

APPENDIX B

Applicants name	Michael Ward, Hertfordshire Constabulary
Premises licence-holder	Mr Vijayakaran Mahalingam
Name and address of premises	The Little Convenience Store, 62 Western Road, Tring Hertfordshire HP23 4BB
Ward	Tring West and Rural

1. Current Licence

1.1 The premises is subject to a premises licence, number DAC 030163. The licence was initially granted on 14th June 2012. The current licence holder was initially managing the premises only, but transferred the premises licence into his name on 3rd May 2016, following a visit to the premises by Hertfordshire Constabulary in April 2016. (See Annex B4).

1.2 The premises licence authorises the following licensable activities:

Sale by retail of alcohol

For consumption off the premises

Monday to Saturday	07.00 to 23.00 hours
Sundays	08.00 to 23.00 hours

A copy of the premises licence is set out at Annex A.

2. Application

2.1 An application for review of this premises licence was received by the licensing authority on 19th October 2016, citing grounds under the prevention of crime and disorder and protection of children from harm objectives, namely that sales of alcohol had been made to underage persons at the premises. The review application and supporting documentation received from the applicant is attached at Annexes B1 to B6.

2.2 Copies of the review application were served by the applicant on the licence-holder and responsible authorities on the same day.

2.3 Officers ensured that public notice of the application was displayed at or near the premises, at the Council's offices and on the Council's website, in accordance with the relevant regulations, for a period of 28 days from the day after the application was received.

3. Details of Representations

3.1 No further representations have been received in respect of this application.

4. Observations

- 4.1 A map of the area in which the premises is situated is included at Annex C.
- 4.2 Relevant extracts from the Council's Statement of Licensing Policy and the statutory guidance are set out at Annex D



Licensing Act 2003
Premises Licence

Premises Licence Number:

DAC 030163

Version reference:

041741

Date issued:

18 October 2016

Part 1 – Premises Details

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

Little Convenience Store
 62 Western Road
 Tring
 Hertfordshire
 HP23 4BB

Telephone number 01442 823591

Where the licence is time limited the dates

Not applicable
 to

Licensable activities authorised by the licence

Sale by retail of alcohol

The times the licence authorises the carrying out of licensable activities

Sale by retail of alcohol

For consumption off the premises

Mondays	07.00 hours until 23.00 hours
Tuesdays	07.00 hours until 23.00 hours
Wednesdays	07.00 hours until 23.00 hours
Thursdays	07.00 hours until 23.00 hours
Fridays	07.00 hours until 23.00 hours
Saturdays	07.00 hours until 23.00 hours
Sundays	08.00 hours until 23.00 hours

The opening hours of the premises

Mondays	07.00 hours until 23.00 hours
Tuesdays	07.00 hours until 23.00 hours
Wednesdays	07.00 hours until 23.00 hours
Thursdays	07.00 hours until 23.00 hours
Fridays	07.00 hours until 23.00 hours
Saturdays	07.00 hours until 23.00 hours
Sundays	08.00 hours until 23.00 hours

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

Alcohol OFF sales only

Part 2

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

Mr Vijayakaran Mahalingam
62 Western Road
Tring
Herts
HP23 4BB

Telephone number: [REDACTED]

Email address: [REDACTED]

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

N/A

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

Name: [REDACTED]

Address: [REDACTED]

Telephone number:

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

Licence number: [REDACTED]

Issuing authority: [REDACTED]

Signed:

R.Hill

Ross Hill – Licensing Team Leader

Date issued:

18 October 2016

On behalf of: Mark Brookes
Solicitor to the Council

NOTES

This licence is issued subject to the provisions of the Licensing Act 2003 and is subject to compliance with the conditions in the following Annexes.

Possession of this document does not guarantee that the licence remains in force, nor does it imply that the premises are fit for use. Validity and current status of the licence may be confirmed by reference to the Council's Licensing officers.

Annex 1: Mandatory Conditions

Condition A1.

No supply of alcohol may be made under this 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.

Condition A2.

Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.

Condition A4.

(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.

Condition A7.

(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) In this condition:-

(a) "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;

(b) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(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 the Value Added Tax Act 1994.

(3) Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny.

(4) Where the permitted price 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, 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 STATEMENT OF LICENSING OBJECTIVES

Staff shall undertake training and refresher training on a regular basis.

All outside and inside lights shall be checked regularly.

Vigilance shall be used in preventing drug problems and violent and anti-social behaviour at the premises.

No alcohol shall be sold to anyone that appears to already be heavily intoxicated.

The licence holder shall also hold a SIA door supervisor badge.

THE PREVENTION OF CRIME AND DISORDER

CCTV cameras and lighting shall be installed both inside and outside the premises to reduce crime.

CCTV shall be maintained in a good working order.

PUBLIC SAFETY

The exterior of the premises shall be illuminated to promote customer safety.

A first aid kit shall be available.

THE PREVENTION OF PUBLIC NUISANCE

"Shop Watch" signs shall be displayed.

THE PROTECTION OF CHILDREN FROM HARM

There shall be a "No ID no sale" policy and Challenge 25 shall operate at the premises.

The premises licence holder will ask for identification from everyone who appears to be under 21 to prove they are 18 years of age, prior to sale of alcohol.

Proof of Age:

- Passport with photograph
- A photo driving licence
- A proof of age card with holders photograph complying with the PASS approved identification scheme bearing the PASS hologram.

A refusal book shall be located on site and staff shall be required to complete it when sales are refused to anyone that is under 18 years of age, or anyone who fails to provide evidence of their age.

All staff shall be trained on how to maintain the refusal book and a written record will be kept of all staff training. The Designated Premises Supervisor will check, sign and date it regularly and the contents of the refusal book shall be available to any visiting enforcement officer on request.

A till prompt shall be used to remind staff to check ID when a buyer selects alcohol products.

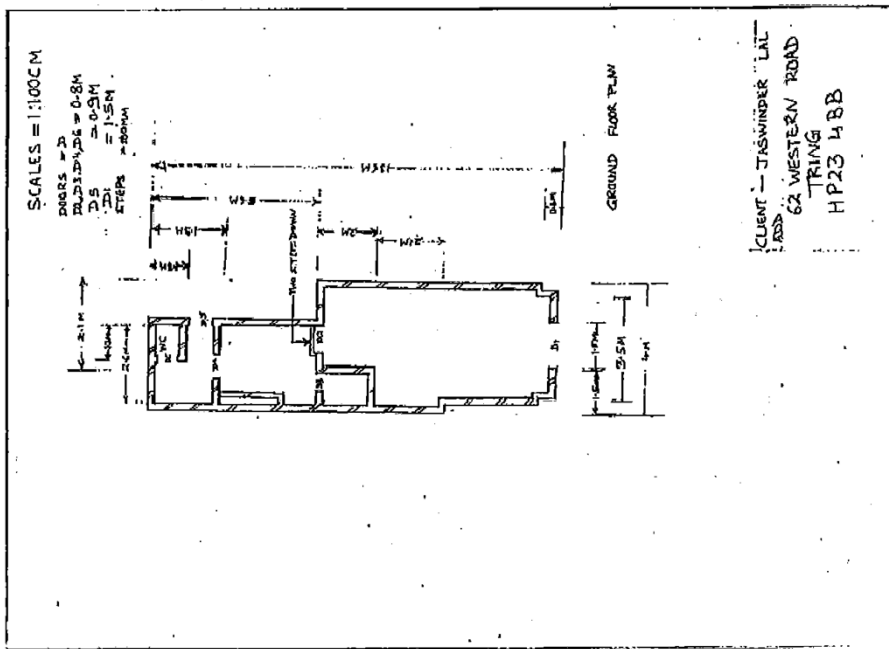
Every effort shall be made to prevent the sale of alcohol to anyone that is purchasing alcohol on behalf of persons under the age of 18 years.

