

Review of a Premises Licence in respect of the AAA Shop, 30 County Road, Swindon, SN1 2EW

Licensing Panel

Date: 28 June 2017

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Wards: Central

Parishes Affected: Central Swindon South

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 the AAA Shop, 30 County Road, Swindon, SN1 2EW.

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. Detail

- 3.1 An application for the review of a Premises Licence in respect of the AAA Shop, 30, County Road, Swindon, SN1 2EW has been received from Wiltshire Police who consider that the licensing objectives in respect of the prevention 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. No other representations have been received to the consultation on this review.
- 3.2 The 'AAA Shop' is a licensed premises, operating under a Premises Licence (ref: 881120455PREM), which is attached as Appendix B. The licence was issued on 16th October 2012. The Premises Licence holder is Meeran HUSSEIN. Mr Shagul Hameed GULMOHAMMED is listed as the Designated Premises Supervisor, (DPS). The Licence permits the sale of alcohol between 09.00hrs

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and 22.00hrs Sunday to Thursday and between 09.00hrs and 00.00hrs on Friday and Saturday. The Licence includes the following conditions:

Condition 1 – A single refusals book 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.

Condition 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.

Condition 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 (eg. Citizencard) or its equivalent successor card shall be accepted.

Condition 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.

Condition 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.

- 3.3 The Wiltshire Polices' application for review is dated 20th January 2017, and includes the following grounds:

On 9th April 2014, Wiltshire Police conducted a routine visit to the premises and spoke with Mr HUSSEIN at the time of the visit as the following conditions were not being complied with;

Condition 1 – *Mr HUSSEIN was unable to produce a refusals book and did not have one in place*

Condition 2 – *Mr HUSSEIN was unable to produce any staffing records*

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Condition 5 – Mr HUSSEIN stated that installed CCTV in the store only recorded for seven days.

On 13th May 2014 the Wiltshire Police conducted a follow up visit of the premises. They found a lone male working there, who said that he had only been employed there for five days, had not received any formal training regarding the sale of alcohol, and was unable to produce any training records, or the refusals book. He was unable to say how long the CCTV recorded for. It was also noticed that there were no 'Challenge 21' signs up and there was no age verification policy in place.

A short time later the DPS, Mr GULMOHAMMED attended the premises. The following breaches of condition were identified and disclosed.

Condition 1 – Mr GULMOHAMMED was unable to produce a current refusals book.

Condition 2 – Mr GULMOHAMMED was unable to produce any staff training records stating that it had all been lost some time ago and he was waiting for a new CD from the Council. He was unable to confirm whether the member of staff in the shop had been trained.

Conditions 3 and 4 – Mr GULMOHAMMED was unable to produce any age verification policy and stated that he was still waiting for the Council to give him 'Challenge 21' signs

Condition 5 – Mr GULMOHAMMED stated he was unsure how long the CCTV recorded for.

As a result of this meeting GULMOHAMMED was issued a Police Adult Simple Caution for offences under the Section 136(1) of the Licensing Act 2003.

On 19th November 2014 the premises was visited by HM Revenue and Customs and the Home Office Immigration Enforcement Team. On arrival there were two customers in the shop and a man working there, who was observed serving the two customers. When spoken to by Immigration Officers he stated that he was not allowed to work in the UK, and had been there for a month. The male stated that he was from India, and had no identification on him. He was later arrested by Immigration Officers for being illegally in the UK.

HUSSAIN arrived a short time later and was spoken to by the Immigration Officers.

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S182 of the Licensing Act, 2003 states (at para 11.27) “There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously”. This 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 of the Act goes on to state that “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 is seriously considered”

The Wiltshire Police cite harmful social and economic effects of illegal working, and the exploitation that illegal workers suffer. The importance of working hard to make the UK an unattractive place for illegal immigrants is highlighted and the need to take tough action against those who exploit vulnerable illegal workers.

On 8th September 2015, Wiltshire Police officers attended the premises to conduct routine checks. At the time of attending there was one male working in the shop who stated that he was only working for the day. He stated that he had no training from anyone with regards to his responsibilities and had no knowledge of GULMOHAMMED being the DPS. He was unable to provide any training documentation. The following licence conditions were found to be breached

Condition 1 – *The male working in the shop was unable to produce either Part A of the Premises Licence, or a refusals book.*

Condition 2 – *The male working in the shop had received no training in regard to his responsibilities.*

On 19th September 2015 Wiltshire Police officers attended the premises and spoke with HUSSEIN. On this occasion he stated that the CCTV records (ran) for 2 months and produced training for members of staff at the premises. He produced a refusals book with the last entry showing in June 2014 stating that his daughter had been drawing in the book and as a result some pages had been removed. As a result HUSSEIN agreed to implement the following improvements:

- Ensure that all training records are held in the same folder and that refresher training will be given to staff every six months and this will be documented, and*

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- *Ensure that all staff have been fully trained in the use of the CCTV system and that they know where the premises licence is and training records, so they can be produced at the time.*

On 11th January 2017, Wiltshire Police officers attended the premises to conduct routine checks. On entering, HUSSEIN was present with his wife who claimed that she had a personal licence but was unable to produce it. Also asleep behind the till was their young child.

The DPS, GULMOHAMMED was unavailable as he was out of the country on holiday. The following conditions were found to be breached:

Condition 1 – *A refusals book was produced, but showed no refusals had been recorded since August 2016. HUSSEIN stated that they had stopped using it, but would start again.*

Condition 2 – *HUSSEIN was unable to produce any staff training documents.*

Condition 5 – *HUSSEIN stated that the monitor for the CCTV was not working and that they were unable to download any footage from it.*

Wiltshire Police are asking that the premises licence at AAA Shop, County Road be revoked as over a number of years there has been a total disregard by the Licence holder and DPD to implement and comply with the conditions on the licence.

- 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.

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.

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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.

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) and Director of Finance (Section 151 Officer) are 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 20th January 2017).

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Appendix B – Copy of extant Premises Licence, 30 County Road, Swindon, SN1 2EW, (dated 16th October 2012).