



DARLINGTON

Borough Council

Licensing Act 2003 Sub Committee Agenda

9.30 am

Tuesday, 8 October 2024

Council Chamber, Town Hall, Darlington

Members of the Public are welcome to attend this Meeting.

1. Election of Chair for the purpose of the meeting
2. Introductions/Attendance at Meeting
3. Declarations of Interest
4. Application to Review a Premises Licence - Bambudda –
Report of the Group Director of Services
(Pages 3 - 88)
5. Application to Review a Premises Licence - TAO Asian Street Food –
Report of the Group Director of Services
(Pages 89 - 182)

Luke Swinhoe
Assistant Director Law and Governance

Monday, 30 September 2024

Town Hall
Darlington.

Membership

Councillors Curry, Kane and K Nicholson

If you need this information in a different language or format or you have any other queries on this agenda please contact Hannah Miller, Democratic Officer, during normal office hours 8.30 a.m. to 4.45 p.m. Mondays to Thursdays and 8.30 a.m. to 4.15 p.m. Fridays Email: hannah.miller@darlington.gov.uk or telephone 01325 405801

LICENSING ACT 2003 SUB COMMITTEE

8 OCTOBER 2024

APPLICATION TO REVIEW A PREMISES LICENCE

Purpose of Report

1. To invite Members to consider an application from Home Office (Immigration Compliance and Enforcement) to review a premises licence on the grounds that the prevention of crime and disorder licensing objective has been undermined.

Background Information

2. Attached to this report are the details of the application to review the premises licence of Bambudda, Gladstone Street, Darlington, DL13 6JU.
3. Members are requested to determine this application and provide reasons for their decision.

Legal Implications

4. The Borough Solicitor, in accordance with the Council's approved procedures, has considered this report and there are no issues that the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

Human Rights Act

5. When considering matters relating to the grant, suspension, revocation or refusal of licences and the placing of conditions on licences, the Committee must consider whether the decision affects an individual, group or company's Human Rights as set out in the Convention and if it does, whether the interference with those rights is permissible by reason of the justifications set out in the Convention. In addition consideration must be given to whether the interference is proportionate

Section 17 of the Crime and Disorder Act 1998

6. One of the four Licensing Objectives of The Licensing Act 2003 is the prevention of crime and disorder. The attached report makes reference to this.

Recommendation

7. Members are requested to determine the application in accordance with Section 52 of the Licensing Act 2003.

Dave Winstanley
Group Director of Services

Background Papers

The Licensing Act 2003

Darlington Borough Council's Licensing Policy

Guidance issued under Section 182 of the Licensing Act 2003

The Licensing Act 2003 (Hearings) Regulations 2005

Immigration Act 1971

Home Office Guidance - Preventing illegal working in licenced premises

Colin Dobson

Extension: 405988

FOR CHAIR AND MEMBERS
OF THE LICENSING ACT 2003 SUB COMMITTEE
8 October 2024

**APPLICATION TO REVIEW PREMISES LICENCE ON THE GROUNDS OF THE PREVENTATION
OF CRIME AND DISORDER**

Licence holder Bambudda Darlington Ltd **Ref No:** LAPREM00070
111 High Street,
Edgware,
Middlesex HA8 7DB

Premises: Bambudda
Gladstone Street,
Darlington,
DL3 6JU

Licensable Activities:

Sale by Retail of Alcohol - On premises (Indoors)
Every Day 10:30 - 00:00

Performance of Live Music (Indoors)
Monday to Saturday 17:00 - 00:00
Sunday 17:00 - 23:00

Playing of Recorded Music
Monday to Saturday 11:00 - 00:00
Sunday 12:00 - 23:00

Late Night Refreshment
Monday to Saturday 23:00 - 00:00

**Provision of Facilities for entertainment similar to Making Music or
Dancing**
Monday to Saturday 11:00 - 00:00
Sunday 11:00 - 23:00

Premises opening Times 10.30 to 00.30 Every Day

Home Office Application Review of Premises Licence on the grounds of Crime and Disorder

Notification to Responsible Authorities/Other Persons:

Home Office (Immigration Compliance and Enforcement) has served notice of this application to the following:

Environmental Health
Durham Constabulary
Planning
The Licence Holder
Darlington Safeguarding Partnership

Chief Fire Officer
Trading Standards
Public Health
The Licensing Authority

Information on the Premises: 22 August 2024
Information on Council's web site: 22 August 2024

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 Premises Licence transfer application was made the applicant described the premises as:

"Restaurant and Bar."

PURPOSE OF REPORT

To invite Members to consider an application for a review of the Premises Licence submitted by the Home Office (Immigration Compliance and Enforcement) based on the grounds that it undermines the prevention of the crime and disorder objective.

Members are requested to consider any appropriate action, which may include revocation of the licence.

BACKGROUND OF THE PREMISES

Prior to the current licence holder being granted the licence in July 2021, this premises had operated as a nightclub/bar under such names as Rio and Indabar. When it closed as a nightclub/bar it later re-opened as a restaurant called China Red. The last inspection by

Licensing of China Red was in 2017 and it is believed the business was not trading for some time before an application was made to transfer the licence.

On 10 July 2021 Bambudda Darlington Ltd made an application to transfer the premises licence. At the same time, an application was made by Benjamin Hin Ho Wu, the sole director of Bambudda Darlington Ltd, to be Designated Premises Supervisor (DPS) for the premises. Relevant Responsible Authorities were consulted and no objections were made to the transfer.

On 19 July 2021 the licence was transferred to Bambudda Darlington Ltd, with Benjamin Hin Ho Wu named as the DPS. The licence was subject to a number of mandatory conditions and bespoke conditions transferred from the previous licence. A copy of this licence is at **Appendix 1**.

APPLICATION TO REVIEW THE PREMISES LICENCE

On 21 August 2024 an application was properly made by Home Office (Immigration Compliance and Enforcement) as a Responsible Authority, to review this premises licence under Section 51 Licensing Act 2003 on the grounds that the crime and disorder objective had been undermined. Responsible Authorities were notified and a review notice was prominently displayed on the premises. A copy of the displayed notice is at **Appendix 2**. Further information was also available on Darlington Borough Council's licensing webpage where all consultations are published.

In summary, on 3 July 2024, the North East Immigration Compliance and Enforcement (ICE) team visited Bambudda following intelligence that the premises was employing illegal workers. Entry to the premises was gained at around 6.09pm and other Responsible Authorities accompanied them during the visit.

Officers encountered five people working in the kitchen of the premises, of which three were identified as having no lawful right to reside in the UK, and therefore working illegally. A referral has since been made to the Civil Penalty Compliance Team in relation to their illegal working. At the time of reporting, the civil penalty outcome is still outstanding.

It is also of note that a simultaneous visit to a second premises in Darlington by another enforcement team took place and those premises were also under the control of the Benjamin Wu.

He was subsequently interviewed by an ICE Officer where he was described as being obstructive and un-cooperative, refusing to sign documents and leaving abruptly during questioning.

Section 36 and Schedule 4 of the Immigration Act 2016 amended the Licensing Act 2003 to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017. The intention was to prevent illegal working in premises licensed for the sale of alcohol or late-night refreshment. The Home Office has requested that the premises licence be revoked to reflect the serious nature of this issue.

The review application is at **Appendix 3** and a comprehensive Premises Licence Review pack (redacted) has been provided by the Home Office, which is at **Appendix 4**.

REPRESENTATIONS

During the statutory consultation period Durham Constabulary made representations in support of the Home Office review application. They made reference to Benjamin Wu and his suitability to manage the premises as Designated Premises Supervisor and his links to the premises licence through Companies House. They also expressed concerns of him trying to circumvent the review process by attempting to transfer the licence to another company established after the visit by ICE Officers.

Police highlighted in their response that the second premises visited simultaneously by ICE Officers is inextricably linked through various registered companies and the people involved in their management. The two premises cannot be looked at in isolation as there is clear evidence of joint enterprise in their operation.

The police response (redacted) is produced at **Appendix 5**.

NOTIFICATION

The Licence Holder, Home Office and Police have been issued with a notification to attend this hearing and provided with details of the hearing procedures in accordance with Regulations 6 and 7 of the Licensing Act 2003 (Hearings) Regulations 2005. A copy of these notices are at **Appendix 6**.

THE LICENSING POLICY

Members are referred to the following relevant sections of the Council's Licensing Policy which are reproduced at **Appendix 7**

Section 1.2 – 1.3	Purpose
Section 6 – 7.3	Premises licence and impact of licensable activities
Section 11.3 to 11.5	Steps to address Crime and Disorder

A full copy of the policy will be accompany this report for Members to refer to.

THE GUIDANCE

Members are referred to the Secretary of State's Guidance in relation to the prevention of crime and disorder and the review process. A full copy of the relevant guidance is provided in this review pack and the relevant sections of the Guidance are reproduced at **Appendix 8**.

ADDITIONAL INFORMATION

Members should note that Home Office Immigration Compliance and Enforcement Officers are protected in law from revealing their identities for the purpose of a review.

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. Exclude a licensable activity from the scope of the licence.
3. To remove the Designated Premises Supervisor, for example, because they consider that the problems are the result of poor management.
4. To suspend the entire licence for a period not exceeding 3 months.
5. To revoke the licence.
6. 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 above. Members are reminded that any such conditions should not duplicate existing legislation.

