

# **Review of a Premises Licence in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG**

**Licensing Panel**

**Date: 23<sup>rd</sup> March 2017**

---

Author:	Kathryn Ashton – Licensing Manager
Wards:	Gorse Hill and Pinehurst
Locality Affected:	North Central
Parishes Affected:	None

---

## **1. Purpose and Reasons**

- 1.1 To consider the application for a review of a premises licence received from the Wiltshire Police in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG.

## **2. Recommendations**

It is recommended that the Panel:

- 2.1 Considers the application made by the Wiltshire Police together with any supporting evidence, and determines the application for the review of the premises licence. The options available to the Panel are:
- To modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition;
  - To exclude a licensable activity from the scope of the licence;
  - To remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
  - To suspend the licence for a period not exceeding three months
  - To revoke the Licence

## **3.0 Detail**

- 3.1 An application for the review of a premises licence in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG has been received from Wiltshire Police who consider that the licensing objectives in respect of crime and disorder are being undermined by current licensable activities at the premises. A copy of the Wiltshire Police's application is attached as Appendix A. The only representation received to the review is from the Dorset and Wiltshire Fire and Rescue Service, which is attached at Appendix B.
- 3.2 Simply Fresh Retail Ltd is a licensed premises, operating under a premises licence (ref: 88116050LAPVPN), attached as Appendix C. The licence was issued on 28<sup>th</sup>

## **Review of a Premises Licence in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG**

**Licensing Panel**

**Date: 23<sup>rd</sup> March 2017**

June 2016, and permits the sale of alcohol on Monday to Saturday from 08.00hrs to 23.00hrs and on Sunday from 08.00hrs to 22.30hrs. The Designated Premises Supervisor is Saravanabavanathan Thasarathakumaran. Simply Fresh Retail Ltd trades as a 'Premier Local', and the address shown on the door reads "160A, Cricklade Road".

3.3 The grounds for the review are stated in the Police's application as follows:

3.2.1 On 18<sup>th</sup> October 2016, Wiltshire Police officers conducted a routine licensing check at the premises. A lone female was found within the shop area, she was identified and checks with Immigration showed that her leave to remain in the United Kingdom had expired in 2010. She was last refused leave in 2014 and all appeal rights were exhausted on 20/09/2016. She is currently listed as an absconder as she failed to attend any of her last 5x reporting dates. She is also not allowed to work in the United Kingdom, nor can she be lawfully employed in any position.

The Witness Statement of PC Diffin, attached as part of Appendix A, explains that at the time of his visit the lone female was in sole charge of the store, was serving customers and confirmed the owner of the business to be the named Designated Premises Supervisor.

3.3.2 Whilst at the premises on 18<sup>th</sup> October, PC Diffin also noted that a number of licensing conditions were being breached, namely conditions 5, 6, 7 and 9. For clarification;

Condition 5 states

"A "Challenge 21" scheme shall be implemented and all customers who appear to be under the age of 21 shall be challenged to prove that they are over 18 when attempting to purchase alcohol. The only acceptable forms of ID for proof of age shall be a photo driving licence, passport, or home office approved identity card bearing the holographic "PASS" mark. All staff working at the premises shall be fully trained and aware of the scheme. This training shall be logged and those training records shall be made available for inspection by a police constable or authorised officer on request."

Condition 6 states

"A single refusals book shall be kept and it shall be completed in consecutive order by the person who refused the sale. The log book shall be reviewed on a monthly basis by the Designated Premises Supervisor, and the review shall be recorded. On identification of any trends, training needs shall be reassessed. The log book and any associated records shall

# **Review of a Premises Licence in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG**

## **Licensing Panel**

**Date: 23<sup>rd</sup> March 2017**

be made available for inspection by any authorised officer or police officer at any reasonable hour.”

Condition 7 states

“Signage shall be displayed prominently at and near the points of sale and near to the entrance to the store, indicating that customers who appear to be under 21 years of age who wish to buy alcohol will be challenged to prove their age.”

Condition 9 states

“All staff will be trained with regards to age-restricted sales and the sale of alcohol under the Licensing Act 2003. This training shall be logged and be available for inspection on request by the Police and authorised Council officers at any reasonable time.”

- 3.4 The Panel is requested to consider the application for the review of the premises licence from the Wiltshire Police and supporting evidence, having regard to Swindon Borough Council’s Statement of Licensing Policy and the Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003. **It is also suggested that if the DPS or his representative is present, the address of the property (160 \ 160A, Cricklade Road) is clarified, and if necessary, amended on the licence.**

## **4. Alternative Options**

- 4.1 It would be possible to defer the determination of the review application to a date within five working days of the day (or the last day) on which the hearing was held, or to defer the hearing itself to a specified date (or dates) where it is considered to be necessary for the authority’s consideration of any representation or notice made by a party. However, either step should be seen as an exceptional measure.