Anyone that is intoxicated or who are known to cause anti-social behaviour when under the influence of alcohol shall not be served and will be asked to leave the premises. An entry shall then be made in the refusal book for future reference.

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

N/A

Annex 4: Plans



Annex B1: Review Application

Licensing, Dacorum Borough Council, Civic Centre, Marlloves, Hemel Hempstead, HP1 1HH



Revised April 2012

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 Michael Ward

(insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below. *(delete as applicable)*

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description			
The Little Convenience Store (Formally Costcutters) 62, Western Road,			
Post town	Tring	Post code <i>(if known)</i>	HP23 4BB
Name of premises licence holder or club holding club premises certificate <i>(if known)</i>			
Vijayakaren MAHALINGHAM			
Number of premises licence or club premises certificate <i>(if known)</i>			

Part 2 – Applicant Details

- I am *Please tick ✓/yes*
- 1) an individual, body or business which is not a responsible authority
(please read guidance note 1, and complete (A) or (B) below)
 - 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)

Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other title (for example, Rev.)			
Surname			
First names			
I am 18 years old or over		<input type="checkbox"/> Please tick ✓ yes	
Current postal address			
Post town		Post code	
Daytime contact telephone number			
Email address (optional)			

(B) DETAILS OF OTHER APPLICANT

Name	
Address	
Telephone number (if any)	
Email address (optional)	

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name	M.J.WARD 7558
Address	c/o Hertfordshire Constabulary Hemel Hempstead police station Community Safety Unit Coombe Street, Hemel Hempstead Herts
Telephone number (if any)	01442 271601
Email address (optional)	michael.ward2@herts.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
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please state the ground(s) for review (please read guidance note 2)

Please see the attached documentation.

1. Letter addressed to Vijayakaren Mahalingham dated 4th April 2016
2. Statement of [REDACTED]
3. Statement of [REDACTED]
4. Statement of [REDACTED]
5. Statement of Michael WARD
6. Interview record of Vijayakaren MAHALINGHAM

Please provide as much information as possible to support the application
(please read guidance note 3)

On 19th March 2016 a report was received by police of under-age sales of alcohol at 62, Western Road (Formally named Costcutters)

The premises were visited by Dacorum Borough Council Licensing Enforcement Officers and myself on 23/3/16 & 1/4/16 and various issues relating to requirements under the Licensing Act 2003 were identified.

An action plan was put into place to ensure such reports would not be received again. (See attached letter, dated 4/4/16, addressed to Vijaykaren MAHALINGHAM & statement of M.WARD)

On 11/9/16 police were again informed of under-age sales at the premises resulting in a 16 year old male collapsing and requiring emergency medical care (See attached statements [REDACTED] / [REDACTED]. Also see interview record of Vijaykaren MAHALINGHAM & statement M.J.WARD)

On 3/10/16 Mr Rameshkumar RAJAYAGAM was reported for selling alcohol to person(s) under the age of 18 years and issued with a Fixed Penalty Notice.

Please use additional pages if needed

Please tick ✓ yes

Have you made an application for review relating to the premises before?

If yes please state the date of that application

Day		Month		Year	
1	1	1	1	1	1

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

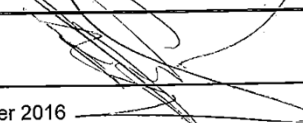
Please tick ✓ yes

- 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 4)

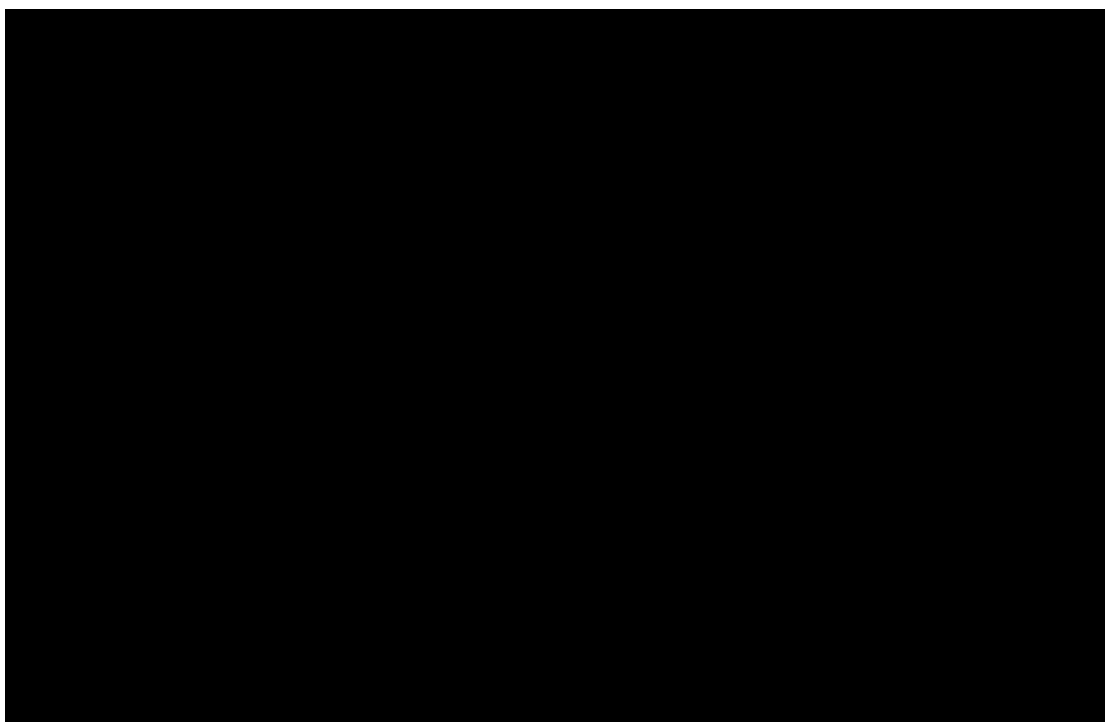
Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). If signing on behalf of the applicant please state in what capacity.

