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**APPLICATION TO VARY PREMISE LICENCE TO SPECIFY AN INDIVIDUAL AS  
DESIGNATED PREMISES SUPERVISOR UNDER LICENSING ACT 2003**

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**PURPOSE OF REPORT**

1. To invite Members to consider an application to vary a premise licence to specify an individual as a Designated Premises Supervisor in light of a representation made by Durham Constabulary.

**LEGISLATION**

2. The Licensing Act 2003 requires the Licensing Authority to carry out its functions with a view to promoting the four Licensing Objectives:
  - The Prevention of Crime and Disorder
  - Public Safety
  - The Prevention of Public Nuisance
  - The Protection of Children from Harm
3. The Licensing Authority must also have regard to its Licensing Policy and any guidance issued by the Secretary of State. The Licensing Authority may depart from its own Policy or the Secretary of State's Guidance if it has good cause but must be able to give full reasons for such a departure.

**APPLICANT DETAILS**

4. An application has been received to vary the premise licence in respect of the TRO Convenience Store situated on High Northgate, Darlington. The application seeks to replace the current Designated Premises Supervisor, Helen Smith with Mr Tharmarajah Sriskantharajah.
5. Mr Tharmarajah Sriskantharajah previously held the position of Designated Premises Supervisor for these premises, from 26 November 2013 to 10 November 2015 when he was removed as Designated Premises Supervisor following a review of the premise licence by Durham Constabulary.
6. On 25 July 2016, Mr Tharmarajah Sriskantharajah of 34 High Northgate, Darlington, DL1 1UW submitted an application in accordance with the provisions of Section 37 of the Licensing Act 2003, to vary a premise licence to specify an individual as a Designated Premises Supervisor for premises known as TRO Convenience Store which is situated at 34 High Northgate, Darlington, DL1 1UW.

7. Mr Tharmarajah Sriskantharajah is the Premise Licence Holder for these premises which was granted on 26 November 2013. The Premise Licence permits the sale of alcohol for consumption off the premises from:-

**07.00 to 02.00 Monday to Saturday, and  
10.30 to 02.00 on Sunday.**

A copy of the Premise Licence is attached at **Appendix 1.**

8. Mr Tharmarajah Sriskantharajah also holds a personal licence which was issued on 3 September 2013, reference DL13/01451/PERSON

## **PREVIOUS HISTORY**

9. Members are advised that on 3 September 2015, Durham Constabulary made an application to review the premise licence in respect of these premises on the grounds of the prevention of crime and disorder, public safety and the protection of children from harm.
10. On 9 November 2015, this application was considered by Members. During the hearing, Members heard that on numerous occasions, it had been found that the premises had failed to operate within the lawful requirements of the Licensing Act 2003, and had repeatedly breached the conditions attached to the premise licence.
11. Members were also advised that Mr Sriskantharajah who was Premise Licence Holder and Designated Premises Supervisor (DPS) and another staff member had been convicted of licensing offences and handling stolen goods, namely stolen alcohol that was later found to be offered for sale at the premises. A copy of the report is attached at **Appendix 2.**
12. At the conclusion of the hearing, Members decided to remove Mr Sriskantharajah as the Designated Premises Supervisor and to suspend the premises licence until such time as an appropriate Designated Premises Supervisor had been identified and approved by the Police or for a period of 3 months, whichever was the lesser period. A copy of the decision letter is attached at **Appendix 3..**
13. On 4 December 2015, an application to vary a premise licence to specify an individual as a Designated Premises Supervisor was received from Mr Sriskantharajah. The application specified that Helen Smith was proposed as Designated Premises Supervisor for the TRO Convenience Store. On 8 December 2015, Durham Constabulary advised that they had no objection to the application to vary the Designated Premises Supervisor and a licence was duly granted.
14. On 16 March 2016, a complaint was received which alleged that on 14 March 2016 at 8.00pm, the complainant, a female, had entered the shop premises and was confronted by a male customer whom she stated, that despite being clearly inebriated and slurring his words, had been served alcohol.
15. She claimed that she was subjected to verbal abuse and increasingly sexually offensive and threatening comments made to her by the male and that the owner of the premises

had come around the counter, tried to pull the bag containing the alcohol out of the man's hands, and offered him a refund of his money.

16. The male left the shop but the complainant advised officers that he waited for her outside the shop where he continued to verbally abuse and threaten her, so much so, that she reported the matter to the Police and was later visited by a police officer who advised her that the owner of the shop had told him that the male was a regular customer.
17. The complainant was very concerned that the premises were selling alcohol to a person who was clearly very drunk and that she felt that this was fuelling antisocial behaviour in the area.
18. Officers attended the premises and requested a copy of the CCTV footage for the incident, and on 12 April 2016, CCTV footage was supplied to the Authority. When the footage was reviewed, Officers were unable to determine if the male who was the subject of the complaint was drunk and requested a formal statement from the complainant.
19. On 26 May 2016, a letter was sent to Mr Sriskantharajah advising him that the complainant had not made a formal statement and that in light of this; no further action was being taken in respect of the complaint. A copy of the letter is attached at **Appendix 4**.
20. Members are advised that Officers from Darlington Borough Council carried out a formal inspection of these premises on 24 March 2016. At that time, the premises were found to be compliant with the conditions attached to the premise licence.
21. On 9 April 2016, Officers from Darlington Borough Council and Durham Constabulary attended the shop premises and approved the installation of a "Night Pay Hatch" which had been installed at the site, and on 13 April 2016, a Licensing Enforcement Officer confirmed that the premises could now, subject to conditions, operate until 2.00am for the sale of alcohol for consumption off the premises.

