law, unless it could be said that some sort of estoppel or related abuse of process arose in the light of warnings given in other cases, the alleged inconsistent approach led nowhere. In my judgment, it could not be so said.

21. Finally, I agree with Mr Kolvin that there is nothing in the point that the subcommittee could have been misled about the interested party being a serial offender. The point that the subcommittee was making was the fact that the respondent had worked at premises where illegal workers were also employed meant that he should have been vigilant to the issue.

22. Thus the answer to the district judge's two questions are as follows:

A. Q. "Was I correct to conclude that the crime prevention objective was not engaged as no crimes had been proceeded with, the appellant only receiving a civil penalty?"

B. No.

C. Q. "Was I correct in concluding that the respondent had been inconsistent in similar decisions in not revoking the licence [sic]?"

D. No.

23. Having identified errors of law in the district judge's decision, the next issue which arises is whether I should remit this case for determination in the light of my ruling or whether I have sufficient material to decide the issue for myself. I should only adopt the latter course if satisfied that the issue is so obvious that no useful purpose would be served by remission. I am so satisfied. Having regard in particular to the twin requirements of prevention and deterrence, there was in my judgment only one answer to this case. The respondent exploited a vulnerable individual from his community by acting in plain, albeit covert, breach of the criminal law. In my view his licence should be revoked. Another way of putting the matter is that the district judge had no proper basis for overturning the subcommittee's assessment of the merits.

24. It follows in my judgment that the only conclusion open to the district judge in the present case was to uphold the revocation of the respondent's licence. This appeal must be allowed and the respondent's licence must be revoked.

25. MR KOLVIN: My Lord, I'm very grateful. Can I deal with the question of costs, both here and below.

26. MR JUSTICE JAY: Yes.

27. MR KOLVIN: Should I start with here.

28. MR JUSTICE JAY: Yes.

29. MR KOLVIN: My Lord, we would ask for the costs before this court. I just want to pray in aid four very brief points. The first is the result. The second is that the district judge's approach was expressly urged on him by the respondent's legal team. Thirdly, that the respondent was expressly urged to concede this appeal to stop costs running, he was given that opportunity at pages 42 and 43 of the bundle. Fourthly, perhaps a little bit tugging at the heart strings, but there's no reason why the Council Tax payers of East Lindsey should bear the

cost of establishing what has been established in this court. So we would ask for the costs up here.

30. There is a schedule and the schedule has been served upon Mr Hanif by letter dated 16 March of 2016. I don't know whether the schedule has found its way to my Lord, if not I can hand up a copy.

31. MR JUSTICE JAY: It has.

32. MR KOLVIN: It has. My Lord, I can see that VAT has been added on. It doesn't need to be because of course the Council can retrieve the VAT, so my application is for £16,185. I know there's not a lot of explanation around my fee, but it was taken on a single fee for all work involved in relation to the case stated; advice, the skeleton argument and attendance today, so it's one single --

33. MR JUSTICE JAY: What about your junior's fees?

34. MR KOLVIN: My learned junior is also my instructing solicitor, he wears two hats.

35. MR JUSTICE JAY: I see.

36. MR KOLVIN: He has his own firm which is Dadds LLP, and he is also a member of the bar, so although he has appeared as my junior, his fee is wrapped up in the solicitors' fees set out in the schedule.

37. MR JUSTICE JAY: Okay. What about the costs below?

38. MR KOLVIN: My Lord, I'm just trying to ascertain what the position is.

39. MR JUSTICE JAY: I thought there was no order for costs below.

40. MR KOLVIN: There was no order for costs below, that was on the basis that the appeal had been allowed. The situation in relation to costs of licensing appeals are set out in section 181 of the Act, which enables the court to make such order as it thinks fit. Normally when appeals are dismissed there is no real question about it, costs follow the event. When appeals are allowed, some further considerations come into play, which are expressed by the Master of the Rolls in a case which you may have come across called City of Bradford v Booth, which is the case where the Master of the Rolls said that local authorities shouldn't be put off from trying to make honest and reasonable decisions in the public interest. And so one has to take account additionally of the means of the parties and their conduct in relation to the dispute, but in this case of course the appeal has now been dismissed, and so we would say that the ordinary rule is that the costs should follow the event, the appeal having failed. I'm just trying to ascertain whether schedules were ever served below, in the light of the way the case came out. **(Pause)**

41. My Lord, I'm really sorry that we don't actually have the schedule here, apparently it was £15,000. If you were minded to order costs below the options

are either I suppose to wait and we will have the thing emailed up, or to say, "Look, it was below, it's a little bit more complex, they should be assessed if not agreed."

42. MR JUSTICE JAY: This is going to wipe him out, isn't it?

43. MR KOLVIN: Well he has already said, I have to say, I'm just telling you frankly what I've been told this morning, that when the bundles and the schedules were served on him, he had clearly read them, but he said, "If you win in the High Court and get costs against me, then I'm just going to declare myself bankrupt." So there may well be a bit of football(?) about this, but nonetheless it was his appeal, his team raised a point which in retrospect was very surprising, and caused an awful lot of costs to be incurred.