Members are further reminded that any party to the review who is aggrieved at the decision of the Licensing Act Sub Committee (i.e. Premises Licence Holder or Home Office) may appeal the decision to the Magistrates Courts. In the event of such appeal any determination by the Sub Committee will not take effect until the appeal is disposed of.

Contact Officer: Colin Dobson x 5988

Dave Winstanley
Group Director of Services

Appendix 1 – Premises Licence

Appendix 2 – Notice of Review

Appendix 3 – Review Application

Appendix 4 – Review Pack (Redacted)

Appendix 5 – Police Representation (Redacted)

Appendix 6 – Request to attend hearing

Appendix 7 – Extracts from policy

Appendix 8 – Extracts from Section 182 Guidance

**For admin use only:
Sub Committee Decision:**

Date of Sub Committee:

Reasons:



Licensing Act 2003 – Part A

PREMISES LICENCE – LAPREM00070

Premise Details: **Bambudda**
Gladstone Street DARLINGTON DL3 6JU

Date Granted: **19 July 2021** Duration of Licence: **Not Time Limited**

Licensable Activities

Activity	Days of Week	Open	Close
Sale by Retail of Alcohol - On premises (Indoors)	Every Day	10:30	00:00
Performance of Live Music (Indoors)	Monday to Saturday	17:00	00:00
	Sunday	17:00	23:00
Playing of Recorded Music	Monday to Saturday	11:00	00:00
	Sunday	12:00	23:00
Late Night Refreshment	Monday to Saturday	23:00	00:00
Provision of Facilities for entertainment similar to Making Music or Dancing	Monday to Saturday	11:00	00:00
	Sunday	11:00	23:00
Opening Hours	Every Day	10:30	00:30

Non Standard Times

The Sale of Alcohol, provision of recorded music and entertainment similar to provision of making music or dancing shall be restricted on Good Friday and Christmas Day as follows:

Alcohol - 12:00 to 23:30 both days

Recorded Music - 12:00 to 23:00 Good Friday and 12:00 to 23:30 Christmas Day

Live Music - 17:00 to 23:00 Good Friday and 17:00 to 23:30 Christmas Day

The provision of Late Night Refreshment shall be provided from the end of any day which is 31/12 until 5am on New Year's Day.

The Sale of Alcohol and regulated entertainment specified in this licence may be provided from the end of the specified finish times on any day which is New Year's Eve to the beginning of the start times on the following day (New Year's Day).

Premises Licence Holder: **Bambudda Darlington Ltd**
111 High Street
Edware Middlesex HA8 7DB

Details of designated premises supervisor where the premises licence authorises for the supply of alcohol

Name:	Benjamin Hin Ho Wu
Licence Number:	LN/199316488
Licensing Authority:	Harrowgate Borough 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 responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.**
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—**
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—**
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or**
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);**
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;**
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;**
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;**
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).**
- 4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.**
- 5. (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.**
- 6. The responsible person must ensure that—**
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—**

- (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available
7. 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.
8. For the purposes of the condition set out at 7 —
- 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—
$$P = D + (D \times V)$$
 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;
 - d) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
9. Where the permitted price given by Paragraph (b) of paragraph 8 would (apart from the paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 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.
 - (2) 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

1. There shall be no inclusive drinks promotions at any time or any other promotion which encourages irresponsible or immoderate drinking.
2. The current CCTV system installed in the premises, shall be fully maintained and in operation at all times the premises are open to the public. Tapes shall be securely stored for a maximum of 31 days and produced on request of Police or Authorised Officer.
3. A drugs policy which has been approved by the Licensing Authority and Durham Constabulary will be implemented at all times when the premises are open for licensable activities.
4. An incident book shall be kept on the premises and all incidents of Crime and Disorder shall be recorded within.
5. The external door shall remain closed when regulated entertainment takes place, apart from normal ingress and egress.
6. Children under the age of 18 years shall not be permitted on the premises unless accompanied by an adult.

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

NONE

PREMISES LICENCE GUIDANCE

1. Your Premises Licence has been granted and is enclosed.
2. The annual fee is due on the anniversary of its grant, unless you are exempt (e.g. community premises). Please ensure that the annual fee is paid on time.
3. Your Premises Licence has been granted for an unlimited period of time and is subject to the conditions mentioned in the licence.
4. You must ensure that the Premises Licence, or a certified copy of it, is kept at the premises in the custody or under the control of yourself or a person (“the nominated person”) who works at the premises and whom you have nominated in writing for these purposes. A person commits an offence if he or she fails, without reasonable excuse, to comply with these requirements. The maximum fine is £500 on conviction.
5. You must ensure that a Summary of the Premises Licence, or a certified copy of that Summary, is prominently displayed at the premises. If you have nominated a person (“the nominated person”), under 4 above, you must prominently display at the premises a notice specifying the position held at the premises by that person. A person commits an offence if he or she fails, without reasonable excuse, to comply with these requirements. The maximum fine is £500 on conviction.
6. A Police Constable or an Authorised Person may require the holder of the Premises Licence or the nominated person to produce the Premises Licence, or a certified copy of it, for examination. A person commits an offence if he or she fails, without reasonable excuse to comply with these requirements. The maximum fine is £500 on conviction.
7. Where a Premises Licence or Summary is lost, stolen, damaged or destroyed, the holder of the licence may apply to the Council for a copy of the licence or Summary. A fee of £10.50 is payable.
8. Subject to reinstatement in certain circumstances, a Premises Licence lapses if the holder the licence dies, becomes mentally incapable, becomes insolvent, or is dissolved.
9. Where the holder of a Premises Licence wishes to surrender their licence they may give the Council notice to that effect. The notice must be accompanied by the Premises Licence or, if that is not practicable, by a statement of the reasons for the failure to provide the licence. The Premises Licence lapses on receipt of the notice by the Council.
10. The holder of a Premises Licence must, as soon as reasonably practicable, notify the Council of any changes in:
 - Name and address
 - Name and address of the Designated Premises Supervisor (unless that Supervisor has already notified the Council)

The notice must be accompanied by the Premises Licence or, if that is not practicable, by a statement of the reasons for the failure to provide the licence. The Premises Licence lapses on receipt of the notice by the Council. A fee of £10.50 is payable.

A person commits an offence if he or she fails, without reasonable excuse, to comply with these requirements. The maximum fine is £500 on conviction.

11. The holder of a Premises Licence may apply to the Council at any time for variation of the licence. Amongst other things, an application form will need to be completed, a fee will need to be paid and the application will need to be advertised and served on the Responsible Authorities. Please contact the Council for an application form and a guidance leaflet on how to apply for a variation. Please note that a Licence may not be varied to extend the period for which a licence has effect, or to vary substantially the premises to which it relates – in those cases an application for a new Premises Licence will need to be made; please contact the Council for further details.
12. The holder of a Premises Licence may, if the licence authorises the supply of alcohol (or if it is intended to vary a licence so that it authorises the supply of alcohol), apply to vary the licence so as to specify the individual named in the application as the Designated Premises Supervisor. Amongst other things, an application form will need to be completed, a fee will need to be paid and the notice of the application must be given to the Police. It is possible for the applicant to ask for such a variation to have immediate effect on an interim basis. Please contact the Council for an application form and guidance leaflet on how to apply for a variation.
13. The Premises Licence may be transferred following an application made to the Council for a transfer of the Licence. Amongst other things, an application form will need to be completed, a fee will need to be paid and notice of the application must be given to the Police. It is possible for the applicant to ask for a transfer to have immediate effect on an interim basis. Please contact the Council for an application form and a guidance leaflet on how to apply for a transfer.
14. Where a Premises Licence has effect, and Interested Party or a Responsible Authority may apply to the Council for a review of the licence. You will be notified if an application is made to review your Premises Licence and you will have the opportunity to make representations about a review and to attend before the Council's Licensing Committee.
15. Your attention is drawn in particular to Part 7 of the Licensing Act 2003 which concerns offences under the Licensing Act 2003.

**LICENSING ACT 2003
APPLICATION FOR REVIEW OF PREMISES LICENCE**

PREMISES NAME: Bambudda

PREMISES ADDRESS: Gladstone Street
Darlington
DL3 6JU

Notice is hereby given that Darlington Borough Council has received from Home Office on 21 August 2024, an application for a review of the Premises Licence in respect of the above-named premises.

Grounds of Review

This review has been prompted due to concerns relating to Crime and Disorder objective of the Licensing Act 2003.

This Notice must be displayed on the premises for a minimum of 28 days, commencing from the day after the date the request for review was submitted to the relevant authority, this being Darlington Borough Council, Licensing Section, Town Hall, Darlington, DL1 5QT.

Anyone wishing to make representations/comments regarding this review must do so in writing to Darlington Borough Council by;

18 September 2024

Grounds for the review may be inspected at the office stated above or by visiting: www.darlington.gov.uk

It is an offence, knowingly or recklessly, to make a false statement in connection with an application and the maximum fine of £20,000 for which a person is liable on summary conviction for the offence.