## **REPRESENTATIONS**

22. In accordance with the provisions of Section 37(5), on 2 August 2016, Durham Constabulary submitted a representation in respect of this application. The grounds for the representation are that the chief officer of police is satisfied that granting the application would undermine the crime prevention objective
23. In summary, the Police object to Mr Sriskantharajah becoming Designated Premises Supervisor for these premises due to the fact that on 25 August 2015, he was convicted of two offences, namely handling stolen goods and the sale of alcohol outside those hours permitted by his Premise Licence. Mr Sriskantharajah was sentenced to a 12-month community order for these offences.
24. Due to these convictions, and the fact that he was removed as Designated Premises Supervisor following the review of his licence on 9 November 2015, the Police contend that Mr Sriskantharajah is not a fit and proper person to be the Designated Premises Supervisor, or effectively promote the licensing objectives. A copy of the representation is attached at **Appendix 5**.

## **DECISION**

25. Members are respectfully reminded that where a notice is given under section 37(5) and is not withdrawn, they may consider the following options

- Grant the application if they consider that the promotion of the crime prevention objective will not be undermined
- Reject the application if they consider that the promotion of the crime prevention objective will be undermined

## **26. REVISED GUIDANCE ISSUED UNDER SECTION 182 OF THE LICENSING ACT 2003**

### **CHAPTER 4 – PERSONAL LICENCES**

#### **Specification of new designated premises supervisors**

- (4.18) Every premises licence that authorises the sale of alcohol must specify a DPS. This will normally be the person who has been given day to day responsibility for running the premises by the premises licence holder. The only exception is for community premises which have successfully made an application to remove the usual mandatory conditions set out in the 2003 Act. Guidance on such applications is set out in paragraphs 4.33 to 4.46 of this Guidance.
- (4.19) The Government considers it essential that police officers, fire officers or officers of the licensing authority can identify immediately the DPS so that any problems can be dealt with swiftly. For this reason, the name of the DPS and contact details must be specified on the premises licence and this must be held at the premises and displayed in summary form. The DPS' personal address should not be included in the summary form in order to protect their privacy.
- (4.20) To specify a DPS, the premises licence holder should normally submit an application to the licensing authority (which may include an application for immediate interim effect) with:
- a form of consent signed by the individual concerned to show that they consent to taking on this responsible role, and
  - the relevant part (Part A) of the licence.
- (4.21) If they are applying in writing, they must also notify the police of the application. If the application is made electronically via GOV.UK or the licensing authority's own electronic facility, the licensing authority must notify the police no later than the first working day after the application is given.
- (4.22) The premises licence holder must notify the existing DPS (if there is one) of the application on the same day as the application is given to the licensing authority. This requirement applies regardless of whether the application was given by means of an electronic facility, or by some other means.

- (4.23) The general guidance in Chapter 8 on electronic applications applies in respect of new applications.
- (4.24) Only one DPS may be specified in a single premises licence, but a DPS may supervise two or more premises as long as the DPS is able to ensure that the licensing objectives are properly promoted and that each premises complies with the 2003 Act and conditions on the premises licence.

### **Police objections to new designated premises supervisors**

- (4.26) The police may object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective. The police can object where, for example, a DPS is first specified in relation to particular premises and the specification of that DPS in relation to the particular premises gives rise to exceptional concerns. For example, where a personal licence holder has been allowed by the courts to retain their licence despite convictions for selling alcohol to children (a relevant offence) and then transfers into premises known for underage drinking.
- (4.27) Where the police do object, the licensing authority must arrange for a hearing at which the issue can be considered and both parties can put forward their arguments. The 2003 Act provides that the applicant may apply for the individual to take up post as DPS immediately and, in such cases, the issue would be whether the individual should be removed from this post. The licensing authority considering the matter must restrict its consideration to the issue of crime and disorder and give comprehensive reasons for its decision. Either party would be entitled to appeal if their argument is rejected.
- (4.28) The portability of personal licences between premises is an important concept under the 2003 Act. It is expected that police objections would arise in only genuinely exceptional circumstances. If a licensing authority believes that the police are routinely objecting to the designation of new premises supervisors on grounds which are not exceptional, they should raise the matter with the chief officer of police as a matter of urgency

### **RECOMMENDATION**

- 27. Members are requested to determine an appropriate course of action in relation to the attached reports and provide reasons for their decision.