44. MR JUSTICE JAY: Yes. Well I am going to assess the costs here in the round figure of £15,000.

45. MR KOLVIN: Thank you.

46. MR JUSTICE JAY: If there was a schedule, which you tell me there was, below, it is proportionate that I assess those costs rather than put you to the trouble of a detailed assessment, so if you could have that emailed to my clerk in due course, I will assess the costs below.

47. MR KOLVIN: Thank you, my Lord.

48. MR JUSTICE JAY: On the basis of that schedule.

49. MR KOLVIN: We're not trying to be too ambitious, but we would like to see what we can - -

50. MR JUSTICE JAY: I'll take a broad brush approach to that.

51. MR KOLVIN: Thank you.

52. My Lord, the only other thing to mention is that this isn't the only case which is kicking around the east of England where licensing subcommittees are being urged to take no action because there has been no prosecution in these immigration cases. Although I appreciate that this is hardly stellar law making, it's an application of pretty well established legal principles to the facts, I'm asking whether my Lord would be minded to certify this so that we can adduce the authority in other cases, because it's a clear statement of the law that there doesn't need to have been a prosecution. So with the practice direction in mind, would my Lord be minded to - -

53. MR JUSTICE JAY: Just remind me of the practice direction.

54. MR KOLVIN: Yes, can I hand it up?

55. MR JUSTICE JAY: Yes. **(Handed)**

56. MR KOLVIN: If Mr Hanif had come I wouldn't need to make the application. It's paragraph 6.1. The judgment has to clearly indicate that it purports to establish a new principle or extends the present law and that has to take the form of an express statement to that effect, and then 6.2 says what categories of judgment we're dealing with, which include applications attended by one party only.

57. So that's the situation we're in. In reality these judgments get around anyway, because we're dealing with administrative tribunals and not courts, but sometimes the point is taken, "Ah yes, but the court didn't certify".

58. MR JUSTICE JAY: But where's the new principle I've established?

59. MR KOLVIN: My Lord, what you have said clearly, which hasn't been said before, by dint of the fact that not many licensing cases reach the lofty heights of this building, is that there does not need to have been a prosecution in order for the crime to have - -

60. MR JUSTICE JAY: Oh, I see. Well that's so obvious it almost goes without saying, that's why it hasn't been said before.

61. MR KOLVIN: My Lord, it was obvious to everyone except the district judge, the appellant and other licensees in the east of England.

62. MR JUSTICE JAY: Okay.

63. In terms of the logistics, if you want a copy of the judgment, don't you have to pay for it?

64. MR KOLVIN: We may have to, and we would be obviously very pleased to do so.

65. MR JUSTICE JAY: Because I'm not sure that all judgments are, in the Administrative Court, they're not all transcribed and published.

66. MR KOLVIN: That is correct, and I have no doubt that my client would be - this isn't a matter about the costs of the judgment.

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

68. MR KOLVIN: Yes.

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

70. MR KOLVIN: Yes, they are.

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

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

73. MR JUSTICE JAY: No- one objects.

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

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

76. MR KOLVIN: Thank you very much indeed.

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

78. MR KOLVIN: No.

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

80. MR KOLVIN: I don't know, my Lord, what the normal practice is. I don't think that I have previously been on a legal team which has sent judgments, but we're very happy to undertake to do so.

81. MR JUSTICE JAY: Yes, I think if you're going to get a copy, obviously you're going to send it to the respondent - -

82. MR KOLVIN: Indeed.

83. MR JUSTICE JAY: - - so he can ingest it. I think you should send it to the district judge, just saying that the judge directed that out of courtesy he should see it.

84. MR KOLVIN: We're very happy to do that. Thank you very much indeed.

85. MR JUSTICE JAY: Thank you very much.

LICENSING TEAM REPRESENTATION

Name of Officer	Peter Narancic Senior Licensing and Enforcement Officer
Type of Application	Grant of a Premises Licence - Licensing Act 2003
Name of Premises	Berkshire Restaurant Limited
Address	130 - 134 Wokingham Road Reading RG6 1JL
Licensable Activities	Sale of Alcohol by Retail - On & Off the Premises Live Music - Indoor Playing of Recorded Music - Indoor Performance of dance - Indoor Late Night Refreshment - Indoor

Finish Times	Mon	Tue	Wed	Thu	Fri	Sat	Sun
	01:00	01:00	01:00	01:00	01:00	01:00	01:00

Officer comments

The Licensing team object to the application to operate the proposed premises named Berkshire Restaurant Limited, 130-134 Wokingham Road, Reading RG6 1JL as we believe granting a licence will undermine the promotion of the licensing objectives - notably the prevention of crime and disorder. We have concerns about the new applicant, Mr James Southern is related to Mr Stuart Southern has a long standing business relationship with the current premises licence holder Mr Jamshed Miah at these premises and at a previous premises, Barts Grill and Restaurant, Wokingham Road, Reading. We would question his suitability to run a licensed premises in accordance with legislation and the promotion of the licensing objectives. Section 18 (6) of the Licensing Act 2003 states that representations should relate to the likely effect of granting a licence on the licensing objectives and we believe that the likely effect of granting this licence is that the proposed licence holder will have no day to day control of this business and that he is, in effect, applying for a licence on behalf of someone else - notably the current business owner who has committed serious criminal offences at the premises, which resulted in a review and revocation the premises licence.

