

# Notice of Meeting

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## Licensing Sub-Committee

**Wednesday 27 March 2019 at 2.00pm**

**in Shaw House Church Road Newbury  
RG14 2DR**

### **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 19 March 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](http://www.westberks.gov.uk)

**Berkshire Restaurant Ltd, 26 Reading Road, Pangbourne, Berkshire, RG8 7LY**



**WestBerkshire**  
C O U N C I L

**Agenda - Licensing Sub-Committee to be held on Wednesday, 27 March 2019 (continued)**

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

**Substitute:** Councillor Peter Argyle

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# 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. 18/01858/LQN - Berkshire Restaurant Ltd, 26 Reading Road, Pangbourne, Berks, RG8 7LY** 3 - 74  
**Proposal:** To consider the Premises Licence application submitted under the Licensing Act 2003  
**Location:** Berkshire Restaurant Ltd, 26 Reading Road, Pangbourne, Berkshire, RG8 7LY  
**Applicant:** Mr James Southern

Andy Day  
Head of Strategic Support

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



**West Berkshire**  
C O U N C I L



25 January 2019

The Licensing Authority  
West Berkshire District Council  
Council Offices  
Market Street,  
Newbury  
RG14 5LD

Tel : 0844 556 1191  
Fax: 0844 272 5591  
Web: [www.licensinglawyers.co.uk](http://www.licensinglawyers.co.uk)  
E-mail: [enquiries@licensinglawyers.co.uk](mailto:enquiries@licensinglawyers.co.uk)

Dear Sirs

**Re : 26 Reading Road, Pangbourne**

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.

We have been instructed by our client to submit an application for a Premises Licence in respect of the above premises and enclose herewith the application form and plan. Arrangements are being made to display a site notice and to publish the same in a local newspaper.

You will be aware that there is already a licence in force for the premises and relying on the decision in *R (Extreme Oyster And Star Oyster Ltd) v. Guildford Borough Council [2013] EWHC 2174 (Admin), [2014] LLR 126, QBD* our client is of course at liberty to apply for a new licence.

We hope that there will be no representations on this application but if a Responsible Authority or Interested Party does have any concerns, then we would recommend that they discuss them with us first so that we can attempt to come to an agreement on the proposals.

This matter is being dealt with by Mrs Veronika Millington.

Yours faithfully,

Licensing Lawyers

Direct Line : 0844 556 1193

Email : [vm@licensinglawyers.co.uk](mailto:vm@licensinglawyers.co.uk)

**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			
<b>26 Reading Road Pangbourne</b>			
<b>Post town</b>	Reading	<b>Postcode</b>	<b>RG8 7LY</b>

Telephone number at premises (if any)	
Non-domestic rateable value of premises	<b>£13,500</b>

**Part 2 - Applicant details**

Please state whether you are applying for a premises licence as

Please tick as appropriate

- |  |                                     |                             |
|--|-------------------------------------|-----------------------------|
| a) an individual or individuals *                    | <input type="checkbox"/>            | please complete section (A) |
| b) a person other than an individual *               |                                     |                             |
| i as a limited company/limited liability partnership | <input checked="" type="checkbox"/> | please complete section (B) |
| ii as a partnership (other than limited liability)   | <input type="checkbox"/>            | please complete section (B) |
| iii as an unincorporated association or              | <input type="checkbox"/>            | please complete section (B) |
| iv other (for example a statutory corporation)       | <input type="checkbox"/>            | please complete section (B) |
| c) a recognised club                                 | <input type="checkbox"/>            | please complete section (B) |
| d) a charity   | <input type="checkbox"/>            | please complete section (B) |
| e) the proprietor of an educational establishment    | <input type="checkbox"/>            | 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 <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
<b>Surname</b>			<b>First names</b>		
<b>Date of birth</b>		I am 18 years old or over		<input type="checkbox"/>	Please tick yes
<b>Nationality</b>					
Current residential address if different from premises address					
Post town				Postcode	
<b>Daytime contact telephone number</b>					
<b>E-mail address (optional)</b>					

**SECOND INDIVIDUAL APPLICANT (if applicable)**

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

**(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 8 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
<input type="text"/>	<input type="text"/>	<input type="text"/>