**IAN WILLIAMS**  
**DIRECTOR OF ECONOMIC GROWTH**

Julie Richings Ext 6391  
Principal Licensing Officer

## **APPENDICES**

- Appendix 1 Copy of current Premise Licence dated 6 November 2014**
- Appendix 2 Copy of the previous report dated 9 November 2015**
- Appendix 3 Copy of decision letter dated 9 November 2015**
- Appendix 5 Copy of letter dated 26 May 2016**
- Appendix 5 Copy of the representation received on 8 August 2016**

## **BACKGROUND PAPERS**

- 1. The Licensing Act 2003**
- 2. Darlington Borough Council's Licensing Policy 2016 – 2021**
- 3. Home Office Guidance issued under Section 182 of the Licensing Act (March 15)**
- 4. The Licensing Act 2003 (Hearings) Regulations 2005**



## Licensing

Town Hall, Feethams, Darlington. DL1 5QT

Tel: (01325) 405888

<http://www.darlington.gov.uk>

## PART A

Licensing Act 2003 Premises Licence

## TRO Food and Wine

Premises Licence Number	DL15/01880/VARDPS
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### PART 1 – PREMISES DETAILS

Premises Details:	<b>TRO Food and Wine</b> 34 High Northgate, Darlington, DL1 1UW
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Licence effective from:	4 December 2015	Duration of Licence:	Indefinite
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Authorised Licensable Activities:	Authorised Hours	
Retail sale of alcohol (for consumption OFF the premises)	07:00 – 02:00hrs 10.30 – 02:00hrs	Monday to Saturday Sunday
Premises Opening Hours:	07:00 – 02:00hrs 09.00 – 02:00hrs	Monday to Saturday Sunday
Non-standard/seasonal timings:	None	

### PART 2

Premises Licence Holder:	Mr. Tharmarajah Sriskantharajah 34 High Northgate, Darlington. DL1 1UW
Telephone Number:	01325 245743

Designated Premises Supervisor:	Helen Smith [REDACTED]
Personal Licence No:	SBC/DL16/316
Issuing Authority:	Durham County Council

**Annex 1 Mandatory Conditions:**

1. Every Supply of alcohol under the premises licence must be made by or authorised by a person who holds a personal licence.
2. 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.
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. A relevant person shall ensure that no alcohol is sold or supplied for consumption off the premises for a price which is less than the permitted price.
5. For the purposes of the condition set out at 4 —
  - a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);
  - b) “permitted price” is the price found by applying the formula—
$$P = D + (D \times V) \text{ where—}$$
    - 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,
    - 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;

“value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994



**Annex 2      Conditions consistent with the Operating Schedule and/or converted from the Original Licence(s):**

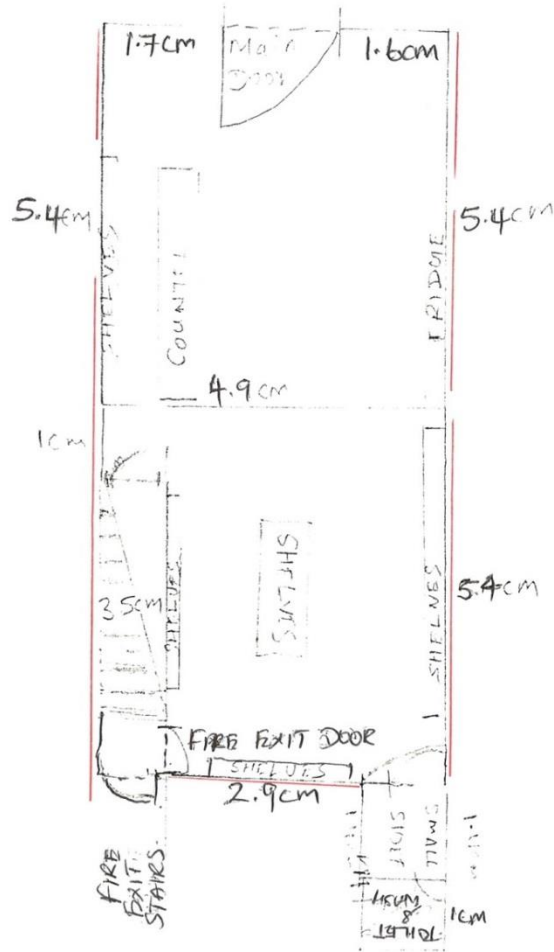
1. Staff training will be carried out by the DPS for all new members of staff prior to being allowed to sell alcohol and once per year for all other staff members in relation to the law applicable to the sale of alcohol.
2. Training records will be kept and signed and dated by staff taking part. These will be made available to the Police and Authorised Officers of the Council upon request.
3. An incident, accident book and refusals register will be kept on site and shall document all incidents, accidents and each refusal of sale. These shall be made available to Police and Authorised Officers of the Council upon request.
4. The Challenge 25 Proof of Age scheme shall be implemented at the premises requiring specific photographic proof of age from any person who attempts to purchase alcohol and appears to be under 25 years of age. Notices shall be displayed within the premises advertising this scheme.
5. The current CCTV system shall be maintained in working order and recording whilst the premises are open and being used for licensable activities. The system shall also provide coverage to the front and rear of the premises.
6. CCTV recordings will be kept for a minimum of 28 days. The recordings shall be made available to the Police and an Authorised Officers of the council upon request.

