

Notice of Meeting



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Licensing Sub-Committee

Wednesday 16 October 2019 at 10.00am

in the Council Chamber Council Offices
Market Street Newbury

Members Interests

Note: If you consider you may have an interest in any Application included on this agenda then please seek early advice from the appropriate officers.

Date of despatch of Agenda: Tuesday, 8 October 2019

FURTHER INFORMATION FOR MEMBERS OF THE PUBLIC

If you require further information about this Agenda, or to inspect any background documents mentioned in the reports, please contact Moira Fraser / Maria Legge.

Further information and Minutes are also available on the Council's website at www.westberks.gov.uk

Miah's of Pangbourne, 26 Reading Road, Pangbourne



Agenda - Licensing Sub-Committee to be held on Wednesday, 16 October 2019
(continued)

To: Councillors Jeff Beck, Graham Bridgman and James Cole (Chairman)

Substitute: Councillor Billy Drummond

Agenda

Part I

Page No.

- | | | |
|-----|--|-----------|
| 1 | Declarations of Interest
To receive any declarations of interest from Members. | |
| 2 | Schedule of Licensing Applications | |
| (1) | Application No. 18/01230/LQN - Miah's of Pangbourne, 26 Reading Road, Pangbourne, RG8 7LY
Proposal: Application for the review of the premises licence under Section 51 of the Licensing Act 2003 and for the review of the club premises certificate under Section 87 of the Licensing Act 2003.
Location: Miah's of Pangbourne, 26 Reading Road, Pangbourne, RG8 7LY
Applicant: Home Office Immigration Enforcement, Alcohol Licensing Team | 5 -
66 |

Sarah Clarke
Head of Legal and Strategic Support

If you require this information in a different format or translation, please contact Moira Fraser on telephone (01635) 519045.

Agenda Item 2(1)

4 December 2017

Mr Jamshed Miah
77 Elm Road
Earley
Reading
Berks
RG6 9TB

**Public Protection Partnership
Environmental Health and Licensing**
West Berkshire District Council
Council Offices
Market Street Newbury
Berkshire RG14 5LD

Our Ref: 10/00036/LQN
Please ask for: Alan Lovegrove (D.O.L.
20.06.12)
Direct Line: 01635 519109
Fax: 01635 519172
e-mail: alovegrove@westberks.gov.uk

Dear Sir/Madam

Licensing Act 2003 – Premises Licence
26 Reading Road, Pangbourne, Reading, West Berkshire, RG8 7LY

Please find enclosed your Premises Licence. The licence must be retained by you whilst you are responsible for the premises and must be available on request, by any authorised officer.

The licence is accompanied by a Premises Licence Summary. This document must be displayed in a prominent position within the premises at all times.

It is the responsibility of the licence holder to check that the licence details are correct. If incorrect, you must contact the Licensing Team, in writing and state clearly why you believe the licence details are wrong. Where errors have been made and are the responsibility of the Council, they will be rectified as soon as possible. If errors have been made by the applicant in filling out the application, these will need to be addressed by making a variation to the licence issued.

The annual fee will be due on the date of issue of the licence each year. You will be sent an invoice prior to the anniversary of the issue date and failure to pay may result in suspension of the Premises Licence. Invoices are sent to the Premises Licence Holder at their registered address as quoted on the Licence.

You are reminded that the Designated Premises Supervisor's details must be correctly stated on the licence at all times and that all sales of alcohol must be authorised by a Personal Licence Holder. (Clubs and non alcohol licensed premises are exempted from this requirement).

Yours faithfully


Authorised Officer
Licensing Team

PUBLIC PROTECTION PARTNERSHIP
A SHARED SERVICE PROVIDED BY BRACKNELL FOREST COUNCIL, WEST BERKSHIRE DISTRICT COUNCIL
AND WOKINGHAM BOROUGH COUNCIL

West Berkshire District Council

Public Protection Partnership, Environmental Health & Licensing, Council Offices, Market Street,
Newbury, Berkshire RG14 5LD
Tel: (01635) 519184 Fax (01635) 519172

Licensing Act 2003 Premises Licence

Uniform Ref: 10/00036/LQN

Premises licence number 014279

Part 1 - Premises details

Postal address of premises, or if none, ordnance survey map reference or description

Miah's Of Pangbourne
26 Reading Road, Pangbourne, Reading, Berkshire, RG8 7LY

Licensable activities authorised by the licence

Performance of Live Music
Recorded Music
Performance of Dance
Late Night Refreshment
Supply of Alcohol

The times the licence authorises the carrying out of licensable activities

Performance of Live Music

Monday to Sunday: 11:00 to 22:30

Activity will take place Indoors/Outdoors : **Indoors**

To provide entertainment in the form of live music and dance 12 times a year.

Recorded Music

Monday to Sunday: 11:00 to 01:00

Activity will take place Indoors/Outdoors : **Indoors**

Performance of Dance

Monday to Sunday: 11:00 to 23:00

Activity will take place Indoors/Outdoors : **Indoors**

To provide entertainment in the form of live music and dance 12 times a year.