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

DD	MM	YYYY
<input type="text"/>	<input type="text"/>	<input type="text"/>

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

Restaurant and takeaway

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**

<b>Plays</b> Standard days and timings (please read guidance note 7)			<b>Will the performance of a play take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input type="checkbox"/>			
				Outdoors	<input type="checkbox"/>			
				Both	<input type="checkbox"/>			
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b>Please give further details here</b> (please read guidance note 4)					
Mon								
Tue								
Wed						<b>State any seasonal variations for performing plays</b> (please read guidance note 5)		
Thur								
Fri						<b>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</b> (please read guidance note 6)		
Sat								
Sun								

## B

<b>Films</b> Standard days and timings (please read guidance note 7)			<b>Will the exhibition of films take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input type="checkbox"/>			
				Outdoors	<input type="checkbox"/>			
				Both	<input type="checkbox"/>			
Day	Start	Finish	<b>Please give further details here</b> (please read guidance note 4)					
Mon								
Tue								
Wed						<b>State any seasonal variations for the exhibition of films</b> (please read guidance note 5)		
Thur								
Fri						<b>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</b> (please read guidance note 6)		
Sat								
Sun								

C

<b>Indoor sporting events</b> Standard days and timings (please read guidance note 7)			<b><u>Please give further details</u></b> (please read guidance note 4)
Day	Start	Finish	
Mon			<b><u>State any seasonal variations for indoor sporting events</u></b> (please read guidance note 5)
Tue			
Wed			
Thur			<b><u>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</u></b> (please read guidance note 6)
Fri			
Sat			
Sun			

## D

<b>Boxing or wrestling entertainments</b> Standard days and timings (please read guidance note 7)			<b>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Day	Start	Finish		Both	<input type="checkbox"/>
Mon			<b>Please give further details here</b> (please read guidance note 4)		
Tue					
Wed			<b>State any seasonal variations for boxing or wrestling entertainment</b> (please read guidance note 5)		
Thur					
Fri			<b>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</b> (please read guidance note 6)		
Sat					
Sun					

**E**

<b>Live music</b> Standard days and timings (please read guidance note 7)			<b><u>Will the performance of live music take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b><u>Please give further details here</u></b> (please read guidance note 4)		
Mon	11:00	00:00			
Tue	11:00	00:00			
Wed	11:00	00:00			
Thur	11:00	00:00			
Fri	11:00	00:00			
Sat	11:00	00:00			
Sun	11:00	00:00	<b><u>State any seasonal variations for the performance of live music</u></b> (please read guidance note 5)		
			<b><u>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</u></b> (please read guidance note 6)		



**F**

<b>Recorded music</b> Standard days and timings (please read guidance note 7)			<b><u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>						
				Outdoors	<input type="checkbox"/>						
				Both	<input type="checkbox"/>						
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b><u>Please give further details here</u></b> (please read guidance note 4)								
Mon	00:00	01:00									
	11:00	00:00									
Tue	00:00	01:00									
	11:00	00:00									
Wed	00:00	01:00				<b><u>State any seasonal variations for the playing of recorded music</u></b> (please read guidance note 5)					
	11:00	00:00									
Thur	00:00	01:00									
	11:00	00:00									
Fri	00:00	01:00							<b><u>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</u></b> (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	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Mon	11:00	23:00	<b>Please give further details here</b> (please read guidance note 4)		
Tue	11:00	23:00			
Wed	11:00	23:00	<b>State any seasonal variations for the performance of dance</b> (please read guidance note 5)		
Thur	11:00	23:00			
Fri	11:00	23:00	<b>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</b> (please read guidance note 6)		
Sat	11:00	23:00			
Sun	11:00	23:00			

# H

<b>Anything of a similar description to that falling within (e), (f) or (g)</b> Standard days and timings (please read guidance note 7)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	<b><u>Will this entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<b><u>Please give further details here</u></b> (please read guidance note 4)		
Wed					
Thur			<b><u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u></b> (please read guidance note 5)		
Fri					
Sat			<b><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></b> (please read guidance note 6)		
Sun					