In addition, the hours applied for are outside the permitted hours allowed by current planning permission. Therefore this application is contrary to Reading Borough Council's Licensing Policy.

History

On 1 November 2018, the Licensing Sub-Committee heard the application for the review of this premises licence brought by the Home Office Enforcement service as FIVE illegal workers were found in the premises during a joint visit with the Licensing team on Sunday 13 May 2018 and resolved that it was appropriate and proportionate to revoke the premises licence as the only way to promote the four licensing objectives.

It is the duty 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 is well documented Illegal working is not victimless, it undercuts honest employers, cheats legitimate job seekers out of employment opportunities and defrauds the public purse.

The employment of workers who have no right to work in the UK have been found to lead to other serious criminal offences. Indeed at the hearing before the Licensing Sub - Committee on 1 November 2018, Mr Miah admitted that he had not produced any employment records at the time of the inspection or thereafter, that he had not produced any evidence that the business undertook any employment or right to work checks for any staff, past or present, despite claiming that he had records from 2016. He also admitted using the practice of using trial working periods in advance of checking an individual's employment/right to work status, and he was unable to state whether individuals were employed or self-employed, again demonstrating a lack of proper documentation. It is not clear if these workers were being paid the minimum wage or if relevant tax contributions were being made or declared in respect of the workers to HMRC. The premises licence holder by not checking any right to work documents is committing offences under various immigration legislation. It is likely, the illegal workers have also committed offences under paragraph 24B of the Immigration Act 1971. It is a legal requirement for all businesses to check their employees have the correct right to work documents before employing them. The premises licence holder is benefitting financially from employing persons who have no right to work in the UK. The employment of illegal workers and the associated crimes that stem from doing this clearly engage the licensing objective of the prevention of crime and disorder and is a proper matter for the Authority to consider. The Secretary of State's Guidance under the heading of Reviews arising in connection with crime at paragraphs 11.24 to 11.28 and the case law stated within the review application - East Lindsey District Council v Abu Hanif is clear that it is the promotion of the licensing objectives that are of prime concern under the Licensing Act 2003.

During the Licensing team's joint visit with Home Office Immigration Enforcement on Sunday 13 May 2018, the following breaches of legislation and other issues were identified. Part A of the premises licence was not available for inspection, a valid copy of summary Part B of the premises licence was not displayed, a Section 57 (in relation to Part A Premises licence) was not displayed, Mr Rahman, the duty manager could not produce a list in regard to which staff can sell alcohol under Mr Miah's authorisation, neither could Mr Rahman name any of the four licensing objectives or supply a copy of the premises plan, nor produce staff training records to show how staff were trained in regards to the licensing Act 2003. Mr Rahman could not confirm what age verification policy was being operated at the premises, which is a very serious breach of the mandatory conditions. The mandatory conditions also stipulate that the holder of any

premises licence or club premises certificate must ensure that a suitable age verification policy is adopted at the premises in respect to the sale or supply of alcohol. All sales must then be carried out in relation to that policy and only then when suitable photographic identification is produced. Any premises found operating without a valid policy is likely to face appropriate enforcement action for conducting unlicensed activity and undermining the promotion of the licensing objectives. As a result, the finding of numerous illegal workers and breaches of licensing law, the premises were graded as unsatisfactory/high risk. I produce a copy of the minutes of the meeting as **Appendix PN- 1**

I understand, the premises Licence holder has appealed the decision to revoke the premises licence to the Magistrates Court which will be heard later this year. The premises licence holder is permitted to sell alcohol and carry out Licensable activities pending the outcome of the appeal.

On 8 October 2018, an application to transfer the premises licence from Mr Jamshed Miah's to his son, Mr Mouadjul Miah, was received by the Licensing team. Due to objections a hearing was held on 8 November 2018, where the Sub-committee resolved to refuse to grant the licence due to the applicants inexperience of running such a business did not give the Sub-Committee confidence that the licensing objectives would be promoted, they were concerned that Mr Jamshed Miah would continue as the Designated Premises Supervisor and believed that he would still be actively involved in the business and would influence the applicant who has very limited experience, despite the signed declaration to the contrary. I produce a copy of the minutes of the meeting as **Appendix PN- 2.**

On 27 December 2018, a grant application on behalf of Berkshire Restaurant Ltd, [redacted] Adwell Drive Lower Earley, Reading RG6 4JY was received by the Licensing team, however the applicant failed to include a consent form to specify a named designated premises supervisor it was rejected.

On 26 January 2019 a valid grant application on behalf of a new applicant, Mr Stuart Southern, the sole Director of Berkshire Restaurant Limited, [redacted] Shinfield Rise, Reading RG6 4JY which was a different registered address to that on the first application.