## **5. Implications, Diversity Impact Assessment and Risk Management**

### Financial and Procurement Implications

- 5.1 There are no direct financial implications arising from the report. Failure to reach a reasonable conclusion, based on the facts, could lead to crime and disorder, or to unwarranted damage to the business in question. Either scenario could raise issues of compensation. In the case of an appeal, the Council could become liable for costs.

# **Review of a Premises Licence in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG**

**Licensing Panel**

**Date: 23<sup>rd</sup> March 2017**

---

## Legal and Human Rights Implications

- 5.2 A declaration has been made by the Secretary of State that the Licensing Act is compliant with the Human Rights Act. None of the relevant Articles of the Human Rights Act has absolute sway over the others. Article 8 deals with a right to undisturbed home life; Article 10 gives the right to free expression, including the right to entertain; Article 1 of the Protocol says that licences are 'possessions', which the holder has a right to enjoy. Common sense has to be used, in balancing each of these against the other.

- 5.3 All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

This report relates to the requirements of licensing legislation.

- 5.4 Diversity Impact Assessment

It is not considered that the preparation of a DIA is required in respect of this report.

- 5.5 **Consultees**

The Director of Law and Democratic Services (Monitoring Officer) is consulted in respect of all reports.

- 5.6 **Background Papers**

Licensing Act, 2003

Secretary of State revised Section 182 Guidance

Swindon Borough Council's Statement of Licensing Policy, (2016)

- 5.7 **Appendices**

Appendix A - Application from Wiltshire Police for the review of a Premises Licence, (dated 29<sup>th</sup> October 2016), incorporating the Witness Statement of PC Diffin, (dated 24<sup>th</sup> October 2016).

Appendix B – Representation to the licence review from the Dorset and Wiltshire Fire and Rescue Service (dated 2<sup>nd</sup> November 2016).

Appendix C – Copy of extant Premises Licence, 160 Cricklade Road, Swindon, SN2 8AG, (dated 28<sup>th</sup> June 2016).

**Review of a Premises Licence in respect of Simply Fresh Retail Ltd.  
(Premier Local), 160 Cricklade Road, Swindon, SN2 8AG**

**Licensing Panel**

**Date: 23<sup>rd</sup> March 2017**

---

# Appendix A

**Review of a Premises Licence in respect of Simply Fresh Retail Ltd.  
(Premier Local), 160 Cricklade Road, Swindon, SN2 8AG**

**Licensing Panel**

**Date: 23<sup>rd</sup> March 2017**

**WILTSHIRE POLICE**



Saravanabavanathan THASARATHAKUMARAN  
Simply Fresh Retail  
160 Cricklade Road  
Swindon  
SN2 8AG

**Swindon Police Station**  
**Gablecross**  
Shrivenham Road  
South Marston  
Swindon  
Wiltshire SN3 4RB  
Telephone: 101  
Direct Dial: 01380861630  
Facsimile: 01793 507892  
DX: 132780

Date 16/12/16

Your ref

Our ref Review Simply Fresh

Reply contact name is **PC Michael DIFFIN MBE** Police Licensing Officer

Dear Mr **THASARATHAKUMARAN**,

RE – Review Application Simply Fresh Retail 160 Cricklade Road Swindon SN2 8AG

Please find enclosed copies of additional evidence submitted to Swindon Borough Council Licensing Authority that will be presented by Wiltshire Police as part of the review of Simply Fresh Retail.

Yours Sincerely,

Michael DIFFIN MBE  
Police Constable 1630  
Police Licensing Officer.



[www.wiltshire.police.uk](http://www.wiltshire.police.uk)

**Review of a Premises Licence in respect of Simply Fresh Retail Ltd.  
(Premier Local), 160 Cricklade Road, Swindon, SN2 8AG**