**I**

<b>Late night refreshment</b> Standard days and timings (please read guidance note 7)			<b>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input type="checkbox"/>			
				Outdoors	<input type="checkbox"/>			
Day	Start	Finish		Both	<input checked="" type="checkbox"/>			
Mon	00:00	00:30	<b>Please give further details here</b> (please read guidance note 4)					
	23:00	00:00						
Tue	00:00	00:30						
	23:00	00:00						
Wed	00:00	00:30				<b>State any seasonal variations for the provision of late night refreshment</b> (please read guidance note 5)		
	23:00	00:00						
Thur	00:00	00:30						
	23:00	00:00						
Fri	00:00	00:30	<b>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</b> (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**

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 7)			<b>Will the supply of alcohol be for consumption – please tick</b> (please read guidance note 8)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 5)		
Mon	00:00	00:30			
	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			
	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			
			<b>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</b> (please read guidance note 6)		

**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 <b>James Philip Southern</b>	
Date of birth <b>21/03/1985</b>	
<b>Address</b> 16 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

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 7)			<b>State any seasonal variations</b> (please read guidance note 5) New Year's Eve: from end of permitted hours on New Year's Eve to start of permitted hours on following day (or if there are no permitted hours on the following day then midnight on 31 <sup>st</sup> December).
Day	Start	Finish	
Mon	00:00	01:00	
	11:00	00:00	
Tue	00:00	01:00	
	11:00	00:00	
Wed	00:00	01:00	
	11:00	00:00	
Thur	00:00	01:00	
	11:00	00:00	
Fri	00:00	01:00	
	11:00	00:00	
Sat	00:00	01:00	
	11:00	00:00	
Sun	00:00	01:00	
	11:00	00:00	
<b>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</b> (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 agreed 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 a public to local residents.

Any loudspeakers used must be mounted on anti-vibration bases.

When live music is performed after 21:00, regular checks will be made outside of the premises on at least an hourly basis to try and ensure and sound does not give rise to a public nuisance.

All external doors and windows must be kept closed, other than for access and egress.

The licensee or other nominated representative shall monitor noise levels outside nearby dwellings. If, as a result of this monitoring, it is considered that the noise levels are likely to give rise to, or do give rise to, a public nuisance, immediate action shall be taken to cause the volume of the entertainment to be reduced to suitable levels. A record of these checks and of any action taken as a result shall be maintained in a log book kept specifically for the purpose. The log book shall be made available for inspection by an authorised officer of the licensing authority on request.

Refuse, such as bottles, shall not be placed into receptacles outside the premises between 23:00 hours and 07:00 hours in order to minimise the disturbance to nearby properties.

**e) The protection of children from harm**

A challenge 25 scheme will be adopted in compliance with the age verification condition. Customers who appear to 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

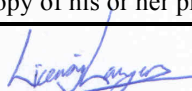
- I have made or enclosed payment of the fee.
- I have enclosed the plan of the premises.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, 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.**

<b>Declaration</b>	<p>[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).</p> <ul style="list-style-type: none"> <li>• 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 licensable activity) and I have seen a copy of his or her proof of entitlement to work, if appropriate (please see note 15)</li> </ul>
Signature	
Date	25/1/2019
Capacity	Solicitors and agents for the applicant

**For joint applications, signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> 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.

- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
  - Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
    - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
    - any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
    - any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
    - any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.
3. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
  4. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
  5. For example (but not exclusively), where the activity will occur on additional days during the summer months.
  6. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
  7. Please give timings in 24 hour clock (e.g. 16.00) and only give details for the days of the week when you intend the premises to be used for the activity.
  8. If you wish people to be able to consume alcohol on the premises, please tick 'on the premises'. If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off the premises'. If you wish people to be able to do both, please tick 'both'.
  9. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or the presence of gaming machines.
  10. Please list here steps you will take to promote all four licensing objectives together.
  11. The application form must be signed.
  12. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
  13. Where there is more than one applicant, each of the applicants or their respective agent must sign the application form.
  14. This is the address which we shall use to correspond with you about this application.

**15. Entitlement to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:**

A licence may not be held by an individual or an individual in a partnership who is resident in the UK who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.

Any premises licence issued in respect of an application made on or after 6 April 2017 will become invalid if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have an entitlement to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity. They do this by providing with this application copies or scanned copies of the following documents (which do not need to be certified).

