

Committee: **Licensing Sub Committee**
Date: **Friday 24 August 2018**
Time: **10.00 am**
Venue **Bodicote House, Bodicote, Banbury, OX15 4AA**

Membership

Councillor Richard Mould **Councillor G A Reynolds**
Councillor Douglas Webb

AGENDA

- 1. Appointment of Chairman of the Sub-Committee**
- 2. Declarations of Interest**

Members are asked to declare any interest and the nature of that interest that they may have in any of the items under consideration at this meeting.

Note: Any Member with a disclosable pecuniary interest will not be able to participate in the hearing, and should therefore notify the Assistant Director: Law and Governance in advance so that arrangements may be made for an alternate Member to attend.

- 3. Premises Licence Review Hearing (Pages 1 - 66)**

Report of Assistant Director, Environmental Health and Licensing

Purpose of report

To consider a request from the responsible authority of Oxfordshire Trading Standards to review of the premises licence of:

International Supermarket
33 - 34 High Street
Banbury, OX16 5ER

Recommendations

- 1.1 There is no recommendation, but in considering the representations received and what is appropriate for the promotion of the licensing objectives, the steps the Sub-Committee can take are outlined in paragraph 6.2.

Councillors are requested to collect any post from their pigeon hole in the Members Room at the end of the meeting.

Information about this Agenda

Apologies for Absence

Apologies for absence should be notified to democracy@cherwellandsouthnorthants.gov.uk or 01295 227956 prior to the start of the meeting.

Declarations of Interest

Members are asked to declare interests at item 2 on the agenda or if arriving after the start of the meeting, at the start of the relevant agenda item.

Local Government and Finance Act 1992 – Budget Setting, Contracts & Supplementary Estimates

Members are reminded that any member who is two months in arrears with Council Tax must declare the fact and may speak but not vote on any decision which involves budget setting, extending or agreeing contracts or incurring expenditure not provided for in the agreed budget for a given year and could affect calculations on the level of Council Tax.

Evacuation Procedure

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the car park as directed by Democratic Services staff and await further instructions.

Access to Meetings

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named below, giving as much notice as possible before the meeting.

Mobile Phones

Please ensure that any device is switched to silent operation or switched off.

Queries Regarding this Agenda

Please contact Aaron Hetherington, Democratic and Elections
aaron.hetherington@cherwellandsouthnorthants.gov.uk, 01295 227956

Yvonne Rees
Chief Executive

Published on Thursday 16 August 2018

Cherwell District Council

Licensing Sub-Committee

24 August 2018

Premises Licence Review Hearing
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Report of Assistant Director, Environmental Health and Licensing

This report is public

Purpose of report

To consider a request from the responsible authority of Oxfordshire Trading Standards to review of the premises licence of:

International Supermarket
33 - 34 High Street
Banbury
OX16 5ER

1.0 Recommendations

- 1.1 There are no recommendations, but in considering the representations received and what is appropriate for the promotion of the licensing objectives, and in line with the Cherwell District Council Statement of Licensing, the steps the Sub-Committee can take are outlined in paragraph 6.2.
- 1.2 Cherwell District Council Licensing Act 2003 Statement of Licensing Policy can be viewed and downloaded through the Cherwell District Council web site:

<https://www.cherwell.gov.uk/downloads/26/licensing>

2.0 Introduction

To consider a request from Trading Standards to revoke, suspend or condition the premises licence for International Supermarket, 33-34 High Street, Banbury.

3.0 Report Details

- 3.1 The International Supermarket, at 33-34 High Street, Banbury is a convenience store in Banbury, which specialises in European food, and currently benefits from a premises licence issued in accordance with the Licensing Act 2003. This licence covers the off sale of alcohol by retail between the hours of 08.00 to 00.00 Monday to Sunday.

- 3.2 Any sale of alcohol such as this must be authorised by a person who holds a personal licence issued under the Licensing Act, and every premises selling in these circumstances must have a designated premises supervisor (DPS) in place. This is a person holding a personal licence who is ultimately responsible for all alcohol sales.
- 3.3 From time to time the licensing authority receives applications to transfer premises licences and applications to vary a DPS. Any applications must be accompanied by a fee and the applicant must send a copy of their applications to the relevant authorities.
- 3.4 On 15 February 2016 applications were received to transfer the premises licence, change the shops trading name, and change the DPS. These changes resulted in the licence and DPS being changed to Mr Alan Ali Mohammed. The premises licence was issued to Mr Alan Ali Mohammed on 1 March 2016.
- 3.5 Mr Alan Ali Mohammed is the company director of Tainal Ltd. Tainal Ltd is listed as a retail sales company, and its registered address is 33-34 High Street, Banbury, OX16 5ER.
- 3.6 On 8 February 2018 applications were received to transfer the premises licence, and vary the DPS. These changes resulted in the licence and DPS being changed to Mr Rafik Mohammed Tofiq. The premises licence was issued to Mr Rafik Mohammed Tofiq on 23 February.2018.
- 3.7 On 10 July 2018 Cherwell District Council Licensing received an application from Oxfordshire Trading Standards, requesting a premises license review. The review request is attached to this report as Appendix 2.
- 3.7 On 6 August 2018 Cherwell District Council Licensing received an application to make a minor variation to International Supermarket 33-34 High Street, Banbury. This variation, submitted by the licence holder's legal agent, requested the following condition to be added to the said licence:

There shall be no sales of tobacco at the premises.

All staff engaged in the sale of products at the premises will be advised as to the Conditions imposed upon the premises licence.

This variation was subject to a statutory consultation period, at the time of this report. This consultation period allows Responsible Authorities to comment or/and object to the requested variation to licence.

4.0 Consultation

- 4.1 When an application to review a premises license is received the licensing authority must display a notice at or near the relevant premises, at the council offices and on the council's website. The consultation period runs for 28 days from the day after

the application is received. This gives interested parties and responsible authorities the opportunity to make representations in relation to the application.

4.2 Representations have been received from Thames Valley Police, details of which are attached to this report as appendix 3.

4.3 All information and evidence from the License holder, interested parties, and responsible Authorities will be presented to the committee by the respective representative present.

5.0 Conclusion and Reasons for Recommendations

5.1 There is no recommendation

6.0 Alternative Options and Reasons for Rejection

6.1 At the end of the consultation period the licensing authority must hold a hearing. It must take such steps as it considers appropriate for the promotion of the licensing objectives, which are:

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

6.2 The steps the Sub-Committee can take are to:

- to modify the conditions of the licence
- to exclude a licensable activity from the licence
- to suspend the licence for a period not exceeding 3 months
- to revoke the licence.

7.0 Implications

Financial and Resource Implications

7.1 There are no financial implications arising directly from this report.

Comments to be checked by Kelly Wheeler Principal Accountant, 01327 32230,
kelly.wheeler@cherwellandsouthnorthants.gov.uk

7.2 Legal Implications

The decision must comply with relevant legislation and Council Policy. All parties have a right of appeal to the Magistrates Court against any decision made by the Sub-Committee.

Comments checked by Matt Marsh, Solicitor, 01295 221 691
matt.marsh@cherwellandsouthnorthants.gov.uk

8.0 Decision Information

Wards Affected

Banbury Cross & Neithrop

Links to Corporate Plan and Policy Framework

Not applicable

Lead Councillor

Not applicable

Document Information

Appendix No	Title
1	International Supermarket premise licence PRM0635
2	Copy of application to review a premises licence issued by Oxfordshire Trading Standards, dated 10/07/2018
3	Copy of representations from Thames Valley Police dated 02/08/2018.
4	Copy of notice of hearing , dated 08/08/2018
5	Map demonstrating the vicinity of the licensed premises.
Report Author	Chris Pegler, Lead Licensing Enforcement Officer
Contact Information	01295 753744 licensing@cherwell-dc.gov.uk

**LICENSING ACT 2003
PREMISES LICENCE**



DISTRICT COUNCIL
NORTH OXFORDSHIRE

PART A – Part 1

International Supermarket 33 - 34 High Street Banbury OX16 5ER	Licence Ref:	PRM0635
	Date Granted:	
	Valid from: Valid to:	Not Time Limited
	Issue date:	
	Tel No.:	

Premises Licence Holder	Rafik Mohammed Tofiq 30 Brookdale Close Bolton BL1 8JR
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Licensable Activities - Alcohol Sales

Activity	Days of Week	Open	Close
Sale of Alcohol Alcohol is supplied for consumption off the Premises	Monday to Sunday	08:00	00:00

Licensable Activities - Other

Activity	Days of Week	Open	Close
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Further Details

Sale of Alcohol N/A

Non Standard Times

Sale of Alcohol N/A

Seasonal Variations

Sale of Alcohol N/A

Opening Hours

Days of Week	Open	Close
Monday -Sunday	08:00	00:00

Non Standard Times
N/A

Seasonal Variations

N/A

PART A - Part 2

Registered number of holder, for example company number, charity number

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

Mr Rafik Mohammed Tofiq

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

Licence Number: 128948
Licensing Authority: Bolton Council

Nicholas Sutcliffe
Licensing Manager
23.02.2018

Annex 1 – Mandatory conditions

Mandatory Conditions

All Premises Licence authorising supply of alcohol

The licence is granted subject to the Mandatory conditions for sale of alcohol as set out in the Licensing Act 2003 as amended by the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 and Order 2014.