Signature	
Date	19 th October 2016
Capacity	Police Licensing Investigator

Contact name (where not previously given) and postal address for correspondence associated with this application. (please read guidance note 6)

Telephone number (if any)
If you would prefer us to correspond with you by email your email address (optional)

Annex B2: Representation form



To prevent crime and disorder	X	Please see the attached documentation referred to below.
Public safety		
To prevent public nuisance		
To protect children from harm	X	<p>On 19th March 2016 a report was received by police of under-age sales of alcohol. The premises were visited on 23/3/16 & 1/4/16 and various issues were identified. An action plan was put into place to ensure such reports would not be received again. (See attached letter, dated 4/4/16, addressed to Vijaykaren MAHALINGHAM & statement of M.WARD)</p> <p>On 11/9/16 police were informed of under-age sales at the premises resulting in a 16 year old male collapsing and requiring emergency medical care, (See attached statements [REDACTED] [REDACTED])</p> <p>[REDACTED] Also see interview record of Vijaykaren MAHALINGHAM & statement M.J.WARD)</p> <p>On 3/10/16 Mr Rameshkumar RAJAYAGAM was reported for selling alcohol to person(s) under the age of 18 years and issued with a Fixed Penalty Notice.</p>

<p>Suggested conditions that could be added to the licence to remedy your representation or other suggestions you would like the Licensing Sub Committee to take into account. Please use separate sheets where necessary and refer to checklist.</p>	<ol style="list-style-type: none"> 1. A Personal Licence holder must be on the premises during hours of trading. 2. Every sale or supply of alcohol under the premises licence must be made or authorised by a personal licence holder 3. The DPS will attend the premises on a minimum of two occasions per week to maintain a robust management of staff and to ensure that the Licensing Objectives are strictly adhered to.
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Each visit to be recorded in the Refusals Log by way of a timed & dated signature.

4. The Premises Licence Holder shall ensure that an Age Verification Policy applies to the premises in relation to the sale or supply of alcohol.

5. The policy referred to above must require individuals, who appear to the responsible person to be under 18 years of age (Or such older age as may be specified) to produce, on request, and, before being served alcohol, identification bearing their photograph and date of birth.

6. A "Challenge 25" scheme is to be in place and notices of this prominently displayed within the store.

7. All staff shall be trained in relation to under-age related sales of alcohol.

8. A record of alcohol related training of staff shall be maintained and updated accordingly.

9. All sales or supply of alcohol will be made using only an electronic till. The till will prompt when alcohol is scanned to remind staff to check the age of the purchaser.

10. "Age Refusals Register". A refusals book will be kept to record where sales of alcohol are challenged or refused. The register will be examined weekly by the DPS who will endorse the document accordingly.

11. All staff shall be fully conversant in the English language

12. The premises shall operate a digital CCTV system that covers all areas where beers, wines and spirits are displayed together with the service counter. Images shall be retained for a minimum of 31 days and made available, on request, by police or relevant authority officers

13. All staff shall be proficient in the operation of the CCTV system and be able to produce downloaded images on request of police or relevant authority officers. relevant authority

14. Mr RAJAYAGAM will not be permitted to sell alcohol or tobacco at any time during trading hours.

Signed: M.J.Ward

Date: 17th October 2016

Annex B3: Witness statement of M Ward

RESTRICTED (when complete)

MG11

Witness Statement

Page 1 of 1

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN:

Statement of: **Michael John WARD**

Age if under 18 (if over insert "over 18"): **Over 18** Occupation: **Licensing Investigator**

This statement (consisting of3..... Pages(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 in it, anything which I know to be false, or do not believe to be true.

Signature: **M.J.Ward** Date: **04/10/2016**

States,

I am employed by Hertfordshire Constabulary as a Licensing Investigator within the Community Safety Unit at Hemel Hempstead. I have a responsibility for all licenced premises, including late night refreshment houses, bookmakers and adult gaming premises within the Dacorum police district.

I hold the Institute of Licensing National Certificate for Licensing Practitioners and my role is to investigate all aspects of licensing relevant to The Licensing Act 2003 and includes the monitoring of all applications submitted by Premises Licence Holders, Personal Licence Holders and Designated Premises Supervisors.

This statement relates to my investigation into the activities of a small supermarket and off-licence currently known as 62, Western Road, Tring.

The current owner and Designated Premises Supervisor (DPS) is Mr Vijayakaran MAHALINGAM. He also owns other similar premises in Apsley and St Albans and holds a Personal Licence issued by Waltham Forest Licensing Authority.

My initial dealings with Mr MAHALINGAM, his staff and the Western Road shop dates back to 19th March 2016, when at 5.26pm a member of the public contacted police stating that he had witnessed six females, whom he believed were under 18 years of age, purchasing alcohol.

As a result of that report, at approximately 1pm on 23rd March 2016 I attended the premises, with the intention of gathering evidence to support the allegations made and to identify any other issues that may be relevant to the Licensing Act 2003. On arrival I met with the sole member of staff who I now know to be Mr Rameshkumar RAJAYAGAM. Despite producing my identification and explaining who I was and the reason for my visit, it was obvious that Mr RAJAYAGAM struggled to understand the English language. Eventually I was able to establish that Mr MAHALINGAM was away, possibly at the cash and carry.

I then asked Mr RAJAYAGAM if he was able to operate the shop's CCTV to produce images of the incident referred to. Again it was obvious that I was not understood but I was able to ascertain that he did not know how to use the system. As a result I was not able to view any evidence relating to the incident on 19th March.

Signature: _____ Signature Witnessed by: **N/A**

04/2013

RESTRICTED (when complete)

Witness Statement

Continuation of Statement of Michael John WARD

I then asked for Mr RAJAYAGAM if he could produce the shops refusal of alcohol and tobacco log. He did find the document but upon inspection I noted that the last entry was on 29th May 2015.

As a result of this visit there were issues that needed to be addressed immediately and as a result I subsequently contacted Mr MAHALINGAM and arranged to meet him to discuss matters.

On Friday 1st April 2016, that meeting took place at the premises where we discussed, at length, the issues highlighted. Mr MAHALINGAM informed me that he had been managing the shop, on behalf of the then owner, Mr LAL, since November 2015, and was going through the process of taking ownership of the premises. He stated that Mr RAJAYAGAM was his brother-in-law and had been employed by him on a permanent basis. I pointed out that because he could not converse in English he could not be on the premises on his own. It was agreed that he would always be accompanied by either his wife, who also worked on the premises, or Mr MAHALINGHAM himself. It was also agreed that Mr MAHALINGAM would ensure that Mr RAJAYAGAM would undergo an English language course if he is to be responsible for the shop on his own. It was further agreed that there was a need to have staff attend a nationally recognised course to obtain their personal licence.

We discussed the fact that Mr RAJAYAGAM was unable to operate the shops CCTV system and I asked that images be downloaded from the system dating back to 19th March 2016. I was informed that the system was not operating due to a fault and as such there were no images available. Mr MAHALINGAM was advised that it was a condition on the Premises Licence that the CCTV system has to be operative and images available at all times on demand by any relevant authority. It was agreed that the system be repaired immediately and all staff be trained in the operation of the system.