This page is intentionally left blank

Licensing Authority: Darlington Borough Council
By email: licensing@darlington.gov.uk

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 Home Office Immigration Enforcement

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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Bambudda Gladstone Street	
Post town Darlington	Post code (if known) DL3 6JU

Name of premises licence holder or club holding club premises certificate (if known) Bambudda Darlington LTD
--

Number of premises licence or club premises certificate (if known) LAPREM00070
--

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)

Please tick ✓ yes

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

Surname

First names

I am 18 years old or over

Please tick ✓ yes

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Home Office Immigration Enforcement Alcohol Licensing Team Lunar House 40 Wellesley Road Croydon CR9 2BY
Telephone number (if any)
E-mail address (optional) IE.Alcoholreviews@homeoffice.gov.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)

Grounds for review:

We have grounds to believe the license holder has failed to meet the licensing objectives of prevention of crime and disorder, as illegal working has been identified at this premises.

Section 36 and Schedule 4 of the Immigration Act 2016 (the 2016 Act) amended the Licensing Act 2003 (the 2003 Act) to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017. The intention is to prevent illegal working in premises licensed for the sale of alcohol or late-night refreshment.

The Home Secretary (in practice Home Office (Immigration Enforcement)) was added to the list of Responsible Authorities (RA) in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences and applications to vary a Designated Premises Supervisor (DPS)), and in some limited circumstances personal licence applications. In carrying out the role of responsible authority, Home Office (Immigration Enforcement) is permitted to make relevant representations and objections to the grant of a licence or request a review of an existing licence as a responsible authority where there is concern that a licence and related licensable activity is prejudicial to the prevention of immigration crime including illegal working.

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

Please refer to accompanied review pack for detailed information.

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
<input type="text"/>	<input type="text"/>	<input type="text"/>

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

yes

Please tick ✓

- 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, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

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 K Sooriyaarachchi
.....

Date 21 August 2024
.....

Capacity Responsible Authority
.....

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

Alcohol Licensing Team
Lunar House
40 Wellesley Road

Post town

Croydon

Post Code

CR9 2BY

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) IE.Alcoholreviews@homeoffice.gov.uk

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

This page is intentionally left blank



Home Office

Premises Licence Review

Bambudda
Gladstone Street
Darlington
DL3 6JU

Contents

Case Summary	3
Licensed Premises History	4
Enforcement Visit: 03 July 2024	5
Reasons for Review	10
Outcome Sought	12
Appendix A – Supporting Evidence	13

Case Summary

On 03 July 2024, the North East Immigration Compliance and Enforcement (ICE) team visited Bambudda Darlington, 67 Gladstone Street, Darlington, North East, DL3 6JU, after intelligence was received that the premises is employing illegal workers. Entry to the premises was gained at approximately 18:09hrs. Other responsible authorities were present during the visit.

The officers encountered five persons working in the premises' kitchen of which three were identified as having no lawful right to reside in the UK and therefore being illegal workers.

A referral has been made to the Civil Penalty Compliance Team in relation to the illegal working. The civil penalty outcome is still outstanding.

It is pertinent to note that another enforcement visit was conducted simultaneously at second premises under the control of the same license holder.

Licensed Premises History

The premises licence number is LAPREM00070, and held by Bambudda Darlington LTD. The Designated Premises Supervisor (DPS) is detailed as Benjamin Hin Ho WU.

Bambudda Darlington Limited shows on Companies House with reference 13254334, it was incorporated on 09 March 2021, it is currently active, and Benjamin Hin Ho WU was appointed director on 09 March 2021.

The premises is licensed for the sale of alcohol, provision of recorded music and entertainment similar to provision of making music or dancing. Details as follow:

Sale by Retail of Alcohol – On Premises (Indoors)

Every Day: 10.30 until 00.00

Performance of Live Music (Indoors)

Monday to Saturday 17.00 until 00.00

Sunday 17.00 until 23.00

Playing of Recorded Music

Monday to Saturday 11.00 until 00.00

Sunday 12.00 until 23.00

Late Night Refreshment

Monday to Saturday 23.00 until 00.00

Provision of Facilities for entertainment similar to Making Music or Dancing

Monday to Saturday 11.00 until 00.00

Sunday 11.00 until 23.00

Enforcement Visit: 03 July 2024

Entry to the premises was gained at approximately 18:09hrs. Upon entering, immigration officers encountered a total of five person working in the premises kitchen of which three were suspected to be immigration offenders. All interviews were conducted in Mandarin using the assistance of an interpreter, all individuals had the opportunity to review their answers and signed to confirm they had understood and provided true information.

██████████

██████████ was encountered sat at a table in the restaurant area. CCTV footage showed ██████████ was leaving the kitchen along with two other people, and re-entering from the restaurant area where she sat at a table pretending to be a customer. When immigration officers questioned why ██████████ pretended to be a customer she replied 'Sorry I was afraid. It was the 1st time I have tried to get work.'

During the illegal working interview conducted with ██████████ she stated that she had been working at Bambudda for a couple of months as kitchen assistant. She worked 6 days per week from 1pm to 8/9pm and that she found the job by herself on the internet. When questioned about payment, ██████████ was evasive saying that she was on trial and didn't receive a payment yet but then she admitted being paid in cash approximately £50 per day and that she was given food. She didn't know who paid her and she didn't have a national insurance number. She was aware of not paying taxes and acknowledged of not having lawful status and therefore didn't know how to pay taxes.

When questioned about the employer, ██████████ stated that who recruited her didn't know her name, she was called 'auntie'. She stated they she didn't show them any documentation and that she is not sure they know they she doesn't have the right to work or if checks were done on her right to work or status in the UK.

When questioned about being at the premises, ██████████ stated that she was at the restaurant as a customer to have a meal and to meet a friend. She denied knowing the people sited with her at the table and said that she sat with them because she didn't know what to do when she saw the immigration officers. ██████████ stated that she had no friends at the restaurant and that the people managing the restaurant were not the same people who brought her to the UK.

Home Office checks showed no trace of ██████████ lawfully entering the UK or of any attempts to regularise her status. ██████████ has never had status in the UK and therefore she was served with immigration bail and detained. Following the enforcement visit, she declined a voluntary departure's offer and claimed protection. Her claim is currently outstanding.



Photograph of [REDACTED] wearing an uniform when she was encountered at Bambudda.

██████████

██████████ was encountered sat at a table in the restaurant area restaurant area. CCTV footage showed that ██████████ was one of the people that left the kitchen via the rear and re-entered the restaurant and sat at a table pretending to be a customer. Officers also noted that ██████████ shoes were covered in food debris.



Photograph of ██████████ shoes covered in food debris.

An illegal working interview was conducted with ██████████. He stated that he entered the UK in 2015 using a fraudulent passport. ██████████ admitted that he never attempted to regularise his status in the UK, he was aware of being an illegal immigrant and that he had been doing casual job mainly in restaurants kitchens. ██████████ stated that he was at Bambudda restaurant that day for the first time due to a trial for a potential job. CHEN stated that the owners did not want to employ him when he informed them, he had no valid leave in the UK. Despite this he wanted to show them his skills and potential. ██████████ was unsure if he would be paid for the trial.

When questioned about the keys found in his pocket, ██████████ stated that the keys were for a place in Birmingham where he was planning to return. He also didn't know why these were the same keys held by the other person arrested. When questioned about where he lived, ██████████ now stated that he was homeless and that he had a place in Birmingham until the day before. However, during the simultaneous visit to the flat above the linked business TAO Asian, it was noted that the flat keys were the same as the keys found on ██████████.

Home Office checks showed that ██████████ came to light on 15 January 2015 when, encountered by immigration officers, he stated that he had entered the UK illegally in April 2010 hidden under a lorry driver's seat. After being served illegal entry notice, he

had been absconding until the visit at Bambudda restaurant. ██████ has never had status in the UK and therefore he was served with immigration bail and detained. Following the enforced visit, ██████ declined a voluntary departure's offer and claimed protection. His claim is currently outstanding.

████████████████████

█████ was encountered was encountered sat at a table in the restaurant area restaurant area. CCTV footage showed that ██████ was one of the people that left the kitchen via the rear and re-entered the restaurant and sat at a table pretending to be a customer. ██████ clothing was covered in food debris.



Photograph of ██████ shoes and trousers covered in food debris

An illegal working interview was conducted with ██████. He stated that he entered the UK by plane in the summer 2023, using a passport in someone else name. This passport was given to him in China, and someone took it away once in the UK. He travelled from China to Africa, then Italy and finally UK. ██████ did not know which airport in the UK he landed on. He met someone at the airport, who helped me to take a taxi to London, and this person paid for the taxi ride. The journey took several hours.

█████ stated that he did not encounter an immigration officer at the airport and that he was not sure to have a visa permit on his passport as someone else booked his

ticket. He confirmed that he never attempted to regularise his status in the UK and that he had been supporting himself doing cash only jobs.

██████ admitted that he lived above a restaurant but not the Bambudda restaurant where he was arrested. He was evasive about the restaurant's name, but he admitted that his room was the one where a large sum of cash was found. Later, at the same question, he stated to be homeless, not to have belongings and to live in Newcastle on the street.

██████ stated that he was at the Bambudda restaurant that day as he was walking past and stopped to eat something. As he did not hold cash, one of his friends was meeting him at the premises and paying for his meal. He could not explain why his clothes were dirty with food debris and denied attempting to leave the restaurant after seeing immigration officers. ██████ stated that he went in the kitchen to look for something and denied working at the premises. He also stated that he didn't know the business owner.