**Annex 3      Conditions attached after Licensing Authority Hearing:**

1. A personal licence holder shall be present from 11 pm to 02.00 am to authorise all sales of alcohol.
2. A minimum of 2 members of staff (including the personal licence holder) shall be present to conduct all sales of alcohol between 11 pm and 02.00 am.
3. No alcohol shall be sold at a price below the recommended retail price.
4. No sale of alcohol shall take place after 11 pm until a restricted area has been defined and hatched and is approved, in writing, by officers from the Licensing Section.

**Annex 4 Premises Plan**

PLANS OF 34, HIGH NORTH WATZ, DARLINGTON, DEL 1114



1:100

In accordance with the application to vary the designated premises supervisor.

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**Authorised Officer**

Date of Issue: 6 November 2014

FOR CHAIR AND MEMBERS  
OF THE LICENSING SUB COMMITTEE

**APPLICATION TO REVIEW A PREMISES LICENCE**

**Applicant:** THARMARAJAH SRISKANTHARAJAH **Ref No:** DL14/01452/PREVAR

**Premises:** TRO FOOD AND WINE  
34 HIGH NORTHGATE  
DARLINGTON, DL1 1UW

**Current Licensable Activities** SALE OF ALCOHOL FOR CONSUMPTION OFF THE PREMISES

**Current Hours:** 07.00 to 02.00 MONDAY TO SATURDAY  
10.30 to 02.00 SUNDAY

**Current Premises opening hours** 07.00 to 02.00 MONDAY TO SATURDAY  
08.00 to 02.00 SUNDAY

**APPLICATION: REVIEW OF PREMISES LICENCE BY DURHAM CONSTABULARY**

**Notification to Responsible Authorities:**

Environmental Health Manager (Public Safety and Nuisance)  
Local Health Board /  
Director of Public Health                      Licensing Authority  
Chief Fire Officer                                Trading Standards Manager  
Planning Manager                                Safeguarding Children's Board

**Information on Council's Website: 04 September 2015**

**LEGISLATION:**

The Licensing Act 2003 requires the Licensing Authority to carry out its functions with a view to promoting the four Licensing Objectives:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

The Licensing Authority must also have regard to its Licensing Policy and any guidance issued by the Secretary of State. The Licensing Authority may depart from its own Policy or the Secretary of State's Guidance if it has good cause but must be able to give full reasons for such a departure.

**DESCRIPTION OF PREMISES**

When the Applicant first applied for a premises licence he described the premises as:

*"Convenience Store."*

## **BACKGROUND INFORMATION**

On 29 October 2013 an application was properly made for the **grant** of a premises licence in accordance with Section 17 of the Licensing Act 2003. The application was for the sale of alcohol for consumption off the premises during the hours of 08.00 am to 01.00 am Monday to Saturday and 10.30 am to 11:00 pm on Sunday. The Police initially had some concerns about the application but these were resolved by the Applicant reducing his terminal hour for sale of alcohol to 11 pm and agreeing to specific conditions being placed upon the premises licence. As a result the licence was granted on 26 November 2013.

On 16 January 2014 Licensing Enforcement Officers visited the premises and found that the CCTV did not cover the rear of the premises (as required by condition on the licence) and that the incident and accident books were not available for inspection. As a result a written warning was issued on 20 January 2014.

On 11 March 2014 Officers made a further visit to the premises to ensure that the issues raised in January 2014 had been addressed. Officers found that this was the case and a letter was sent to the Applicant on 17 March 2014 confirming that the premises were compliant.

On 16 September 2014 an application was properly made by the Applicant in accordance with Section 34 of the Licensing Act 2003 to **vary** the Premises Licence to extend the hours for the sale of alcohol for consumption off the premises to 07.00 am- 02.00 am Monday to Saturday and 10.30am-02.00 am Sunday. As a result of the consultation a representation was received from one Responsible Authority, namely The Police on the grounds of the prevention of crime and disorder, public nuisance and the protection of children from harm. In addition representations were also received from an "Other Person" namely Westbrook Residents' Association on similar grounds.

On 05 November 2014 Members of the Licensing Sub Committee heard the contested application and agreed to the variation in hours subject to specific conditions, most of which had been agreed by the licence holder at the hearing. A copy of the current licence is appended for Members' reference at **Appendix 1A**.

On 15 February 2015 Licensing Enforcement Officers visited the premises and found that the CCTV recordings were only available for 14 days rather than the 28 days required by condition on the premises licence. In addition there was an issue in respect of the production of the training records for staff. As a result a written warning was issued on 25 February 2015.

On 08 April 2015 a further visit was made by a Licensing Enforcement Officer and on this occasion, once again the training records were not available and the CCTV recordings were only available for 13 days. A further written warning was issued which advised that another visit would be made within 21 days and if there was continued non-compliance the matter would be referred for legal proceedings.

On 28 April a further visit was made by a Licensing Enforcement Officer and while there was an improvement in compliance, the CCTV recordings were only available for 24 days. The Officer advised that he would revisit on 05 May 2015 to check this once again.

