

Summary of Licensing Sub-Committee Decision taken on 16 October 2019

Part I

Application No. 18/01230/LQN - Miah's of Pangbourne, 26 Reading Road, Pangbourne, RG8 7LY (Item 2(1))

NOTICE OF DECISION

The Licensing Sub-Committee of West Berkshire Council met on **16th October 2019** and considered Application **18/01230/LQN** made by Home Office Immigration Enforcement for a review of Premises Licence Number 014279 in respect of premises known as **Miah's of Pangbourne, 26 Reading Road, Pangbourne, RG8 7LY** and resolved to modify the conditions of the premises licence which are set out below.

In coming to their decision, the Sub-Committee had regard to the four licensing objectives, which are:

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

They also considered the Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 and West Berkshire Council's Statement of Licensing Policy.

Representations

The Sub-Committee treated the application as a new hearing to be considered on its own merits and heard representations made by:

1. for the Applicant: Ms Lee-Ann Evanson, Home Office, Immigration Enforcement;
2. for the Objectors: Mr. Payne (Licensing Lawyers), Mr. Mouadjul Miah and Mr. Jamshed Miah;
3. for a Responsible Authority (Thames Valley Police): Mr. Gary Clarke and Mr. Declan Smyth

The Licensing Sub-Committee was asked to read and then consider written representations submitted by the objectors at the hearing. These written representations had not been submitted at least five working days before the hearing as required for them to be entered into evidence without the agreement of all parties. Following an objection from the

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Responsible Authority to the written representations being submitted into evidence, the written representations were not read or considered by the Sub-Committee.

Decision

Having taken the written and oral representations into account, the Licensing Sub-Committee considered Application **18/01230/LQN** and RESOLVED to modifying the conditions of the premises licence by adding new conditions and amending current conditions attached to the premises licence as well as the relevant mandatory conditions of the Licensing Act 2003 or secondary legislation.

Additional conditions

The Prevention of Crime and Disorder

1. Every supply of alcohol under the premises licence must be made by a person who has completed training to the minimum standard of the BII Responsible Alcohol Retailing course or the SWERCOTS NPOANS training package. This training must be documented in writing and retained for at least one year and made available on request to Thames Valley Police and authorised officers of West Berkshire Council.
2. Refresher training shall be provided at least every six months. This training must be documented in writing and retained for at least one year and made available on request to Thames Valley Police and authorised officers of West Berkshire Council. The content of the training must be reviewed on a regular basis, with a record of such review retained and made available in the same manner as the training record.
3. At all times that the premises is operating under this licence, the Premises Licence Holder shall ensure his/her/its staff operate a Challenge 25 Policy (to minimise the risk of alcohol being sold to underage consumers). This Policy shall (as a minimum) provide that before entry (or alternatively before any sale of alcohol), any person who appears to be under the age of 25 will be required to produce photo ID in the form of a passport driving licence, UK Military ID card; PASS (or similar) card to prove that he/she is over the age of 18, before being permitted.
4. Notices advertising the Challenge 25 and proof of age policies shall be displayed in prominent places at the premises so that they can be seen internally and externally.
5. All staff employed in the sale of alcohol shall be trained in respect of Challenge 25 Policy operated by the premises. This training must be documented in writing and made available on request to Thames Valley Police and authorised officers of West Berkshire Council. Staff must receive refresher training at least every six months and the content of the training must be reviewed and updated on a regular basis, with a record of such review retained and made available in the same manner as the training record.
6. The premises shall maintain a refusals register. This register shall:
 - (a) record the date, time, member of staff, what was requested, whether ID was

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- produced and if so, what ID and the reason for refusal;
- (b) The Premises Licence Holder or Designated Premises Supervisor or another person authorised in writing by one or other of them must review the refusals register weekly;
 - (c) be signed off by the Premises Licence Holder or Designated Premises Supervisor or another person authorised in writing by one or other of them at the end of each trading session;
 - (d) be available for inspection by Thames Valley Police and authorised officers of West Berkshire Council upon request; and
 - (e) be retained for at least one year
7. The Premises Licence Holder, Designated Premises Supervisor or another person authorised in writing by one or other of them must undertake right to work checks prior to the commencement of employment of all staff employed at the licensed premises on any basis whatever. This is a continuing obligation and further right to work checks must be undertaken by the Premises Licence Holder, Designated Premises Supervisor or another person authorised in writing by one or other of them in the event any member of staff's right to work is time-limited.
8. Copies of all documentation relating to such right to work checks (including recording the date the check was made, the person who made those checks and any "share code" and "Positive Verification Notice" received from the Home Office) must be retained at the premises for at least 12 months and made available on request to Thames Valley Police, Home Office or authorised officers of West Berkshire Council.
9. An incident log shall be maintained to record all incidents of crime and disorder including any incident of illegal working and public safety at the premises. The log shall:
- (a) give dates, times and full details of any incident;
 - (b) record the names of any staff, involved;
 - (c) record the details of occasions when the police or home office are called to the premises;
 - (d) be signed off by the Premises Licence Holder or Designated Premises Supervisor or another person authorised in writing by one or other of them at the end of each trading session;
 - (e) be reviewed and signed weekly by the Premises Licence Holder or Designated Premises Supervisor or another person authorised in writing by one or other of them;
 - (f) be available for inspection by Thames Valley Police, Home Office and authorised officers of West Berkshire Council upon request; and
 - (g) be retained for at least one year