I highlighted the refusals log and the fact that there had been no entry in the document since May 2015. That together with the allegations of under-age sales was a breach of the act and suggested that such sales may have been taking place, either with, or without, his knowledge. It was agreed that all staff employed by him would undergo an initial in-depth training course followed by regular update training on the sale of alcohol and responsibilities, the licensing objectives and amendments to the Licensing Act 2003. A record of that training would be maintained. It was also agreed that Mr MAHALINGHAM would ensure that the refusals log be used and that he would inspect and sign the document on a weekly basis, thus ensuring that customers are being challenged if they appear underage.

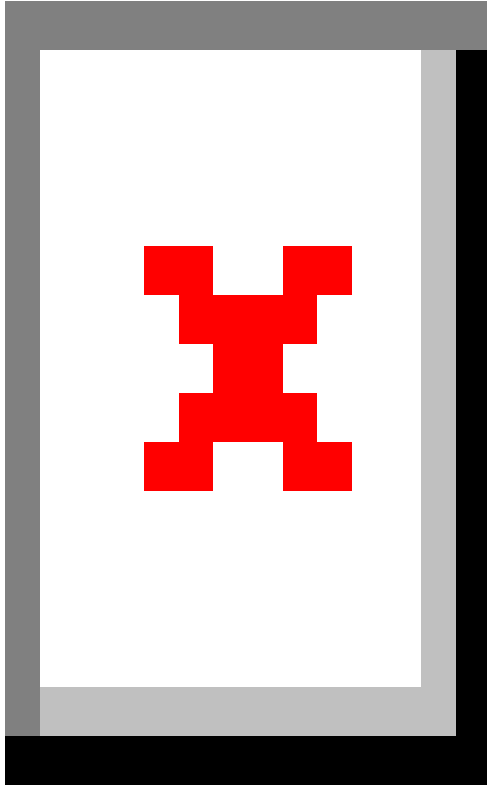
I established that Mr MAHALINGAM was now the owner of the shop, however, the Premises Licence did not reflect the new name and DPS, therefore, it was agreed that a minor variation to the licence be submitted immediately to have the details updated.

Finally, Mr MAHALINGAM was advised to display his Age Verification Policy as required under the Licensing Act amendment of October 2015.

I subsequently sent a letter to Mr MAHALINGAM detailing the matters discussed and the necessary actions required to be undertaken. I produce a copy of that letter as my exhibit MJW/1.

Signature:

Signature Witnessed by: N/A



Annex B4 Letter to V Mahalingham dated 4th April 2016



HERTFORDSHIRE
CONSTABULARY

Mr V.MALINGMAHALINGHAM
c/o 62, Western Road,
TRING
Herts
HP23 4BB

Date: 4th April 2016
Our Ref: J.S.BROTHERS/0615/19032016
Your Ref:
Contact: Mike Ward 7558
Tel.No: 01442 271601
Email: Michael.ward2@herts.pnn.police.uk

Dear Vijay

Licensing Act 2003
Premises: 62, Western Road, Tring, Herts HP23 4BB

I write to confirm the points discussed at our meeting on 1st April 2016. This meeting was arranged to discuss concerns regarding the running of the premises and, in-particular, with regards to a report made to police of alcohol being sold to persons under the age of 18 years.

On 19th March 2016, police received information from a concerned member of the public who had witnessed six girls purchasing bottles of alcohol from the premises. The information suggested that the girls were only aged 13-14 years and although, they showed the member of staff something, the sale still went ahead.

I am employed by Hertfordshire Constabulary to investigate breaches and offences relating to the Licensing Act 2003. Any investigation conducted by me can lead to the prosecution of the Designated Premises Supervisor and any staff involved in any offence. It could lead to the police making representations at a formal hearing of the Licensing Committee for Dacorum Borough Council which could result in the revocation or suspension of any personal licences or premises licence thus preventing the sale of alcohol.

As a result of the information referred to, on 23rd March 2016 I attended the shop with the intention of gathering evidence to support the allegations made and to identify any other issues that may be relevant to the Licensing Act 2003. The following issues were identified.

- **Language Barrier:** On arrival I found that there was only one male serving and it was very obvious that the gentleman struggled to understand the English language. Despite me producing my identification and trying to explain who I was and the reason for my visit he was unable to assist. When asked, he did not understand what was being asked who the Designated Premises Supervisor was. Eventually I was able to establish that you were responsible for the premises, however, he did not know where you were but believed you were at the cash and carry. This gentleman obviously had no knowledge of the Licensing Act 2003 or his responsibilities under that legislation.
- **Premises Licence:** Displayed at the front of the premises was the front page of a Premises Licence for a premises named J.S.BROTHERS. My records show that the premises were, in fact, a 'Costcutters' franchise and the DPS is a Jaswinder LAL..

Creating a Safer Hertfordshire ~ www.herts.police.uk

Community Safety Unit, Hemel Hempstead Police Station,
Coombe Street, Hemel Hempstead, Herts HP1 1HL



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- **CCTV:** I found that this was not operative, I was able to establish that the gentleman referred to did not know how the system operated and had no knowledge of how to download images.
- **Age verification policy:** Although there were a number of notices, around the premises, referring to the sale of alcohol and tobacco to over 18's and signage referring to 'Challenge 21', there was no current age verification policy (Licensing Act 2003 (Amendment) Mandatory Condition October 2014) document displayed at all.
- **Refusal Log:** Having found this document, it showed that the last sale of alcohol or tobacco to be refused was on **29/5/2015**.

Because of the issues highlighted, together with the initial allegations of under-age alcohol sales there was a need to speak with someone responsible for the premises. As a result I ended up speaking with you on the telephone. You informed me that you were due to be the owner of the shop and you were waiting for Mr LAL to complete the transfer of the Premises Licence and for you to become the DPS. You were able to put me in touch with Mr LAL who stated that he was leaving the country for a week and that the shop was no longer his responsibility, he having forwarded the relevant form to Dacorum Borough Council in November 2015.

As a result of this conversation you and I agreed to meet on 23rd March, together with Mr LAL to deal with all of the problems identified.

On Friday 1st April we met at the premises but Mr LAL was not present. We were joined by Mr Richard MABBITT a Licensing Enforcement Officer with Dacorum Borough Council. We discussed all of the issues highlighted including the fact that Mr LAL had **never** notified the Licensing Department of any variations to the premises licence including him no longer being the DPS for the shop. There are no records showing any form of payment to Dacorum Borough Council for the transfer of the premises licence. In fact, when I spoke to him on the telephone he was adamant that he did forward the transfer application form in December 2015 but had no idea of how the payment was made. (Payment can only be completed by credit/debit card or cheque).

You informed me that you were in the process of arranging for staff to attend a licensing course and had rectified the problems with CCTV system, which was operating.