Late Night Refreshment

Monday to Sunday: 23:00 to 00:30

Activity will take place Indoors/Outdoors : **Indoors**

Supply of Alcohol

Monday to Sunday: 11:00 to 00:30

Alcohol On/Off Premises: **Both**

The opening hours of the premises

Monday to Sunday: 11:00 to 00:30

Where the licence authorises supplies of alcohol whether these are on and/ or off supplies

On /Off Sales : **BOTH**

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Mr Jamshed Miah
77 Elm Road, Earley, Reading, Berks, RG6 9TB

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

Mr Nazmul Islam
17a Windemere Road, Reading, Berks, RG2 7HU

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the supply of alcohol

LP7000556 Reading Borough Council

Date: 4th December 2017

Signed:


Authorised Officer

Licence granted 17/03/2006
Variation granted 11/02/2010
Copy of Licence

Annex 1 - Mandatory conditions

Premises - Supply of Alcohol

1. No supply of alcohol may be made under the premises licence-
 - a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

The Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Order 2014 (in force 1 October 2014)

3.
 - 1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - 2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises –
 - a) games or other activities which require or encourage, or are designed to require or encourage, individuals to –
 - i. drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - ii. drink as much alcohol as possible (whether within a time limit or otherwise);
 - b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

5.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either -
 - a) a holographic mark, or
 - b) an ultraviolet feature.

6. The responsible person must ensure that -
 - a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -
 - i. beer or cider: ½ pint;
 - ii. gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - iii. still wine in a glass: 125 ml;
 - b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

7.
 - (1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
 - (2) For the purposes of the condition set out in paragraph 1 –
 - a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
 - b) “permitted price” is the price found by applying the formula -

$$P = D + (D \times V)$$

Where—

- (i) **P** is the permitted price,
 - (ii) **D** is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) **V** is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
- (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- e) “valued added tax” means value added tax charged in accordance with the Value Added Tax Act 1994
- (3) Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- (4)
- 1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
 - 2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 - Conditions consistent with the operating Schedule dated 12/01/2010

General

1. To ensure that ID is checked on any person who appears under 25.
2. Not to serve alcohol to under 18's.
3. Not to serve a person who appears to be drunk or his companions if it is for the drunk person's consumption.
4. Not to allow drugs on the premises

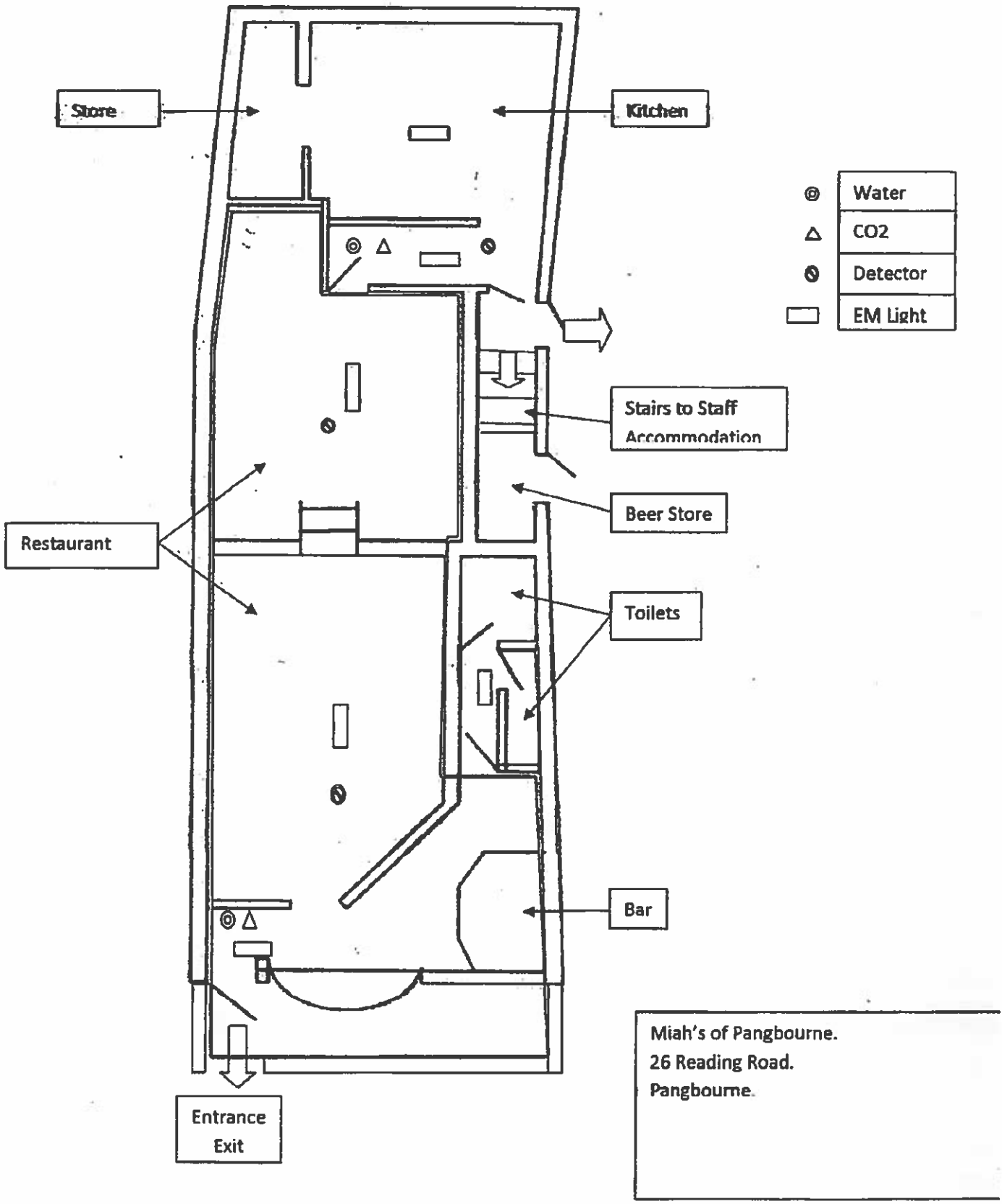
Conditions agreed with Environmental Health 04/02/2010

