

Cherwell District Council representation as a Responsible Authority regarding the licence review of:

Banbury Express Food and Wine, 179 Warwick Road, Banbury, OX16 1AS

I am Christine Pegler, Lead Licensing Enforcement Officer employed by Cherwell District Council within the Environmental Health and Licensing Directorate. As part of my role I am responsible for the Licensing of premises, and have delegated powers, under the Licensing Act 2003.

For the purpose of this licensing review I am representing Cherwell District Council as a responsible Authority, acting independently to other Cherwell District Council Licensing Officers facilitating this licensing review.

1. On 10/06/2019 I received intelligence regarding the Licensed premises of Banbury Express Food and Wine, 179 Warwick Road, Banbury, OX16 1AS, Premises licence number PRM0712.

This intelligence was from Oxfordshire Trading Standards and suggested that the premises were selling illegal tobacco products at the premises, along with other illegal goods. I exhibit this intelligence as **APPENDIX 1**.

One of the licensed premises conditions is that all stock would be purchased from a reputable, VAT registered source, and as such the premises may have breached their licensing conditions and failed to adhere to the licensing objectives.

2. As a result of this intelligence, on 21/06/2019 I inspected the licensed premises. Whilst there I spoke to Mr Narinder Singh who was at that time the premises designated premises supervisor (DPS)., and the following further conditions of licence were established as having been breached:
 - Any staff training, which may have taken place, had not been recorded or evidenced in a training manual.
 - The Fire Exits sign were missing.
 - Not all staff were trained to use the shops CCTV system, and therefor would be unable to provide footage if requested by an authorised officer.

I exhibit a copy of this premise's inspection as **APPENDIX 2**.

3. As a result of the said breaches of the conditions of the premises licence the licence holder was issued with a formal warning and requested to rectify all the listed breaches of licence. This letter was dated 11/07/2019.

I exhibit a copy of this warning letter as **APPENDIX 3**.

4. On 30/09/2019 I inspected the said premises again. Whilst there I spoke to Mr J Crawford. Mr Crawford stated that he had not been trained to use the CCTV and did not have access to it. He had a small amount of training when he was first employed, about 8 weeks ago, but he did not see a training manual, or sign any training records.

I exhibit this licensed premises inspection as **APPENDIX 4**.

5. I have noted that 20/08/2019 the licensing Authority received an application to change the name of the premises licence holder from Mr Narinder Singh to Banbury Express Food and Wine Ltd.

It should be noted the application form to make this change to the premises licence were dated 13/08/2019 but were not received by the Licensing Authority until 20/08/2019.

I exhibit the application form to vary the premises licence as **APPENDIX 5**.

6. Having checked Banbury Food and wine Ltd on Companies House, Mr Narinder Singh is the sole director of that company. I exhibit a copy of my Companies House search as **APPENDIX 6**.

7. I would like to draw attention to the following:

Home Office Revised Guidance under Section 182 of the Licensing Act 2003

1.9 Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. This Guidance is therefore binding on all licensing authorities to that extent.

2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

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 or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police 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.

In light of the specified guidance, and when considering the information presented, it appears that Mr Singh is solely responsible for the running of this business, and the premises licence.

Mr Singh was allowed adequate time following my licensed premises inspection to correct all the outlined breaches of licence, and he had failed to rectify these condition breaches.

Mr Singh appears to be either unable or unwilling to adhere to the Licensing objectives, and the conditions attached to this licence.

This evidence questions if the licensed premises would ever be legally compliant under the requirements of the 2003 Licensing Act, and further questions whether Mr Singh is fit, proper, and suitable to retain such a licence.

Based on the evidence put before you Cherwell District Council Licensing, acting under the requirements of a Responsible Authority, requests that the members consider the revocation of this premises licence.

Chris Pegler
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