Finally, it was pointed out to you that the sale of alcohol to minors was a very serious offence that could result in substantial financial penalties and the loss or suspension of personal and premises licences. Because you were unable to produce CCTV footage that may challenge any allegations of under-age sales of alcohol and because the refusal log had not been used for over a year, it would suggest that either you, Mr LAL and any staff are not showing that you are acting with due diligence to prevent such sales and that the allegations may be correct.

Therefore, the following action plan, effective immediately, was agreed to ensure that the premises returns to being managed correctly with an emphasis on maintaining the licensing objectives and preventing further reports to police.

Creating a Safer Hertfordshire ~ www.herts.police.uk

Community Safety Unit, Hemel Hempstead Police Station,
Coombe Street, Hemel Hempstead, Herts HP1 1HL



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- You will ensure that all relevant documentation, in relation to the transfer of the premises licence be completed and forwarded to Dacorum Borough Council Licensing Department within 7 working days (8/4/16). This will also include documentation required from Mr LAL together with the necessary payment. It is important that the name of the premises on the licence is changed to reflect the new ownership.
- You will forward all documentation relating to your application to become the DPS of the premises within 7 working days (8/4/16).
- You will ensure that there is always someone on the premises, during opening hours, who is fully conversant in the English language.
- You will ensure that all staff be given regular training in relation to the Licensing Act 2003. This will ensure that they are aware of their responsibilities in relation to the sale of alcohol and supporting the licensing objectives.
- You will ensure that the CCTV system is in a working condition with the ability to retain 31 days of data. There should always be a member of staff available to download images on request of any relevant authority.
- You will ensure that a refusal of sales log is maintained by all staff, thus ensuring that when proof of age cannot be given a record will be available.
- You will ensure that your 'Age Verification Policy' is clearly displayed.

If you wish to discuss the contents of this letter or you require help or advice on any licensing matters, please, do not hesitate to contact me either by telephone or email.

Yours sincerely

Mike Ward 7558
Licensing Investigator

Creating a Safer Hertfordshire ~ www.herts.police.uk

Community Safety Unit, Hemel Hempstead Police Station,
Coombe Street, Hemel Hempstead, Herts HP1 3HL

Annex B5: Record of Interview

RESTRICTED (when complete)

MG15

RECORD OF INTERVIEW

URN

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Person Interviewed: Vijayakaren MAHALINGHAM Place of Interview: 62, Western Road, Tring Date of Interview: 14/9/16 Time commenced: 12:39pm Interviewing Officer(s): 7558 M.WARD	Police Exhibit No MJW/2 signature of interviewer producing exhibit M.J.Ward
Time concluded: 13.45	Duration of Interview: 66 mins
Other persons present:	

Tape counter times	Person speaking	Text
12.39	WARD	Introductions & caution Mr MAHALINGHAM handed to me a signed letter addressed to Mr Rameshkumar.
	VIJAY	I have seen the CCTV and as a result I have suspended Ramesh until this investigation has finished.
	WARD	There are obviously things we need to discuss, are you happy for me to address you as Vijay.
	VIJAY	Yes
	WARD	When did you actually take the shop on
	VIJAY	I was managing it from November 2015. It was owned by Jaswinder LAL but he was mainly away and so I was running things. After your visit on 1 st April I applied to transfer the Premises Licence to me. Within two weeks I received a Premises.Licence in my name.
	WARD	How do you know Ramesh
	VIJAY	He is my Brother-in-Law

Signature(s).....

04/2013

RESTRICTED (when complete)

Person Interviewed: _____

WARD

VIJAY When did you first employ him

WARD On 1st December 2015

VIJAY What is his full name

WARD Rameshkumar RAJAYAGAM

VIJAY What is Ramesh's retail background

Him and his Wife worked in Tesco, he was a Shop Floor Assistant and did that for 6-7 years. His Wife was a cashier, they both worked in Hampstead, London but because he was related I gave them both a place to live, the flat upstairs. His Wife was pregnant and has now had her baby, it's 46 days old.

WARD

VIJAY So was Ramesh left in the shop alone

WARD Yes, but I was coming to the shop once a week on various days. I also do the shopping for stock at the cash and carry.

VIJAY Was Ramesh's Wife working in the shop

WARD She was helping but because she was expecting a baby she didn't do much

VIJAY Even though Ramesh is your Brother-in-Law, when you first employed him, were you confident he could manage things. Certainly with regards to alcohol sales.

WARD Yes, he had worked in an environment selling alcohol and cigarettes and I was confident he could deal with sales.

VIJAY From our previous meeting in April, you stated that you were going to send Ramesh on a course to get his Personal Licence. Has he done that course.

WARD No

VIJAY Why not

WARD Because his language is poor

VIJAY What about his Wife

WARD No, she had her baby and it was too much for her to do a course.

What training have you done to ensure that Ramesh fully understands his obligations under the Licensing Act.

Person Interviewed: _____

VIJAY I took a training package from the internet. It was produced by Milton Keynes Trading Standards.

WARD Has Ramesh completed that training

VIJAY Yes

Mr MAHALINGHAM produced a certificate confirming the training had been completed.

WARD Did you train Ramesh

VIJAY Yes

WARD If his English is poor did you do this training in his native tongue

VIJAY No both in his language and English

WARD Was your last training session back on 25th April

VIJAY Yes

WARD And you haven't done anything else since

VIJAY No

7558 showed Mr MAHALINGHAM a copy of a letter sent to him dated 4th April 2016

WARD During our meeting on 1st April you were informed of an incident on 19th March 2016, where a witness watched six under-age girls purchase alcohol from this shop. Ramesh was working on that occasion as well. Do you remember that incident.

VIJAY Yes

WARD It was highlighted that Ramesh struggled with the English language and we agreed that you would ensure that when he was working there would be someone with him who could speak fluent English. You agreed that person would be his Wife.

VIJAY She couldn't cope because of the baby.

WARD So Ramesh has been in the shop on his own

VIJAY Yes

WARD Because your CCTV wasn't working, the incident on 19th March was not recorded. You agreed that it should be in good working order and that staff should know how to operate it. When I asked him for the footage of this latest incident he had to phone you. Does he know how to operate the system.

VIJAY Yes but it was locked and he had to phone me to get it unlocked using a different password.

Person Interviewed:

WARD Ramesh showed me your alcohol refusal of sales log, which was previously an issue. Was Ramesh the person filling it in.

VIJAY No, I've filled it in so has Ramesh's Wife.

WARD This latest incident occurred on 10th September at around 5.30pm, Ramesh was working, was he on his own.

VIJAY Yes

WARD You have seen the footage now, how old do you think the boy is.

VIJAY He is definitely under 18

WARD My understanding is he is 15 years old. What does he actually buy.

VIJAY Two bottles of vodka

WARD How much is one bottle

VIJAY £12.99

WARD You can see that the boy pays with cash and Ramesh does something just out of camera. Do you know what he is doing.