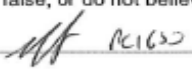
**Licensing Panel**

**Date: 23<sup>rd</sup> March 2017**

Page 1 of 2

**WILTSHIRE CONSTABULARY**  
**RESTRICTED (when complete)**

Form MG11  
October 2004

<b>WITNESS STATEMENT</b> (CJ Act 1967, s9; MC Act 1980, ss.5A(3)(a) and 5B; MC Rules 1981, r.70)					
The MG11 back sheet must be completed and submitted with this statement	URN <table border="1" style="display: inline-table; width: 150px; height: 20px;"><tr><td> </td><td> </td><td> </td><td> </td></tr></table>				
Statement of: <u>Michael Sean Gilmour DIFFIN</u>					
Age if under 18: <u>0</u> 18 (if over 18 insert 'over 18') Occupation: <u>Police Constable 1630</u>					
This statement (consisting of <u>2</u> page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it, which I know to be false, or do not believe to be true.					
Signature: <u></u>	Date: <u>16/12/2016</u>				
<input type="checkbox"/> X if witness evidence is visually recorded (Supply witness details on rear)					
<p>I am the above named person and am currently employed as the Police Alcohol Licensing Officer for the Swindon Hub.</p> <p>Simply Fresh 160 CRICKLADE ROAD SWINDON is a Licensed Premises and operates under a premises licence (PL No: 881160650LAPVPN) issued by Swindon Borough Council (SBC). The premises licence holder is Simply Fresh Retail Limited. The licence was issued in accordance with the Licensing Act 2003 to allow the sale by retail of alcohol Monday to Saturday 0800hrs to 2300hrs and Sunday 0800hrs to 2230hrs. The premises has no restriction on opening hours for non licensable activities.</p> <p>The Designated Premises Supervisor(DPS) is Saravanabavanathan THASARATHAKUMARAN</p> <p>On Thursday 15<sup>th</sup> December 2016 at 2231hrs I conducted a routine licensing check at Simply Fresh entering the location under Section 179 Licensing Act 2003, there was only one person present at the time and that was the DPS Saravanabavanathan THASARATHAKUMARAN.</p> <p>As a result of the check the following offences were being committed under the Licensing Act 2003.</p> <ol style="list-style-type: none"><li>1. Failure to display Part B of the Premise Licence.</li><li>2. Failure to produce the Premises Licence when requested.</li></ol> <p>The following conditions on the premise licence were not being complied with also offences under the Licensing Act 2003</p> <p>Condition 7 states</p> <p style="padding-left: 40px;">Signage shall be displayed prominently at and near the points of sale and near to the entrance to the store, indicating that customers who appear to be under 21 years of age who wish to buy alcohol will be challenged to prove their age.</p> <p>There was no signage at the till points but there was a sign on the door as you enter.</p>					

Signature:  Signature witnessed by: \_\_\_\_\_

2004/05 (1)

**RESTRICTED (when complete)**



**Review of a Premises Licence in respect of Simply Fresh Retail Ltd.  
(Premier Local), 160 Cricklade Road, Swindon, SN2 8AG**

**Licensing Panel**

**Date: 23<sup>rd</sup> March 2017**

Page 2 of 2	<b>WILTSHIRE CONSTABULARY</b> <b>RESTRICTED (when complete)</b>	Form MG11 (Cont.) October 2004
Continuation statement of <u>Michael Sean Gilmour DIFFIN</u>		
<div style="border: 1px solid black; padding: 10px;"><p>Condition 8 states</p><p>Based on a risk assessment around the 4 licensing objectives, site specific and appropriate CCTV equipment shall be provided and maintained in line with Police requirements. The CCTV product shall be retained for a minimum of 31 days and made available for inspection by an authorised officer or police officer at any reasonable hour.</p><p>THASARATHAKUMARAN stated that his CCTV only retained recordings for 20 days as one of the drives was broken.</p><p>Condition 9 states</p><p>All staff will be trained with regards to age – restricted sales and the sale of alcohol under the Licensing Act 2003. This training shall be logged and be available for inspection on request by the Police and authorised Council officers at any reasonable time.</p><p>THASARATHAKUMARAN was unable to produce any staff training records for the premise. <i>MSG</i></p></div>		
<div style="display: flex; justify-content: space-between;"><div>Signature: _____</div><div>Signature witnessed by: _____</div></div> <div style="text-align: center; margin-top: 5px;"><b>RESTRICTED (when complete)</b></div> <div style="display: flex; justify-content: space-between;"><div>2004/05 (1)</div><div></div></div>		



# Review of a Premises Licence in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG

Licensing Panel

Date: 23<sup>rd</sup> March 2017

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 PC 1630 Michael DIFFIN MBE on behalf of the CHIEF CONSTABLE OF  
WILTSHIRE POLICE

(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

Simply Fresh Retail (Premier Local)  
160 Cricklade Road

Post town SWINDON

Post code (if known) SN2 8AG

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

Simply Fresh Retail Limited, 75A Cromwell Road Hayes Middlesex UB3 2PS

Number of premises licence or club premises certificate (if known)  
881160650LAPVPN

### 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)

☒

**Review of a Premises Licence in respect of Simply Fresh Retail Ltd.  
(Premier Local), 160 Cricklade Road, Swindon, SN2 8AG**

**Licensing Panel**

**Date: 23<sup>rd</sup> March 2017**

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)

# Review of a Premises Licence in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG

Licensing Panel

Date: 23<sup>rd</sup> March 2017

## (C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address PC 1630 Michael DIFFIN MBE POLICE LICENSING OFFICER SWINDON POLICE STATION GABLECROSS, SHRIVENHAM ROAD, SOUTH MARSTON, SWINDON, SN3 4RB
Telephone number (if any) 01380 861630
E-mail address (optional) michael.diffin@wiltshire.pnn.police.uk

### 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="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)

This application to review the premises licence for Simply Fresh (Premier Store) is based on evidence which shows a breach to the licensing objective of:

Crime & Disorder – for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter the UK.

Crime & Disorder - Failure to comply with conditions on a premise licence. Offences under Section 136(1) Licensing Act 2003.