**Documents which demonstrate entitlement to work in the UK**

- An expired or current passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK [please see note below about which sections of the passport to copy].
- An expired or current passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- A Registration Certificate or document certifying permanent residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A **full** birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A certificate of registration or naturalisation as a British citizen, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A **current** passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to work relation to the carrying on of a licensable activity.
- A **current** Residence Card issued by the Home Office to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights or residence.

- A **current** Immigration Status Document containing a photograph issued by the Home Office to the holder with an endorsement indicating that the named person may stay in the UK, and is allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A Certificate of Application, **less than 6 months old**, issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (European Economic Area) Regulations 2006, to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence.
- Reasonable evidence that the person has an outstanding application to vary their permission to be in the UK with the Home Office such as the Home Office acknowledgement letter or proof of postage evidence, or reasonable evidence that the person has an appeal or administrative review pending on an immigration decision, such as an appeal or administrative review reference number.
- Reasonable evidence that a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence in exercising treaty rights in the UK including:-
  - evidence of the applicant's own identity – such as a passport,
  - evidence of their relationship with the European Economic Area family member – e.g. a marriage certificate, civil partnership certificate or birth certificate, and
  - evidence that the European Economic Area national has a right of permanent residence in the UK or is one of the following if they have been in the UK for more than 3 months:
    - (i) working e.g. employment contract, wage slips, letter from the employer,
    - (ii) self-employed e.g. contracts, invoices, or audited accounts with a bank,
    - (iii) studying e.g. letter from the school, college or university and evidence of sufficient funds; or
    - (iv) self-sufficient e.g. bank statements.

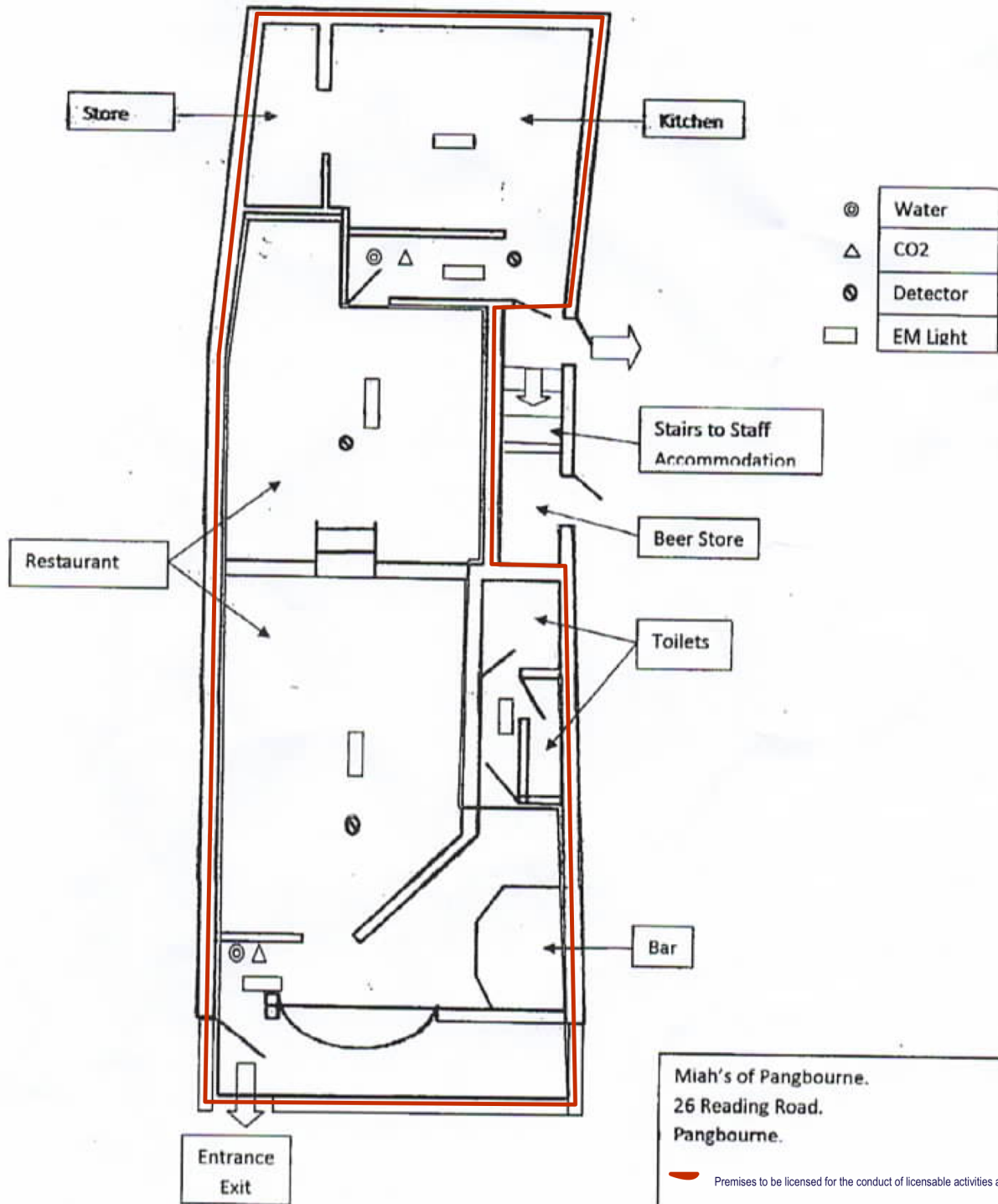
Family members of European Economic Area nationals who are studying or financially independent must also provide evidence that the European Economic Area national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical insurance policy, an EHIC card or an S1, S2 or S3 form.