Home Office checks showed no trace of ██████ lawfully entering the UK or of any attempts to regularise his status. ██████ has never had status in the UK and therefore he was served with immigration bail and detained. Following the enforcement visit, he declined a voluntary departure's offer.

Benjamin Hin Ho WU - Employer

Benjamin WU is detailed as Bambudda Darlington Limited's appointed director since 09 March 2021, and as Designated Premises Supervisor (DPS).

An illegal working interview was conducted with WU. He stated to be the business's manager and that the company owning the business is called Bambudda. When questioned about the three illegal workers arrested at the premises, WU stated that he didn't know them. WU stated that sometimes the kitchen staff deals with recruitment and that this may have been the case with the three illegal workers encountered. WU possessed copies of paperwork for his staff that were British nationals but no records for the three persons arrested.

The immigration officer described WU as obstructive and uncooperative during the interview, he also refused to sign the declaration and left abruptly during questioning.

Reasons for Review

Section 36 and Schedule 4 of the Immigration Act 2016 amended the Licensing Act 2003 to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 06 April 2017. The intention is to prevent illegal working in premises licensed for the sale of alcohol or late-night refreshment.

Three illegal workers were encountered at Bambudda Darlington, out of a total of five staff members working in the restaurant's kitchen. Whilst the immigration officers were held at the entrance, seeking for permission to enter the premises, the three individuals attempted to leave the premises from the kitchen rear through the fire door. This was captured on the CCTV system when checked by officers.

The three people were all found to not holding lawful right to reside in the UK.

The DPS for the premises was uncooperative and evasive during the interview. He claimed not to know the three members of staff arrested, nor who employed them. In this case, the license holder had demonstrated an awareness and understanding of the processes and responsibilities to conduct checks but had overlooked the rules and laws in place to prevent crime and disorder. The license holder had copies of paperwork for the staff that were British nationals but no records for the illegal workers. Therefore, it is considered that the license holder had a two-tier system for employing staff. The license holder was complicit in allowing employees with no right to work on the premises.

Benjamin Hin Ho WU is also the owner of Tao Asian Street Food, where, during a simultaneous visit a further three illegal workers were found. The license holder has shown complete disregard for UK immigration laws by employing illegal workers.

Whether by negligence or wilful blindness, illegal workers were engaged in activity on the premises, yet it is a simple process for an employer to ascertain what documents they should check before a person can work. All employers are dutybound by law to conduct these checks, and guidance can be found on the GOV.UK website or by using a search engine. Additional information on how to conduct these checks is available online, this includes the Home Office's official YouTube page. The information is readily available; however, the license holder has overlooked the rules and laws in place to prevent crime and disorder.

It is an offence to work when a person is disqualified to do so, and such an offence can only be committed with the co-operation of a premises licence holder or its agents. It is also an offence to employ illegal workers where there is reason to believe this is the case. The use of illegal labour provides an unfair competitive edge and deprives the UK economy of tax revenue. Illegal workers are mostly paid in cash and National Insurance payments are not paid. It is also required to act as a deterrent to others who would otherwise seek an unfair competitive advantage, exploit workers, and deny work to the local community, evade the payment of income tax and (unlawfully) inflate their profits to the expense of others.

Section 182 guidance at point 11.27 states that certain activity should be treated particularly seriously, and this includes employing someone who is disqualified from that work by reason of their immigration status in the UK. 11.28 of the guidance states that it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Immigration Enforcement submits that for commercial reasons those engaged in the management of the premises employed illegal workers and a warning or other activity falling short of a review is inappropriate; therefore, Immigration Enforcement has proceeded to review.

Outcome Sought

The objective of the Licensing Act 2003 (the Act) is to provide a clear, transparent framework for making decisions about applications by individuals or businesses wishing to sell or supply alcohol or provide certain types of regulated entertainment and late-night refreshment.

There are four licensing objectives which underpin the Act, and which need to be taken into account and promoted throughout the licensing process.

The licensing objectives are:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance and
- the protection of children from harm

Bambudda Darlington under the control of Benjamin Hin Ho WU has been found employing illegal workers. This business has clearly failed to meet the prevention of crime and disorder objective. The license holder would have been aware of their responsibilities to uphold the licensing objectives as they are clearly defined as part of the premises license application.

Immigration officers found multiple employees working at the premises when they did not hold the right to do so. The license holder was uncooperative and left abruptly while being interviewed. This behaviour was disruptive and not fitting of a responsible license holder who should be cooperating with responsible authorities.

Immigration Enforcement asks that the premises licence is revoked. Given the severity of the offences, remedying the existing situation (for instance by the imposition of additional conditions or a suspension) is insufficient to act as a deterrent to the licence holder and other premises' licence holders from engaging in employment of employing illegal workers and facilitating disqualified immigrants to work illegally.

Appendix A – Supporting Evidence

Illegal Working-Employee [REDACTED]

QA [REDACTED]

Illegal Working-Employee [REDACTED]

QA [REDACTED]

Illegal Working-Employee [REDACTED]

QA [REDACTED]

QA [REDACTED]

QA [REDACTED]

Illegal Working-Employer Ben Wu [REDACTED]

Illegal Working - Employee					
Details					
Type of work	Visit				
Visit reference	██████████				
Created by	██████████				
ProntoID	██████████ - China				
Subject CIDPID/CEPR	Unknown				
Subject name	██████████				
Subject DOB	██████████				
Subject nationality	China				
Subject gender	Female				
Time	19:19				
Created at geolocation	<table style="width: 100%; border: none;"> <tr> <td style="width: 30%;">Easting</td> <td style="text-align: right;">428893</td> </tr> <tr> <td>Northing</td> <td style="text-align: right;">514927</td> </tr> </table>	Easting	428893	Northing	514927
Easting	428893				
Northing	514927				
Creation date	03-07-2024 19:19:54				
Language of Interview					
What language is the interview carried out in?	Mandarin				
Interpreter used?	Yes				
Details of interpreter	██████████				
Does the individual understand the interpreter?	Yes				
Obligation					
You have been viewed on CCTV in kitchen why were you in the kitchen if you were a customer?	Sorry I was afraid. It was the 1st time I have tried to get work.				
How long have you been working at this business?	Maybe a couple of months				
What is your job role/ what are your duties?	Like a kitchen assistant				
Do you work the same hours/ days every week?	Yes the same hours.				
on a normal day what time would you start work?	About 1pm and finish at 8 or 9 pm				
How many days a week do you work?	6 days				
What is your day off?	Tuesday				

Control	
Who gave you this job (name and role in business)?	I found the job myself on my phone on the internet.
Who tells you what days/ hours to work?	No one told me what to do. We just di what we are told to do
Who tells you what tasks/ duties to do each day?	No one told me what to do I know what to do.
Remuneration	
How are you paid (money, accommodation, food)?	I don't have accomodation. I get paid but not much and I get food.
If money, how much and how do you receive it?	I get paid in cash. I'm still on trial they haven't paid me yet. The money I have is from a friend. Yes, I said I don't get paid, but it's not a lot. I don't know how to answer this question.
Who pays you? is it [REDACTED] or someone else?	My boyfriend works there. I just went to visit him.
If money, how much and how do you receive it?	Cash not much £50 per day
Who pays you?	I don't know they leave the money on top of the cabinet and we pick our money when we leave.
Do you pay income tax or have a National Insurance number?	No I don't have a national insurance number and I don't pay tax. I know I should pay tax put I have no status and don't know how to pay it.
Pre-employment Checks	
What name does the employer know you as?	They don't know my name.
Do they call you auntie? When they went for your property they referred to you as auntie.	Yes
Did the employer check your right to work or immigration status before they offered you the job?	No I'm not sure they didn't adk
Did you show documents or share a code with the employer to prove your right to work before being offered the job? If so, what did you show and were they originals?	No I didnt show them
Does your employer know you're not allowed to work in the UK?	I don't know

Additional Questions


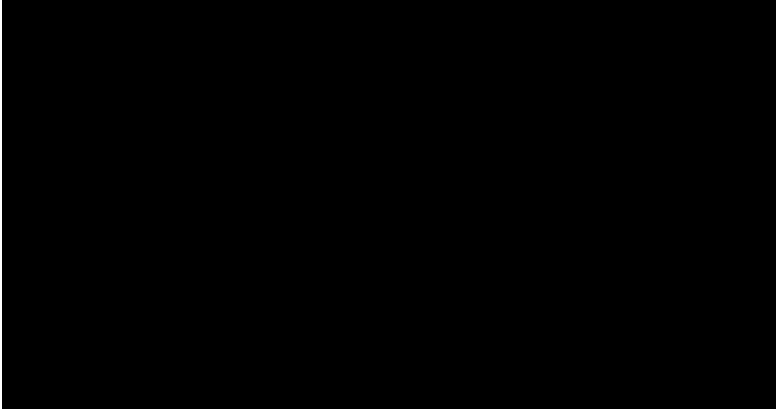
No details provided.

Photographs

No photographs.

Declaration

I confirm that I have understood all the questions and that the details are true and correct.