1. No Supply of alcohol may be made under the Premises Licence -
 - a) At a time when there is no Designated Premises Supervisor in respect of the Premises Licence; or
 - b) At a time when then the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended
2. Every supply of alcohol under the Premises Licence must be made, or authorised by a person who holds a Personal Licence
- 3.1 The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises
- 3.2 In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises.
 - a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -
 - i. drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - ii. drink as much alcohol as possible (whether within a time limit or otherwise);
 - b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
 - e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available
- 5.1 The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- 5.2 The designated premises supervisor in relation to the premises licences must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- 5.3 The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:-
 - a. a holographic mark or
 - b. an ultraviolet feature
6. The responsible person must ensure that -
 - a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:-
 - i. beer or cider: ½ pint;
 - ii. gin, rum, vodka or whiskey: 25ml or 35ml; and
 - iii. still wine in a glass: 125ml; and

- b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Minimum Drinks Pricing

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

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

Where: -

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

Annex 2 – Conditions consistent with the operating schedule

General

All alcohol products will be monitored against theft.

Age verification scheme will be operated - 'Challenge 25'

Alcohol will be refused to be sold to persons who appear drunk.

A mandatory premises age verification is signed and in place, along with challenge 25 posters, refusal books, proxy sales posters, and additional signage is in place at the premises

Prevention of Crime and Disorder

Notices will be placed in the shop reminding customers of age restrictions.

CCTV will be in operation, recordings available to police on request.

Prevention of Public Nuisance

Customers will be discouraged from drinking their alcohol purchases directly outside the shop.

Public Safety

Customers will be discouraged from drinking their alcohol purchases directly outside the shop.

Protection of Children from Harm

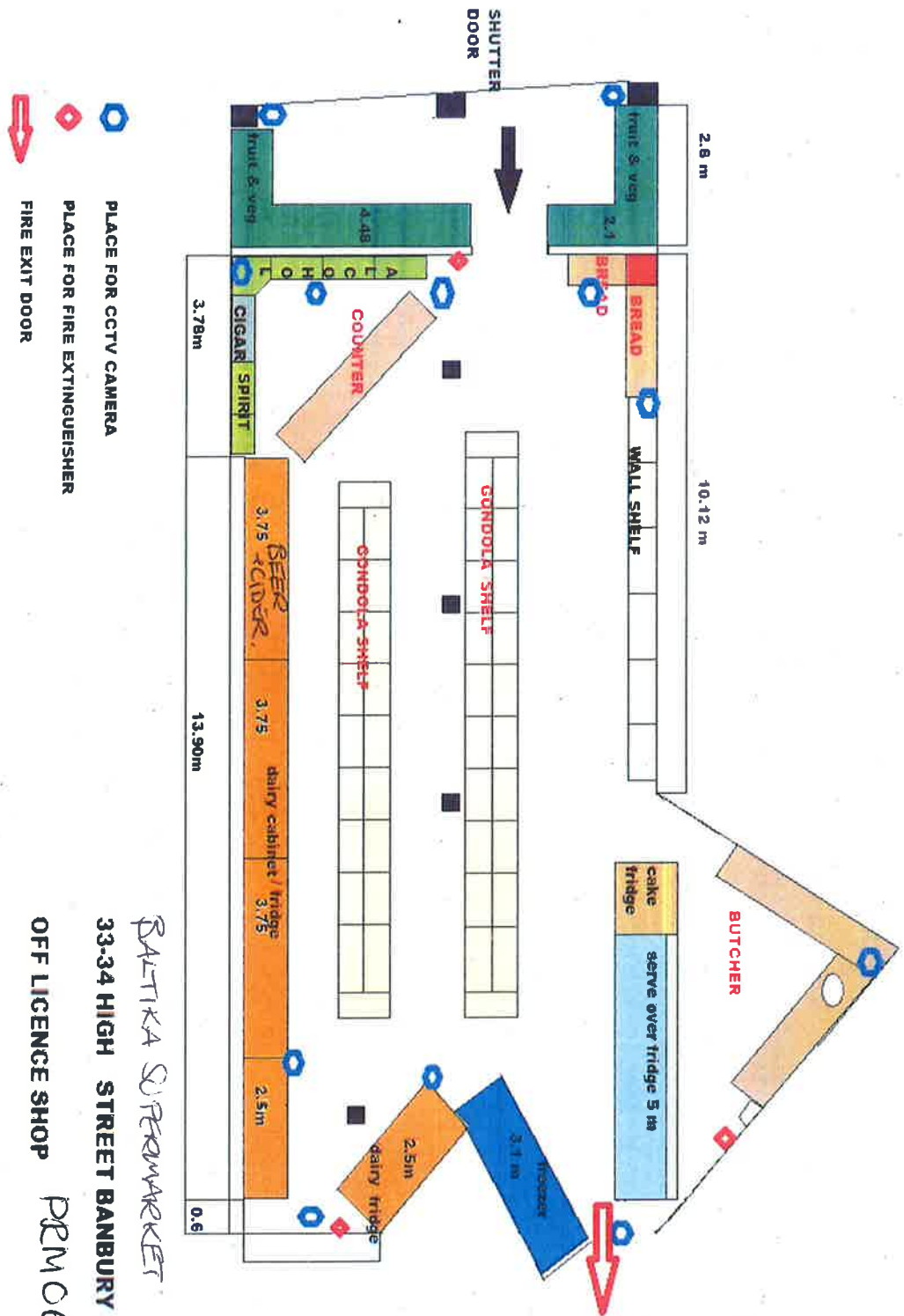
Age verification scheme, 'Challenge 25' will be in operation.

Refusal log will be operated, recording details of refusals.

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

Conditions Required by Committee

Annex 4 – Plans



BALTIKA SUPERMARKET
 33-34 HIGH STREET BANBURY OX16 5ER
 OFF LICENCE SHOP PRM0635

**LICENSING ACT 2003
PREMISES LICENCE**

PART B

International Supermarket 33 - 34 High Street Banbury OX16 5ER	Licence Ref:	PRM0635
	Date Granted:	
	Valid to:	Not Time Limited
	Issue date:	
	Tel No.:	

Premises Licence Holder	Rafik Mohammed Tofiq 30 Brookdale Close Bolton BL1 8JR
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Licensable Activities - Alcohol Sales

Activity	Days of Week	Open	Close
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Licensable Activities - Other

Activity	Days of Week	Open	Close
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Further Details

Sale of Alcohol N/A

Non Standard Times

Sale of Alcohol N/A

Seasonal Variations

Sale of Alcohol N/A

Opening Hours

Days of Week	Open	Close
Monday -Sunday	08:00	00:00

Non Standard Times
N/A

Seasonal Variations

N/A

Registered number of holder, for example company number, charity number

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

Mr Rafik Mohammed Tofiq

State whether access to the premises by children is restricted or prohibited

Nicholas Sutcliffe
Licensing Manager
23.02.2018

**Trading Standards Service
Graham Hill House
Electric Avenue
Ferry Hinksey Road
Oxford OX2 0BY**

The Licensing Department
Cherwell District Council
Bodicote House
Bodicote
Banbury
OX15 4AA

**Richard Webb
Head of Community Protection Services**

10th July 2018

Dear Sir / Madam

Licensing Act 2003: Application for the review of a premises licence

I write in reference to the licensed premises at 33-34 High Street, Banbury.

As a designated Responsible Authority under the Licensing Act 2003, the Trading Standards Service are applying for a review of the premises licence.

As I work part-time, I would be most grateful if, prior to the date of any hearing being set, my availability could be sought.

Yours faithfully

Russell Sharland
Tobacco Control Officer

Russell.Sharland@oxfordshire.gov.uk
[www.oxfordshire.gov.uk /tradingstandards](http://www.oxfordshire.gov.uk/tradingstandards)

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

You may wish to keep a copy of the completed form for your records.

I Russell Sharland

(Insert name of applicant)

apply for the review of a premises licence under section 51 (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description International Supermarket 33-34 High Street	
Post town Banbury	Post code (if known) OX16 5ER

Name of premises licence holder or club holding club premises certificate (if known) Mr Rafik Mohammed Tofiq
--

Number of premises licence or club premises certificate (if known) 18/PRM1253/LAPRE4
--

Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
- a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises
 - d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)

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

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

Please tick

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

Surname

First names

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Russell Sharland Tobacco Control Officer Oxfordshire County Council Graham Hill House Electric Avenue Ferry Hinksey Road Oxford OX2 0BY
Telephone number (if any) 01865 333704
E-mail address (optional)

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

Please tick one or more boxes

- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 1)

The ground for review are as follows:

1. On 23rd October 2017, Oxfordshire County Council Trading Standards and Thames Valley Police visited International Supermarket and 4240 illegal cigarettes were identified and seized from a black holdall in the rear store room. Some of the seized cigarettes were also later confirmed as being counterfeit.
2. On 17th December 2017, Oxfordshire County Council Trading Standards conducted a covert test purchase visit at International Supermarket and purchased a packet of illegal cigarettes for £6. A further covert test purchase visit at International Supermarket was conducted that same day and 3 packets of illegal cigarettes were purchased for £18.
3. On 23rd February 2018, the premises licence was transferred and a new designated premises supervisor appointed. However evidence gathered shows that the business sale is still yet to take place and the new PLH/DPH takes no active part in decision-making or the day-to-day running of the business.
4. On 25th February 2018, Oxfordshire County Council Trading Standards conducted a covert test purchase visit at International Supermarket and purchased a packet of illegal cigarettes for £6.
5. On 8th March 2018, HMRC and Oxfordshire County Council Trading Standards visited International Supermarket. The actions of an employee frustrated the intention of the visit. However an individual was identified outside the shop premises with 4400 illegal cigarettes stored in a black holdall, which were seized.