**Original documents must not be sent to licensing authorities.** If the document copied is a passport, a copy of the following pages should be provided:-


- (i) any page containing the holder's personal details including nationality;
- (ii) any page containing the holder's photograph;
- (iii) any page containing the holder's signature;
- (iv) any page containing the date of expiry; and
- (v) any page containing information indicating the holder has permission to enter or remain in the UK and is permitted to work.

If the document is not a passport, a copy of the whole document should be provided.

Your right to work will be checked as part of your licensing application and this could involve us checking your immigration status with the Home Office. We may otherwise share information with the Home Office. Your licence application will not be determined until you have complied with this guidance.



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

 Premises to be licensed for the conduct of licensable activities and the sale of alcohol

1:100 at A4

**Consent of individual to being specified as premises supervisor**

James Philip Southern

I

*[full name of prospective premises supervisor]*

of

*[home address of prospective premises supervisor]* 16 Adwell Drive, Earley, Berks, RG6 4JY

hereby confirm that I give my consent to be specified as the designated premises supervisor in relation to the application for a new licence

by

*[name of applicant]* Berkshire Restaurant Ltd

N/A

relating to a premises licence

*[number of existing licence, if any]*

for

*[name and address of premises to which the application relates]* 26 Reading Road, Pangbourne, Berks

and any premises licence to be granted or varied in respect of this application made by

*[name of applicant]* Berkshire Restaurant Ltd

concerning the supply of alcohol at

*[name and address of premises to which application relates]* 26 Reading Road, Pangbourne, Berks

I also confirm that I am entitled to work in the United Kingdom and am applying for, intend to apply for or currently hold a personal licence, details of which I set out below.

Personal licence number

*[insert personal licence number, if any]* PL1553

Personal licence issuing authority

*[insert name and address and telephone number of personal licence issuing authority, if any]* Wokingham Borough Council

Signed



Name (please print)

James Philip Southern

Date

21<sup>st</sup> Jan 2019

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# LICENSING ACT 2003 – NOTICE OF APPLICATION

Notice is hereby given that Berkshire Restaurant Ltd

has submitted a premises licence application to

West Berkshire District Council

The application is for a new licence for the premises known as

26 Reading Road, Pangbourne, RG8 7LY

The application proposes the supply of alcohol, the provision of live and recorded music, performance of dance and late night refreshment.