<p>Interviewee signature </p>	 <p>03-07-2024 20:48:25</p>
--	--

Observations

<p>Observations</p>	<p>Viewed on CCTV, leaving kitchen area and sitting in restaurant area with 2 other males that did the same.</p>
----------------------------	--

<p>Do you suspect this person of illegal working?</p>	<p>Yes</p>
--	------------

Photo 1



Caption

image of uniform

Q&A

Details

Type of work	Visit				
Visit reference	[REDACTED]				
Created by	[REDACTED]				
ProntoID	[REDACTED] - China				
Subject CIDPID/CEPR	Unknown				
Subject name	[REDACTED]				
Subject DOB	[REDACTED]				
Subject nationality	China				
Subject gender	Female				
Time	18:35				
Created at geolocation	<table border="0"> <tr> <td>Easting</td> <td>428893</td> </tr> <tr> <td>Northing</td> <td>514926</td> </tr> </table>	Easting	428893	Northing	514926
Easting	428893				
Northing	514926				
Creation date	03-07-2024 18:48:41				

Language of Interview

What language is the interview carried out in?	Mandarin
Interpreter used?	Yes
Details of interpreter	[REDACTED]
Does the individual understand the interpreter?	Yes

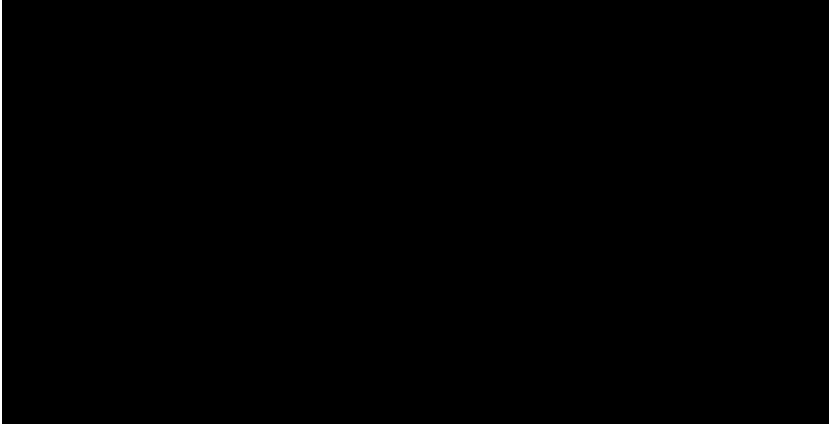
Q&A

How did you arrive in the UK?	I followed other people over and the last leg was by plane.
Did you use your own passport?	No the agent gave me documents.
What happened to the document you used?	The agent took them away.
What happened after you arrived in the UK?	I just followed people.
Why have you come to the UK?	I had problems with my marriage and there are things happening in China. I need protection.
Why have you not applied for asylum before now?	I didn't know how to and I heard the UK is a safe country to protect us.
Did you make the decision to come to the UK?	Because of the situation in China

Did anyone force you to travel to the UK?	No I came here because of my problems and I heard the UK was a safe place to be.
Where are you living?	I don't have a place to live.
Where have you been sleeping?	I stay under the bridge
How have you supported yourself financially whilst you have been in the UK?	All the money I have is in my pocket I dont know how to make money. I came here to meet friends.
Why were you in the restaurant today?	I came to eat.
Are you a customer who will pay for your meal or do you know people at the restaurant?	I pay like any other customer.
How much is a meal at the restaurant?	I haven't made a payment yet i was about to order. I was going to order what I could afford.
Where did the money that is in your pocket come from?	I was given it by a friend and it is all I have left.
who were the people you were sitting with at the restaurant?	I don't know I don't know them. When the police came I didn't know what to do so just came and sat with them
Do the people that run or own the restaurant bring you to the UK?	No they were different people who brought me here

Declaration

Interviewee signature 



03-07-2024 20:41:42

Illegal Working - Employee

Details

Type of work	Visit				
Visit reference	[REDACTED]				
Created by	[REDACTED]				
ProntoID	[REDACTED] - China				
Subject CIDPID/CEPR	Unknown				
Subject name	[REDACTED]				
Subject DOB	[REDACTED]				
Subject nationality	China				
Subject gender	Male				
Time	19:25				
Created at geolocation	<table border="0"> <tr> <td>Easting</td> <td>428878</td> </tr> <tr> <td>Northing</td> <td>514911</td> </tr> </table>	Easting	428878	Northing	514911
Easting	428878				
Northing	514911				
Creation date	03-07-2024 19:25:54				

Language of Interview

What language is the interview carried out in?	Mandarin
Interpreter used?	Yes
Details of interpreter	[REDACTED]
Does the individual understand the interpreter?	Yes

Obligation

When did you last have accommodation?	I am here for a trial and if I am good they will give me a job
Did they say if you were successful you would her accommodation	I told then I'm illegal
How long have you been working at this Bambudda?	I only arrived today
Who gave you this job	I found it online
What's the website called?	In Chinese it's called Internet bird
What time did you come here today?	13.00 today
What do you have to do on your trial?	I had to show them what I could do
Where in the business was this	In the kitchen


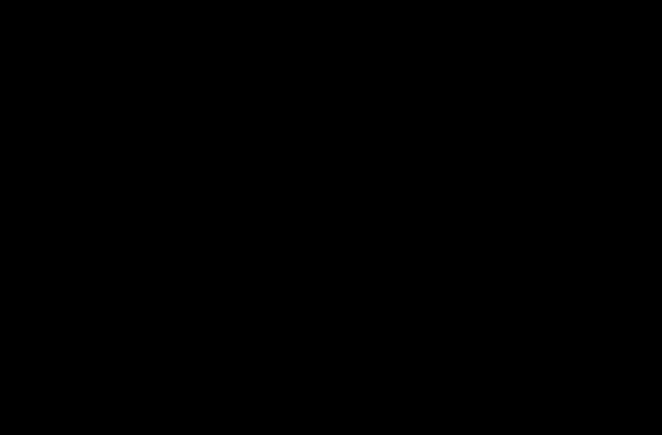
Control	
Who have you discussed the trial and potential job with?	When I came in, I told the owners I had no status, they didn't want to employ me but I wanted to show them what I could do
How did you get here today?	I arrived in this area by train, then I walked to this restaurant
Remuneration	
Are you going to get paid for this trial.	I haven't discussed money yet
Pre-employment Checks	
No details provided.	
Additional Questions	
No details provided.	
Photographs	
No photographs.	
Declaration	
I confirm that I have understood all the questions and that the details are true and correct.	
Interviewee signature 	 03-07-2024 19:38:11
Observations	
Observations	Upon seeing officers this male left the kitchen from the rear, went back inside and sat in the restaurant pretending to be a customer, he is covered in food debris
Do you suspect this person of illegal working?	Yes

Photo 1



Caption

Food debris

Q&A

Details

Type of work	Visit				
Visit reference	[REDACTED]				
Created by	[REDACTED]				
ProntoID	[REDACTED] - China				
Subject CIDPID/CEPR	Unknown				
Subject name	[REDACTED]				
Subject DOB	[REDACTED]				
Subject nationality	China				
Subject gender	Male				
Time	19:59				
Created at geolocation	<table border="0"> <tr> <td>Easting</td> <td>429236</td> </tr> <tr> <td>Northing</td> <td>514365</td> </tr> </table>	Easting	429236	Northing	514365
Easting	429236				
Northing	514365				
Creation date	03-07-2024 19:59:02				

Language of Interview

What language is the interview carried out in?	Mandarin
Interpreter used?	Yes
Details of interpreter	[REDACTED]
Does the individual understand the interpreter?	Yes

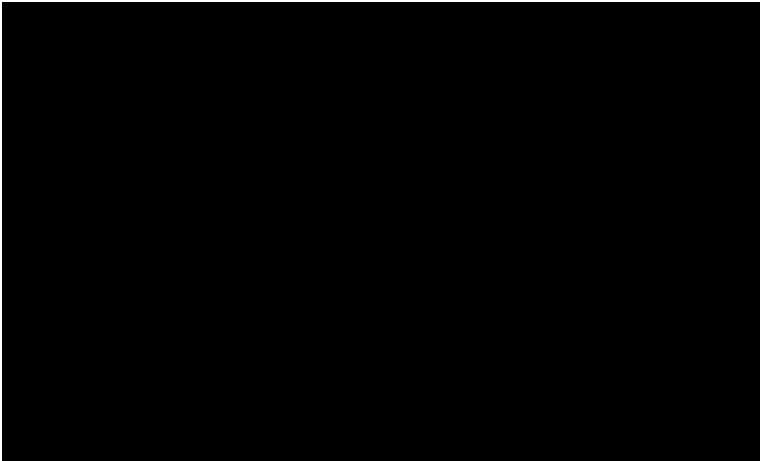
Q&A

How did you enter the UK	I entered the UK on a passport which was not mine in 2015
Did you see an immigration officer?	Yes I showed the passport
Have you made any application to regularise your stay?	No I haven't
Why not?	When I first came I was going to stay here for a short time but then I got used to the life here
How have you supporting yourself whilst in the UK?	I just work like casual work
What kind of work?	Mostly in the kitchen
Have you ever had a passport in your own name?	No i haven't

Have you ever had your finger prints taken in the UK?	No I haven't
Do you understand that the way in which you entered the UK was illegal and you are therefore illegally present?	When I first came I didn't know but now i do.
You have keys in your coat pocket, what are those keys for?	For the place in Birmingham
Are you planning to return to that address?	Yes I do
Why do you have the same exact keys as the other male under arrest	I don't know