On 05 May 2015 the Licensing Enforcement Officer and the Police revisited the premises. While they found that CCTV footage was available for 28 days they also found that the CCTV system had been turned off. As a result an interview under caution was conducted on 21 May 2015. The premises licence holder, who is also the Designated Premises

Supervisor advised that he had not availed himself of the later hours approved by Members in November 2014 as he had been unable to comply with a specific condition required by Members as follows:

*“No sale of alcohol shall take place after 11 pm until a restricted area has been defined and hatched and is approved, in writing, by officers from the Licensing Section.”*

He advised that he had experienced problems with his CCTV because of the size of memory available with his system and that he had purchased a new system to enable him to meet the requirements of his licence. He stated that he had still experienced problems with the memory and had turned off the cameras for periods of time at both the front and the rear of his premises (in contravention of his licence condition requiring coverage at both front and rear of the premises) in an effort to make more memory available. He advised that he had resolved the issues with his CCTV and had started to fully comply with the licence requirements. He further stated that he was undertaking regular checks of the equipment to ensure the CCTV was fully operational.

After careful consideration Officers decided that as he was now compliant it was not in the public interest to prosecute and he was issued with a further written warning.

## **THE APPLICATION FOR REVIEW**

On 03 September 2015 an application to **review** the premises licence was properly made by Durham Constabulary on the grounds of the prevention of crime and disorder, public safety and the protection of children from harm. The application has been served on the licence holder by the Police and also served on all of the Responsible Authorities. In summary the Police advise of numerous failures to operate within the lawful requirements of the Licensing Act 2003 (including repeated breaches of licence conditions) and also that the premises licence holder, who is also the Designated Premises Supervisor (DPS) and another staff member have been convicted of licensing offences and handling stolen goods, namely stolen alcohol which has been offered for sale at the premises. The application has been reproduced in full at **Appendix 1B**. Members will note that the index of documents received from the police shows that the Part A of the premises licence was one such document. As members are aware it is standard practice for officers to append the premises licence to all such reports (see **Appendix 1A**) and to avoid duplication the Police copy has not been further appended. Officers can confirm that the application for review was properly signed by Inspector Colin Dobson who advises that he has delegated authority to make such applications on behalf of the Chief Constable. In addition signed copies of the statements that form part of the review documentation have been submitted to the Licensing Authority. The Police have indicated that they wish to use CCTV evidence at the hearing and have been advised to ensure that the premises licence holder has been given a copy of the CCTV well in advance of the hearing.

At the time of writing this report there had not been any response to the application for review from the premises licence holder and therefore it is referred to Members without the benefit of any comment from the licence holder.

## **THE CURRENT CONDITIONS ON THE PREMISES LICENCE**

Members will note from the premises licence (see **Appendix 1A**) that the conditions attached to the current licence, in addition to the mandatory conditions for sale of alcohol are as follows:

1. Staff training will be carried out by the DPS for all new members of staff prior to being allowed to sell alcohol and once per year for all other staff members in relation to the law applicable to the sale of alcohol.
2. Training records will be kept and signed and dated by staff taking part. These will be made available to the police and Authorised Officers of the Council upon request.
3. An incident, accident book and refusals register will be kept on site and shall document all incidents, accidents and each refusal of sale. These shall be made available to Police and Authorised Officers of the Council upon request.
4. The Challenge 25 Proof of Age scheme shall be implemented at the premises requiring specific photographic proof of age from any person who attempts to purchase alcohol and appears to be under 25 years of age. Notices shall be displayed within the premises advertising this scheme.
5. The current CCTV system shall be maintained in working order and recording whilst the premises are open and being used for licensable activity. The system shall also provide coverage to the front and rear of the premises.
6. CCTV recordings will be kept for a minimum of 28 days. The recordings shall be made available to the Police and an Authorised Officers of the council upon request.
7. A personal licence holder shall be present from 11 pm to 02.00 am to authorise all sales of alcohol. (condition attached at hearing)
8. A minimum of 2 members of staff (including the personal licence holder) shall be present to conduct all sales of alcohol between 11 pm and 02.00 am. (condition attached at hearing)
9. No alcohol shall be sold at a price below the recommended retail price. (condition attached at hearing)
10. No sale of alcohol shall take place after 11 pm until a restricted area has been defined and hatched and is approved, in writing, by officers from the Licensing Section. (condition attached at hearing)

## **THE LICENSING POLICY**

Members are referred to the following relevant sections of the Council's Licensing Policy which are reproduced at **Appendix 1C**

Section 6-6.3	Impact of Licensable Activities
Section 9.0 – 9.3	Public Safety
Section 10-10.4.	Prevention of Crime and Disorder (Effect in Vicinity/Personal Licence holder to be on premises)
Section 11-11.2.2	Protection of Children from Harm
Section 12.7	Off Sales

## **THE GUIDANCE**

Members are referred to the Secretary of State's Guidance has been reproduced at **Appendix 1D**. Members' attention is particularly drawn to the section dealing with reviews and in particular reviews arising in connection with crime.