1. Live music speakers will be mounted on anti-vibration bases.
2. The front door will be manned during all live music events.
3. Regular hourly checks will be made across the road to ensure that the music is not excessively loud during any live music event.
4. Noise levels from all live events will be monitored with a sound level meter at the boundaries of nearby noise sensitive dwellings to ensure that the noise levels are not clearly audible at these locations.

Annex 3 - Conditions attached after a hearing by the licensing authority

None

Annex 4 - Plans as submitted 12/01/2010



Miah's of Pangbourne.
 26 Reading Road.
 Pangbourne.

West Berkshire District Council

Public Protection Partnership, Environmental Health & Licensing, Council Offices, Market Street,
Newbury, Berkshire RG14 5LD
Tel: (01635) 519184 Fax (01635) 519172

Licensing Act 2003 Premises Licence Summary

Uniform Ref: 10/00036/LQN

Premises licence number	014279
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Premises details

Postal address of premises, or if none, ordnance survey map reference or description

Miah's Of Pangbourne
26 Reading Road, Pangbourne, Reading, Berkshire, RG8 7LY

Licensable activities authorised by the licence
--

Performance of Live Music
Recorded Music
Performance of Dance
Late Night Refreshment
Supply of Alcohol

The times the licence authorises the carrying out of licensable activities

Performance of Live Music

Monday to Sunday: 11:00 to 22:30

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To provide entertainment in the form of live music and dance 12 times a year.

Recorded Music

Monday to Sunday: 11:00 to 01:00

Activity will take place Indoors/Outdoors : **Indoors**

Performance of Dance

Monday to Sunday: 11:00 to 23:00

Activity will take place Indoors/Outdoors : **Indoors**

To provide entertainment in the form of live music and dance 12 times a year.

Late Night Refreshment

Monday to Sunday: 23:00 to 00:30

Activity will take place Indoors/Outdoors : **Indoors**

Supply of Alcohol

Monday to Sunday: 11:00 to 00:30

Alcohol On/Off Premises: **Both**

The opening hours of the premises

Monday to Sunday: 11:00 to 00:30

Where the licence authorises supplies of alcohol whether these are on and/or off supplies

On/Off Sales : **BOTH**

Name, (registered) address of holder of premises licence

Mr Jamshed Miah
77 Elm Road, Earley, Reading, Berks, RG6 9TB

Name of designated premises supervisor where the premises licence authorises the supply of alcohol

Mr Nazmul Islam

Date: 4th December 2017

Signed:


Authorised Officer

Licence granted 17/03/2006
Variation granted 11/02/2010
Copy of Licence

7 September 2018

Mr Jamshed Miah
77 Elm Road
Earley
Reading
Berks
RG6 9TB

Public Protection Partnership
Environmental Health and Licensing
West Berkshire District Council
Council Offices
Market Street Newbury
Berkshire RG14 5LD

Our Ref: 18/01230/LQN
Please ask for: Emilia Matheou
Direct Line: 01635 503208
Fax: 01635 519172
e-mail: Emilia.Matheou@westberks.gov.uk

Dear Mr Miah

Licensing Act 2003 – Premises Licence
Miah's Of Pangbourne, 26 Reading Road, Pangbourne, Reading, Berkshire, RG8 7LY

Please find enclosed a full copy of the Review application submitted by Home Office Immigration Enforcement.

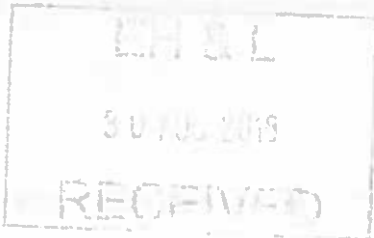
The additional statement was submitted to be them earlier this week to be added to the review application.

We have tried to contact you by 'phone and left a message but in the absence of a response thought it best to post a copy of the full application to you.