# Review of a Premises Licence in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG

Licensing Panel

Date: 23<sup>rd</sup> March 2017

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

Re: Licence Review – Simply Fresh Retail, 160 Cricklade Road, Swindon.

Simply Fresh Retail is a Licensed Premises and operates under a premises licence (PL No: 881160650LAPVPN) issued by Swindon Borough Council (SBC). The premises licence holder is Simply Fresh Retail Limited. The licence was issued in accordance with the Licensing Act 2003 to allow the sale by retail of alcohol Monday to Saturday 0800hrs to 2300hrs and Sunday 0800hrs to 2230hrs. The premises has no restriction on opening hours for non licensable activities.

The Designated Premises Supervisor(DPS) is Saravanabavanathan THASARATHAKUMARAN

On 18th October 2016 Wiltshire Police officers conducted a routine licensing check at the premises. A lone female was found within the shop area, she was identified and checks with Immigration showed that her leave to remain in the United Kingdom had expired in 2010. She was last refused leave in 2014 and all appeal rights were exhausted on 20/09/16. She is currently listed as an absconder as she has failed to attend any of her last 5x reporting dates. She is also not allowed to work in the United Kingdom nor can she be lawfully employed in any position.

This is a serious breach to the licensing objective of preventing Crime and Disorder and as such Wiltshire Police wish to review the premises licence for Simply Fresh Retail and are seeking an immediate revocation of the Premises Licence.

For the panels information -  
S.182 Guidance of the Licensing Act 2003 - para 11.27 states –

"There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously" –

Such activity includes –

"... knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter".

Para 11.28 –

"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 license – even in the first instance is seriously considered".

Illegal working has harmful social and economic effects within the UK, it undercuts British businesses and their workers that stay within the law and exploits migrant workers. As long as there are opportunities for illegal working, the UK will remain an attractive place for illegal immigrants. Partners are working very hard to impact upon and disrupt employers breaking the law by taking tough action against those who do so.

There is evidence that illegal workers are paid less than the minimum wage, do not pay tax, and may be doing work that breaches health and safety regulations. Employers who use illegal workers may do so to exploit a vulnerable person, may be connected with human trafficking and avoid providing national minimum standards such as the minimum wage or paid holiday. This is extremely harmful to the exploited workers and enable dishonest employers to gain an unfair advantage over

# **Review of a Premises Licence in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG**

**Licensing Panel**

**Date: 23<sup>rd</sup> March 2017**

---

competitors who operate within the law of the United Kingdom.

At the time of the visit the following conditions on the Premises Licence were not being complied with.

Condition 5 on the premises licence states

A "Challenge 21" scheme shall be implemented and all customers who appear to be under the age of 21 shall be challenged to prove that they are over 18 when attempting to purchase alcohol. The only acceptable forms of ID for proof of age shall be a photo driving licence, passport, or home office approved identity card bearing the holographic "PASS" mark. All staff working at the premises shall be fully trained and aware of the scheme. This training shall be logged and these training records shall be made available for inspection by a police constable or authorised officer on request.

Condition 9 on the premises licence states

All staff will be trained with regards to age – restricted sales and the sale of alcohol under the Licensing Act 2003. This training shall be logged and be available for inspection on request by the Police and authorised Council officers at any reasonable time.

Condition 7 on the premises licence states

Signage shall be displayed prominently at and near the points of sale and near to the entrance to the store, indicating that customers who appear to be under 21 years of age who wish to buy alcohol will be challenged to prove their age.

Condition 6 on the premises licence states

A single refusals book shall be kept and it shall be completed in consecutive order by the person who refused the sale. The log book shall be reviewed on a monthly basis by the Designated Premises Supervisor, and the review shall be recorded. On identification of any trends, training needs shall be reassessed. The log book and any associated records shall be made available for inspection by any authorised officer or police officer at any reasonable hour.



# **Review of a Premises Licence in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG**

**Licensing Panel**

**Date: 23<sup>rd</sup> March 2017**

Have you made an application for review relating to this premises before ☐ **Please tick yes**  
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**

# Review of a Premises Licence in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG

Licensing Panel

Date: 23<sup>rd</sup> March 2017

- 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

*Michael J. K. PC165*

Date 29/10/2016

Capacity Police Licensing Officer

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)

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)

## 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.



# **Review of a Premises Licence in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG**

**Licensing Panel**

**Date: 23<sup>rd</sup> March 2017**

---

## **INDEX**

1. Premises Licence Simply Fresh (Premier Store)
2. Statement PC DIFFIN (Confidential) dated 24/10/16 – Provides evidence of attending the location, the fact that there was an over stayer employed in the location and the breaches of the licensing conditions.