## **ADDITIONAL INFORMATION**

A map of the premises will be produced at Committee for the benefit of Members.

## **POINTS FOR CLARIFICATION**

Members are referred to the notice of hearing **points for clarification** (See **Appendix 2**). The **Police** have been asked to provide up to date information about any recent issues of crime and disorder within the vicinity of, or attributed to the premises

The **Licence holder** has been asked to clarify his position in relation to the following:

- Full information about the operation of, and any limitations of the CCTV system
- Full details of the training provided to all staff in respect of the requirements of the premises licence and the sale of alcohol from the premises
- Details of how the proof of age requirement is implemented
- Details of how the refusals book is used including copies of the refusals for the preceding 12 months

## **MEMBERS' OPTIONS**

Members may consider the following options

1. To modify the conditions on the licence – i.e. to alter, remove or add additional conditions that they consider appropriate to promote the crime prevention, public nuisance prevention, public safety or child protection licensing objectives
2. To remove the Designated Premises Supervisor
3. To suspend the entire licence for a period not exceeding 3 months
4. To revoke the licence
5. To take no action against the licence

If Members are minded to add additional conditions they must be appropriate to promote the licensing objectives detailed within this report. Members are reminded that any such conditions should not duplicate existing legislation.

Members are further reminded that any aggrieved party (i.e. Police or licence holder) may appeal any decision of the Licensing Sub Committee to the Magistrates' Courts.

**Ian Williams**  
**Director of Economic Growth**





**LICENSING**

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**Mr Tharmarajah Sriskantharajah**  
**34 High Northgate**  
**DARLINGTON**  
**DL1 1UW**

Date : 9 November 2015  
 Please ask for : Mrs P Ross  
 Direct Line : 01325 405988  
 Your Reference :  
 Our Reference : **DL14/01452/PREVAR**  
 Document Name :

Dear Mr Sriskantharajah

**MEETING OF LICENSING ACT 2003 SUB COMMITTEE – 09 NOVEMBER 2015**  
**REVIEW OF PREMISES LICENCE – TRO FOOD AND WINE**  
**34 HIGH NORTHGATE, DARLINGTON, DL1 1UW**

At a meeting of the Licensing Sub Committee on 09 November 2015 Members of the Licensing Sub Committee considered the application made by Durham Constabulary, under Section 51 of the Licensing Act 2003, to review the Premises Licence for TRO food and Wine, 34 High Northgate, Darlington in respect of the licensing objectives relating to the prevention of crime and disorder, public safety and the protection of children from harm

The Sub-Committee made their deliberations in accordance with Statutory Instrument 2005 No. 44, The Licensing Act 2003 (Hearings) Regulations 2005 and as part of their deliberations considered the Councils' Licensing Policy and the Statutory Guidance issued under Section 182 of the 2003 Act (revised March 2015).

Members listened carefully to the representations from Mr S Mooney on behalf of Durham Police and also your representative Mr Ian Logue. Members were very concerned at what they deemed to be the lack of good management at the premises which they believed this was evidenced by the following:

- Your conviction for an offence of handling stolen goods which was in respect of alcoholic spirits that you had on display in the shop.
- Your conviction for carrying out a licensable activity other than in accordance with your premises licence, i.e. the sale of alcohol outside of your permitted hours
- The numerous problems that had arisen with your CCTV system
- The sale of alcohol on what appeared to be a credit basis
- The sale of alcohol to customers who appeared to be intoxicated
- Your failure to challenge customers who appeared to be under the age of 25 years (as required by condition on your licence)

Cont...../

Members therefore decided to remove you as the Designated Premises Supervisor and to suspend your premises licence until such time as an appropriate DPS has been identified and approved by the Police or for a period of 3 months, whichever is the lesser time frame. The decision of Members takes effect as per section 52(11) of the Licensing Act 2003; if you do not appeal, the decision will take effect after 21 days from the date of notification; if an appeal is made, the decision will take effect until such time that the appeal is disposed of.

Members considered all options available to them and determined that this was the only appropriate and proportionate course of action to address the licensing objectives of preventing crime and disorder, ensuring public safety and protecting children from harm.

In accordance with the Licensing Act 2003, Schedule 5 paragraph 8(2)(b) if you are aggrieved at this decision you have the right of appeal to the Magistrates Courts, Darlington within 21 days from the date of notification of the sub committee's decision. If you wish to appeal please forward this letter to the clerk to the Magistrates courts.