VIJAY He isn't using the till and therefore the sale is not registered. He is manually entering the sale and giving the change out of the cash drawer

WARD Does this mean he has stolen from you.

VIJAY Yes

WARD How does that make you feel.

VIJAY Not very good, he is my Brother-in-Law, I trusted him

WARD So what should happen with any sales.

VIJAY The bottles should be scanned and then the till or "EPOS" tells the staff that they should ensure the customer is over 18 and it asks for a date of birth. Ramesh was avoiding this.

WARD I have spoken with the person reporting this incident. She has two Sons both under 18. They were waiting outside your shop when the boy made the purchase. Apparently they all got drunk in Tring Park, one of them needed an ambulance. I have yet to interview all of the boys but the Chief Constable may consider taking you for review regarding the breaches of your licence.

VIJAY I am very sorry for what has happened. I own other shops and employ fifteen people. I trusted Ramesh because he is family. I have suspended him until this investigation is over and he cannot work here. I have one of my other employees here now and he is a Personal Licence holder. This will not happen again.

Person Interviewed:

13:45	WARD VIJAY WARD VIJAY	How much were you paying Ramesh He was getting the minimum wage but lives in the flat for free. Is there anything else you would like to add to what you have already said. No. Interview concluded
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Annex B6: Witness statements

RESTRICTED (when complete)

MG11

Witness Statement

Page 1 of 1

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN: [] [] [] []

Statement of: [redacted]
Age if under 18 (if over insert "over 18"): [redacted] Occupation: School student
This statement (consisting of2..... Pages(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 in it, anything which I know to be false, or do not believe to be true.

Signature: [redacted] Date: 22/09/2016

States,
I live with my Mother and Brother [redacted] in Tring and I am in Year 11 at Tring School.
This statement relates to two incidents that took place on Friday 9th and Saturday 10th September 2016. I refer to a shop in Western Road, Tring which I call 'Costcutters', I have been informed that it is 62, Western Road.
'Costcutters' is a small shop selling food and tobacco; it also has a large selection of beers, ciders, wines and spirits. The shop is well known around my school as being the place where you can buy booze without being asked for identification or asked about your age. I know that there are three people who work in the shop, an Asian lady and a short Asian male and a taller and older Asian male. It is common knowledge that if the lady or the short male are in the shop they will not sell you alcohol unless you show them identification, but if the older male is on his own he doesn't question your age and will sell you alcohol. I know a lot of people from school have been into the shop when the older Asian male has been serving and have bought drink without being questioned as to how old they were.
My Brother [redacted] and I have been allowed to drink at home, usually a shandy or beer, when we have been with our Mum. It tends to be when we have had a barbeque or may be with a meal. I'm not a big drinker because my Mum will only let me have one or two glasses. I Have tasted spirits before but I only drink beer and cider.
It was my 16th birthday on 6th September 2016 so on Friday 9th September, [redacted] and I were out together and decided to go to 'Costcutter' to get some cans of drink. It was just starting to get dark so it was around 7.30pm. We walked in and I saw that the older Asian male was not around, it was the young Asian male, who has short hair, standing behind the counter. I went straight to one of the displays and selected a four pack of 'Strongbow cider', I then put it on the counter and asked the man, "Is this alright?" He then asked, "Do you have I.D?" I said "No" and then put the cans back on the shelf and we walked out of the shop. We didn't go anywhere to try and get alcohol and I think we eventually ended up going home
On Saturday 10th September [redacted] and I left home to go into town. I had arranged to meet some friends in town and I had invited [redacted] to go along as well. We were definitely going to be having a drink and so we took some cans from home. I think we had four cans of beer and a

Signature: [redacted] Signature Witnessed by: [redacted]

04/2013

RESTRICTED (when complete)

Witness Statement

Continuation of Statement of [REDACTED]

[REDACTED] couple of cans of cider which were put into [REDACTED] rucksack. We walked to Akeman Street where, outside 'Mighty Bite' we met up with, [REDACTED], [REDACTED] and [REDACTED]. At some point, [REDACTED], another friend joined us and we then walked up to 'Costcutters' intending to get some alcohol. I can't remember how we decided but [REDACTED] ended up going into the shop, probably because he looked the oldest out of all of us.

I have known [REDACTED] for 10 years, he is a good friend and I would say he can be very loud but is generally fairly quiet but is quite confident. I would say he probably looks his age which is 16 years. I have been with him before when he has bought alcohol and I know that he has been into 'Costcutters' before to get drink

When we got to 'Costcutters' [REDACTED] said he was going to get some booze. He must have had money on him because he didn't ask us for any before going into the shop and he didn't ask us what drink we wanted. He didn't say what he was going to buy either. When he went into the shop we waited down the road, about 100 metres away, outside what was 'Blockbusters' [REDACTED] went into the shop and after a short time, may be 4-5 minutes later he came back out and joined us. I then saw that the guy from the shop, who was the older Asian I mentioned previously, also came out of the door. He was looking at us and so we just walked off and headed for Tring Park. We asked [REDACTED] if he had been able to get some drink he told us that he had got some vodka but I don't remember him telling us how much.

When we got to Tring Park [REDACTED] got the cans he had, out of his bag, we opened them and passed them around. [REDACTED] then produced a large bottle of vodka from his bag. He then told us that he had another bottle as well. We were then drinking all of the alcohol we had, passing the cans and bottles around. I suppose we started drinking at sometime between 6pm to 6.30pm, we were drinking quite slowly at first, I had never had vodka before and I wasn't that keen on the taste at first but I carried on drinking the bottle. I probably had the best part of a whole bottle of vodka, I don't remember anything much because I passed out. The next thing I remember was being at home. Apparently I was seen by a paramedic and taken home by [REDACTED] Mum. I have since been told that when I passed out my body temperature dropped to 34.1 and I was going into hypothermia.

I haven't been that drunk before and I now realise how dangerous things were, if it hadn't have been for [REDACTED] quick thinking thing may have turned out so differently.

Signature: _____

Signature Witnessed by: [REDACTED]

04/2013

Witness Statement

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN: [] [] [] []

Statement of: [REDACTED]

Age if under 18 (if over insert "over 18"): [REDACTED] Occupation: **School Student**

This statement (consisting of4..... Pages(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 in it, anything which I know to be false, or do not believe to be true.

Signature: [REDACTED] [REDACTED] Date: **06/10/2016**

States:

I live with my Mother, elder Brother and Sister in Tring. I am 15 years of age and a school student at Tring School.

This statement refers to relates to an incident that took place on Saturday 10th September 2016. I refer to a shop in Western Road, Tring that I call 'Costcutters', I have been informed that it is now called 'The Little Convenience Store'.

'Costcutters' is a small shop selling food, tobacco and a large selection of beers, wines and spirits. It is known by me and others at school as being the place to go if you want to purchase things that other shops won't sell to school students, in particular alcohol and cigarettes. I have been previously made aware that out of the three people who serve in the shop, it is the middle aged Asian guy who will sell drink. I would describe him as having stubble and short cut hair. I can't say how tall he is because he stands behind the counter. I do know of this person because he has been in the shop when I have previously been in there to buy sweets and things. His English isn't that good but he understands what's said.