Declaration

Interviewee signature 



03-07-2024 20:07:26

Illegal Working - Employee

Details

Type of work	Visit	
Visit reference	[REDACTED]	
Created by	[REDACTED]	
ProntoID	[REDACTED] - China	
Subject CIDPID/CEPR	Unknown	
Subject name	[REDACTED]	
Subject DOB	[REDACTED]	
Subject nationality	China	
Subject gender	Male	
Time	19:01	
Created at geolocation	Easting	428892
	Northing	514905
Creation date	03-07-2024 19:01:25	


Language of Interview

What language is the interview carried out in?	Mandarin
Interpreter used?	Yes
Details of interpreter	[REDACTED]
Does the individual understand the interpreter?	Yes

Obligation

What are you does at this restaurant Bambudda today?	Just eating
How did you know to come here?	I was just walking past
How are you going to pay for this meal you have no cash?	I am waiting for my friend to turn up and I will take it from there
Can you explain why you clothes are covered in food debris, If you don't work here?	I can't explain
Why did you try and leave via the kitchen door when we arrived?	I didn't leave
Are you planning to get a job here, and have you worked any where else	No I don't work here and won't work here

You said you didn't know this restaurant and were walking by but if you are meeting a friend how would he know to meet you	I was going to call him
Are you living in this area?	I just arrived
Arrived from where?	Newcastle
Where did you stay in Newcastle	I was on the street
Do you have a mobile? how will you contact your friend	I lost it earlier
Earlier when?	I lost my phone this morning
Control	
Who gave you this job)?	I already said I don't work here
I do not believe you at all, you are covered in food and tried to leave when we arrived	No i dont work
Who is the owner of the business	I don't know
Have you been in the kitchen,? We have you on video	I don't know I haven't been working
Can you give me a reason for you being in the kitchen	I went to look for something
Remuneration	
How much do you get paid?	I have told you that I don't work here, if you don't believe me that's not my problem
Pre-employment Checks	
No details provided.	
Additional Questions	
No details provided.	
Photographs	
No photographs.	
Declaration	
I confirm that I have understood all the questions and that the details are true and correct.	
Subject has refused to provide a signature.	
Employee read the contents of the interview themselves	Yes

Contents read back to the employee in the language used during the interview	Yes
Observations	
Observations	He attempted to leave via the kitchen door, upon seeing an officer there he went back inside, left the kitchen and sat at a table and pretended to be a customer. He was seen on cctv working and is covered in food
Do you suspect this person of illegal working?	Yes
Photo 1	 <p data-bbox="579 1507 1524 1554">Caption food debris</p>

Q&A					
Details					
Type of work	Visit				
Visit reference	[REDACTED]				
Created by	[REDACTED]				
ProntoID	[REDACTED] - China				
Subject CIDPID/CEPR	Unknown				
Subject name	[REDACTED]				
Subject DOB	[REDACTED]				
Subject nationality	China				
Subject gender	Male				
Time	20:08				
Created at geolocation	<table border="0" style="width: 100%;"> <tr> <td style="width: 30%;">Easting</td> <td style="text-align: right;">429232</td> </tr> <tr> <td>Northing</td> <td style="text-align: right;">514380</td> </tr> </table>	Easting	429232	Northing	514380
Easting	429232				
Northing	514380				
Creation date	03-07-2024 20:08:27				
Language of Interview					
What language is the interview carried out in?	Mandarin				
Interpreter used?	Yes				
Details of interpreter	[REDACTED]				
Does the individual understand the interpreter?	Yes				
Q&A					
You claim to have entered the UK on a visa, and on your own passport in 2023, did you get finger printed then?	No				
Where is your passport now?	I lost it				
You said you lost your phone this morning but your phone is in your coat pocket?	I can't remember I forgot				
How have you been supporting yourself since coming to the UK?	I have been working doing cash only work				
What sort of jobs?	Anything really				
Do you live above Tao restaurant?	No				
We cannot find any evidence of your legal entry to the UK on a visa, so you	No				

are under arrest as an illegal entrant, can you provide any evidence of your lawful entry?	
How can you have come to the UK on a visa and not have an email?	Someone booked the tickets for me
Declaration	
Subject has refused to provide a signature.	
Interviewee read the contents of the interview themselves	Yes
Contents read back in the language used during the interview	Yes

Q&A

Details

Type of work	Visit				
Visit reference	[REDACTED]				
Created by	[REDACTED]				
ProntoID	[REDACTED] - China				
Subject CIDPID/CEPR	[REDACTED]				
Subject name	[REDACTED]				
Subject DOB	[REDACTED]				
Subject nationality	China				
Subject gender	Male				
Time	11:40				
Created at geolocation	<table border="0"> <tr> <td>Easting</td> <td>429223</td> </tr> <tr> <td>Northing</td> <td>514394</td> </tr> </table>	Easting	429223	Northing	514394
Easting	429223				
Northing	514394				
Creation date	04-07-2024 11:40:32				

Language of Interview

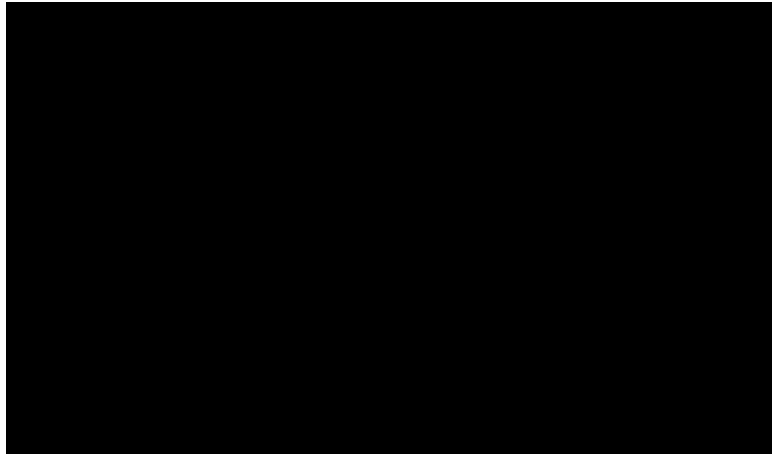
What language is the interview carried out in?	Mandarin
Interpreter used?	Yes
Details of interpreter	[REDACTED]
Does the individual understand the interpreter?	Yes

Q&A

where do you live	Not where i was arrested
do you live above another resteraunt	Yes another resteraunt
where is it	I dont know
was there any money there	Yes there was about £5000
a sum of money has been seized from a room we belive is yours. did you have keys to your room with you at work last night	I didnt have any keys
whats your room number	It doesnt have one
if i show you a photo of the address would you recognise it	I dont want to see a photo
why not	Whats the point if the monies seized

Declaration

Interviewee signature



04-07-2024 11:48:01

Q&A

Details

Type of work	Visit				
Visit reference	[REDACTED]				
Created by	[REDACTED]				
ProntoID	[REDACTED] - China				
Subject CIDPID/CEPR	Unknown				
Subject name	[REDACTED]				
Subject DOB	[REDACTED]				
Subject nationality	China				
Subject gender	Male				
Time	10:35				
Created at geolocation	<table border="0"> <tr> <td>Easting</td> <td>429222</td> </tr> <tr> <td>Northing</td> <td>514393</td> </tr> </table>	Easting	429222	Northing	514393
Easting	429222				
Northing	514393				
Creation date	04-07-2024 10:29:25				

Language of Interview

What language is the interview carried out in?	Mandarin
Interpreter used?	Yes
Details of interpreter	[REDACTED]
Does the individual understand the interpreter?	Yes

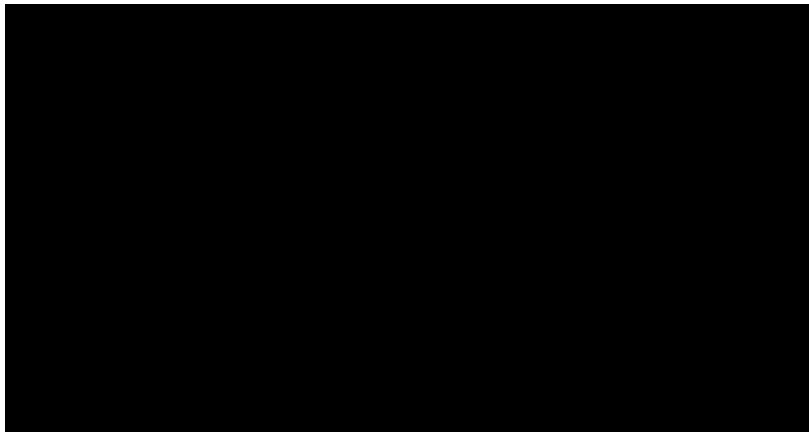
Q&A

Are you fit and well to be interviewed?	Yes
tell me your name and dob	I already told you last night
tell me again	[REDACTED]
When did you arrive in the UK	I cant remember
which month	It was summer last year
how did you arrive in the uk	By plane
which airport	I dont know
which part of the country	I dont know
where did you go after the airport	London
how long did it take	Several hours

how did you get get from the airport to london	By taxi
how much did it cost	I dont know my friend paid
whats your friends details	I dont know
how dont you know the name of your friend who paid a lot of money for this several hour long taxi ride	I met him when i arrived, i was introduced by someone else i met him at the airport a d got in the taxi
how did you get into the uk	I used a passport
where is that passport	I dont have it
where is it	I was given it in china to use when i got here someone took it off me
was it in your name	I think it was in someone elses name
did it have a uk visa in it	I dont know i dont speak english
did you see an immigration officer at the airport	No
how is that possible, every airport requires you to pass through	I dont know
have you made any applications to regularise your immigration status	No
where did you fly from	China to italy then uk
do you have any children, or a wife	Yes a wife and 2 children in china
have you seen them since you left china	No