Yours faithfully


Authorised Officer
Licensing Team

PUBLIC PROTECTION PARTNERSHIP
A SHARED SERVICE PROVIDED BY BRACKNELL FOREST COUNCIL, WEST BERKSHIRE DISTRICT COUNCIL
AND WOKINGHAM BOROUGH COUNCIL



Licensing Authority: West Berkshire Council
Reference: AL17150

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

014279

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 Home Office Immigration Enforcement

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 - Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Miah's Of Pangbourne 26 Reading Road, Pangbourne,	
Post town Berks	Post code (if known) RG8 7LY

Name of premises licence holder or club holding club premises certificate (if known) Mr Jamshed Miah 77 Elm Road Earley Reading Berks RG6 9TB

Number of premises licence or club premises certificate (if known)
--

Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)

2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr Mrs Miss Ms Other title (for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Home Office Immigration Enforcement Alcohol Licensing Team Lunar House 40 Wellesley Road Croydon CR9 2BY
Telephone number (if any)
E-mail address (optional) Alcohol@homeoffice.gsi.gov.uk

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

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

-
-
-
-

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

We have grounds to believe the license holder will fail to meet the licensing objectives of prevention of crime and disorder, as illegal working has been identified at this premises.

Section 36 and Schedule 4 of the Immigration Act 2016 (the 2016 Act) amended the Licensing Act 2003 (the 2003 Act) to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017. The intention is to prevent illegal working in premises licensed for the sale of alcohol or late night refreshment.

The Home Secretary (in practice Home Office (Immigration Enforcement)) was added to the list of Responsible Authorities (RA) in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences and applications to vary a Designated Premises Supervisor (DPS)), and in some limited circumstances personal licence applications. In carrying out the role of responsible authority, Home Office (Immigration Enforcement) is permitted to make relevant representations and objections to the grant of a licence or request a review of an existing licence as a responsible authority where there is concern that a licence and related licensable activity is prejudicial to the prevention of immigration crime including illegal working.

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

On 26/06/2018 an enforcement visit was conducted. Entry was gained under Section 179 Licensing Act 2003.

7 individuals were encountered on premises. 2 British nationals, 1 Romanian and Portuguese were cleared.

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.

Please tick ✓ yes

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

If yes please state the date of that application

Day	Month	Year

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

Please tick ✓

yes

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

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

Part 3 – Signatures (please read guidance note 4)

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

Signature EM

Date 30/08/2018

Capacity **Responsible**
Authority.....
.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6) Alcohol Licensing Team Lunar House 40 Wellesley Road	
Post town Croydon	Post Code CR9 2BY
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) Alcohol@homeoffice.gsi.gov.uk	

Notes for Guidance

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

6. This is the address which we shall use to correspond with you about this application.

Miah's of Pangbourne – 26/06/18

Company: Miah's (Pangbourne) Limited – Directors; Jamshed Miah and Fakrul Islam

Licence holder: Jamshed Miah

This was the second of three visits to restaurants operated by Jamshed Miah and Fakrul Islam, the other two being; **Miah's Garden of Gulab**, 130-134 Wokingham Road, Reading, RG6 1JL (13/05/18 – 5 immigration offenders found working illegally) and **Miah's Spencers Wood**, Tankerton House, Basingstoke Road, Spencers Wood, RG7 1AE (10/08/18 – 4 immigration offenders found working illegally). In total 12 immigration offenders have been found to be working illegally across the three premises. Jamshed Miah is the premises licence holder for all three establishments.

On 26/06/18 a team of 8 officers, 1 of whom was an observer, attended the address, entering under Section 179 of the Licensing Act 2003 (as amended by the Immigration Act 2016) at 19.03 hrs. The restaurant was open when the team entered, with several customers in the dining area.

A total of 7 staff were encountered, 4 of whom were cleared (2 x GBR, 1 x ROU, 1 x PRT). The remaining 3 were males from Bangladesh, all of whom were found to be immigration offenders with no right to work in the UK.

- 1) 47 year old illegal entrant who was arrested and detained. He was in the kitchen cooking when the team entered the premises. He stated that he had been employed by Jamshed Miah, who he had asked if he could help at the restaurant. He was apparently asked if he had any right to work documentation but had not shown anything to Miah. He said it was his second day working there with his first day being on the Sunday (visit conducted on a Tuesday). He stated that he had worked from 6pm to 10pm on the Sunday and he had started at 6pm on the day of the visit. He stated that he had not been paid for his work so far and no pay had been agreed, although he did receive food 3 times a day and stayed in a room above the restaurant for free.
- 2) 39 year old overstayer who arrested and detained. He was dressed smartly in clothing typical of a waiter in such an establishment and when the team entered he was seen carrying a tray of food from the kitchen towards the dining area, although when he was spoken to (after a slight delay) he was watching football on his phone and told the officer that he was a customer. He said he was just there visiting his uncle but ultimately admitted to having stayed in the accommodation upstairs for 2 nights, although he continued to deny working.
- 3) 32 year old overstayer who was arrested before subsequently being asked to leave the premises as he did not have permission to work. Not detained as he had an outstanding application with the Home Office. He was behind the bar pouring a drink when the team entered the premises. He stated that he had

worked at the premises as front of house since 11/06/18 and that he had called the restaurant asking for work. He stated he had been asked for paperwork but had not shown anything which showed he had right to work in the UK. He spoke to a 'Mo' on his first day and was working 3 days a week from 5.30pm to 10pm. He said he was not paid for his work but received a room and free food.