No additional documentation was submitted with the application as would have been expected to show a genuine change of business owner such as freehold/lease agreements. Checks carried out have revealed the current charge payers for business rates are Miah's (Reading) Limited. A Land registry check shows the owner of 130 to 132 Wokingham Road, Reading as Mr Jamshed Miah and 134 Wokingham Road, Reading as Idealmark Limited which has Mr Jamshed Miah listed as a Director. The business rates payer is Miah's (Reading) Limited.

A company check shows Mr James Southern as a sole Director of Berkshire Restaurant Limited, with a registered address of [redacted] Shinfield Rise, Reading RG6 4JY. Which is a domestic dwelling.

Other checks reveal connections between Mr Stuart Southern and Mr Jamshed Miah at these premises, Miah's Garden of Gulab at another previously operated by Mr Jamshed, Barts Grill and Restaurant, Wokingham Road, Reading. Email conversations between Reading Borough Council staff and Mr Stuart Southern clearly show he has had a business relationship with Mr Miah for nearly 10 years.

In 2006, Mr Stuart Southern was involved with a temporary event notice for Miah's Garden of

Gulab when he supplied his email address as a point of contact for the Council. In 2008, Mr Stuart Southern dealt with a food related inspection at Miah's Garden of Gulab and in 2010, in connection with a variation of premises licence for Miah's Garden of Gulab where he stated he and Mr Miah were agreeable to the conditions from Environmental Protection.

In 2012, Mr Stuart Southern replied to a licensing email in regard to a variation of premises licence for Barts Grill, Wokingham Road confirming that he and Mr Jamshed Miah be attending a Licensing hearing and suggested amending hours to the application.

Given the history of theses premises that were found with illegal workers and breaches of licensing law and subsequently had its licence revoked we would have expected this any new applicant to have made an attempt to contact the Licensing team and Police to discuss any plans to submit a grant application given there is an outstanding appeal and history of criminal activity at the premises. Additionally the applicant has not provided any documents or any other evidence in relation to the bone fide purchase of this business from the present owner as you would have expected.

Paragraph 8.46 of the Government's Guidance S182 states "*While applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. Licensing authorities may wish to encourage co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise*".

Guidance issued under section 182 of the Licensing Act 2003 (April 2018)

Secretary of State's Guidance

8.41 In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to **demonstrate knowledge of their local area** when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.

8.42 Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:

- the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;
- any risk posed to the local area by the applicants' proposed licensable activities; and
- any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.

8.43 Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.

8.44 It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.

8.45 The majority of information which applicants will require should be available in the licensing policy statement in the area. Other publicly available sources which may be of use to applicants include:

- the Crime Mapping website;
- Neighbourhood Statistics websites;
- websites or publications by local responsible authorities;
- websites or publications by local voluntary schemes and initiatives; and
- on-line mapping tools.

8.46 While applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. Licensing authorities may wish to encourage co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.

8.47 Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.

8.48 All parties are expected to work together in partnership to ensure that the licensing objectives are promoted collectively. Where there are no disputes, the steps that applicants propose to take to promote the licensing objectives, as set out in the operating schedule, will very often translate directly into conditions that will be attached .

8.49 For some premises, it is possible that no measures will be appropriate to promote one or more of the licensing objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be precise and clear about the measures that are proposed to promote each of the licensing objectives.

Planning

The Licensing team have been informed that the premises owners do have the relevant planning permission to operate this business after 11pm. The Council's licensing policy states that applicants should have the appropriate planning permission in place prior to obtaining a licence and that licensed hours should be in line with any restrictions in the planning permission.

The current planning permission for these premises includes a condition which states "The restaurant hereby permitted shall not operate between the hours of 23.00 and 09.00 the following day. Reason: in order to protect the amenities of neighbouring residential properties."

. Reading Borough Councils Policy statement (2018) clearly states at paragraph 7.5

All applicants and licence holders are expected to achieve and to adhere to any relevant planning permissions - including hours of operation. Applicants are expected to acheive planning permission before applying for any licence. Where the planning authority have set a terminal hour on a premises planning permission, the licensing authority will generally only grant a licence to that hour. This is to ensure consistency and integration between licensing and planning as detailed in section 2 of this policy.

Licensed Premises

I refer to Section 18 (6) of the Licensing Act in regard to the likely effect the granting of a licence would have on the promotion of the licensing objectives and sections 8.41 to 8.49 of the Secretary of State's Guidance which deals with the information that applicants should provide to the licensing authority in order to actively promote the licensing objectives.

Secretary of State's Guidance

8.41 In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to **demonstrate knowledge of their local area** when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.

Reading Borough Council Licensing Policy statement (2018) states:

(22nd October 2018 until 21st October 2023)

1.1 This policy sets out how the Council as the Licensing Authority for Reading promotes the four licensing objectives stated in the Licensing Act 2003. The four licensing objectives, as outlined in Section 4 (2) of the Licensing Act 2003, are of equal importance and the

Council along with other named Responsible Authorities, stakeholders, residents and licence holders shall work together in order to actively promote them. Those four licensing objectives are:
- The prevention of crime and disorder
- The prevention of public nuisance
- The protection of children from harm
- Public Safety

1.2 The Council must have regard to the four licensing objectives when carrying out it's functions under the Licensing Act 2003. The Licensing Authority will also have regard to other Council policies which have been introduced to tackle issues that may undermine crime and disorder or any of the other licensing objectives. The Licensing Authority will have regard to the contents of this policy as well as the Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003. It may also depart from this policy and the Secretary of State's Guidance if there are exceptional circumstances and it is appropriate to do so to promote the licensing objectives. If the Licensing Authority departs from the Secretary of State's Guidance it will give reasons as per paragraph 1.9 of that guidance.