Declaration

Interviewee signature [REDACTED]
[REDACTED]



04-07-2024 11:18:53

Illegal Working - Employer

Details

Type of work	Visit				
Visit reference	██████████				
Created by	██████████				
ProntoID	Ben Wu - ██████████ - Nationality Currently Unknown				
Subject CIDPID/CEPR	Unknown				
Employer	Ben Wu				
Subject DOB	██████████				
Subject nationality	Nationality Currently Unknown				
Subject gender	Male				
Time	18:54				
Created at geolocation	<table style="width: 100%; border: none;"> <tr> <td style="width: 30%;">Easting</td> <td style="text-align: right;">428893</td> </tr> <tr> <td>Northing</td> <td style="text-align: right;">514928</td> </tr> </table>	Easting	428893	Northing	514928
Easting	428893				
Northing	514928				
Creation date	03-07-2024 18:54:01				

Language of Interview

What language is the interview carried out in?	English
Interpreter used?	No

Employer Details

What is your position here?	Manager
If the business is owned by a company what is the name of the company?	Bambudda
What are the Companies House and VAT numbers of the business?	Don't know
3 persons left the kitchen when officers entered and sat down pretending to be customers they have all been arrested who are these 3 persons their names are ██████████, ██████████ both males and a dlfemale called ██████████.	I dont know who they are
who employs your staff	Sometimes me sometimes the kitchen staff
who pays your staff and how are they paid	As far as I know it's a bank transfer

who do you think employed the 3 staff we have arrested	Maybe the kitchen staff I dont know.
Declaration by Employer	
I confirm that I have understood all the questions and that the details are true and correct.	
Subject has refused to provide a signature.	
Employer read the contents of the interview themselves	Yes
Contents read back to the employer in the language used during the interview	Yes
Observations	
Observations	Manager was obstructive and un cooperative during interview claiming not to know the 3 staff arrested are or who employed them. He did have copies of paperwork for his other GBR staff but nothing for the 3 persons arrested. He refused to sign my phone and left abruptly during questioning.

This page is intentionally left blank

Appendix 5

To whom it may concern.

On 21st August 2024 Durham Constabulary received an application for a review of the premises licence at Bambudda Ltd, 67 Gladstone Street, Darlington DL3 6JU which had been made by Home Office Immigration team.

On 03 July 2024, the Northeast, Yorkshire & Humber Immigration Compliance and Enforcement (ICE) team visited Bambudda Darlington, 67 Gladstone Street, Darlington, DL3 6JU, after receiving intelligence that the business is employing illegal workers. Entry to the premises was gained at approximately 18:09hrs under section 28CA of the Immigration Act 1971. The officers encountered five persons working at the premises of which three were identified as working illegally.

Following the arrests of several people a premises search was carried out at another premises TAO, 27-28 Blackwellgate Darlington. Benjamin WU is the Premises licence holder (PLH) and designated premises supervisor (DPS) of TAO Asian Street Food, 27 – 28 Blackwellgate, Darlington, DL1 5HX and this premises was subject to enforcement visit which was conducted simultaneously as the visit on Bambudda.

During the search it was found that two rooms were linked by keys held by [REDACTED] (male arrested at Bambudda for illegal entry into the uk) and [REDACTED] (male arrested at Bambudda for illegal entry into the UK) and a sum of over £10k was seized from the two rooms. A female was in a locked room with small child who was safeguarded and taken to a hotel.

Durham Constabulary licensing team were not in attendance at this visit however having read the grounds of the review we believe that it is evident that Mr Benjamin WU is not promoting the licensing objective of prevention of crime and disorder, as illegal workers have been identified at this premises and another premises where he is also the owner namely Tao Asian Street Food, where, during a simultaneous visit a further three illegal workers were found. Benjamin WU has shown complete disregard for UK immigration laws by employing illegal workers.

Although the Premises licence holder (PLH) is down as Bambudda Darlington limited it shows on Companies House with reference no 13254334 that the company was incorporated on 09 March 2021 and is still active with Benjamin Hin Ho WU appointed as the sole director on 09 March 2021. Benjamin WU is the designated premises supervisor (DPS) of Bambudda Darlington Limited.

As the sole director of the company of which is names as the PLH and DPS I would expect Mr Benjamin WU to have had better management of his employees and to have a full understanding of their right to work in the uk, or lack of it. It is reported that Benjamin WU was uncooperative and left abruptly whilst being interviewed. His behaviour was reported as being disruptive and not fitting of a responsible license holder who should be cooperating with responsible authorities. Benjamin WU had copies of paperwork for the staff that were British nationals but no records for the illegal workers.

The revised guidance issued under section 182 of the Licensing Act 2003 (issued December 2023) states at section 11.27 and 11.28

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises for employing a person who is disqualified from that work by reason of their immigration status in the UK;

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered

Durham Constabulary are therefore fully supportive of the outcome sought by the ICE team and feel that revocation of the premises license should be considered by sub licencing committee.

Following the review of the premise licence application submitted on 21st August 2024 by Immigration, Durham Constabulary received 2 applications on 11th September 2024, one to

the transfer premise license for Bambudda Darlington limited to DHADARLINGTON LTD and an application to vary the designated premise supervisor from Mr Benjamin Wu to Bich Thuy Nguyen. These applications were subsequently withdrawn by the applicant on 12th September 2024.

Companies house shows that DHADARLINGTON LTD was incorporated on 4th September 2024 with registered office of 74 Bristol Street, Birmingham, B5 7AH, this is the same address as TAO (DARLINGTON) LTD which Benjamin WU was PLH and DPS. The sole director of DHADARLINGTON LTD is not known to Durham Constabulary and has not previously been involved with the business.

Had the applications not been withdrawn, in relation to the application to transfer of premise license for Bambudda Darlington which was currently subject to review proceedings instigated by the Home Office Immigration Enforcement Team, Durham Constabulary would have objected to the transfer as it would have undermined the review process and the licensing objectives as there is a possibility that they would try to argue that DHADARLINGTON LTD was nothing to do with Bambudda and they should not be held responsible for the actions of another business.

Durham Constabulary would have also objected to Bich Thuy NGUYEN being the DPS at Bambudda Darlington and there would have been exceptional circumstances for an objection in relation of the appointment of Bich Thuy NGUYEN undermining the crime prevention objectives.

It is clear however from the information held on companies house that DHADARLINGTON LTD which was incorporated after the immigration visit and has the same registered office address as TAO(DARLINGTON) LTD, are linked. Both Premises have the same individuals named either on company's house/license applications and over the past few months have created new companies, changed directors , address of the businesses and also tried to change who is PLH and DPS at the premises which I suspect is to try and circumvent the licensing act 2003 and prevent the review of the premises license.

Thankyou

Caroline

Sgt 484 Caroline Dickenson

Licensed Economy Team Sg

Safeguarding Neighbourhoods Command

Durham Constabulary

01325 742782 or 0191 3752351

**LICENSING ACT 2003
NOTIFICATION OF HEARING
(Regulations 6 and 7)**

Date of Notification: 24 September 2024

Type of Hearing: Application to Review a Premises Licence

Premises: Bambudda
Gladstone Street,
DARLINGTON DL3 6JU

Hearing Details: 9.30am, Tuesday 8 October 2024

Location: Darlington Borough Council,
Town Hall, Darlington,
DL1 5QT

Copy of notice sent to:

- Bambudda Darlington Ltd (Premises Licence Holder)
- Home Office (Immigration Compliance and Enforcement) (Responsible Authority)
- Durham Constabulary (Representations)

Attendance: All parties may attend this hearing. You may find it useful to be accompanied by your legal representative(s) or any other person who may be able to assist you. Please complete the attached form and return to the Licensing Section **no later than 1 October 2024**.

Non-attendance: If you notify the Licensing Authority that you will not be attending this hearing and that you will not be legally represented in your absence, the hearing may proceed in your absence. If you do not notify your non-attendance and then do not attend this hearing the Licensing Sub Committee will decide whether it is in the public interest to adjourn the hearing to enable you to attend or whether to hold the hearing in your absence. If the hearing does proceed in your absence your representations will still be considered.

Procedure at the Hearing: You will find attached, the procedure that will be followed at the Hearing. The Hearing will take place in public unless it is deemed in the public interest to exclude the public or any party to the Hearing from all or part of the Hearing. If a party is excluded from the Hearing (s)he will be able to provide written information to cover any verbal representations (s)he may have made if (s)he had not been so excluded. The Hearing will take the form of a discussion and each party will be permitted an equal period of time to provide information, make comment and express their views.

Withdrawal of Representations: Anyone wishing to withdraw representations should do so as soon as possible. Although this can be done at the Hearing, you are requested, where

possible, to give at least 24 hours' notice as it may no longer be necessary for the Hearing to proceed.

Outcome of Hearing: A decision will be made as soon as possible after the hearing and must be within the period of five working days beginning with the day or the last day on which the hearing was held.