Anyone who wishes to make representations concerning this application must do so in writing to :

The Licensing Authority, West Berkshire District Council, Council Offices  
Market Street, Newbury, RG14 5LD no later than 23rd February 2019

The full application may be inspected during normal office hours at the offices of the Licensing Authority at the above address or on the Council's website, [www.westberks.gov.uk](http://www.westberks.gov.uk)

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

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*NB: Representations must be relevant to one or more of the Licensing Objectives. Anyone making representations will be invited to attend a public hearing before the Licensing Sub-Committee of the Council, to set out the representation in person. The applicant welcomes the opportunity to discuss the application with anyone who has concerns before they make a representation.*



[www.licensinglawyers.co.uk](http://www.licensinglawyers.co.uk)

0844 556 1191

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# THAMES VALLEY POLICE

Division/Station : Reading Police Station Licensing Dept

From : PC 5787 Simon Wheeler

To : West Berkshire Council

Ref :Berkshire Restaurant Ltd

Date : 21st February 2019

Subject :

## Objection

To whom it may concern

I PC 5787 Simon Wheeler 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 in relation to 26 Reading Road, Pangbourne (currently Miah's of Pangbourne) 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 Pangbourne 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 ie 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 West Berkshire Licensing Sub-Committee.

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

**On 26<sup>th</sup> June 2018** – Home office immigration inspected the premises and discovered three illegal workers within the restaurant.

**On 30<sup>th</sup> August 2018** – Home Office Immigration submitted a premises licence review in relation to Miah's of Pangbourne.

**On 16<sup>th</sup> September 2018** – Thames Valley Police conducted a section 59 inspection at the premises and discovered a number of conditions in breach and general lack of due diligence.

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

**On 8<sup>th</sup> 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 14<sup>th</sup> October 2018** – Thames Valley Police objected to the PLH transfer and DPS variation 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 23<sup>rd</sup> 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 13<sup>th</sup> 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. (Thames Valley police are aware that some form of appeal regarding this decision and the process has been made by the appellant).

**On 25<sup>th</sup> January 2019** – Licensing Lawyers submitted an application for a new premises licence for 26 Reading Road, Pangbourne (The site of Miah's of Pangbourne) on behalf of Berkshire Restaurant Ltd under the directorship of Mr James Southern.

The opening line of the covering letter 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 8 Shinfield Rise, RG2 8EA.
- 2) A voters register check completed on 29<sup>th</sup> 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 of Pangbourne in the following way:
  - i) On 7<sup>th</sup> September 2010 Thames Valley Police recorded an incident of theft at 8 Shinfield Rise. The named person reporting the incident was Mr Jamshed Miah with his address provided at the time as Miah's 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 Miah's restaurants)

**This provides a direct link between the address at 8 Shinfield Rise and both Jamshed Miah (the father of Mouadjal Miah) and Mr Abadul Islam.**

- ii) On 1<sup>st</sup> 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 Miah's chain of restaurants.

Therefore Thames Valley Police 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.

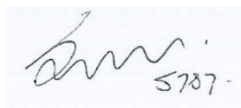
In a recent recent appeal court judgement in June 2018 District Judge Julie Cooper at Camberwell Green Magistrates Court regarding Peckham Food & Wine v London Borough of Southwark upheld the decision of the London Borough of Southwark to revoke a convenience store’s premises licence following allegations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

A handwritten signature in blue ink, followed by the number '5787' written in black ink.

**Appendices:-**

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

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

**Appendix TVP 3** – Crime occurrence at 8 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' (Pangbourne) 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 DPS variation objection dated 22/10/2018.

**Appendix TVP 8** – Thames Valley Police premises licence transfer objection dated 14/10/2018.

**Appendix TVP 9** – Peckham Food & wine V London Borough of Southwark.

**Appendix TVP 10** – East Lindsey District Council V Abu Hanif T/A Zaras Restaurant and Takeaway.

## BERKSHIRE RESTAURANT LTD

Company number 11734653

[Follow this company](#)

[File for this company](#)

[Overview](#)

[Filing history](#)

[People](#)

Registered office address

**8 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**



X7XNAR36

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

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### New Address Details

New Address: **8 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

16 Adwell Drive, Lower Earley, Reading, Berkshire, United Kingdom, RG6 4JY

Role **ACTIVE**

Director

Date of birth

March 1985

Appointed on

19 December 2018

Nationality

British

Country of residence

United Kingdom

Occupation

Security Manager

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Experian QAS - NameTracer Pro - Enhanced Voters Check

New Repopulate Step Up Flatten Store Occupants Raw

Enter selection:

Search 8,shinfield rise,RG2 8EA - [Licensing]  
StepIn 8 Shinfield Rise, Shinfield RG2 8EA