# Review of a Premises Licence in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG

Licensing Panel

Date: 23<sup>rd</sup> March 2017

Page 1 of 3

**WILTSHIRE CONSTABULARY**  
**RESTRICTED (when complete)**

Form MG11  
October 2004

---

**WITNESS STATEMENT**  
(CJ Act 1967, s9; MC Act 1980, ss.5A(3)(a) and 5B; MC Rules 1981, r.70)

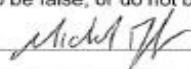
The MG11 back sheet must be completed and submitted with this statement      URN 

--	--	--	--

Statement of: Michael Sean Gilmour DIFFIN

Age if under 18: Over 18 (If over 18 insert 'over 18')      Occupation: Police Constable 1630

This statement (consisting of 3 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it, which I know to be false, or do not believe to be true.

Signature:  PC1630      Date: 24/10/16

☐ X if witness evidence is visually recorded (Supply witness details on rear)

I am the above named person and am employed as the Police Alcohol Licensing Officer for the Swindon Policing Hub.

On Tuesday 18<sup>th</sup> October 2016 at about 1030hrs I was on duty in plain clothing conducting licensing checks when I entered SIMPLY FRESH (PREMIER STORE) 160 CRICKLADE ROAD SWINDON under Section 179 Licensing Act 2003.


This premises is a licensed premises and holds a premise licence to sell alcohol that was issued by Swindon Borough Council Licensing Authority, licence number 881160650LAPVPN refers. This licensed was issued in accordance with the Licensing Act 2003.

On entering the premises there was only one female member of staff on the premises stood behind the counter and was clearly serving people at the till area. I identified myself to the female by advising her as to who I was and showing her my Police Warrant Card.

I identified the female as Ramiya PATHMAKUMARAN born 04/05 1993, I asked her if she was in charge of the store and she replied that the owner was at the cash and carry and that she was just helping out until he came back and that he should be back in about one hour. She confirmed that the owner who was at the cash and carry was Saravanabavananthan THASARATHAKUMARAN and that he was her uncle.

On talking with her it became clear that she had very little knowledge about the running of the business and went to great lengths to tell me that she was not working and was only helping out, she stated that she had received a phone call from the owner telling her to come in so he could go out and get stock which she did. I asked why she had done this and she stated that THASARATHAKUMARAN gave her money for food and paid her rent and in return she helped in the shop when asked. She went on to state that her son was in hospital and she gave her address as the shop stating that she was waiting for immigration to offer her accommodation in CARDIFF.

I asked her how often she helped in the shop and she stated that she worked a couple of days a week just to help out but received no money other than payment for food and accommodation; she confirmed that she could leave at any time.

Signature:  PC1630      Signature witnessed by: \_\_\_\_\_

**RESTRICTED (when complete)**

2004/05 (1)

# Review of a Premises Licence in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG

Licensing Panel

Date: 23<sup>rd</sup> March 2017

Page 2 of 3

WILTSHIRE CONSTABULARY

Form MG11 (Cont)  
October 2004

**RESTRICTED** (when complete)

Continuation statement of Michael Sean Gilmour DIFFIN

Whilst talking to her she served a number of people at the till and was clearly working at the premises. I asked her about her immigration status within the UK and at this point her understanding of English became very difficult she stated that she was seeking asylum but did not know if she was allowed to work. In my experience this is a good indicator of an individual who knows that they are not allowed to work in the UK as they always respond to any questions insisting that they are only helping a friend and not employed at the location.

Due to her having no understanding of her responsibilities under the Licensing Act, the fact she did not have a personal licence and that she had clearly not received any training around the sale of alcohol I instructed her not to sell any alcohol at the premises until the DPS was present and that I would return in a short time to speak with him. At this time I exited the premises.

At about 1115hrs I returned to the premises and PATHMAKUMARAN was no longer there there was a male who identified himself as being Rasaiya RAGUNATHAN, he was on the phone to another male who he stated was THASARATHAKUMARAN the Designated Premises Supervisor who was in Sri Lanka on holiday and was his brother in law. I spoke briefly with him on the phone advising him that I was not happy with what was going on at the premises and he stated that PATHMAKUMARAN was his girlfriend and that she was only helping out when people went to the cash and carry. Seeing that there was no point continuing with the conversation I advised him that I would conduct a licensing check with RAGUNATHAN who was managing the store for him whilst he was away.

RAGUNATHAN was able to only produce part of the premises licence and part B was not on display he stated that it had been sent to the Licensing Authority for renewal.

I asked RAGUNATHAN if he could show me the Challenge 21 Policy and any documented training for all staff that this had been conducted, he pointed to a sign hidden behind a wall behind the till mentioning that persons under 18 would be asked for ID this was very difficult to see and was clearly not Challenge 21 nor easy to see for members of the public. He was also unable to say when he had received any training other than the fact that he had completed a course for a personal licence in January 2016 but did not have a personal licence.

Condition 5 on the premises licence states

A "Challenge 21" scheme shall be implemented and all customers who appear to be under the age of 21 shall be challenged to prove that they are over 18 when attempting to purchase alcohol. The only acceptable forms of ID for proof of age shall be a photo driving licence, passport, or home office approved identity card bearing the holographic "PASS" mark. All staff working at the premises shall be fully trained and aware of the scheme. This training shall be logged and these training records shall be made available for inspection by a police constable or authorised officer on request.