A male, who had arrived at the premises whilst the visit was taking place and identified himself as the manager of the restaurant, was spoken to and he stated that he was in charge of employing staff and said he knew males 1 and 2. He stated that male 1 been working at the premises for 2 or 3 weeks and helped in the kitchen. He said he didn't have fixed hours and came when he was needed. He said that the male was not paid but was given food and accommodation. He said he had not asked the male for any ID. He said male 2 was a family member and was visiting him. He said he had helped out a tiny bit whilst he was there by opening the restaurant for him as the other manager was late as well as opening the door for customers and showing them to their seats. He said the male was not paid but would be given food.

An illegal working civil penalty referral notice was served on the company with all three males named, meaning a potential fine for the business of up to £60,000.

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The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005

Notice

Ref No: 18/01230/LQN

Name of Applicant: Home Office Immigration Enforcement

Name of Premise: Miah's of Pangbourne

**Address of Premise: 26 Reading Road
Pangbourne
Reading, Berkshire
RG8 7LY**

Home Office Immigration Enforcement has made an application under section 51 of The Licensing Act 2003 for a review of the Premises Licence which is in force at the premises.

The grounds on which a review is being sought:

The licensing objective 'Prevention of Crime and Disorder' as illegal working has been identified at the premises.

You are advised that the above application has been received by the Council. The full application may be viewed by appointment at;

Public Protection Partnership (Licensing)
West Berkshire District Council, Market Street, Newbury, RG14 5LD
licensing@westberks.gov.uk

Anyone likely to be affected by the application or responsible authority may make representations in writing to the Licensing Authority at the above address no later than 27.09.2018

Representations will not be accepted after this date.

It is an offence to knowingly or recklessly make a false statement in connection with an application and the maximum fine for which a person is liable on summary conviction for the offence is an unlimited fine.

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24 September 2018

Mr Jamshed Miah
77 Elm Road
Earley
Reading
Berks
RG6 9TB

Public Protection Partnership
Environmental Health and Licensing
West Berkshire District Council
Council Offices
Market Street Newbury
Berkshire RG14 5LD

Our Ref: 18/01230/LQN
Please ask for:
Direct Line: 01635 519890
Fax: 01635 519172
e-mail: licensing@westberks.gov.uk

Dear Mr Miah

Licensing Act 2003 – Premises Licence
REVIEW OF PREMISES LICENCE FOR MIAH'S OF PANGBOURNE
26 Reading Road, Pangbourne, Reading, West Berkshire, RG8 7LY

Please find enclosed a copy of the Supportive Review Representation submitted by Thames Valley Police.

Yours sincerely



Authorised Officer
Licensing Team

PUBLIC PROTECTION PARTNERSHIP
A SHARED SERVICE PROVIDED BY BRACKNELL FOREST COUNCIL, WEST BERKSHIRE DISTRICT COUNCIL
AND WOKINGHAM BOROUGH COUNCIL

ENC:
Supportive Review Representation
TVP1
TVP2
TVP3
TVP4
TVP5

THAMES VALLEY POLICE

Division/Station : Reading Licensing Dept

From : PC 5787 Simon Wheeler

To : West Berkshire Licensing Authority

Ref : Miah's Of Pangbourne (01492)

Date : 20 September 2018

Tel.No.

Subject :

Supportive review representation

Thames Valley Police (TVP) are providing this representation in support of the review process relating to Miah's Of Pangbourne, 26 Reading Road, Pangbourne, Reading, RG8 7LY.

Thames Valley Police were made aware that on the 26th June 2018 during a Home Office Immigration inspection at the premises that three males were found working within the premises that were found to be illegal workers.

The employment of illegal workers is a criminal activity which constitutes as serious offence that can in its most severe form relate to modern day slavery. At the very minimum employing illegal workers often involves exploitation through a failure to pay the minimum wage and little adherence towards workers rights.

The Immigration Act 2016 amended Section 21 of the Immigration, Asylum and Nationality Act 2006 and is the relevant legislation that deals with the employment of illegal workers. It states: 1)

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

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

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

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

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

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

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

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

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

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

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

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

With regards to the review of licensed premises the current Secretary of States Section 182 Guidance provides the following statements which have direct implications regarding the employment of illegal workers:-

“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.”

Furthermore, on Sunday 16th September 2018 a Section 59 licensing inspection was carried out at the premises by Thames Valley Police.

During the **inspection** a number of failures were identified that had negative implications in relation to the adherence of the Designated Premises Supervisor and Premises Licence Holder to comply with the conditions of their licence.

The following outlines the issues identified during the inspection:

- 1) Failure to comply or show due diligence in relation to any licence condition.
- 2) DPS did not know any of the four licensing objectives.
- 3) Part A and B of the Licence not available as per legislative requirements.
- 4) Age verification policy not **in** place, promoted or actively operated.
- 5) No staff training was available.
- 6) No written authorisation for the sale of alcohol was available.
- 7) No section 57 notice was in place.
- 8) No right to work documentation was available for staff at work during the inspection.

(Please see Appendix TVP/1 and TVP/2)

The majority of the outlined issues discovered during the police inspection are offences within their own right, and when these are coupled with the employment of multiple illegal workers we suggest that the only conclusion which can be drawn from this is that this premises is undermining rather than promoting the licensing objectives.