Yours sincerely

**Pam Ross**  
**Licensing, Parking, Trading Standards & CCTV Manager**



## ECONOMIC GROWTH

### LICENSING

Town Hall, Darlington DL1 5QT

DX 69280 Darlington 6

web site: <http://www.darlington.gov.uk>

Mr. Tharmarajah Sriskantharajah  
34 High Northgate  
DARLINGTON  
DL1 1UW

Date : 26 May 2016  
Please ask for : Licensing Team  
Direct Line : 01325 405976  
Email address : [licensing@darlington.gov.uk](mailto:licensing@darlington.gov.uk)  
Your Reference :  
Our Reference : DL15/01880/VARDPS  
Document Name:

Dear Mr. Sriskantharajah

#### LICENSING ACT 2003

#### TRO FOOD AND WINE, 34 HIGH NORTHGATE, DARLINGTON, DL1 1UW

On 16 March 2016 a complaint was received from a member of the public, who stated at approximately 8pm on the 14 March 2016 she attended your premises and was verbally abused and threatened by a male who she has described as very inebriated and slurring. It was further added that the male had been served alcohol while in your premises and following the confrontation between the complainant and the male you removed the alcohol you had just sold to the male and refunded the money. This incident was captured on your internal CCTV system. Durham Constabulary was also contacted at the time of the incident.

Following a visit to your premises where I attended with an Officer from Durham Constabulary a request for CCTV footage of the incident was made. Additionally during this visit you informed me that the male was a known alcoholic but when he attended your premises he was not intoxicated. You produced the CCTV footage to the Council on 12 April 2016.

The CCTV footage clearly shows the incident and confirms that you removed the alcohol from the male. However the footage does not show if the male is intoxicated, his behaviour does not indicate he is intoxicated, so the complainant was requested to make a formal statement to the Council.

To date we have not received a formal statement from the complainant and have decided that no further action will be taken in this instance. I would advise you that if you have doubts/concerns in making a sale to a customer, it would be better to refuse the sale, than making a sale and then trying to take the goods back and offering a refund.

I will also take this opportunity to remind you that under Section 141 of the Licensing Act 2003 a person commits an offence if he knowingly sells or attempts to sell alcohol to a person who is drunk or allows alcohol to be sold to such a person.

Con't...../

The maximum sentence in relation to prosecution is an unlimited fine for each and every breach of the above Act. Where a review of the premise licence is instigated, the Members of the Licensing Committee have the power to take such steps as necessary to promote the licensing objectives.

I have every confidence that the above steps will not be necessary and you will operate and police the premises as per the requirement of the Licensing Act 2003.

I reserve the right to refer to the contents of this letter in any future investigations of a similar nature.

If you would like to discuss this matter, please do not hesitate to contact me on 01325 406392/405976

Yours sincerely

A handwritten signature in black ink, appearing to be 'BM', with a large, sweeping flourish extending to the right.

**Brian Murray**  
**Licensing Enforcement Officer**



## Representations on a Current Application for a Grant/Variation of a Premises Licence or Club Premises Certificate Under the Licensing Act 2003

Licensing, Town Hall, Feethams, Darlington. DL1 5QT Telephone: 01325 405888 Fax: (01325) 405983  
Web site: <http://www.darlington.gov.uk> Email: [licensing@darlington.gov.uk](mailto:licensing@darlington.gov.uk)

### 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 using 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 (Insert name)

**SGT 484 Caroline Dickenson**

Wish to make representation about the application for variation/grant for a premises licence/club premises certificate (delete as applicable)

#### PART 1 – PREMISES OR CLUB PREMISES DETAILS

Postal Address of Premises or Club Premises, or if none, ordnance survey map reference or description

**TRO Food and Wine  
34 High Northgate**

Post Town **Darlington**

Post Code **DL1 1UW**

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

**Tharmarajah SRISKANTHARAJAH**

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

**DL15/01880/VARDPS**

#### PART 2 – DETAILS OF PERSON MAKING REPRESENTATION

I am

Please Tick ✓

- |    |   |                          |
|----|---|--------------------------|
| 1) | any other person  | <input type="checkbox"/> |
| 2) | <b>a responsible authority (please complete (C) below)</b>                            | <b>X</b>                 |
| 3) | a member of the club to which this representation relates (please complete (A) below) | <input type="checkbox"/> |

**(A) DETAILS OF INDIVIDUAL MAKING REPRESENTATION (fill in as applicable)**

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

Surname

First Names

I am 18 years old or over Yes  (Please Tick)

Current Address	<input type="text"/>		
Post Town	<input type="text"/>	Post Code	<input type="text"/>

Daytime contact telephone number

E-mail address (optional)

**(B) DETAILS OF OTHER PARTY MAKING REPRESENTATION (e.g. Body or Business)**

Name and Address	<input type="text"/>
------------------	----------------------

Telephone Number (If any)

E-Mail address (optional)

**(C) DETAILS OF RESPONSIBLE AUTHORITY MAKING REPRESENTATION**

Name and Address	<b>Sgt 484 Caroline DICKENSON</b> <b>Durham Police</b> <b>Darlington Police station</b> <b>St Cuthbert's Way</b> <b>Darlington</b>
------------------	--

Telephone Number (If any)

E-Mail address (optional)

This representation relates to the following licensing objective(s)

Please ✓ one or more boxes

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

**Please state the ground(s) for representation.** (please read guidance note 1)

The police are objecting to the proposed change of DPS from Helen SMITH to Tharamarajah SRISKANTHARAJAH under the prevention of crime and disorder.