Condition 9 on the premises licence states

All staff will be trained with regards to age – restricted sales and the sale of alcohol under the Licensing Act 2003. This training shall be logged and be available for inspection on request by the Police and authorised Council officers at any reasonable time.

Signature: \_\_\_\_\_

Signature witnessed by: \_\_\_\_\_

**RESTRICTED** (when complete)

2004/05 (1)

**Review of a Premises Licence in respect of Simply Fresh Retail Ltd.  
(Premier Local), 160 Cricklade Road, Swindon, SN2 8AG**

**Licensing Panel**

**Date: 23<sup>rd</sup> March 2017**

Page 3 of 3

**WILTSHIRE CONSTABULARY**

**RESTRICTED (when complete)**

Form MG11 (Cont)  
October 2004

Continuation statement of Michael Sean Gilmour DIFFIN

Condition 7 on the premises licence states

Signage shall be displayed prominently at and near the points of sale and near to the entrance to the store, indicating that customers who appear to be under 21 years of age who wish to buy alcohol will be challenged to prove their age.

I asked RAGUNATHAN if he could show me the refusals book he stated he thought that it was in the office that was locked and THASARATHAKUMARAN had the key. He stated that there was a prompt on the till to check if people were 18 if alcohol was run through.

Condition 6 on the premises licence states

A single refusals book shall be kept and it shall be completed in consecutive order by the person who refused the sale. The log book shall be reviewed on a monthly basis by the Designated Premises Supervisor, and the review shall be recorded. On identification of any trends, training needs shall be reassessed. The log book and any associated records shall be made available for inspection by any authorised officer or police officer at any reasonable hour.

On return to the Police Station I conducted a check on with UK Immigration on PATHMAKUMARAN and they advised me her leave to remain in the United Kingdom had expired in 2010. She was last refused leave in 2014 and is all appeal rights exhausted on 20/09/16. She is currently listed as an absconder as she has failed to attend any of her last 5x reporting dates. She is also not allowed to work in the United Kingdom.

*MS Gilmour* PC1600

Signature: \_\_\_\_\_ Signature witnessed by: \_\_\_\_\_

2004/05 (1)

**RESTRICTED (when complete)**



# Review of a Premises Licence in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG

Licensing Panel

Date: 23<sup>rd</sup> March 2017



Licensing Team  
5<sup>th</sup> Floor Wat Tyler House  
Beckhampton Street  
Swindon SN1 2JH  
01793 466113  
licensing@swindon.gov.uk

Signed

.....  
Head of Licensing

**Premises licence issued on 7 February 2012**

Premises licence number

**881120037PREM**

## Part 1. Premises details

*Postal address of premises or if none, Ordnance Survey map reference or description*  
Simply Fresh Retail Limited 160 Cricklade Road Post Town Swindon Post code  
SN2 8AG Telephone number Not known

*Where the licence is time limited, the dates* The licence operates for every date from 7  
February 2012 onward.

*Licensable activities authorised by the licence* The licensable activity is the sale of  
alcohol

*The times the licence authorises the carrying out of licensable activities:*  
08.00hrs until 23.00hrs Monday to Saturday, 08.00hrs until 22.30hrs Sunday

# Review of a Premises Licence in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG

Licensing Panel

Date: 23<sup>rd</sup> March 2017

*Where the licence authorises supplies of alcohol, whether these are on and/or off supplies* The licence authorises only off sales of alcohol.

*The opening hours of the premises* Opening hours when no licensable activities are taking place are at the sole discretion of the proprietor.

*Name (registered) address, telephone number and e-mail (where relevant) of holder of premises licence* The licence is held by Simply Fresh Retail Limited. The Registered address is 75A Cromwell Road Hayes UB3 2PS

*Registered number of holder, for example company number, charity number (where applicable)* 7788411

*Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol* Saravanabavanathan Thasarathakumaran of 75A Cromwell Road Hayes UB3 2PS

*Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol* The Personal Licence number for Saravanabavanathan Thasarathakumaran is LBHIL 1628, issued by Hillingdon Council

## Annexe 1.

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

## Annexe 2.

*Conditions consistent with the Operating Schedule* Alcohol shall not be sold in an open container or be consumed in the licensed premises.

1. A single refusals book shall be kept and it shall be completed in consecutive order. This log shall be reviewed on a monthly basis and a record shall be made that a review has been conducted. On identification of any trends, the need for any additional staff training shall be re-assessed. The log shall be available for inspection by an authorised officer at any reasonable time.

2. All staff shall be given formal training on age-restricted sales either by using the SWERCOTS training cd-ROM (or its replacement or equivalent) or by means of an equivalent training course. Full training records shall be kept and shall be made available for inspection by an authorised officer at any reasonable time.