Please provide as much information as possible to support the application
(please read guidance note 2)

1. The sale of illegal tobacco products is a significant issue nationally and locally. HMRC estimate the tobacco tax gap to be £2.5 billion in 2016-17. Of this, £1.9 billion was lost in tobacco duties and a further £0.6 billion in VAT.

2. Smoking continues to be the primary cause of preventable morbidity and premature death, accounting for more than the next 6 most common causes combined: drug use, road accidents, other accidents and falls, preventable diabetes, suicide and alcohol abuse. Public Health England estimates the total smoking-related cost to the NHS in 2015 to be £2.6 billion.

3. Illegal tobacco undermines public health policy to reduce smoking. Budgetary price rises have successfully helped reduce smoking prevalence. The Office of National Statistics estimates the current average price of 20 King Size filter cigarettes to be £10.23 whereas the comparable price of 20 illegal cigarettes is between £5-£6 with some brands available for £3-£3.50.

4. Recent research commissioned by Oxfordshire County Council into the illegal tobacco market in the County estimated the market share to be 5.8%, a 66% increase from similar research conducted in 2010.

5. The sale of illegal tobacco gives rise to a variety of criminal offences, some of which are to be regarded particularly seriously. Section 144 of the Licensing Act 2003 creates a criminal offence if any person who works in a licensed premises in a capacity, whether paid or unpaid, which gives that person the authority to prevent the keeping of smuggled goods, such as illegal tobacco, on the premises if he or she knowingly keeps or allows to be kept any such goods which have been imported without payment of duty or which have otherwise been unlawfully imported.

6. Regulation 48 of the Tobacco and Related Products Regulations 2016 creates a criminal offence if any person supplies, offers to supply or exposes or possesses for supply a tobacco product, in the course of a business, which does not comply with the labelling requirements of the regulations, ie the combined health warnings, general warnings and information, in English etc. The maximum sentence for any offence under these regulations is up to 2 years imprisonment and/or an unlimited fine.

7. Regulation 15 of the the Standardised Packaging of Tobacco Products Regulations 2015 creates a criminal offence if any person supplies, offers to supply or exposes or possesses for supply a tobacco product, in the course of a business, which does not comply with the permitted colour or shade requirements, namely Pantone 448 C with a matt finish. The maximum sentence for any offence under these regulations is up to 2 years imprisonment and/or an unlimited fine.

8. Section 8G of the Tobacco Products Duty Act 1979 creates a criminal offence if any person sells, offers for sale or otherwise deals in, or is in possession of, transports or displays any unmarked tobacco products ie not marked with UK Duty paid. The maximum sentence for this offence is an unlimited fine.

9. Section 92 of the Trade Marks Act 1994 creates a criminal offence if any person who with a view to gain for himself or another and without the consent of the proprietor, sells, offers or exposes for sale goods which bear, or the packaging of

which bears, a sign identical to or likely to be mistaken for, a registered trade mark or has in his possession, custody or control in the course of a business any such goods with a view to selling, offering or exposing them for sale. The maximum sentence for this offence is up to 10 years imprisonment and/or unlimited fine.

10. In August 2017, Oxfordshire County Council appointed a dedicated Tobacco Control Officer for the first time with the remit to focus on tackling the illegal tobacco market within the County. An analysis of the historic intelligence reports at that time showed that International Supermarket, 33-34 High Street, Banbury had been the subject of the following intelligence:

- 24th January 2016: illegal tobacco is sold at International Supermarket for £5 for a packet of 20 cigarettes.

- 14th April 2016: International Supermarket might be selling some kind of illicit product. During an inspection by a council official there was a customer at the counter and the sales assistant was acting strangely and didn't give him what he had asked for. The assistant was nodding in the direction of the council official.

- 3rd August 2016: International Supermarket is selling non-duty paid cigarettes (L & M at £4.50 and fake cigarettes at £3.50). These cigarettes are not in English packaging, no tax on sales is paid and no duty is paid on the cigarettes themselves. Further information suggests that an individual within the shop retrieves the cigarettes from a rucksack on request but that if he is suspicious, he will simply walk out of the shop, pretending he was a customer leaving the premises.

- 24th February 2017: International Supermarket sells illegal tobacco. The store owner will take from a rucksack on request however if suspicious they will walk out the shop pretending they are a customer. The cigarettes come from an unknown source and are clearly counterfeit.

- 5th April 2017: International Supermarket sells cheap non-duty paid cigarettes.

- 3rd August 2017: An individual within International Supermarket retrieves illegal cigarettes from a rucksack.

11. It should be noted that no intelligence reports regarding illegal tobacco had been received in respect of New International Store, 33-34 High Street, Banbury with the first report being received soon after the change of ownership to International Supermarket. As a result of this historic intelligence, International Supermarket was formally identified for further investigation.

12. On 25th September 2017 a female customer was seen by an officer from Oxfordshire County Council Trading Standards entering International Supermarket, approaching the till point, where the male working behind the shop counter (approximately mid-late 20s of Arabic appearance) bent down to his left and then handed, what is now known to be, a packet of cigarettes, to the customer. The female customer then left the premises and, upon her exit, opened the cigarette packet, took out a cigarette and lit it. The packet of cigarettes was not labelled in standardised plain packaging and was not a UK brand.

13. On 23rd October 2017 an unannounced inspection visit by Oxfordshire County Council Trading Standards and Thames Valley Police took place at International Supermarket. Also present was a dog handler with tobacco detection dog. 4240 illegal cigarettes were detected and seized, concealed in a black holdall on a top shelf in rear store room. None of the goods complied with standardised plain packaging requirements and were not UK duty paid.

The products seized were as follows:

- 620 NZ Gold Compact cigarettes (English)
- 100 Marlboro Gold cigarettes (Polish)
- 1280 Minsk Capital QS cigarettes (Russian)
- 480 Rothmans (Russian)
- 180 L&M Blue Label (Polish)
- 580 Pect cigarettes (Russian)
- 1000 Mayfair King Size (English)

Small black bags were stored on a hook directly by where the illegal cigarettes were discovered.

14. A representative sample of the Mayfair cigarettes were subsequently examined by the trade mark holder and were deemed to be counterfeit product. Unlike legally-manufactured cigarettes for the EU market, counterfeit versions are highly unlikely to comply with European standard CEN: EN 16156:2010 on reduced ignition propensity of cigarettes, also known as "fire-safer" cigarettes, whereby cigarettes are designed to self-extinguish when left unpudded.

15. The person in charge of the premises at the time identified himself as [redacted] who said he was a part-time worker.

The owner of the business subsequently attended the premises. He gave his name as [redacted]. The business is operated via TAINAL Limited (Company number 10094038) with a registered office address of 33-34 High Street, Banbury. The sole director of the Company is registered as Alan MOHAMMAD (not MOHAMMED). The grounds for review are as follows:
n 24th August 2016, Mr Alan Ali Mohammed sold alcohol to a person under the age of 18 and was subsequently prosecuted at Oxford Magistrates' Court in October 2016 and was fined £445 with £45 VS and £85 costs

16. On 1st December 2017, Mr Alan Ali Mohammed was interviewed under caution. Key points from the interview can be summarised as follows:

- He purchased the business previously trading as New International Store, 33-34 High Street in 2015 [redacted] and became the premises licence holder in 2016

- The shop specialises in Eastern European produce and offers some 35,000 different product lines

- He had to go to Court due to selling alcohol to an underage person and recalled being fined at Oxford Magistrates' Court [NB: On 24th August 2016, Mr Alan Ali Mohammed sold alcohol to a person under the age of 18 and was subsequently prosecuted at Oxford Magistrates' Court in October 2016 and was fined £445 with £45 VS and £85 costs]

- The illegal cigarettes seized by Trading Standards on 23rd October 2017 had been stored on the top of the fridge at the back of the shop.

- He had bought the cigarettes from a customer and had left them there and totally

forgot about them.

- Every single day people come into the shop offering to sell cigarettes to him. He has no idea why. Some people also offer stolen goods like perfumes and even drugs.

- He was offered cigarettes "very cheap" and thought he would sell them to his staff who all smoke

- The purchase happened 2-3 days before the Trading Standards seizure.

- It was the first time he had seen the seller before and didn't know him. He did not know his name.

- He opened the bag the seller had and looked inside. He didn't recall the brands or the language the cigarettes were labelled in but did remember they didn't comply with the standardised plain packaging requirements. He couldn't remember how many cigarettes were in the bag.

- The seller had wanted £500 but Mr Mohammed had offered £300 which was agreed upon. He didn't ask him any questions about where the seller had obtained the cigarettes from. He had not considered that the cigarettes, if genuine, could in fact be stolen.