1.3 The legislation also supports other key aims and purposes. These are outlined in paragraph 1.5 of the guidance and should be principal aims for all parties involved in licensing for the promotion of the licensing objectives. The licensing authority will have regard to these key aims in it's decision making. They are:

- Protecting the public and local residents from crime, anti-social behaviour and noise nuisance associated and caused by irresponsible licensed premises;
- Giving the police and licensing authorities the powers they need to effectively manage and police the night time economy and take action against those premises that are causing problems;
- Recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- Providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area;
- Encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

Licensing and Planning integration

2.2 The planning authority of Reading Borough Council is a responsible authority under the Licensing Act 2003. It can make representations on applications or call for reviews of existing licences based upon any of the four licensing objectives. The prevention of crime and disorder and prevention of public nuisance are shared concerns of the planning and licensing authorities.

2.3 The planning authority have a number of policies that impact on Reading's night time economy. The Licensing authority recognises that licensing applications should not be a rerun of the planning application process. The planning authority remains the regime that is directed at development of land and the use of premises upon it. The licensing authority remains the regime that is directed at the licensable activities and responsible management of said premises upon that land.

2.4 Whilst there is a clear distinction and separation between the licensing authority and planning authority in terms of their remit, there are times when there are overlapping

considerations. In order to secure proper integration across the Council's range of policies, **the Licensing authority will expect applicants to demonstrate that their proposed use of a premises is lawful in planning terms, including complying with any conditions and timings that may be imposed upon a planning consent prior to any application being submitted under the Licensing Act.**

2.5 Where the planning authority has granted planning consent to a specific time, the Licensing authority would expect any applicants under the Licensing Act to not exceed that time within any application.

2.6 Where the planning authority has granted a planning consent that contains conditions that may undermine the promotion of the licensing objectives (such as a restriction in the opening hours based on potential public nuisance issues), the licensing authority would expect applicants to demonstrate how they will mitigate those issues within any application. Failure to do so could lead to representations being made against an application.

2.7 Whilst acknowledging that planning and licensing are separate regimes and that licensing authorities and not bound by the decisions of planning committees (and vice versa), the licensing authority shall aim for the proper integration between licensing and all other Council policies, strategies and initiatives in order to actively promote the licensing objectives.

2.8 When licensing applications are determined by officers of the Licensing Authority or by the Licensing Sub Committee, conditions may be imposed upon a licence in order to ensure consistency between the licensing objectives and any measures already determined by the planning authority that could impact the licensing objectives.

2.10 The key issues surrounding the determination of planning permission are as follows:
- Impact on residential amenity through noise, odour, disturbance, litter, etc
- Impact on the viability of the town centre
- Potential financial contribution to a safer borough (CCTV)

These are all matters that are also proper concerns of the licensing authority and will be taken into account when determining applications. If appropriate to the promotion of the licensing objectives, conditions may be added to licences so as to ensure proper integration of Council policies and strategies

Other Legislation that the Licensing Authority will consider

3.7 The Licensing Authority will also have cognisance to the following legislation when it decides to discharge it's responsibilities under the Licensing Act. This list is not exhaustive:
- Environmental Protection Act 1990 which deals with noise and nuisance
- Regulatory Reform Order 2005 which deals with fire safety
- Highways Act 1980 which deals with pavement café licences
- Reading Borough Council Act 2013 which deals with street trading and touting
- Health and Safety at Work Act 1974 and Food Hygiene regualtions
- Planning legislation (see paragraphs 2.2-2.9 of this policy)

6.15 Applications for off licences would also be expected to contain evidence of appropriate staff training, the utilisation of a Challenge 25 age verification policy and the use of CCTV to cover the entire proposed licensable area. This is not an exhaustive list and conditions should be appropriate and proportionate to the style of operation

and taking into account the issues in the locality.

Restaurants and Cafes - General Approach to conditions

6.24 The licensing authority would expect all bona fide restaurants to take cognisance of the Secretary of State's Guidance and this policy and include measures that actively promote the four licensing objectives.

6.25 As well as the measures outlined above in relation to a Challenge 25 age verification policy, CCTV and staff training, the authority will expect all bona fide restaurants to include a condition within their operating schedule to the effect that the sale of alcohol will be ancillary to a sit down food order and that the premises will operate solely as a restaurant with waiters and waitresses providing table service. It is the authority's view that restaurants should not be a place where upright vertical drinking takes place.

6.26 Where a restaurant wishes to provide a delivery service for their products - including alcohol - the authority will expect measures to be included within the operating schedule of how those deliveries will operate. For example, to ensure that deliveries are being made to full postal addresses and not fields; that deliveries which contain alcohol are subject to the premises age verification policy with refusals logged accordingly and that delivery bikes are not causing a public nuisance to local residents.