# Review of a Premises Licence in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG

Licensing Panel

Date: 23<sup>rd</sup> March 2017

---

## Annexe 2 continued

3. A 'Challenge 21' policy shall be adopted. When any person who appears to be under 21 presents alcohol at the checkout, they shall be required to prove their age. No evidence other than a photo driving licence, a passport, other government issued identity card or a PASS accredited card [e.g. Citizencard] or its equivalent successor card shall be accepted.

4. Signage shall be displayed prominently at points of sale and near the entrance to the store, indicating that customers who appear to be under 21 who wish to buy alcohol will be challenged to prove their age. A sign or signs shall be displayed prominently near the points of sale.

5. Based on a risk assessment around the 4 licensing objectives, site specific and appropriate CCTV equipment shall be provided and maintained in line with Police requirements. The CCTV product will be retained for a minimum of 31 days and made available to enforcement bodies on request, subject to the current guidelines issued by the Office of the Data Commissioner.

## Annexe 3.

*Conditions attached by the licensing authority after a hearing* Not applicable

## Annexe 4. Plans

*The attached is a representation of the original plan, held on the licensing register of the Licensing Authority for Swindon.*



**Review of a Premises Licence in respect of Simply Fresh Retail Ltd.  
(Premier Local), 160 Cricklade Road, Swindon, SN2 8AG**

**Licensing Panel**

**Date: 23<sup>rd</sup> March 2017**

---

# Appendix B

# Review of a Premises Licence in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG

Licensing Panel

Date: 23<sup>rd</sup> March 2017



**DORSET & WILTSHIRE  
FIRE AND RESCUE**

Dorset & Wiltshire Fire and Rescue Service  
Five Rivers Community Health & Wellbeing Centre,  
Hulse Road, Salisbury, Wiltshire SP1 3NR

Direct Line: 01722 691324

Switchboard

Fax

Website: [dwfire.org.uk](http://dwfire.org.uk)

Email:

Business Support  
Swindon Borough Council.

Your ref: -

My ref: BL313947

Ask for: Mr J. D. Irons.

Date: 02 November 2016

FAO: Craig Hutchinson

Dear Sir,

## Application for the Review of a Premises Licence

**Licensing Act 2003**

**Regulatory Reform (Fire Safety) Order 2005**

**Premises:** Simply Fresh Retail Ltd 160 Cricklade Road Swindon SN2 8AG

I refer to your application dated 29 / 10 / 2016 for a licence for the above premises.

I write to inform you that I have no adverse comments to make.

Articles 9 & 11 of The Regulatory Reform (Fire Safety) Order 2005 require that a suitable and sufficient fire risk assessment is completed and the significant findings are recorded.

Further guidance can be found in the "Fire Safety – Risk Assessment" publication for this premises type, available from most bookshops or as a free download from the Communities and Local Government website.

I take this opportunity to remind you that fire safety is a dynamic process to be considered on a daily basis, and the assessment of fire risk should be constantly under review and updated as required, especially where the risk in the premises has been affected by alterations, changes in procedures, use or occupancy.

Yours faithfully

J. Irons.  
Fire Safety Inspector

**PASSIONATE ABOUT  
CHANGING & SAVING LIVES**

# Review of a Premises Licence in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG

Licensing Panel

Date: 23<sup>rd</sup> March 2017



Licensing Authority  
5<sup>th</sup> Floor, Wat Tyler West  
Beckhampton Street  
Swindon  
SN1 2JG  
Tel: 01793 466113  
licensing@swindon.gov.uk

## Premises Licence

### Schedule 12 - Part A

(THIS PART OF THE LICENCE MUST BE KEPT AT THE PREMISES AT ALL TIMES AND PRODUCED  
UPON REQUEST OF AN AUTHORISED OFFICER)

Premises Licence Number	881160650LAPVPN
-------------------------	-----------------

#### Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description,  
including Post Town, Post Code

Simply Fresh Retail (Premier Local)  
160 Cricklade Road  
Swindon  
SN2 8AG

Telephone number 07504859360

Where the licence is time limited the dates

Not Applicable

Licensable activities authorised by the licence

Sale by Retail of Alcohol

Times the licence authorises the carrying out of licensable activities

Sale by Retail of Alcohol  
Sunday 08:00 - 22:30  
Monday to Saturday 08:00 - 23:00

**Review of a Premises Licence in respect of Simply Fresh Retail Ltd.  
(Premier Local), 160 Cricklade Road, Swindon, SN2 8AG**

**Licensing Panel**

**Date: 23<sup>rd</sup> March 2017**

---

**The opening hours of the premises**

Unrestricted

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

Alcohol may only be supplied for consumption off the premises

# **Review of a Premises Licence in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG**

**Licensing Panel**

**Date: 23<sup>rd</sup> March 2017**

---

## **Part 2**

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

Simply Fresh Retail Limited  
75A Cromwell Road  
Hayes  
Middlesex  
UB3 2PS

**Registered number of holder, for example company number, charity number (where applicable)**

Registered Business Number - 7788411

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

Mr Saravanabavanathan Thasarathakumaran  
75A Cromwell Road  
Hayes  
Middlesex  
UB3 2PS