- He had forgotten to tell his staff about the cigarettes and couldn't explain why he had stored them on top of the fridge in the store room.

- He had no idea why he decided to buy the cigarettes on this occasion (given offers to purchase are apparently a daily occurrence) other than he thought the seller looked honest.

- He was aware that storing contraband on licensed premises was a criminal offence under the Licensing Act 2003.

- He was unable to provide a satisfactory explanation for why small black bags were stored on a hook directly by where the illegal cigarettes were stored

- He was very confident no illegal tobacco will be sold from the store in the future and said "I can guarantee it" and "I can guarantee for the next hundred years (illegal tobacco) is not going to be sold".

17. On 17th December 2017, a covert surveillance operative working on behalf of Oxfordshire County Council Trading Standards, visited International Supermarket and purchased 20 L & M Link cigarettes. The cigarettes were retrieved from the rear of the store and sold for £6. The cigarettes did not comply with standardised plain packaging requirements and were non-UK duty paid.

18. Later that same day, a covert surveillance operative working on behalf of Oxfordshire County Council Trading Standards, visited International Supermarket and purchased 60 L & M Link cigarettes. The cigarettes were retrieved from the rear of the store and sold for £18. The cigarettes did not comply with standardised plain packaging requirements and were non-UK duty paid. This purchase was recorded covertly. The purchased items are inputted into the till and the price to pay established as a result. The money for this transaction is put into the till. When the salesperson returns to the till point, the cigarettes have been placed within a small black carrier bag. It has not been possible to establish the identity of this salesperson. However at the second till point, _____ be seen working.

19. On 1st January 2018, an intelligence report was received that illegal tobacco was being sold and that the cigarettes were stored in a black, small carrying bag not visible to others.

20. On 5th January 2018, an intelligence report was received that imported cigarettes from abroad were being sold without paying tax and that they were being sold from under the counter.

21. On 25th February 2018, a covert surveillance operative working on behalf of Oxfordshire County Council Trading Standards, visited International Supermarket and purchased 20 Kent cigarettes. The cigarettes were retrieved from under the counter and sold for £6.

.. This purchase was recorded covertly. The purchased items are inputted into the till and the money for the transaction is put into the till. states that they do not have L&M but do have Kent or Rothmans.

The cigarettes do not comply with standardised plain packaging requirements and are non-UK duty paid.

22. On 7th March 2018, HMRC led an operation targetting premises suspected of being concerned in the sale of illegal tobacco within Banbury. This operation was supported by Thames Valley Police and Oxfordshire County Council Trading Standards.

23. One of the premises visited in this operation was International Supermarket. Trading Standards Team Leader Kate Davies entered the premises with HMRC officers. The officers were identifiable as enforcement officials as they were wearing badged protective vests. Ms Davies had a clear and unobstructed view of the person working behind the till point who was later established to be As soon as noticed the officers it is alleged that she quickly ran to the rear of the store.

24. Suspecting that an attempt was being made to hide or remove evidence, an HMRC officer requested Police support to the rear of the premises. PC 132 Dean O'Dell was at the rear loading bay area behind International Supermarket. When the call came from the officer in the store, a suspect was identified across the road from the rear of the store and had a large black holdall in his hand. As soon as he saw PC O'Dell he ran onto Calthorpe Street. PC O'Dell followed him and eventually detained him on South Bar Street.

25. PC O'Dell took the suspect into International Supermarket where he was identified as Initially he gave a false address in Birmingham as his home address. It was established from items in his wallet, such as a loyalty card to a Banbury barbers and a train ticket from Banbury-London, that it was more likely that he was more locally based. stated that he was not running from the shop but from the parking area. He stated that he bought the cigarettes from a man but didn't know his name.

26. A total of 4400 cigarettes were identified and seized as follows:

- 900 L&M cigarettes
- 1780 Rothmans Demi cigarettes
- 860 Minsk Capital cigarettes
- 860 Pect cigarettes

None of the cigarettes were UK duty paid or complied with standardised plain packaging requirements.

27. Mr Mohammed was present in the shop premises and stated on several occasions that the tobacco and the holdall were nothing to do with him. He also stated that he had sold the business to Rafik Mohammed TOFIQ but that he still owned the company as the sale hadn't completed.

28. On 19th March 2018, officers from Oxfordshire County Council Trading Standards visited International Supermarket and made a formal written request to Mr Tofiq under powers to provide CCTV footage from 7th March 2018. The purpose of this request was to conclusively determine whether or not [redacted] had left the licensed premises upon the entrance of enforcement officers on 7th March. This written request was issued to Alan Ali Mohammed who was present at the premises on 19th March. Mr Mohammed attempted to operate the CCTV footage but was not able to do so. He stated that he did not know how to download a copy. The letter was left with him and he said he would make enquiries. The footage was never received.

29. On 2nd May 2018, Mr Alan Ali Mohammed was interviewed under caution. He said he had sold the business to Rafiq Tofiq just before Christmas. Mr Tofiq had paid [redacted] a deposit. The money was transferred into Mr Mohammed's personal account rather than the Company's account.

30. [redacted] the sale is still to be completed. He explained that Mr Tofiq transferred the premises licence in February as part of the process of ownership transfer. The money from any purchases within the shop is still going into the Company's accounts (Tainal Ltd). Tainal Ltd continues to pay the lease on the premises. One new member of staff [redacted] was recruited in 2018 and this was done by Mr Mohammed.

31. Mr Mohammed confirmed he had received a request for a copy of the premises' CCTV and admitted that he had "no clue" how to provide a copy as he had never done so before. He admitted that he would have been unable to comply with the licence condition on the premises licence stating "CCTV will be in operation, recordings available to police on request" throughout his tenure.

32. He recalled the events of 7th March and said that he did not know [redacted] and that he had not been in the shop. He added that he thinks he has seen [redacted] around Banbury since that date working in another shop. He did not know that a member of staff had run to the back of the shop when officers entered the premises and could not offer an explanation as to why she had done this.

33. When shown still images taken from the covert surveillance footage of the test purchase made on 25th February, he identified the seller as [redacted]. He stated that [redacted] did not know her surname but could provide details at a later stage. She had been employed by him since January and works 20 hours per week. He could not offer an explanation as to why this sale had taken place and advised that he needed to investigate.

34. When shown still images taken from the covert surveillance footage of the test purchase made on 17th December, he stated that he did not know why the man was there and that he did not work for him. When he was told that the man was working alongside [redacted] he stated that maybe he was a friend of [redacted]. When told that the man scanned the purchased cigarettes through the till and put the money for the transaction in the till, he couldn't offer an explanation. He stated that he would need to investigate and that [redacted] was in charge when he wasn't there.

35. On 21st May 2018, Mr Rafik Mohammed Tofiq attended a meeting with officers from Oxfordshire County Council Trading Standards to discuss the illegal tobacco issues and his role in the running of the business. The key points can be summarised as follows:

- He said he became the owner of the business on 23rd December 2017 and had an agreement with Alan Ali Mohammed to buy the shop business . He had paid a deposit () and the rest of the outstanding monies owed will be cleared in July.
- He wasn't aware of any of the issues about illegal tobacco until told by Trading Standards
- He stated that Alan Ali Mohammed was in charge, was responsible for staffing and for buying stock, for paying the salary of the staff and for paying VAT with any profit each month being then paid to him
- He agreed that he had delegated responsibility for running the business to Alan Ali Mohammed and that he didn't know who was in charge when Alan wasn't there, wasn't working, was at the wholesaler, was ill or was on holiday.
- Alan told him he had to transfer the licence into his name. Alan organised the transfer. He didn't know why the transfer of the licence took place at the end of February and not in December when he had bought the business.
- He currently visits the shop once every two weeks as he works full-time , in Manchester.
- He couldn't remember when he got his personal licence but believed it was in Birmingham.
- He didn't know what the conditions attached to the premises licence were and didn't know how he would comply with the CCTV conditions at this time but would make sure he did in July believing that Alan would know how to comply with the CCTV condition at the present time
- {As of 4th July 2018, Mr Tofiq is still yet to complete the sale and take ownership of the business}

36. On 5th June, interviewed under caution. The key points can be summarised as follows:

- She admitted selling Kent cigarettes from International Supermarket
- She obtained the cigarettes when she was on her way back from work, walking through the park, when a man offered her 10 packets of Kent cigarettes for £30. She bought them from him as she is a smoker and she thought it was a good price.
- Because she didn't like the taste of the Kent cigarettes, she only smoked one packet and decided to sell the other 9 packets via her job at International Supermarket
- She sold the Kent cigarettes to customers that she knew. These were mainly other regular customers that she knew.
- When asked why she simply didn't sell them in her own time (ie not within the shop)

she said he just used the opportunity where she had contact with customers

- She couldn't remember how long it took to sell the 9 packets.
- She stored the Kent cigarettes in her own bag under the till
- She confirmed the brand was Kent and there were no other brands
- She said she offered the Kent cigarettes to regular customers by asking them if they wanted cheap cigarettes.
- She did not know that it was a serious issue that risked the premises licence
- She admitted putting the money for the sales into the till due to the CCTV cameras observing her and being concerned that she would be fired if her boss viewed her putting money into her pocket
- When asked why her boss wouldn't see her selling cigarettes from her handbag, she explained that when she retrieved the cigarettes she would place them in small black bags so that it wouldn't be seen on the CCTV
- She stated that once she had put the money in the till, she would subsequently take a packet of UK-duty paid cigarettes from the tobacco gantry. In her view, she would "swap" a packet. Whereas this would be theft.
- She confirmed that she understood the caution and was telling the truth. She was asked whether she was 100% sure and she said yes.
- She was then confronted with a still image taken from covert surveillance footage and told the details of the test purchase.
- It was explained that the test purchaser was not a regular customer, contradicting her earlier assertion about who she sold the Kent cigarettes to. She then stated that she could not remember exactly who she sold to.
- It was explained that the test purchaser said "Can I have LM or LM Link?" and she had replied "We haven't LM, just Kent or Rothmans" and then gave the price of £6.
- She could not explain why the evidence showed her offering Rothmans, contradicting her earlier assertion that there were no other brands other than Kent
- It was put to her that she had concocted a story to fit the evidence she believed Trading Standards possessed which had now been clearly contradicted
- She became visibly upset at this point. She then admitted that the Kent cigarettes were not hers and that they did not belong to her. She added that she had been told what to say during the interview. She would not say who had told her what to say. When asked where the cigarettes came from if they were not hers and she stated that the cigarettes were "from the store". She then said she did not want to say anything else.