On one day during the week before Saturday 10th September, [REDACTED], a good friend of mine, whom I have known for over 10years, messaged a few people, because he had just turned 16, saying he wanted to meet up on Saturday. It was decided to meet outside 'Mighty Bite', in Akeman Street. We had spoken at school about getting some drink and I said something about it would probably be ok getting some. I remember [REDACTED] saying he would also get some.

On the 10th we met outside 'Mighty Bite' between 1 and 2pm. [REDACTED] had his Brother [REDACTED] with him and [REDACTED] was there. Other friends, [REDACTED] and [REDACTED] were going to be there but had said that they would meet up with us later on. We wandered around the town for a while just hanging out and we ended up meeting with [REDACTED] and [REDACTED] and eventually walked upto 'Costcutters'. I suppose we got to Western Road at around 5.20 - 5.30pm. [REDACTED] and [REDACTED] had mentioned that they had some beers and some cider and we intended to get some more.

We stood down from the shop and I decided that I would go in and try to purchase some alcohol. It would have looked a bit weird if five teenagers went in and tried to get some drink. I had £40 in cash on me and I had a drawstring bag over my shoulder. I left the others and

Signature: [REDACTED] Signature Witnessed by: [REDACTED]

Witness Statement

Continuation of Statement of [REDACTED]

walked up to the shop and went in.

I have been in the shop on one other occasion where I have purchased drink. That was around a year ago and I bought four cans of beer.

I was fairly nervous as I went in, I saw that the man I had heard would sell drink was behind the counter. I was thinking that I didn't want to get a lot of cans and so I stood at the counter and immediately saw bottles of 'Smirnoff' vodka and decided that they were what I was going to get. I asked the guy for two bottles and then pretended to look for my identification. He did ask and I said that I had lost it, I was going to say that I had lost it but he didn't speak at all. I gave him the £40 and he gave me £10 in change. I put the bottles in my bag and then walked out. When I got outside it was a kind of "Yes" moment, probably because I had got away with it. When I asked him for the vodka he asked me for I/D but after I said that I lost it, he said not to worry about it and gave me the alcohol.

I joined my friends and they asked me if I had got any drink, I told them that I had managed to get some vodka and they opened the bag and looked it. I recall seeing the guy from the shop standing outside by the door, I don't know if he was specifically looking at us but we walked off and headed for Tring Park.

When we got into the park we got all of the drink we had out and were taking mouthfuls and passing it around. I was aware that [REDACTED] seemed to be drinking quite a lot. I think I had possibly two cans of cider and a quarter bottle of the vodka. I wasn't drunk and I was aware of what was being said but I was certainly tipsy.

I rarely have alcohol when I'm with my friends, that's not to say that I don't drink occasionally when I'm at home with my family and at weekends.

Although I cannot be certain of the time, we may have got to the park at around 6'ish, it had been raining and was dark and damp. Again I can't be certain of times but possibly after around half an hour, so around 6.30pm, I realised that [REDACTED] had passed out. We were trying to get him to walk around to sober him up but nothing was bringing him round and he fell asleep on the floor.

At sometime around 9pm [REDACTED] called his Sister because [REDACTED] still hadn't come around and we were quite concerned because he was cold. [REDACTED] ended up leaving us to meet his Mum by the road. [REDACTED] told me to leave when his parents got there so we both didn't get into trouble so from the time his parents got there I was gone.

I understand that what I did was wrong getting the drink and I would like to say that I don't buy alcohol on a regular basis. I am very sorry for what happened to [REDACTED] and understand that things could have turned out so differently.

Signature: [REDACTED]

Signature Witnessed by: [REDACTED]

04/2013

RESTRICTED (when complete)

Witness Statement

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN: [] [] [] []

Statement of: [REDACTED]

Age if under 18 (if over insert "over 18"): [REDACTED] Occupation: **Schoolboy**

This statement (consisting of2..... Pages(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 in it, anything which I know to be false, or do not believe to be true.

Signature: [REDACTED] Date: **22/09/2016**

States,

I live with my Mother and Brother [REDACTED] in Tring and I am in Year 10 at Tring School.

This statement relates to two incidents that took place on Friday 9th and Saturday 10th September 2016. I refer to a shop in Western Road, Tring which I call 'Costcutters', I have been informed that it is 62, Western Road.

'Costcutters' is a small shop selling food and tobacco; it also has a large selection of beers, ciders, wines and spirits. The shop is well known around my school as being the place where you can buy booze without being asked for identification or asked about your age. I know that there are three people who work in the shop, an Asian lady and a short Asian male and a taller and older Asian male. It is common knowledge that if the lady or the short male are in the shop you will not be able to buy drink because they will ask for identification, but if the older male is on his own he doesn't question our age and will sell alcohol to us.

I have been allowed to drink shandy's or beer when I've been at home with my Mum, usually when we have had a barbeque or may be with a meal. I'm not a big drinker because my Mum will only let me have one or two glasses.

It was my Brother, [REDACTED] 16th birthday on 6th September 2016 so on Friday 9th September, we were out together and decided to go to 'Costcutter' to get some cans of drink. It was just starting to get dark so it was around 7.30pm. We walked in and saw that it was the young Asian male, who has short hair, standing behind the counter. [REDACTED] selected a four pack of 'Strongbow cider' and put it on the counter. He asked the man, "Is this alright" who then said, "Do you have I.D". [REDACTED] replied "No" and then put the cans back on the shelf and we walked out of the shop. I think we ended up going home after that.

At some stage during that evening, [REDACTED] told me that he was meeting up with some of his friends on Saturday evening and asked me if I wanted to go along with them, I said OK and probably assumed that we would be having some drink. I know [REDACTED] friends quite well as we all go to the same school, they are in Year 11 as is [REDACTED]

Signature: [REDACTED] Signature Witnessed by: [REDACTED]

Witness Statement

Continuation of Statement of [REDACTED]

On Saturday 10th September [REDACTED] and I left home to go into town, I had 3 or 4 cans of beer and a couple of cans of cider in my rucksack. They were in the house and I picked them up without my Mum knowing. We walked to Akeman Street where, outside 'Mighty Bite' I saw [REDACTED] friends, [REDACTED], [REDACTED] and [REDACTED]. At some point, [REDACTED], another friend joined us but we then walked up to 'Costcutters' intending to get some drink, alcohol. I can't remember how we decided but [REDACTED] ended up going into the shop, probably because he looked the oldest out of all of us.