General Approach

7.1 The Licensing Act 2003 gives the licensing authority the power to make decisionsabout the hours during which premises can conduct licensable activities as part of the implementation of this policy. The licensing authority will make appropriate decisions on licensing hours for the locality of each premises. All applications will be considered on its individual merits.

7.2 When an application receives representations, the authority may consider reducing the opening hours and times for licensable activities if it considers it appropriate for the promotion of the licensing objectives.

7.3 As part of the operating schedule submitted with any application, the applicant is expected to take cognisance of the guidance, this policy and any other available data pertaining to their prospective locality and the potential impact their operation may have on that area.

7.4 Where it is deemed appropriate and proportionate to do so, the authority may seek to reduce the hours for licensable activities in order to promote an orderly and gradual dispersal from a certain area or certain premises.

7.5 All applicants and licence holders are expected to achieve and to adhere to any relevant planning permissions - including hours of operation. Applicants are expected to achieve planning permission before applying for any licence. Where the planning authority have set a terminal hour on a premises planning permission, the licensing authority will generally only grant a licence to that hour. This is to ensure consistency and integration between licensing and planning as detailed in section 2 of this policy.

Licensed Premises

7.6 When dealing with applications and issuing licences, the authority is likely to impose stricter conditions on premises operating in residential areas if it considers it appropriate and proportionate to do so. This will apply to all premises types.

Other information

In a recent appeal court judgement in June 2018 District Judge Julie Cooper at Camberwell Green Magistrates Court regarding Peckham Food & Wine v London Borough of Southwark upheld the decision of the London Borough of Southwark to revoke a convenience store's premises licence following allegations of illegal workers being employed.

The Council argued, in reliance on Griffiths LJ's observations in R v Knightsbridge Crown Court ex p International Sporting Club (London) Ltd [1982] 1 QB 304,

that it risks bringing the licensing regime into disrepute if reckless licence holders can avoid the consequences of their behaviour by simply transferring the licence into someone else's name or selling the business when they got caught and so, effectively, get away with it. The deterrent effect of licensing enforcement would be lost and licensing authorities are right to take a robust stance against such transfers, particularly those which appeared to be a ruse.

As can be seen, Mr Jamshed Miahs has made previous attempts to retain this premises licence at all costs. On this application the licensing team believe there is a tangible link between the new applicant Mr James Southern (through Mr Stuart Southern) and Mr Jamshed Miah. If a licence is granted to Berkshire Restaurant Limited, it possible that Mr James Southern can 'sell' this business under Berkshire Restaurant Limited to Mr Jamshed Miah at any time without having to notify the this Council. No additional information was provided with the application to show that a genuine sale of the business premises has been undertaken. The accompanying letter from the applicant's solicitor makes no mention what the new operator will do if Mr Jamshed Miah appeal is successful later this year.

In addition, the hours applied for are outside the permitted hours allowed by current planning permission. Therefore this application is also contrary to Reading Borough Council's Licensing Policy.

The Licensing team respectfully submits that this application is refused for the reasons given in this representation.

Date Received	26.01.2019	**Date Due**	23.02.2019
	Peter Narancic	**Date**	21.02.2019

APPENDIX PN-1

Present: Councillors Woodward (Chair), Maskell and Rowland.

14. APPLICATION FOR THE REVIEW OF A PREMISES LICENCE - MIAH'S GARDEN OF GULAB

The Head of Planning, Development and Regulatory Services submitted a report on an application by Home Office Immigration Enforcement for the review of the Premises Licence in respect of Miah's Garden of Gulab, 130-134 Wokingham Road, Reading, RG6 1JL.

The report stated that Home Office Immigration Enforcement had submitted the review of the Premises Licence, outlining a visit to the premises on 13 May 2018 when the premises had been found employing illegal workers. The visit had been carried out following a referral from the Slough Modern Slavery Sub-Group. A total of 5 illegal workers had been found on the premises, none of whom had a right to work in the UK. The report also stated that during the visit on 13 May 2018 the Reading Borough Council Licensing Team had found there to be a lack of licensing compliance, best practice procedures or any evidence that the licensing objectives were being actively promoted.

The application sought for the Premises Licence to be revoked due to the seriousness of the crimes discovered at the premises.

A copy of the review application was attached to the report at Appendix I.

The report stated that representations had been received from the responsible authorities of Reading Borough Council Licensing Team and Thames Valley Police, which were attached to the report at Appendix II and III.