37. The revised guidance issued under section 182 of the Licensing Act 2003 provides some assistance in determining the seriousness of the sale or storage of illegal tobacco in licensed premises.

At para 11.24 it states:

"A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective".

At para 11.26 it states:

"Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder".

At para 11.27 it states that:

"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 (and includes):

- for the sale or storage of smuggled tobacco and alcohol.

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."

38. In R (Bassetlaw District Council) v Worksop Magistrates' Court (2008) EWHC 3530 MJ Slade found on the application for review of a premises licence in circumstances involving criminal conduct connected with the licensed premises, consideration must be given to what was necessary to promote the objective of crime prevention, and to the needs of the wider community, and not be limited to guidance and remedial action and to the needs of the licence-holders. Deterrence is an appropriate consideration when the paragraphs specifically directed to dealing with reviews where there has been activity in connection with crime are applicable.

39. The sale of the business to Mr Tofiq has taken over 6 months and is still not complete. Whilst Mr Tofiq became premises licence holder and designated premises in February 2018, he is not involved in the day-to-day running of the business, purchase of stock, employment of staff or paying of VAT and other taxes. He was unaware of the ongoing issues with illegal tobacco at the premises, was unaware of the conditions attached to the premises licence and appears to exert no actual control on how the business operates. It is clear that Mr Alan Ali Mohammed is the directing mind of the business.

41. Given the statutory guidance and supporting precedent, it is the view of the

Trading Standards Service that revocation should be strongly considered.

42. If revocation is not deemed appropriate in these circumstances, it is recommended that a period of suspension with appropriate conditions could act as a necessary deterrent to promote the crime prevention objective and to protect the needs of the wider community including law-abiding businesses as well as adults and young people. Those conditions to include:

1. CCTV

1.1 CCTV shall be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition.

1.2 CCTV cameras shall cover all ingress and egress to the premises, fire exits, outside areas, and all areas where the sale/ supply of tobacco products occurs.

1.3 The CCTV Equipment shall be maintained in good working order, be correctly time and date stamped with the CCTV recordings be kept in date order, sequentially numbered and kept for a period of 31 days.

1.4 The Premises Licence Holder must ensure at all times that a DPS or appointed member of staff is capable and competent to download CCTV recordings in a recordable media format.

1.5 The CCTV recording equipment and tapes/discs shall be kept in a secure environment under the control of the DPS or appointed member of staff. An operational weekly log report must be maintained and endorsed by the signature of the DPS or the appointed member of staff indicating the CCTV system has been checked, is in working order and compliant, and in the event of any failings remedial actions taken are also to be recorded.

1.6 In the event of technical failure of the CCTV equipment the Premises Licence holder/DPS shall report the failure to the Police on contact number '101' immediately.

1.7 The CCTV recordings must be provided upon demand by the Police, an authorised officer, as defined by Section 13 of the Licensing Act 2003, or an authorised officer of Trading Standards.

2. Tobacco Products

2.1 Only people with a directing mind such as directors, managers or a DPS within the business can be authorised to buy tobacco products.

2.2 Persons authorised to buy tobacco products for the business must be authorised in writing and that list must be made immediately available for inspection by Police or Trading Standards upon request.

2.3 All staff who are authorised to buy tobacco products must take all reasonable precautions and exercise due diligence in order to avoid buying illegal goods. This will include, but not limited to the following:

a. All authorised staff responsible for the purchase of tobacco products shall not purchase any goods from door-to-door sellers other than from established traders who provide full receipts at the time of delivery.

b. The authorised buyers shall ensure that all receipts for tobacco products bought include the following details:

- i. Seller's name and address
- ii. Seller's company details, if applicable
- iii. Seller's VAT details, if applicable
- iv. Seller's vehicle registration details, if applicable

2.4 Legible copies of invoices/receipts shall be retained on the premises and made available to inspection by Police or Trading Standards on request.

2.5 Where anyone working within the premises becomes aware that any non-duty tobacco may have been offered for purchase, they shall inform the Police or Trading Standards immediately and keep a written record of such action.

3. Signage

3.1 A3 Illegal Tobacco Keep it Out posters including the illegal tobacco hotline reporting number to be displayed at the entrance and sales area of the licensed premises at all times

4. Training

4.1 All staff working within the licensed premises, whether paid or unpaid, shall receive training in the Licensing Act 2003 licensing objectives and specifically on the law regarding the keeping of smuggled goods on the licensed premises

4.2 Written records of staff training shall be retained on the licensed premises and made available to police, authorised officers of the Licensing Authority and authorised officers of Trading Standards on request.

4.3 All staff shall receive refresher training in the Licensing Act 2003 at intervals of no more than 12 months.

Please tick yes

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

If yes please state the date of that application

Day Month Year

--	--	--	--	--	--	--	--	--	--

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

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

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant’s solicitor or other duly authorised agent (See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

Date 10th July 2018

Capacity Tobacco Control Officer

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5) See section C above	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) russell.sharland@oxfordshire.gov.uk	

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

Annex 1:
Rear storeroom at International Supermarket, 33-34 High Street, Banbury





Reviews arising in connection with crime

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.
- 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.

Review of a premises licence following closure order or illegal working compliance order

11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or an illegal working compliance order under section 38 of and Schedule 6 to the Immigration Act 2016. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

Review of a premises licence following persistent sales of alcohol to children

11.29 The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.

CO/9214/2007

Neutral Citation Number: [2008] EWHC 3530 (Admin)
IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
THE ADMINISTRATIVE COURT

Royal Courts of Justice
Strand
London WC2A 2LL

Friday, 7th November 2008

B e f o r e :

MRS JUSTICE SLADE

Between:

THE QUEEN ON THE APPLICATION OF BASSETLAW DISTRICT COUNCIL
Claimant

v

WORKSHOP MAGISTRATES COURT

Defendant

Computer-Aided Transcript of the Stenograph Notes of
WordWave International Limited
A Merrill Communications Company
190 Fleet Street London EC4A 2AG
Tel No: 020 7404 1400 Fax No: 020 7831 8838
(Official Shorthand Writers to the Court)

MR J QUIRKE appeared on behalf of the **Claimant**
The **Defendant** did not appear in person and was not represented

J U D G M E N T

1. 1.1. MRS JUSTICE SLADE: Bassetlaw District Council applies for judicial review of the judgment and decision of a district judge allowing an appeal from decisions made on a licensing authority's review of a licence held by Mr and Mrs Jones. The licensing committee of the district council had reviewed the premises licence of the premises where Mr and Mrs Jones operated, in the light of offences which had taken place on 10th March 2007 namely the unlawful sale of alcohol on the premises to two 14 year old girls. The girls were sent to the premises for test purchases in accordance with arrangements made by the trading standards office. The sales took place over a relatively short period of time. Each girl made a separate purchase or purchases, was served by one of two different young cashiers. Having regard to these matters, on review the licensing authority suspended the licence for the premises for one month. There was an appeal to the district judge. The district judge overturned the decision of the licensing authority and instead imposed what were said by him to be, "additional conditions on the licence".
2. 2.1. Mr Quirke appears for the licensing authority. The district judge has served two statements in connection with this hearing, but otherwise takes no further part in it. The interested parties, Mr and Mrs Jones, were served with the notice of application but have not served an acknowledgement of service. I am also told that the licensing authority are not going to seek to overturn the determination of the district judge as to penalty. They seek, however, declarations as to the correctness in law of the decision and the judgment of the district judge.
3. 3.1. The grounds for judicial review may be analysed as falling under five headings. As will become apparent later on in this judgment, two of those matters can, in my judgment, be taken together.
4. 4.1. First, it is said that the district judge erred in holding that, in accordance with the guidance issued by the Secretary of State, it is not the function of the licensing authority to punish licensees for an infringement of licensing law and provisions on its license. Further, it is said that the district judge was in error in holding that, on a proper construction of the licensing provisions and guidance applicable, the licensing authority powers were restricted to guidance or remedial action which was the approach of the district judge. It is said that the steps which the licensing authority and the district judge on appeal may take include a range of powers which must be deployed according to the particular circumstances of the case.
5. 5.1. Secondly, it is said that the orders made by the district judge which were in substitution for the suspension of the licence imposed by the licensing authority were, in effect, not additions to the conditions of the licence which applied up to that point. Save in one respect they were merely a reiteration of steps which were already being taken or were already in fact conditions of the licence.
6. 6.1. Thirdly, it is said that the district judge erred in his approach to his own decision making on appeal. It is said that he adopted a too generous approach to his powers on appeal in that he appears in page 2, paragraph 5 of his judgment to direct himself that he could take a decision standing in the shoes of the licensing authority having regard to the particular circumstances and considering whether the licensing

authority's decision was justified. It is said that the district judge failed to give proper regard to the guidance issued under section 182 of the Licensing Act 2003 in that he did not state that he was departing from such guidance in certain respects. Since, it is said, that he departed from such guidance, he erred in failing to state why he was departing from such guidance.