Name	Street
[Redacted]	8 Shinfield Rise
Islam, Abadul	8 Shinfield Rise
Islam, [Redacted]	8 Shinfield Rise
Islam, [Redacted]	8 Shinfield Rise
Islam, [Redacted]	8 Shinfield Rise
[Redacted]	8 Shinfield Rise

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



## 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: 8 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) [REDACTED]  
 (Land line) [REDACTED]
- 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:**

- 8 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 -:-:-:-

RESTRICTED

Printed by: P5787 Date: 29/01/2019 13:36 Computer: W0610299 Page 1 of 2

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:

Entered by:

Report time:

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: G0861 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] / [REDACTED]; [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] / [REDACTED] DOB: [REDACTED] (39) Gender: Male [REDACTED] [REDACTED] D. [REDACTED] L, BERKSHIRE [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]; S [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 --:--:--

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Printed by: P5787 Date: 29/01/2019 13:38 Computer: W0610299 Page 1 of 3



- 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] Identifiable Indicator: N / Antique Indicator: N / ) (Sto

**Modus operandi:**

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

Author:

Entered by:

Report time:

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



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Hist - BRC arrest	21/11/2014 17:15	23/12/2011 09:11	#C9004 BATEMAN, I.	No	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 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

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# MIAH'S (PANGBOURNE) LIMITED

Company number **04592279**

Registered office address

26 Reading Road, Pangbourne, Berkshire, RG8 7LY

Company status

Active

Company type

Private limited Company

Incorporated on

15 November 2002

## Accounts

Next accounts made up to **30 November 2018**  
due by **31 August 2019**

Last accounts made up to **30 November 2017**

## Confirmation statement

Next statement date **9 November 2019**

due by **23 November 2019**

Last statement dated **9 November 2018**

## Nature of business (SIC)

- 56104 Licensed restaurants

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## Companies House

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# MIAH'S (PANGBOURNE) LIMITED

Company number **04592279**

- [Officers](#)
- [Persons with significant control \(https://beta.companieshouse.gov.uk/company/04592279/persons-with-significant-control\)](https://beta.companieshouse.gov.uk/company/04592279/persons-with-significant-control)

## Filter officers



Current officers

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## 2 current officers

### ISLAM, Fakrul

Correspondence address **14 Hillside, Maidenhead, Berkshire, SL6 2RX**

Role Active **Director**

Date of birth **July 1962**

Appointed on **20 November 2002**

Nationality **British**

Country of residence **England**

Occupation **Restaurant Manager**

### MIAH, Mouadjul Mohammed

Correspondence address **26 Reading Road, Pangbourne, Berkshire, RG8 7LY**

Role Active **Director**

Date of birth **August 1998**

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 26<sup>th</sup> 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 16<sup>th</sup> 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

Division/Station : Reading Licensing Dept

From : PC 5787 Simon Wheeler

To : West Berkshire Council Licensing Dept

Ref : Application for DPS Change

Date : 22 October 2018

Tel.No.

Subject :

**Mr Mouadjul Miah re Miah's Pangbourne, Reading, RG8 7LY**

To whom it may concern

I PC Simon Wheeler on behalf of the Chief Officer of Police for Thames Valley wish to object to the change of Designated Premises Supervisor (DPS) in relation to premises licence 014279 Miah's Pangbourne to Mr Mouadjul Miah.

Under Section 37 (5) of the Licensing Act 2003 Thames Valley Police believe that due to the exceptional circumstances surrounding this application we are satisfied that the designation of Mr Mouadjul Miah as the premises supervisor under the premises licence would undermine the crime prevention objective.

37 Application to vary licence to specify individual as premises supervisor

(1) The holder of a premises licence may—

(a) if the licence authorises the supply of alcohol, or  
 (b) if he has applied under section 34 to vary the licence so that it authorises such supplies, apply to vary the licence so as to specify the individual named in the application (“the proposed individual”) as the premises supervisor.

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

(a) section 54 (form etc. of applications etc.);  
 (b) section 55 (fees to accompany applications etc.).

(3) An application under this section must also be accompanied by—

(a) a form of consent in the prescribed form given by the proposed individual, and  
 (b) the premises licence (or the appropriate part of that licence) or, if that is not practicable, a statement of the reasons for the failure to provide the licence (or part).

(4) Notice of an application under this section must be given

(a) to the chief officer of police for the police area (or each police area) in which the premises are situated, and

(b) to the designated premises supervisor (if there is one),

and that notice must state whether the application is one to which section 38 applies.