On the 19th February 2015 the proposed DPS and his brother and staff member Elango Tharmarajaha were arrested on suspicion of Handling Stolen Goods. The stolen goods were a number of bottles of alcohol which were being offered for sale in the premises, whilst investigating this offence it was established Tharamarajah SRISKANTHARAJAH was carrying out licensable activity other than in accordance with his premises licence, i.e. the sale of alcohol outside of your permitted hours.

Following a trial Tharamarajah SRISKANTHARAJAH was found guilty of both offences on 25/08/2015 and was sentenced to a 12 month community order.

Following the convictions and numerous other problems at the premises a review of his premise licence was applied for by Durham Constabulary and at a meeting of the Licensing Sub Committee on 09 November 2015 Members decided to remove Tharamarajah SRISKANTHARAJAH as the Designated Premises Supervisor and to suspend your premises licence until such time as an appropriate DPS has been identified and approved by the Police or for a period of 3 months, whichever is the lesser time frame.

Due to his recent convictions for handling stolen goods which was in relation to alcohol, the conviction for unlicensed activity, the fact he is still on a community order and that he was removed as DPS only in November 2015, I do not feel that he is a fit and proper person to be the DPS of premises and effectively promote the licencing objectives.

**Please provide as much information as possible to support the representation.**

(Please read guidance note 2)

Have you made a representation relating to the premises before

If yes please state the date of that application

D	D	M	M	Y	Y	Y	Y
		1	0	2	0	1	5

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

#### GROUNDS FOR REVIEW

The Applicant is seeking a review of the premises licence for TRO Food & Wine Shop at 34 High Northgate, Darlington to address concerns relating to the prevention of crime and disorder, public safety and the protection of children from harm objectives in the Licensing Act 2003.

The Premises Licence Holder (PLH) and Designated Premises Supervisor (DPS) is Mr. Tharmarajah Sriskantharajah.

There have been a number of incidents at this premises that have given rise to concern. These have included failures to implement the Challenge 25 Scheme, inadequate CCTV coverage, sales of alcohol outside of licensing hours, sales of alcohol to drunk customers, allowing customers to take alcohol without payment, failure to maintain a training register and refusals register and so on. In addition to the above the DPS and a staff member have also been charged with Handling Stolen Goods arising from suspected stolen alcohol for sale in the premises. This criminal case, which is presently ongoing before the Criminal Courts, is due to go to trial on the 22nd July 2015. All in all there has been a catalogue of failures to adhere to the standard expected of a licensee leading to the Applicants position that the existence of this licence is undermining the licensing objectives.

On the 19th February 2015 the DPS and his brother and staff member Elango Tharmarajaha were arrested on suspicion of Handling Stolen Goods. The stolen goods were a number of bottles of alcohol for sale in the premises. Some of these bottles were believed to have been stolen from W M Morrisons, Darlington. The DPS and his brother have entered not guilty pleas and are awaiting trial.

On the 19th February 2015 the premises CCTV was seized. Upon viewing the footage it was noted that there was only 15 days footage instead of the required 28 days. For those 15 days, the footage did not cover all of the hours that the premises were open for licensable activities. In addition certain cameras covering the till area and the rear of the premises appear to have been turned on or off on certain days and times.

On the 10th February 2015 at 15.10hrs two young males are seen to enter the store and select a number of cans of lager. It is apparent from the CCTV that they should have been challenged under the Challenge 25 Scheme yet no challenge appears to be made by the DPS and the alcohol is sold. Then later that day a young female who should be challenged is also able to purchase alcohol without producing any identification.

On the 3rd February 2015 the DPS is seen selling alcohol to a male so intoxicated that he staggers into the shop and struggles to pay for the alcohol and then to put his change in his pocket. At a later incident on the 10th March 2015 Temporary Sgt Dickenson and Helen Sefton, Licensing Enforcement Officer, are present when the DPS sells a bottle of cider to an intoxicated male. When the DPS is asked about serving to intoxicated persons he said the customer was one of those people who was always like that and just needed a drink.

On a number of dates the DPS and his brother are seen on the CCTV footage allowing different customers to take alcohol without any payment. This is seen taking place on the 6th February 2015, the 7th February 2015, 8th February 2015, 10th February 2015 and 11th February 2015. On the 6th February a female is seen to show Elango Tharmarajah four DVDs from insider her coat before helping herself to alcohol. On certain occasions the both the DPS and his brother are seen to write in a book when customers take alcohol without payment.

In addition to the above concerns the DPS and his brother have recently lost their Camelot "scratch card" machine after admitting they have been dishonest in relation to the "scratch cards", using them to fund the business and due to a gambling problem.



**Part 3 – Signatures** (Please read guidance note 3)

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

**Signature**  **Date**

**Capacity**

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

<b>Post Town</b>	<input type="text"/>	<b>Postcode</b>	<input type="text"/>
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**Telephone number (if any)**

**Email address (optional)**

**Notes for Guidance**

1. The ground(s) for representation 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 representation, if applicable.
3. The representation form must be signed.
4. A representative'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 representation.
6. Information on the Licensing Act 2003 is available at [www.darlington.gov.uk](http://www.darlington.gov.uk) and you are advised to read any relevant guidance leaflets before completing this form.