Amended Conditions

Conditions agreed with Environmental Health 04/02/2010

10. Regular hourly checks will be made across the road to ensure that the music is not excessively loud during any live music event. These checks will be documented in

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writing and retained for at least one year and made available on request to Thames Valley Police and authorised officers of West Berkshire Council.

- 11.Noise levels from all live events will be monitored with a sound level meter at the boundaries of nearby noise sensitive dwellings to ensure that the noise levels are not clearly audible at these locations. The monitoring of these noise levels will be documented in writing and retained for at least one year and made available on request to Thames Valley Police and authorised officers of West Berkshire Council.

Reasons

The Licensing Sub-Committee noted that despite the fact this application was to be treated as a new application to be determined on its own merits, the Licensing Sub-Committee did not have any written representations which were submitted into evidence in the last twelve months. At the hearing, Thames Valley Police had objected to the introduction of the written representations submitted by the Objector later than five working days before the hearing. Furthermore, the Applicant and Responsible Authority, Thames Valley Police, had not submitted any written representations relating to this period. As a consequence, the Licensing Sub-Committee felt that there was a lack of evidence in this regard and it was only in a position to consider oral representations made by the parties at the hearing.

As part of its deliberations, the Licensing Sub-Committee considered the representation made by the Objector and noted that from the 8th October 2008, and at the time of the hearing, Mr. Mouadjul Miah was to be treated as the premises licence holder and designated premises supervisor. This was in accordance with sections 37 and 38, 42 and 43 of the Licensing Act 2003 respectively. This was in light of the fact the applications were to take immediate effect until determined at a hearing following objections made by the Responsible Authority, Thames Valley Police.

The Licensing Sub-Committee had regard to the Revised Guidance issued under section 182 of the Licensing Act 2003 and in particular to paragraphs 11.27 and 11.28.

The Licensing Sub-Committee acknowledged the seriousness of the evidence of illegal working at the premises as set out in the Application dated 30th August 2018 and the representation submitted by Thames Valley Police in support dated 20th September 2018 when Mr. Jamshed Miah had been the Premises Licence Holder. The Licensing Sub-Committee further noted the Home Office's representation that there had been another incident of illegal working at Miah's of Spencers Wood, Tankerton House, Basingstoke Road, Spencers Wood, RG7 1AE on the 31st August 2019 and therefore after October 2018 when Mr. Mouadjul Miah stated he took over management of the premises. The Licensing Sub-Committee also had regard to the evidence of Thames Valley Police in relation to their visit to the premises on the 11th October 2019 that there was evidence of poor practices and a lack of due diligence.

Notwithstanding this, however, the Licensing Sub-Committee further noted Thames Valley Police's evidence that the recent visit had not identified a breach of the licensing conditions or provided evidence of illegal working at the premises but rather, that the relevant documentation in relation to one individual had not been produced. The Licensing Sub-

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Committee also had regard to Mr. Mouadjul Miah's position that he was not contacted by Thames Valley Police at the time of the visit and he had the relevant documentation in relation to the individual in his possession.

As a consequence and for the reasons set out above, the Licensing Sub-Committee determined that there was not sufficient evidence to demonstrate that the only step to be taken in relation to this premises licence in order to promote the licensing objective of the prevention of crime and disorder, was revocation. The Licensing Sub-Committee therefore determined that the appropriate step for the promotion of the licensing objectives was to modify the conditions attached to the Premises Licence by adding new conditions and amending current conditions, rather than revocation of the Premises Licence.

Cllr James Cole	(Chairman)
Cllr Graham Bridgman	
Cllr Jeff Beck	
Date: 23.10.19	