4A) Notice under subsection (4) (a) is to be given by—

(a) the relevant licensing authority, in a case where the holder of the premises licence submitted the application to the relevant licensing authority by means of a relevant electronic facility;  
 (b) the holder of the premises licence, in any other case.

(4B) Notice under subsection (4) (b) is to be given by the holder of the premises licence.

**(5) Where a chief officer of police notified under subsection (4) 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.**

(6) 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 (4).

The current Section 182 Secretary of States guidance states the following at para 4.39, 4.40 and 4.41

4.39 The police may object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective. The police can object where, for example, a DPS is first specified in relation to particular premises and the specification of that DPS in relation to the particular premises gives rise to exceptional concerns. For example, where a personal licence holder has been allowed by the courts to retain their licence despite convictions for selling alcohol to children (a relevant offence) and then transfers into premises known for underage drinking.

4.40 Where the police do object, the licensing authority must arrange for a hearing at which the issue can be considered and both parties can put forward their arguments. The 2003 Act provides that the applicant may apply for the individual to take up post as DPS immediately and, in such cases, the issue would be whether the individual should be removed from this post. The licensing authority considering the matter must restrict its consideration to the issue of crime and disorder and give comprehensive reasons for its decision. Either party would be entitled to appeal if their argument is rejected.

4.41 The portability of personal licences between premises is an important concept under the 2003 Act. It is expected that police objections would arise in only genuinely exceptional circumstances. If a licensing authority believes that the police are routinely objecting to the designation of new premises supervisors on grounds which are not exceptional, they should raise the matter with the chief officer of police as a matter of urgency.

The Sub-Committee must be aware that currently review proceedings have been instigated by The Home Office Immigration Enforcement Team, with supportive representations from Thames Valley Police in relation to the employment of illegal workers within this premises as well as a host of breaches of licensing conditions.

Also a transfer request has been made by the current Premises Licence Holder (PLH) Mr Jamshed Miah to transfer the Premises Licence into this same individual (Mr Mouadjul Miah) whom is his son. This has also been objected to by Thames Valley Police on the grounds of the exceptional circumstances brought about by the direct links between them which on the balance of probability are likely to undermine the licensing objectives.

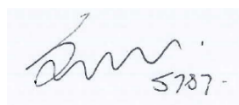
Thames Valley Police believe that due to the exceptional circumstances of this case which draw from the recent proceedings against this premises and the direct links between the current applicant and the premises licence holder that this provides sufficient “exceptional concerns” to support our objection.

Thames Valley Police believe that to allow Mr Mouadjul Miah as an applicant to become the Designated premises Supervisor (specifically at this premises) with its recent history and ongoing concerns will likely undermine the crime prevention objective.

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.



PC 5787 Simon Wheeler



Division/Station : Reading/ West Berkshire Licensing Dept

From : PC 5787 Simon Wheeler

To : West Berkshire Licensing Authority

Ref : Miahs Pangbourne, 26 Reading Road, Pangbourne

Date : 14<sup>th</sup> October 2018

Tel.No. 101

Subject :

**Objection**

I PC 5787 Simon Wheeler 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 Miahs Pangbourne, 26 Reading Road, Pangbourne, RG8 7LY (Premises licence 01429) under Section 42(6) of the Licensing Act 2003.

**(See Appendix TVP1)**

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 June 2018 to have been employing three illegal workers by Home Office immigration enforcement officers.

**(See Appendix TVP2)**

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.

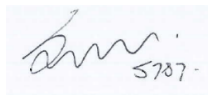
In this circumstance Mr Mouadjul Miah is directly linked to Mr Jamshed Miah, and Mr Jamshed Miah has been involved in employing illegal workers at three of his restaurants in Berkshire, which is also a criminal activity.

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 TVP3)

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.



PC 5787 Simon Wheeler

## **Appendices**

APPENDIX TVP1 – Licensing Act 2003 Section 42

APPENDIX TVP2 – Thames Valley Police review representation Miah's Pangbourne  
20/09/2018

APPENDIX TVP 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).

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 26<sup>th</sup> 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 16<sup>th</sup> 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.

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 Safer 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.

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

**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**

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.