Thames Valley Police are also aware that of the three Miah 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/3 and TVP/4)

We understand that you must consider the elements of this case singularly 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 therefore extremely difficult to foresee how any option other than revocation of this premises licence can ensure that this criminal activity does not continue and the licensing objectives are not further undermined.

We recommend that replacing the Designated Premises Supervisor is not a sufficient measure to address our concerns at this premises.

We also recommend that adding or amending the licence conditions shall not resolve these concerns, as currently the Premises Licence Holder is failing to ensure that the current licence conditions are complied with, and this suggests that further conditions are very likely to also not be adhered to.

The final option for your consideration would be a period of suspension of the premises licence, but again we would argue that the evidence suggests that to allow this premises to retain its licence will likely lead to the further future undermining of the licensing objectives.

The case of East Lindsey District Council V Abu Hanif is relevant in this situation and may prove useful for the sub-committee in this matter (Please see Appendix TVP/5)

The offences in this review application are some of the most serious outlined in the Licensing Act 2003. The employment of illegal workers and their possible exploitation for financial gain is clearly an extremely serious criminal offence and one that the Licensing Act has identified as one where the revocation of the licence should – even in the first instance – be seriously considered. There are no acceptable excuses or justification that can be offered for this. A licence holder and responsible employer should, as a bare minimum, be checking that their potential employees are eligible to reside and work in the UK. This also applies to the licensing breaches encountered at the premises which are, in themselves, criminal offences that pose a substantial risk to public safety and seriously undermine the promotion of the licensing objectives.

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.

It is Thames Valley Police respectful submission that the only appropriate and proportionate step to promote the licensing objectives and safeguard the public as a whole, is for the licence to be revoked.

Appendices

TVP/1 – Miah’s Pangbourne inspection check sheet.

TVP/2 – Miah’s inspection letter.

TVP/3 – Miah’s Spencers Wood review

TVP/4 – Miah’s Garden of Gulab review

TVP/5 – Case Law (East Lindsey District Council V Abu Hanif

CONTINUATION SHEET OF ISSUES DISCUSSED:

Summary not on display (PAGE 1 OF PART A Displayed) - Staff member unaware of where part A or part B is
 ✓ No member of staff with licensing knowledge including DPS !!

Licence conditions.
 General 1)
 2)
 3)
 F)
 Env health 1)
 2)
 3)
 4)

Could not record any conditions compliance with any conditions
 DPS also notes it difficult to ensure any compliance

Right to work documentation for current staff?
 No documentation available - O due diligence.

No challenge 25 papers or documentation available.
 no authorisation list (states no other staff serve alcohol)
 No understanding of age verification or written policy.

INSPECTING OFFICER: PC STAN WHEELER

SIGNATURE OF LICENSEE/REPRESENTATIVE: 

DATE OF INSPECTION: 16/09/2018

FOR OFFICIAL USE ONLY

Premises Scoring

1. Venue Type	10	2. Hours	20	3. Rateable Value	5
4. Compliance: Legislation	40	5. Compliance: Conditions	40	6. Best Practice	30
7. Complaints History	0	8. Confidence	60	Total:	205

Risk Rating: Very High High Medium Low Very Low

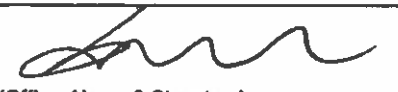
Please consult the scoring guidance note for more information on relevant considerations when scoring premises.

Licensing Profiles - Risk Rating Breakdown

1. Venue Type 60 - Nightclub 50 - Pub etc. (regular dance/music) 40 - Pub etc. (Irregular dance/music) 30 - Off Licn & Late Night Take-away 20 - Off Licn (supermarkets) etc. 10 - Restaurants, Hotels etc. 5 - School, Village Halls etc.	2. Hours of Operation 30 - Between 2am & 5 am 20 - Between 12am & 2 am 15 - Between 11pm and 12 am 10 - Between 5am & 7 am 5 - Between 7am and 11 pm 0 - Residents Only	3. Rateable Value 20 - Band D, E 15 - Band C 10 - Band B 5 - Band A
4. Compliance with Legislation 40 - Very Poor (No/very little) 30 - Poor (Few) 20 - Fair (Most) 10 - Good (Almost all) 0 - Excellent (All)	5. Compliance with Conditions 40 - Very Poor (No/very little) 30 - Poor (Few) 20 - Fair (Most) 10 - Good (Almost all) 0 - Excellent (All/No conditions)	6. Best Practice Measures 30 - No Measures 15 - 1/2 Measures 5 - Several Measures 0 - All possible Measures
7. Complaints History 40 - Persistent Complaints 30 - Regular Complaints 20 - Isolated Incidents (>2) 10 - Isolated Complaints (<2) 0 - None	8. Confidence in Operation 60 - No Confidence 40 - Low Confidence 25 - Slight Lack of Confidence 15 - Reasonable Confidence 5 - High Level of Confidence 0 - Total Confidence	

Points	Category	Description	Inspection Freq.
210 +	A	Very High Risk	Every 6 months
160 - 209	B	High Risk	Every 12 months
110 - 159	C	Medium Risk	Every 18 months
60 - 109	D	Low Risk	Every 24 months
0 - 59	E	Very Low Risk	Every 36 months