7. 7.1. Fourthly, it is said that the district judge failed properly to apply and have regard to paragraph 5.115 of the guidance given under section 182 of the Licensing Act. This sets out and categorises as criminal certain activities which may arise in connection with licence premises and which the Secretary of State considers should be treated particularly seriously. Included in the use of licence premises for the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and prosperity for crime of young people. It is said that the district judge failed to pay proper regard to that. Where there has been a compliant of an incident which is categorised rightly as criminal activity in connection with licence premises, it is said that the district judge failed to take into account paragraph 5.113 of the guidance. This provides that the licensing authority's duty, in circumstances such as these, is:

"... to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual holder of the premises licence."

8. 8.1. Finally, it is said that the district judge failed in his approach to pay proper regard to the guidance of Lord Goddard in the case of Stepney Borough Council v Joffe which the judge himself referred to at page 2 of his judgment, paragraph 5. In Joffe it was said that although on an appeal, such as this, there is a right to a rehearing. The appellate court should pay regard to the fact that the duly constituted and elected local authority have come to an opinion on the matter. The appellate body ought not lightly to reverse their opinion.

9. 9.1. Discussion.

10. 10.1. I will briefly outline some of the relevant statutory provisions and guidance. Pursuant to the Licensing Act 2003, section 4, the licensing authority must carry out its function under the Act with a view to promoting the licensing objectives. Subsection 2 provides that:

"The licensing objectives are:

"(a) the prevention of crime and disorder;

"(b) public safety;

"(c) the prevention of public nuisance; and

"(d) the protection of children from harm."

11. 11.1. Importantly, section 4(3) provides:

"In carrying out its licensing functions, a licensing authority must also have regard to...

"(b) any guidance issued by the Secretary of State under section 1.282."

12. 12.1. Section 52 of the 2003 Act applies where an application for a review of licence under section 51 has been made. Subsection 52(3) provides:

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

13. 13.1. Those objects are set out in section 4.

14. 14.1. Subsection 52(4) provides that the steps are:

"(a) to modify the conditions of the licence ...

"(d) to suspend the licence for the period not exceeding three months.

"(e) to revoke the licence.

"For this purpose the conditions of the licence are modified. If any of them is altered or omitted or any new condition is added."

15. 15.1. It is to be noted that section 146(1) of the 2003 Act provides:

"A person commits an offence if he sells alcohol to an individual aged under 18."

16. 16.1. Pursuant to section 182 of the 2003 Act guidance is issued. I have already outlined the requirement for the licensing authority in carrying out its functions to do so in accordance with the guidance and to have regard to it. The background and the approach which should be taken to that guidance is set out in paragraph 2.3 of the guidance itself which was applicable at the relevant date. The guidance was revised with effect from June 2007. Reference is made in paragraph 2.3 to section 4 of the 2003 Act which provides that:

"In carrying out its functions, a licensing authority must have regard to guidance issued by the Secretary of State under section 182. The requirement is therefore binding on all licensing authorities to that extent."

17. 17.1. It is recognised that the guidance cannot anticipate every possible scenario or set of circumstances that may arise. So long as the guidance has been properly and carefully understood and considered, licensing authorities may depart from it, if they have reason to do so. When doing so, licensing authorities will need to give full reasons for their decisions. Departure from the guidance could give rise to an appeal or

judicial review and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.

18. 18.1. I will set out here the passages in the guidance material to this application. Paragraph 5.99 provides:

"Proceedings set out in the 2003 Act for reviewing premises licences represent a key protection for the community where problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring. It is the existence of these procedures which should, in general, allow licensing authorities to apply a light touch bureaucracy to the grant and variation of premises licence by providing a review mechanism when concerns relating to the licensing objectives arise later in respect of individual premises."

19. 19.1. The provisions relating to the power of the licensing authorities in conducting a review are set out in paragraph 5.107 and following. 5.107 provides:

"The 2003 Act provides a range of powers for the licensing authority on determining and review that it may exercise where it considers them necessary for the promotion of the licensing objectives."

20. 20.1. At 5.109, there are set out the steps which may be taken by the licensing authority where it considers that actions under its statutory powers are necessary. Those include modification of the condition of the premises licence, suspension of the licence and revocation of the licence; the suspension, being for a period not exceeding three months.

21. 21.1. Paragraph 5.110 provides that:

"In deciding which of the powers to invoke the licensing authority should so far as possibly seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than a necessary and proportionate response."

22. 22.1. Paragraph 5.111 refers to the need for any detrimental financial impact of a licensing authority's decision, in particular of suspension of a licence, to be considered.

23. 23.1. A separate section in the guidance deals with reviews arising in connection with crime. In my judgment these provisions are particularly material to this case. Paragraph 5.112 states:

"A number of reviews may arise in connection with crime that is not directly connected with licensable activities."

24. 24.1. It is agreed by Mr Quirke that the sale of alcohol on the premises to under age drinkers is connected with licensable activities. Indeed, in paragraph 5.115 such activity is expressly referred to in the following terms:

"There is certain criminal activity that may arise in connection with licence premises which the Secretary of State considers should be treated particularly seriously. These are the use of the licenced premises [and there are enumerated a number of crimes... which include] for the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people."

25. 25.1. Of importance to the consideration of the case before me is also paragraph 5.113 which provides:

"Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps are necessary to be taken in connection with the premises licence for the promotion of the crime prevention objective."

26. 26.1. The paragraph continues:

"The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual holder of the premises licence."

27. 27.1. At paragraph 5.114, there is a reference to the fact that it is not the role of the licensing authority to determine guilt or innocence, but it is stated that:

"At the conclusion of the review, it will be for the licensing authority to determine, on the basis of the application for the review and any relevant representations made, what action needs to be taken for the promotion of the licensing act objectives in respect of the licence in question regardless of any subsequent judgment in the courts about the behaviour of individuals."

28. 28.1. I now turn to a consideration of the various heads of challenge which Mr Quirke, on behalf of the licensing authority, makes to the judgment and determination of the district judge in this case. In the course of the discussion I may refer not just to the district judge's judgment but also, albeit maybe briefly, to a statement filed by him in these proceedings. Taking grounds 1 and 4 of challenge together, the main issue raised by those grounds is that the district judge misdirected himself in considering that the function of the authority and his function as the appellate body was not punitive but in effect was remedial. It is submitted that the approach of the district judge was to confine his consideration to remedy of the cause of the breach of the licence provisions and of the law.

29. 29.1. At paragraphs 4 and 5 of the judgment in the section headed, "Discussions", at page 10 the district judge said that:

"The function of the local authority, and now this court, must be first to establish why the four sales of the alcohol to girls A and B occurred on

10th March 2007. Secondly, to take such steps, if any, under section 52 of the Act as are necessary to ensure that no further sales occur thereby promoting the two licensing objectives principally engaged by this case: namely, the prevention of crime and disorder, and the protection of children from harm. The step or steps taken must be the minimum intervention necessary to achieve those aims. What is necessary is a question of value and judgment which will involve the local authority or the court taking account of all the circumstances of the case."