The report stated that the Premises Licence Holder was Mr Jamshed Miah. It was reported at the meeting that an application had been made on 10 October 2018 to transfer the premises licence to Mr Mouadjul Miah. The current Premises Licence, a copy of which was attached to the report at Appendix IV, permitted the following:

Performance of Live Music

Monday to Sunday	1100 hours until 0030 hours

Playing of Recorded Music

Monday to Sunday	1100 hours until 0100 hours

Hours for the Provision of Late Night Refreshment

Monday to Sunday	2300 hours until 0030 hours

Hours for the Sale by Retail of Alcohol

Monday to Sunday	1100 hours until 0030 hours
Good Friday	1200 hours until 2330 hours
Christmas Day	1200 hours until 2330 hours

New Year's Eve from the end of permitted hours for that day to the start of the permitted hours the following day

Hours the Premises are Open of the Public

Monday to Sunday	1100 hours until 0030 hours

The report stated that in determining the application the Licensing Authority had a duty to carry out its functions with a view to promoting the four licensing objectives, as follows:

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

The report stated further that in determining the application the Licensing Authority must also have regard to the representations received, the Licensing Authority's statement of licensing policy and any relevant section of the statutory guidance to licensing authorities. Further, in determining the application the Licensing Authority could take such of the following steps as it considered appropriate and proportionate for the promotion of the licensing objectives:

- Take no further action
- To issue formal warnings to the premises supervisor and/or premises licence holder
- Modify the conditions of the licence (including, but not limited to hours of operation of licensable activities)
- Exclude a licensable activity from the scope of the licence
- Remove the designated premises licence supervisor
- Suspend the licence for a period not exceeding three months
- Revoke the licence

(Where the Sub-Committee took a step mentioned in the third and fourth bullet points above it may provide that the modification or exclusion was to have effect for a period not exceeding three months or permanently.)

The report set out paragraphs 1.5, 1.7, 1.8, 9.12, 9.13, 9.25, 9.31, 9.38, 9.42, 9.43, 11.1, 11.2, 11.6, 11.16 to 11.18 and 11.24 to 11.28 of the Amended Guidance issued under Section 182 of the Licensing Act 2003 (April 2018). The report also set out paragraphs 1.5, 7.15.1, 10.5.1, 15.1.1 and 15.3.1 of the Council's Statement of Licensing Policy.

Mr Jamshed Miah, former Premises Licence Holder and Mr Mouadjul Miah, new Premises Licence Holder, were both present and answered questions and they were represented by their solicitor, Mr Jon Payne, who addressed the Sub-Committee on their behalf.

Lee-Ann Evanson, Home Office Immigration Enforcement, was present at the meeting and addressed the Sub-Committee on the application. Peter Narancic, Licensing Enforcement Officer, Reading Borough Council, PC Simon Wheeler, Thames Valley Police and Declan Smyth, Thames Valley Police, were all present at the meeting and addressed the Sub-Committee on their representations.

Resolved -

That having reviewed the Premises Licence in respect of Miah's Garden of Gulab, 130-134 Wokingham Road, and having had regard to the four licensing objectives, the oral and written representations made, the Secretary of State's guidance as set out in the report and the Council's Statement of Licensing Policy as set out in the report, the Sub-Committee concluded that it would be appropriate and proportionate to revoke the Premises Licence due to:

(a) the employment of illegal workers, as outlined in the review application;

(b) that the Premises Licence Holder had not produced any employment records at the time of the inspection or thereafter;

(c) that the Premises Licence Holder had not shown any evidence that the business undertook any employment or right to work checks for any staff, past or present, despite claiming that they had records from 2016;

(d) the practice of using trial working periods in advance of checking an individual's employment/right to work status;

(e) the Premises Licence Holders not being able to state whether individuals were employed or self-employed, again demonstrating a lack of proper documentation.

(The meeting started at 4.32pm and finished at 7.03pm)

APPENDIX PN-2

Present: Councillors Woodward (Chair), D Edwards and Grashoff.

15. APPLICATION FOR THE TRANSFER OF A PREMISES LICENCE - MIAH'S GARDEN OF GULAB

The Head of Planning, Development and Regulatory Services submitted a report on an application by Mr Mouadjul Miah for the transfer of the Premises Licence in respect of Miah's Garden of Gulab, 130-134 Wokingham Road, Reading, RG6 1JL.

The report stated that there was currently a Premises Licence in force and the following licensable activities were permitted:

Performance of Live Music

Monday to Sunday	1100 hours until 0030 hours

Playing of Recorded Music

Monday to Sunday	1100 hours until 0100 hours

Hours for the Provision of Late Night Refreshment

Monday to Sunday	2300 hours until 0030 hours

Hours for the Sale by Retail of Alcohol

Monday to Sunday	1100 hours until 0030 hours
Good Friday	1200 hours until 2330 hours
Christmas Day	1200 hours until 2330 hours

New Year's Eve from the end of permitted hours for that day to the start of the permitted hours the following day

Hours the Premises are Open of the Public

Monday to Sunday	1100 hours until 0030 hours

The application had been made to transfer the premises licence from Mr Jamshed Miah to Mr Mouadjul Miah. A copy of the application form was attached to the report at Appendix RF1.

A representation regarding the application had been received from Thames Valley Police, which was attached to the report at Appendix RF2.

The report stated that in considering representations received, the Licensing Authority had a duty to carry out its functions with a view to promoting the four licensing objectives, as follows:

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

The report set out paragraphs 5.22 to 5.24 of the Council's Statement of Licensing Policy.