Check List

Inspection recorded on Amandus?	<input checked="" type="checkbox"/> Yes Reference:
Inspection Sheet Scanned and Indexed?	<input checked="" type="checkbox"/> Yes
Next Inspection Date Diarised?	<input type="checkbox"/> Yes Next Ins. Date:
Required Actions Identified?	<input type="checkbox"/> Yes
If Yes, detail actions taken:	
RETURN TO COUNCIL AND FORMAL REAPPLICATION IN REVIEW MEETING - RECOMMEND REVOCATION.	
Officer Sign Off:	WHEELER 5787  (Officer Name & Signature)
Sign Off Date:	16/07/18

TVPZ



PC 5787 Wheeler
Reading Licensing Dept

Reading Police Station
Castle Street
Reading
Berkshire
RG1 7TH

Mr Jamshed Miah
77 Elm Road
Earley
Reading
Berkshire, RG6 9TB

Tel: 101 (07973231273)
Email:
simon.wheeler@thamesvalley.pnn.police.uk

Monday 17th September 2018

Licensing Act 2003

Premises Licence Number: 014279

Premises: Miah's Of Pangbourne

Premises Address: 26 Reading Road, Pangbourne, Berkshire, RG8 7LY

Dear Mr J.Miah (PLH) and Mr N.Islam (DPS)

On Sunday 16th September 2018 I visited your premises to undertake a licensing inspection under Section 59 Licensing Act 2003 to ensure that you are complying with the above premises licence.

During this visit I was assisted by the Designated Premises Supervisor Mr Islam.

As a consequence of the inspection I found a number of areas that require attention and or clarification in relation to general due diligence and compliance with your licence conditions.

These are set out below:

- 1) Part B (Summary) of your licence was not displayed; instead one page of part A of your premises licence was displayed in a frame on the wall.
- 2) Part A of your licence was not available to be seen when requested. Mr Islam was unable to provide a copy of Part A, and did not understand the relevance of having Part A available or what its contents were. It is an offence to fail to provide a copy of your premises licence (Part A) when requested by an authorised officer.
- 3) No written authorisation list for the sale of alcohol was available.
- 4) No Section 57 notice was displayed detailing any member of staff that had knowledge of or where to find the premises licence.
- 5) No staff training is in place, written or otherwise in relation to the four licensing objectives, age verification, signs of intoxication, conflict resolution or proxy

purchases. Therefore, no evidence of due diligence could be provided to show that you are promoting the licensing objectives and not undermining them.

It is imperative that in order to show that your premises is not undermining the licensing objectives that training is provided and each member of staff is trained in those aspects and a signed record of that training is provided.

6) No age verification policy was in place, no written policy was provided, and the DPS did not understand or know that "Challenge 25" was a condition on the licence.

Furthermore, the mandatory conditions on every licence require that a written age verification policy reflecting that of the premises be available.

7) The DPS was unable to name any of the four licensing objectives and had no understanding of the requirement to promote them within the business.

Therefore, it is extremely difficult for staff or indeed your premises as a whole to support the licensing objectives as set out within the Licensing Act 2003 if no one knows what they are; or the obligations that they place upon yourselves as licensed retailers of alcohol.

8) It was confirmed that two further members of staff were working on the premises during the inspection, and that no right to work documentation relating to them was available for review as part of this process. This is of further concern considering that there have been recent incidents of illegal workers being located on your premises.

9) No evidence of due diligence could be provided to show compliance with any of the conditions specified within page 6 of your licence within annex 2.

May I please remind you that both the PLH and DPS are responsible for the promotion of the licensing objectives and ensuring compliance with the conditions specified within your operating schedule. I must remind you that any breach of licence conditions is an offence and if you continue with the sale of alcohol whilst any of these conditions are not complied with then that activity is unlicensed.

Please be informed that a copy of this letter shall be provided to the Licensing Authority.

Yours faithfully

PC 5787 Simon Wheeler

Reading LPA West Berks Licensing Department

TVP3

Licensing Authority: Wokingham Council
Reference: AL17153

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I Home Office Immigration Enforcement

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Miah's Spencers Wood Tankerton House, Basingstoke Road, Spencers Wood,	
Post town Berks	Post code (if known) RG7 1AE

Name of premises licence holder or club holding club premises certificate (if known) Mr Jamshed Miah

Number of premises licence or club premises certificate (if known)
--

Part 2 - Applicant details

I am

Please tick ✓ yes

- 1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates

(please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Home Office Immigration Enforcement Alcohol Licensing Team Lunar House 40 Wellesley Road Croydon CR9 2BY
Telephone number (if any)
E-mail address (optional) Alcohol@homeoffice.gsi.gov.uk

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

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

-
-
-
-

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

We have grounds to believe the license holder will fail to meet the licensing objectives of prevention of crime and disorder, as illegal working has been identified at this premises.

Section 36 and Schedule 4 of the Immigration Act 2016 (the 2016 Act) amended the Licensing Act 2003 (the 2003 Act) to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017. The intention is to prevent illegal working in premises licensed for the sale of alcohol or late night refreshment.