30. 30.1. In my judgment, the language of paragraph 5 indicates clearly that the district judge was considering solely the provisions of the guidance which were not specific to reviews arising in connection with crime. In my judgment, a proper reading and application of the guidance which governs the approach that a licensing authority must take in discharging its duties requires, where the circumstances render it applicable, the consideration of the paragraphs relating to reviews in connection with crime. Whilst it may be said that in reviews which do not engage a requirement to consider the paragraphs giving guidance on the approach where there is activity in connection with crime related to licenced premises, the general provisions which apply to all reviews may result in the approach outlined in paragraph 5 being the appropriate one to follow. Indeed, paragraph 5.110, which applies generally to the exercise by a licensing authority of its powers on review, does state a requirement, so far as possible, on the authority to establish the cause or causes of the concerns and that remedial action taken should be directed generally to these causes and should always be no more than a necessary and proportionate response. That observation, in my judgment, is directed to the overall approach to the exercise by the licensing authority of its powers on a review. When considering reviews arising in connection with crime, decisions of the licensing authority would have to be reasonable in all the circumstances and that would necessarily engage a requirement to consider necessity and proportionality.
31. 31.1. However, in my judgment was not borne in mind by the district judge failed to have regard to the requirement on a licensing authority conducting a review on the grounds that the premises had been used for criminal purposes to take steps with view to the promotion of licensing objectives in the interests of the wider community. That is a requirement set out in paragraph 5.113. For reasons given earlier, and in particular by reason of the fact that paragraph 5.115 clearly specifies criminal activity which may arise in connection with the use of the licence premises for the purchase and consumption of alcohol by minors, that provision is engaged in this case.
32. 32.1. Accordingly, in my judgment, the district judge misdirected himself by confining his consideration of the case to the test which would be appropriate where no criminal activity was concerned. Where criminal activity is applicable, as here, wider considerations come into play and the furtherance of the licensing objective engaged includes the prevention of crime. In those circumstances, deterrence, in my judgment, is an appropriate objective and one contemplated by the guidance issued by the Secretary of State.
33. 33.1. The district judge held that the provisions are not to be used and cannot be used for punishment. That may strictly speaking be correct. However, in my judgment

deterrence is an appropriate consideration when the paragraphs specifically directed to dealing with reviews where there has been activity in connection with crime are applicable. Therefore, when the district judge confined himself, as in my judgment he did, to the considerations of remedying, and adopted only the language of paragraph 5.110 in his considerations, he erred in law. In my judgment, that error is sufficient to undermine the basis of his decision. On those two grounds alone, grounds 1 and 4 as I have outlined, I allow this application for judicial review.

34. 34.1. However, I continue to consider under the various headings the other grounds raised. The orders made by the district judge are challenged. He added to the existing conditions of the licence six matters as to which I am told that five were already present but not properly implemented. The sixth new provision was acceptable identification to establish the age of a purchaser shall be a driving licence with photographs, passport or proof of age scheme card recognised by or acceptable by the licensing authority. I am told these provisions were already in place, but not properly implemented. No doubt those are perfectly sensible and appropriate provisions to be included on a licence. However it is said that the action taken on appeal being confined in effect to reiterating existing practice with a minimal addition was entirely inappropriate to meet the situation where there have been sales of alcohol to 14 year old girls. In effect this is a perversity challenge to the decision of the district judge. Even if the approach of the district judge had been correct, which in my judgment it was not, it may well be that the order he made was perversely minimal to meet the circumstances and gravity of the case.
35. 35.1. Under the third general head of challenge, it is said that the district judge failed to pay proper regard to the decision of the licensing authority. Whereas he directed himself in accordance with the dictum of Lord Goddard in the Stepney Borough Council v Joffe case which he set out at page 2, paragraph 5 of his judgment, nonetheless, it is said that he failed to pay regard to the initial decision of the licensing authority when coming to his decision. Since in my judgment the district judge erred in other respects I determine this judicial review challenge on other grounds.
36. 36.1. It is finally said that the district judge erred in that he departed from the guidance issued under section 182 of the Licensing Act but failed, as he was obliged to do, to state that he was so departing and failed to give reasons for so departing. The departure, it is said, is constituted by the failure to give recognition and carry into effect the provisions of paragraphs 5.113, 5.115 and 5.116.
37. 37.1. Earlier in this judgment I set out the basis upon which licensing authorities must pay regard and be governed by guidance issued. Plainly an appellate body must operate similar principles to those applicable to the licensing authority. The guidance contains specific provisions as to the approach to be adopted where criminal activity connected with licence premises is concerned. He failed to give reasons for a departure from applicable guidance. The district judge in reaching his decision simply referred to the circumstances of the case and the fact that what is necessary is a question of the valuation and judgment which will involve the local authority or the court taking into account all the circumstances of the case, that is at page 10 of his judgment, paragraph 5. The district judge in my judgment failed to identify why and in what respects he was

departing from the guidance. I find that the district judge erred in failing to give reasons for departing from the applicable guidance.

38. 38.1. Accordingly, for the reasons set out in this judgment I allow this application for judicial review and find that the district judge erred in law in his approach to determining the appeal of the licensees in this case.

Yes, Mr Quirke.

39. 39.1. MR QUIRKE: I do not think there is any need to formulate a declaration, I think your judgment, in effect, will do the declaration required and the guidance required.

40. 40.1. I am instructed to apply for costs.

41. 41.1. MRS JUSTICE SLADE: Yes.

42. 42.1. MR QUIRKE: It is a tricky one.

43. 43.1. MRS JUSTICE SLADE: It is rather. Can you help me a bit on this?

44. 44.1. MR QUIRKE: Well, ordinarily the usual rules as to the cost apply. If somebody does not turn up, and for example if it is case stated and the magistrates do not attend at court, the court does not usually make an order for costs, but this is a sort of half way house, where the submissions have been made, although nobody has turned up to make them.

45. 45.1. MRS JUSTICE SLADE: Yes. Who would you want your costs from?

46. 46.1. MR QUIRKE: The Magistrates' Court.

47. 47.1. MRS JUSTICE SLADE: Mr Quirke, as you say, there are certain approaches which may normally be adopted but they are within my discretion. In the circumstances, where one would hope that the Magistrates' courts hearing such cases in the future will adhere to the judgment on matters which may not have been apparent to the district judge when coming to his decision and the subsequent order; since he was exercising his judicial function and there is no suggestion of impropriety or anything of that sort, I will not make an order for costs.

48. 48.1. MR QUIRKE: I am grateful.

49. 49.1. MRS JUSTICE SLADE: Thank you.

50. 50.1. I would ask you, Mr Quirke, to draw up the order.

51. 51.1. Thank you for your assistance.

THAMES VALLEY POLICE

Division/Station : HQ South

From : Charlotte Norman
TVP Licensing Officer

To : Cherwell District Council
Licensing Department

Ref : International Supermarket

Date : 02 Aug 2018

Tel.No.

Subject :

Thames Valley Police's Representation For the Review of the Premises Licence

I am writing to formally present Thames Valley Police's representation in support of the application to review the Premises Licence of International Supermarket, 33-34 High Street, Banbury; made by Oxfordshire County Council Trading Standards Tobacco Control Officer on 10th July 2018.

On 24th August 2016 International Supermarket was visited as part of an under 18 Alcohol Test Purchasing operation run by TVP licensing department and Banbury Town Neighbourhood Police Team. Alan Ali MOHAMMED served one 75cl bottle of peach white wine, at 7% ABV to two 16 year olds without asking for identification. This was witnessed by an undercover police officer. Alan Ali MOHAMMED admitted the offence and gave reason for sale that he thought they were in their early 20's. As he was the DPS and licensee of the premises at the time he was dealt with by way of voluntary interview. After which he received a postal requisition to attend Banbury Magistrates Court on 6th October 2016 where he pleaded guilty and received a £445 fine, £85 in costs, and £45 surcharge to fund victim services.

During the follow up immediately after the test purchase fail, it was noted that there were several licence breaches:

- There was no licence summary displayed.
- The refusals book could not be found to show officers.
- No training documents could be provided and staff stated that they were trained verbally.

Then on 3rd April 2018, two months after the Transfer and DPS variation from Alan Ali MOHAMMED to Rafik Mohammed TOFIQ; Cherwell District Council Lead Licensing Enforcement Officer Chris PEGLER and myself, visited International Supermarket to collect CCTV footage to check the conditions set out in their Licence. When we arrived we asked the female behind the till if the manager was present, she said no. When asked if she was capable of providing us the CCTV, she said no and called her manager on the phone to see us. Alan Ali MOHAMMED arrived and we explained that we were there to collect CCTV footage from three separate dates with varying times, with the intention of checking the premises is compliant with the conditions in the licence. He said we were welcome to collect the footage but that he did not think it went back very far, and he did not know how to work the system. From Chris PEGLER'S appraisal of the CCTV she deduced that there was only footage available since Thursday 29th March from approximately 22:00. As the condition on their licence does not stipulate a length of time that recordings needs to be retained for; this was not a breach of their licence. However, when we asked Alan Ali MOHAMMED to provide us a copy of recordings from within the time still held on the system, he said he had no means to and would not know how. On further examination of the CCTV hard drive; we noted that there was neither a visible CD drive nor USB port in which recordings could be downloaded to. This was a direct violation of the conditions on the premises licence.

On the way back down to the shop floor, Alan Ali MOHAMMED made the comment that he is trying to sell the shop. We acknowledged this and he joked that it was making him old.

The history of licence breaches and the test purchase failure, coupled with the Trading Standards evidence of the sale of illegal tobacco directly undermines the crime prevention objective. This with the lack of management and awareness from the DPS and Licensee Rafik Mohammed TOFIQ is a serious concern.

Environmental Health and Licensing

Jackie Fitzsimons – Shared Public Protection Manager



DISTRICT COUNCIL
NORTH OXFORDSHIRE

Rafik Mohammed Tofiq

*Bodicote House
Bodicote
Banbury
Oxfordshire
OX15 4AA
www.cherwell.gov.uk*

Please ask for: Licensing

Direct Dial: 01295 753744

Email: licensing@cherwell-dc.gov.uk

Our Ref: PRM0635

04 April 2018

Dear Rafik Mohammed Tofiq

Licensing Act 2003 – Premises Licence PRM0635 - International Supermarket at International Supermarket 33 - 34 High Street Banbury OX16 5ER

Breach of Premises Licence Conditions.