The report also set out paragraphs 1.5, 2.1, 2.6, 8.101, 8.102, 9.11, and 9.12 of the amended guidance issued under Section 182 of the Licensing Act 2003 April 2018.

Mr Mouadjul Miah, the applicant, and Mr Jamshed Miah, were both present and were represented by their solicitor, Mr Jon Payne, who addressed the Sub-Committee on their behalf.

PC Simon Wheeler and Declan Smyth, Licensing Officer, Thames Valley Police, were both present. PC Simon Wheeler addressed the Sub-Committee on the representation regarding the application as stated in the report.

Resolved -

That, in order to promote the four licensing objectives and having regard to the oral and written representations made, the Secretary of State's guidance, as set out in the report, the Council's Statement of Licensing Policy, as set out in the report, the application for the transfer of the Premises Licence in respect of Miah's Garden of Gulab, be refused for the following reasons:

(a) the applicants inexperience of running such a business did not give the Sub-Committee confidence that the licensing objectives would be promoted;

(b) the Sub-Committee were concerned that Mr Jamshed Miah would continue as the Designated Premises Supervisor;

(c) the Sub-Committee believed that Mr Jamshed Miah would still be actively involved in the business and would influence the applicant who has very limited experience, despite the signed declaration to the contrary.

(The meeting started at 9.30am and finished at 10.40am)

French, Richard

From: Licensing
Sent: 06 February 2019 07:32
To: Smalley, Robert
Subject: FW: Subject: Application for Premises Licence: ref - 640190

From: Vigar, Stephen
Sent: 05 February 2019 16:06
To: Licensing
Cc: Moon, Rebecca; Narancic, Peter
Subject: Subject: Application for Premises Licence: ref - 640190

Premises: Berkshire Restaurant Ltd, 130-134 Wokingham Road, RG6 1JL

The Council's licensing policy states that applicants should have the appropriate planning permission in place prior to obtaining a licence and that licensed hours should be in line with any restrictions in the planning permission.

The relevant planning permission 89/0768/FD includes a condition (condition 3) which states "*The restaurant hereby permitted shall not operate between the hours of 23.00 and 09.00 the following day. Reason: in order to protect the amenities of neighbouring residential properties*."

It has not been demonstrated that public nuisance to neighbouring dwellings would not occur if the activities applied for were to be carried on beyond the hours currently set by the planning condition. This includes noise from patrons late at night, noise from live music and noise from kitchen plant being used later into the evening than is currently the case.

Kind regards

Steve Vigar
Principal Planning Officer
Planning Section | Directorate of Environment and Neighbourhood Services

Reading Borough Council
Civic Offices, Level 1 North
Bridge Street
Reading
RG1 2LU

0118 937 2980

Mob. 07855 125 872
Mobex. 85872
Email: stephen.vigar@reading.gov.uk

Website | **Facebook** | **Twitter** | **YouTube**

Reading Borough Council
Working better with you

INTERNAL MEMORANDUM

To: Licensing

Dept: **Licensing**

Cc:

From: Rebecca Moon

Dept: **Environmental Protection & Nuisance**

Date: 5 February 2019

Urgent o Response required o Further action (see below) o

Subject: Application for Premises Licence: ref - 640190
Premises: Berkshire Restaurant Ltd, 130-134 Wokingham Road, RG6 1JL

I refer to the above application.

I have reviewed the application and consulted our records and would like to make representation against the application. I am concerned that due to the residential location of the premises, the measures outlined in section P(d) of the application are not sufficient to prevent a public nuisance from occurring.

The Reading Borough Council Licensing Policy Statement states that licensed premises located in and catering for residential areas wishing to open beyond 11pm will need to demonstrate clearly that public nuisance will not result from later operation. In this case I do not believe that the applicant has demonstrated this to be the case.

The Council's licensing policy also states that applicants should have the appropriate planning permission in place prior to obtaining a licence and that licensed hours should be in line with any restrictions in the planning permission. Again the applicant has not demonstrated that this is the case and the application is for hours outside those permitted by the planning consent.

There are residential properties surrounding the premises including behind and above which are likely to be affected by noise from the premises potentially resulting in a public nuisance.

The main areas of concern are:

- Noise from people leaving the venue at the end of the night
- Break out noise from the premises (e.g. live music)
- Noise from kitchen extraction

The application is for live music, late night refreshment and to be open to the public until 00:30 each day, recorded music until 01:00 each day. These hours are significantly longer than permitted by the planning consent.

The planning consent includes the below condition which was imposed in order to prevent public nuisance relating to noise from the use:

/ **89/0768/FD**

130/132 WOKINGHAM ROAD, READING

CONDITIONS/REASONS (continued)

3. The restaurant hereby permitted shall not operate between the hours of 23.00 and 09.00 the following day.
Reason: in order to protect the amenities of neighbouring residential properties.

In conclusion the application is in breach of the Council's licensing policy and granting of the licence with the hours applied for would undermine the licensing objective of prevention of public nuisance.

If the applicant agreed to amend the application to accord with the hours on the planning permission then I will be willing to withdraw my representation.

Please contact me if you require any further information.

Kind regards
Rebecca Moon

Senior Environmental Health Officer