The Home Secretary (in practice Home Office (Immigration Enforcement)) was added to the list of Responsible Authorities (RA) in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences and applications to vary a Designated Premises Supervisor (DPS)), and in some limited circumstances personal licence applications. In carrying out the role of responsible authority, Home Office (Immigration Enforcement) is permitted to make relevant representations and objections to the grant of a licence or request a review of an existing licence as a responsible authority where there is concern that a licence and related licensable activity is prejudicial to the prevention of immigration crime including illegal working.

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

On 10/08/2018 an enforcement visit was conducted. Entry was gained under S.179 Licensing Act 2003 at 17.48 hrs. 10 people were encountered, 5 front of house staff, all of whom were cleared.

There were 5 males in the kitchen. Of the 5 in the kitchen, 1 was reporting 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 all found to be in the UK illegally with no right to work. All 4 were arrested and detained.

A Civil Penalties Referral Notice was served on the company with the 4 males named.

Please tick ✓ yes

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

If yes please state the date of that application

Day	Month	Year

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

Please tick ✓

yes

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

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

Part 3 – Signatures (please read guidance note 4)

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

Signature *EM*

Date 30/08/18

Capacity Responsible Authority.....
.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6) Alcohol Licensing Team Lunar House 40 Wellesley Road	
Post town Croydon	Post Code CR9 2BY
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) Alcohol@homeoffice.gsi.gov.uk	

Notes for Guidance

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

6. This is the address which we shall use to correspond with you about this application.

Licensing Authority: Reading Borough Council
Reference: AL17140

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I Home Office Immigration Enforcement

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Miah's Garden of Gulab 130-134 Wokingham Road,	
Post town Reading	Post code (if known) RG6 1JL

Name of premises licence holder or club holding club premises certificate (if known) Mr Jamshed Miah

Number of premises licence or club premises certificate (if known)
--

Part 2 - Applicant details

I am

Please tick ✓ yes

- 1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates

(please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Home Office
Immigration Enforcement
Alcohol Licensing Team
Lunar House
40 Wellesley Road
Croydon
CR9 2BY

Telephone number (if any)

E-mail address (optional)
Alcohol@homeoffice.gsi.gov.uk

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

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

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

We have grounds to believe the license holder will fail to meet the licensing objectives of prevention of crime and disorder, as illegal working has been identified at this premises.

Section 36 and Schedule 4 of the Immigration Act 2016 (the 2016 Act) amended the Licensing Act 2003 (the 2003 Act) to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017. The intention is to prevent illegal working in premises licensed for the sale of alcohol or late night refreshment.

The Home Secretary (in practice Home Office (Immigration Enforcement)) was added to the list of Responsible Authorities (RA) in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences and applications to vary a Designated Premises Supervisor (DPS)), and in some limited circumstances personal licence applications. In carrying out the role of responsible authority, Home Office (Immigration Enforcement) is permitted to make relevant representations and objections to the grant of a licence or request a review of an existing licence as a responsible authority where there is concern that a licence and related licensable activity is prejudicial to the prevention of immigration crime including illegal working.

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

On 13/05/2018 an enforcement visit was conducted. Entry was gained under s179 Licensing Act 2003 at 19:45. The Notice to Occupier was served at 19:48 to a male waiter, and the reasons for entry were explained by an immigration officer and the Licensing Officer from Reading Borough Council, Peter NARANCIC. The reason for the slight delay was that an attempt was made to locate a manager or individual in charge, although nobody was forthcoming.

Upon entering, a member of the public began filming officers on his mobile phone. This was challenged initially, although the member of public did not interfere with our work, and mostly kept out of the way.

A total of 10 staff were located on the premises, with one entering later and another located outside who stated he worked as a delivery driver. Of the 10 staff located, 5 were found to be offenders.

Of the 5 offenders located, 3 were arrested under Schedule 2 Paragraph 17(1) Immigration Act 1971aa, as persons liable to be detained under Schedule 2 Paragraph 16(2) Immigration Act 1971aa.

Q&As were conducted with all offenders by their arresting officers.

Two individuals were not arrested however were found without valid leave to remain or permission to work. They were not arrested due to complications in their current outstanding applications or due to mitigating circumstances. They were both escorted from the premises following enquiries by their arresting officers.

The other three were all taken to Immigration Detention. Due to the fact that no manager or individual in charge was able to be identified, a Q&A was not able to be conducted with anyone considered in charge of the premises.

An Illegal Working Civil Penalty Referral Notice was served to an individual at the premises prior to leaving, and the possible repercussions were explained to him.

Please tick ✓ yes

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

If yes please state the date of that application

Day	Month	Year

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

Please tick ✓

yes

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

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Part 3 – Signatures (please read guidance note 4)

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

Signature *em*
.....

Date *30/08/2018*
.....

Capacity **Responsible**
Authority.....
.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6) Alcohol Licensing Team Lunar House 40 Wellesley Road	
Post town Croydon	Post Code CR9 2BY
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) Alcohol@homeoffice.gsi.gov.uk	

Notes for Guidance

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4. The application form must be signed.
5. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.

6. This is the address which we shall use to correspond with you about this application.

Judgments

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

Before:

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.