Following my visit to your premises with a Licensing Police Officer, on 03/04/2018, to collect CCTV images from your licensed premises, it has become apparent that your CCTV monitoring equipment does not meet the requirements of your licence.

Namely:

Prevention of Crime and Disorder

Notices will be placed in the shop reminding customers of age restrictions.
CCTV will be in operation, recordings available to police on request.

It was noted at the time that:

- members of staff did not know how to work your CCTV equipment
- The CCTV could only store 5 days of recorded images.
- There were no facilities on the CCTV equipment to download recorded images.

As a result of the above, you were, and indeed are, unable to provide recordings to the Police on request.

This is a direct breach of one of your licensing conditions, and will be recorded as such. Additionally you are required to rectify this licensing Breach within 28 days from the date of this letter, failure to do so would result in the Licensing Authority taking further action.





Laura Morris
Licensing Officer
Thames Valley Police
HQ South
Kidlington
OX5 2NX

Tel: 01865 846 150

laura.morris@thamesvalley.pnn.police.uk

Alan Mohammed
33-34 High St
Banbury
OX16 5ER

25th August 2016

Dear Sir/ Madam,

International Supermarket, 33-34 High St, Banbury Premises Licence Number PRM0635

On the day of 24th August 2016, a Test Purchasing Operation was carried out by Thames Valley Police, in Banbury.

Unfortunately your premises failed the test, and alcohol was served to two females, aged sixteen years. 1 bottle of Peach flavoured white wine 75cl (7% vol) was sold by The Designated Premises Supervisor (DPS) Alan Mohammed Personal Licence number Cherwell 16/PSL01718.

It is an offence under the Licensing Act 2003, sections 146 – 147, to sell or allow the sale of alcohol to anyone under the age of eighteen years. The penalty for this can be up to £5000 fine.

The offence committed on the day of 24th August is being dealt with via prosecution of the DPS and contact will be made in order for you to attend a voluntary interview. The Licensing Authority at Cherwell District Council will be informed of the offence.

As this is the first occasion that the premises have failed a Test Purchase, it can now be seen that this is an initial warning, and that any future failures will be met with a more robust response. This will in the form of an Application to Review the License and/or a prosecution under the Licensing Act 2003 for persistently selling alcohol to those under the age of 18.

It was suggested on the day that the age policy is increased to Challenge 25 (posters for this can be found on challenge 25.org). When we attended the premise no Licence was on display which is a breach of licence. When requested to see a copy of the licence none could be provided. When asked to see a refusals book it was stated that there was one but again this could not be found. It is suggested that a refusals book is put into place for due diligence purposes and that this book is kept on site at all times. It was also requested to see any staff training this again could not be provided but staff stated that they had received training verbally; Advice was given about writing down all training for due diligence purposes.

If you have any questions or comments about the Operation, please contact the Thames Valley Police Licensing Office.

Yours sincerely

Laura Morris
Licensing Officer
Oxfordshire BCU
Thames Valley Police

licensing@thamesvalley.pnn.police.uk

www.thamesvalley.police.uk

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Mr Rafik Mohammed Tofiq
30 Brookdale Close
Bolton
BL1 8JR

*Bodicote House
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Banbury
Oxfordshire
OX15 4AA*

www.cherwell.gov.uk

Please ask for: Licensing

Direct 01295 753744
Dial:

Email: licensing@cherwell-dc.gov.uk

Our Ref: Hearing

8 August 2018

Dear Mr Tofiq

NOTICE OF HEARING – LICENSING ACT 2003

Premises: International Supermarket 33 - 34 High Street Banbury OX16 5ER

Date and Time: Friday 24th August 2018, 10.00am

Location: Council Chamber, Cherwell District Council, Bodicote, OX15 4AA

Please report to main reception on arrival

As the applicant for the above mentioned Premises Licence variation you are being sent this notice of hearing as representations have been received in relation to this application.

The hearing will be conducted in public and all name and address details will be shown in the agenda which is a public document. The Licensing Authority may exclude the public from all or part of a hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing taking place in public.

Accompanying Documents:

- Hearing agenda, and report will be available online, and issued to all parties five working days before the date of hearing.

Rights of parties:

At the hearing you may be assisted or represented by any person, whether or not that person is legally qualified. You will be able to:

- (a) to give further information in support of your application;
- (b) to question any other party; and
- (c) to address the Members of the Panel regarding your application.

Consequences if party does not attend:

If you give notice that you do not wish to attend or be represented at a hearing, the Sub Committee may proceed in your absence. If you fail to attend or be represented at the hearing without giving notice the sub-committee may:-

- (a) where it considers it to be necessary in the public interest, adjourn the hearing to a specified date; or
- (b) hold the hearing in your absence.

Notice by you: Please contact us before Tuesday 21st August 2018 :-

- (a) if you intend to attend the meeting;
- (b) If you do not intend to attend the meeting;
- (c) if you request that another person represents you at the hearing. (Please give name and address details including a contact telephone number or e-mail address.

Please note parking is limited. We advise that you car share or use public transport where possible.

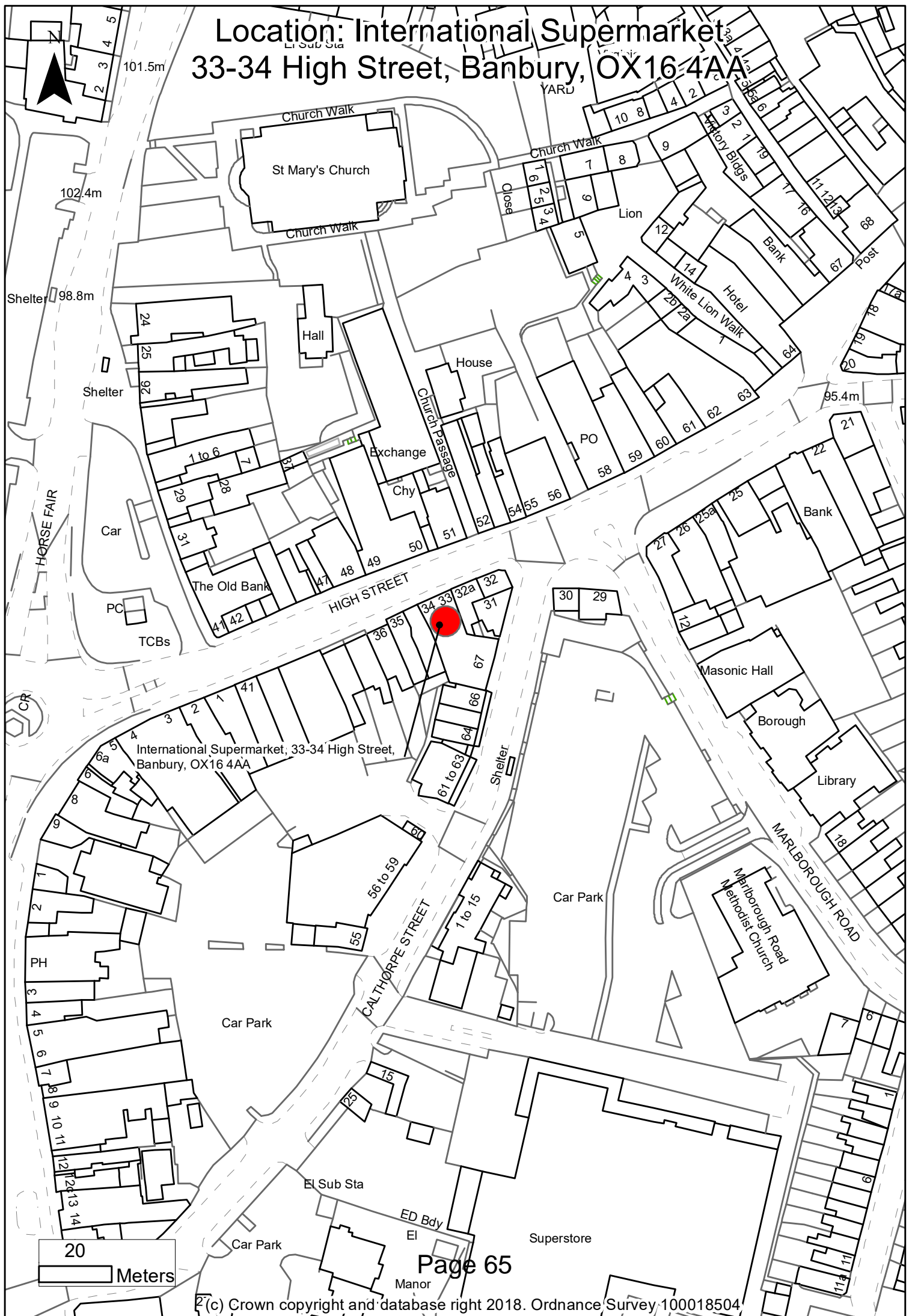
Finally, if you have any queries regarding this notice, please contact a member of the Licensing Team on 01295 753744.

Yours sincerely

Nicholas Sutcliffe
Licensing Manager

Regards
Licencing
Cherwell District Council
01295 753744;

Location: International Supermarket 33-34 High Street, Banbury, OX16 4AA



101.5m

102.4m

Shelter 98.8m

Shelter

95.4m

International Supermarket, 33-34 High Street,
Banbury, OX16 4AA

Car Park

Car Park

Superstore

20 Meters

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