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

Personal Licence No: LBHIL1628

Licensing Authority: London Borough of Hillingdon

**This Premises Licence is issued by Swindon Borough Council as Licensing Authority under Part 3 of the Licensing Act 2003 and regulations made thereunder.**

**Dated this 28th June 2016**

Kathryn Ashton  
Licensing Manager

# Review of a Premises Licence in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG

Licensing Panel

Date: 23<sup>rd</sup> March 2017

---

## Mandatory Conditions

1. No supply of alcohol may be made under the premises licence
  - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
  - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the Premises Licence must be made, or authorised by, a person who holds a Personal Licence.
3.
  - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
  - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
  - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either
    - (a) a holographic mark, or
    - (b) an ultraviolet feature.
4.
  - (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 the alcohol, and
      - (iii)  $V$  is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
    - (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence
      - (i) the holder of the premises licence,

# **Review of a Premises Licence in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG**

**Licensing Panel**

**Date: 23<sup>rd</sup> March 2017**

---

- (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 the Value Added Tax Act 1994.
- (3) Where the permitted price given by Paragraph (b) of paragraph (2) would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- (4)
  - (a) Sub-paragraph (4)(b) below applies where the permitted price given by Paragraph (2)(b) above 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.
  - (b) 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.

## **Conditions consistent with the Operating Schedule**

- 5. A "Challenge 21" scheme shall be implemented and all customers who appear to be under the age of 21 shall be challenged to prove that they are over 18 when attempting to purchase alcohol. The only acceptable forms of ID for proof of age shall be a photo driving licence, passport, or home office approved identity card bearing the holographic "PASS" mark. All staff working at the premises shall be fully trained and aware of the scheme. This training shall be logged and these training records shall be made available for inspection by a police constable or authorised officer on request.
- 6. A single refusals book shall be kept and it shall be completed in consecutive order by the person who refused the sale. The log book shall be reviewed on a monthly basis by the Designated Premises Supervisor, and the review shall be recorded. On identification of any trends, training needs shall be reassessed. The log book and any associated records shall be made available for inspection by any authorised officer or police officer at any reasonable hour.
- 7. Signage shall be displayed prominently at and near the points of sale and near to the entrance to the store, indicating that customers who appear to be



# **Review of a Premises Licence in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG**

**Licensing Panel**

**Date: 23<sup>rd</sup> March 2017**

---

under 21 years of age who wish to buy alcohol will be challenged to prove their age.

8. Based on a risk assessment around the 4 licensing objectives, site specific and appropriate CCTV equipment shall be provided and maintained in line with Police requirements. The CCTV product shall be retained for a minimum of 31 days and made available for inspection by an authorised officer or police officer at any reasonable hour.
9. All staff will be trained with regards to age – restricted sales and the sale of alcohol under the Licensing Act 2003. This training shall be logged and be available for inspection on request by the Police and authorised Council officers at any reasonable time.

**Conditions attached after a hearing by the Licensing Authority**

None

**Plans**

No changes to original plans

# Review of a Premises Licence in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG

Licensing Panel

Date: 23<sup>rd</sup> March 2017



Licensing Authority  
5<sup>th</sup> Floor, Wat Tyler West  
Beckhampton Street  
Swindon  
SN1 2JG  
Tel: 01793 466113  
licensing@swindon.gov.uk

## Premises Licence Schedule 12 - Part B

(THIS PART OF THE LICENCE MUST BE DISPLAYED IN A PROMINENT POSITION WITHIN THE PREMISES)

Premises Licence Number

881160650LAPVPN

### Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

Simply Fresh Retail (Premier Local)  
160 Cricklade Road  
Swindon  
SN2 8AG

Telephone number 07504 859360

Where the licence is time limited the dates

Not Applicable

Licensable activities authorised by the licence

Sale by Retail of Alcohol

Times the licence authorises the carrying out of licensable activities

Sale by Retail of Alcohol  
Sunday 08:00 - 22:30  
Monday to Saturday 08:00 - 23:00

The opening hours of the premises

# **Review of a Premises Licence in respect of Simply Fresh Retail Ltd. (Premier Local), 160 Cricklade Road, Swindon, SN2 8AG**

**Licensing Panel**

**Date: 23<sup>rd</sup> March 2017**

---

Unrestricted

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

Alcohol may only be supplied for consumption off the premises

**Name, (registered) address of holder of premises licence**

Simply Fresh Retail Limited  
75A Cromwell Road  
Hayes  
Middlesex  
UB3 2PS

**Registered number of holder, for example company number, charity number (where applicable)**

Registered Business Number - 7788411

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

Mr Saravanabavananthan Thasarathakumaran

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

Not Restricted or Prohibited

**This Premises Licence is issued by Swindon Borough Council as Licensing Authority under Part 3 of the Licensing Act 2003 and regulations made thereunder.**

**Dated this 28th June 2016**

Kathryn Ashton  
Licensing Manager