I have known [REDACTED] for about 3 years, he is a good friend of [REDACTED] and I would say he is fairly quiet but quite confident. I would say he probably looks his age which is 15 years. I haven't been with him before when he has bought alcohol but I am aware that he has been in the shop before to get drink

[REDACTED] didn't ask us for any money before going into the shop and he didn't ask us what drink we wanted and didn't say what he was going to buy, but we all knew that he was going to get some because he told us that that's what he was going to do. When we got close to the shop we waited down the road, about 100 metres away, outside what was 'Blockbusters'. [REDACTED] walked up to the shop and went in. After a short time, may be 4-5 minutes later he came back out and joined us. I then saw that the guy from the shop, who was the older Asian I mentioned previously, also came out of the door. He was looking at us and so we just walked off and headed for Tring Park. We asked [REDACTED] if he had been able to get some drink he told us that he had got some vodka but I don't remember him telling us how much.

When we got to Tring Park I got the cans I had, out of my bag, we opened them and passed them around. [REDACTED] then produced a large bottle of vodka from his bag, he then told us that he had another one as well. We were then drinking all of the alcohol we had, passing the cans and bottles around. I suppose we started drinking at sometime between 6pm to 6.30pm, we were drinking quite slowly at first, I had never had vodka before and I don't think [REDACTED] had either. I probably had two cans of either beer or cider and some vodka. I hadn't eaten all day and I remember feeling very drunk. It was cold and very damp because it had been raining all day. I remember [REDACTED] also being drunk very early on and I recall that he ended up lying on the floor. Although I was drunk I was able to talk and hold a conversation. I was also able to understand what was being said by the others. I suppose on a scale of 1-to-10, in drunkenness terms I was probably a 7.

Initially, I wasn't that concerned about [REDACTED] but I do recall [REDACTED] and [REDACTED] talking at one stage about dragging him out of the park and closer to home because he was so drunk. I do remember [REDACTED] Mum turning up and looking after [REDACTED]. I then remember a Paramedic arriving and treating [REDACTED]. We ended up going home in [REDACTED] Mum's car and it was later on that I became aware that [REDACTED] had got very cold. When I was sober my Mum told me that [REDACTED] was on the brink of hypothermia and his body temperature had gone down to 34.1.

I have never been so drunk before and I don't want to get like it again. I also understand how dangerous things were for [REDACTED]

Signature: [REDACTED]

Signature Witnessed by: [REDACTED]

04/2013

RESTRICTED (when complete)

Annex C
Map of local area

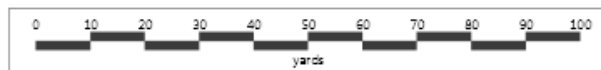


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Licensing
Dacorum Borough Council
Civic Centre
Marlowes
Hemel Hempstead
Herts
HP1 1HH

Scale: 1:1000
Date: 30/11/2016



Annex D

Local Policy considerations and statutory guidance

Local Policy considerations

Licensing Objectives

Crime and disorder

5.6 When considering applications and reviews the licensing authority will give consideration to:

whether the premises make or will make a significant contribution to levels of crime and disorder in the local area, and

whether the operating schedule demonstrates that an adequate risk assessment of the likelihood of crime and disorder occurring as the result of the issue of an authorisation has been carried out by the applicant.

5.7 The authority will work closely with Hertfordshire Constabulary and the other members of the Dacorum Community Safety Partnership, both to monitor and investigate incidents of crime or disorder associated with licensable activities at and around licensed premises, and to identify emerging trends and patterns in such incidents.

The protection of children from harm

5.20. The licensing authority is aware that this objective relates primarily to preventing children from being exposed to or permitted to access age-restricted products, such as alcohol; or age-restricted services, such as films with content deemed suitable only for adults or relevant entertainment of a sexual nature. Considerations relating to the physical safety and welfare of children will also be taken into account as part of any action the authority takes to promote the public safety objective.

5.23. The licensing authority will judge each application and the circumstances pertaining to each premises on the individual merits. Examples which may give rise to concern in respect of children would include premises:

- where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking,
- where other concerns relating to this objective have arisen.

Representations and Reviews

8.1 Where a right exists for a responsible authority or other person to make representations in respect of an application, any representation must be made in writing (whether by letter, fax or email), and must contain the name and address of the party making the representation, together with any relevant information to assist the licensing authority in determining their status. The grounds upon which the representation is made should also be clearly set out.

8.2 Representations may encompass a variety of views about an application, and may include comments or grounds which are supportive of an application, objecting

to an application, or neutral about an application. The licensing authority will treat all relevant representations in the same manner, regardless of their stance.

8.3 Applications for the review of a premises licence or club premises certificate may only be made in the prescribed form, and following the procedure set out in the Act. Licensing officers are able to offer further advice on this procedure to any party considering making an application for review of a licence.

8.4 The licensing authority must have reasonable grounds in order to take action to refuse, to revoke or to suspend a licence. This means that it will usually need to see evidence which substantiates the grounds cited in representations or review applications if it is to act upon those grounds. Speculative grounds which cannot be substantiated have previously been found by the courts to carry little weight in the decision-making process, and it is therefore likely that the licensing authority would be unable to take action of a type referred to above if such grounds are the only ones cited in respect of an application.

Applications

9.1. Every matter requiring determination by the licensing authority will be considered on its individual merits, and in doing so the authority shall have regard to this Statement, the Guidance, and the need to promote the licensing objectives. Where applicable, an evidentiary hearing will be conducted prior to the determination of the matter, in full accordance with Regulations made under the Act.

9.2. Many application types are subject to a statutory provision whereby they must be granted in the absence of relevant representations. In such cases, licences must be issued for the full range of licensable activities applied for, subject only to applicable mandatory conditions, and conditions which are consistent with measures set out by the applicant within their operating schedule.

9.3. Where the authority's discretion is engaged, following receipt of a relevant representation or an objection notice, or in the case of review or minor variation applications, the licensing authority will apply the considerations set out below.

9.4. Almost all of the decision-making powers under the Act require licensing authorities to take such action as they consider appropriate for the promotion of the licensing objectives. The Act was amended to substitute 'appropriate' for 'necessary', a move which may be regarded as having increased authorities discretion in respect of the determination of applications. The licensing authority will now consider 'appropriate' in accordance with the standard dictionary definition: "suitable or proper in the circumstances".

Licence conditions

11.1. The licensing authority will seek to avoid imposing disproportionate conditions on premises. It will only impose conditions that it considers appropriate in order to promote the licensing objectives, and which are in themselves reasonable and proportionate.

11.2. Additionally, we will seek to ensure that conditions only pertain to matters which are within the direct control or the sphere of influence of the licence-holder.

National Guidance

Each application on its own merits

1.17 Each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

Licensing objectives

2.3 Conditions should be targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

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.

The protection of children from harm

2.21 The protection of children from harm includes the protection of children from moral, psychological and physical harm.

2.22 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered.

Determining Applications

9.36 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their

written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation.

9.37 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- this Guidance;
- its own statement of licensing policy.

9.38 The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety.

Imposed Conditions

10.8 The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.

Reviews

11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives.

11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing.

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;

- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

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. 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. 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.