DARLINGTON
Borough Council

Services Group
Licensing
Town Hall
Darlington DL1 5QT
Tel: 01325 405888
Email: licensing@darlington.gov.uk

**NOTICE OF ATTENDANCE
APPLICATION FOR REVIEW OF PREMISE LICENCE**

Please complete the following notice in block capitals and return to the address detailed below:

DATE OF HEARING: 8 October 2024

NAME OF PREMISES: Bambudda
Gladstone Street,
DARLINGTON DL3 6JU

YOUR NAME:

I will* will not* be attending the meeting

I will* will not* be legally represented

NAME OF LEGAL REPRESENTATIVE
(IF APPROPRIATE):

(*please ✓ where appropriate)

If you wish to be accompanied by any other person please provide details of their name and an outline of what they wish to say and how this will assist you:

Name:

Details:

Please return to: Licensing
Darlington Borough Council
Block D, Town Hall
Feethams

DARLINGTON
DL1 5QT
licensing@darlington.gov.uk
LICENSING SUB COMMITTEES

Or email

FULL HEARING PROCEDURE FOR APPLICATIONS FOR REVIEWS OF PREMISES LICENCES/CLUB PREMISES CERTIFICATES WHERE RELEVANT REPRESENTATIONS HAVE BEEN RECEIVED

1. The Chair will welcome all parties who are present and introduce the Members. The Chair will explain to the parties at the beginning of a hearing the procedure that it is proposed to follow. The hearing will take the form of a discussion. Cross-examination will not be permitted without the consent of the Chair.

Any Members who know the Premises Licence holder or any of the objectors will declare this fact and not take part in the hearing of the application. This is in addition to the declaration of any personal or prejudicial interest.

(NB. The Secretariat will endeavour to ensure that Ward Members and Members that are personally known to the applicant are not included on the Sub Committee.)

All hearings will usually be in public. The Sub Committee may however exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

The Licensing Manager will outline the application.

2. **The Application for the Review**

NB: Where the application comes from Interested Parties, i.e. local residents or businesses within the vicinity of the premises, the Sub Committee will expect that wherever possible a spokesperson be elected to speak on behalf of the group. This person will make the application. At the conclusion of the application the Chair will ask the group if there is any information which is additional to the application made by the spokesperson and if so will permit this information to be given.

- [1] The Applicant for the review or their representative will give their reasons for making the application.
- [2] The Applicant for the review or their representative will then call any witnesses and/or give reasons for their objection.
- [3] The Premises Licence Holder or his/her representative may then question the Applicant for the review [if they have given evidence] and any witnesses.
- [4] The Chair or any member of the Licensing Sub Committee, through the Chair, may ask questions of the Applicant for the Review and any witnesses.

If several applications/representations have been received and the Applicants for the Review have not agreed to present the case jointly, this procedure will normally be repeated for each individual Applicant.

3. **The Premise Licence holder's (PLH) Case**

- [1] The PLH or their representative presents their response to the application for review.
- [2] The PLH or their representative will then call any witnesses and/or give evidence in support of his/her response.
- [3] The Applicant(s) for the Review may then question the PLH if they have given evidence] and any witnesses.
- [4] The Chair or any Member of the Licensing Sub Committee through the Chair will ask questions of the PLH and any witnesses.
- [5] The PLH or their representative will then be given a final opportunity of asking any further questions of any witnesses to clear up any points raised in the earlier questioning.

4. The PLH will be asked by the Chair of the Sub Committee whether, in the light of the information heard in relation to the review, they wish to amend the operating schedule, change the designated premises supervisor (Premises Licences only) or offer additional conditions, as when they retire, Members will consider only the information before them at that time.

If the PLH wishes to amend the operating schedule, change the designated premises supervisor (Premises Licences only) or offer additional conditions the Applicant(s) for the Review will be given the opportunity to comment on the proposal.

5. **Closing Statement or Summary**

- [1] **By or on behalf of the Applicant(s) for the Review.** The Applicant(s) for the review may summarise any points they wish to make and comment briefly on the Applicant's replies to questions. They cannot introduce new issues.
- [2] **By or on behalf of the PLH.** The PLH will be invited to summarise any points they wish to make and comment briefly on the Applicant for the Review's replies to questions. They cannot introduce new issues

6. **Conclusion**

All decisions will be made in private.

The Legal Officer will repeat, in summary form, any legal advice given to Members when the public is re-admitted.

Once a decision has been reached, the press and public will be re-admitted to the meeting together with the Premises Licence Holder, Responsible Authorities and Other Persons. At this stage, the Chair will announce the Sub Committee's decision, will give reasons for the decision and advise all parties of rights of appeal. The decision will subsequently be formally notified to the Applicant(s), Responsible

Authorities and Other Persons in writing, including their rights of appeal as soon as possible after the Hearing.

This page is intentionally left blank

**EXTRACTS FROM DARLINGTON COUNCIL'S LICENSING POLICY
(EFFECTIVE FROM 07 JANUARY 2022)**

1.2 The Licensing Act 2003 supports a number of other key aims and purposes.

These include:

- a) Providing the Police and the Council with powers to effectively manage and police the night-time economy and take action against any premises that are causing problems.
- b) Protecting local residents and visitors to Darlington from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises.
- c) Recognising the important role which pubs and other licensed premises play in the local economy by reducing, where possible the regulatory burden on businesses and supporting responsible premises.
- d) Providing a regulatory framework for alcohol which enables the Council to make and enforce appropriate decisions about the most appropriate licensing strategies for the borough of Darlington; and
- e) Encouraging greater involvement in licensing decisions by local residents the opportunity in respect of licensing decisions which may affect them.

1.3 In addition this Policy also aims to:

- promote more responsible attitudes to alcohol and responsible drinking.
- raise awareness of the level of alcohol related health problems.
- protect children and residents from the negative impact of alcohol.
- reduce the rate of alcohol related crime and disorder and anti-social behaviour.
- promote a responsible licensed trade.

6.0 PREMISES LICENCES AND CLUB PREMISES CERTIFICATES

NB This Policy concentrates on premises that provide multiple licensable activities. Further information is provided at Section 12.7 - 12.8 in respect of premises to which many parts of this Policy do not fully apply.

In many cases it may be helpful to all concerned for applicants and/or their advisers to discuss with Licensing Authority Officers the draft-operating schedule before it is formally submitted. This will help to ensure it properly addresses all issues of concern to the Licensing Authority (see glossary of terms in respect of "grandfather rights" for current licensees).

6.1 Policy: Applicants for Premises Licences will be expected to address the licensing objectives. It may assist to consider Local Crime Prevention Strategies, Planning and Transportation Policies and Tourism and Cultural Strategies when determining their operating schedule.

The Licensing Authority will expect the operating schedule to have regard to the nature of the area in which the premises are located, the type of premises, the licensable activities to be provided, the hours of operation, impact on the locality and the needs of the local community.

In this respect the Licensing Authority will expect the applicant to demonstrate how the premises will be a “good neighbour” both to residents and other venues and businesses. The applicant will be required to demonstrate that he/she has satisfactorily addressed each of the licensing objectives as part of any application to vary the operation of the premises.

Reason: To comply with the legislative requirements of the Licensing Act 2003.

7.0 THE IMPACT OF LICENSABLE ACTIVITIES

7.1 **Policy:** When considering whether a licensable activity should be approved the Licensing Authority will, if relevant representations are received, assess the likelihood of it contributing to unacceptable, adverse impact in terms of crime and disorder and public nuisance, in particular to local residents and businesses.

Applicants should therefore consider the following when making an application:

- a) The proposed hours and days of operation and how often an activity occurs.
- b) The location of the premises, particularly in relation to residential properties and such places as hospitals, hospices and places of worship.
- c) The number and type of current and future customers.
- d) The means of access and egress to the premises which should have public access on principal pedestrian routes.
- e) The availability of public transport for patrons arriving at and leaving the premises compared to the anticipated level of private transport usage.
- f) The likely effect of car parking demand on both principal roads and residential streets and the impact this may have on local residents and emergency access.
- g) The need for provision of portable toilet facilities outside of the premises.
- h) The cumulative impact of licensed premises within the area and the scope for mitigating such impact.
- i) Waste disposal arrangements including bin storage and the collection and containment of litter from the vicinity of the premises.
- j) Public nuisance caused by unauthorised advertising and fly-posting

and, in considering any application from premises which are currently licensed, the Licensing Authority will, if relevant representations are received, take into account any evidence of:

- k) Past demonstrable adverse impact from the activity, particularly on local residents and businesses; or
- l) If adverse impact has been caused, that appropriate measures have been agreed and put into place to address any future adverse impact. If measures are to be put into effect or alternatively if there has been insufficient time to assess their usefulness a licence may be granted for a limited period only.

7.2 **Reason:** To achieve the licensing objective of preventing public nuisance. To promote this objective the Licensing Authority, in considering the likelihood of adverse impact, will take into account, among other matters:

- The precise nature of the activity, particularly in terms of entertainment, as this may impact in terms of the age of patrons and their behaviour.

- Noise levels and type of noise, which may be acceptable during daytime hours but may have greater impact at times when ambient noise levels are much lower.
- The impact of patrons arriving, queuing and exiting which should take place on main pedestrian routes rather than through residential areas.
- The impact of other sources of nuisance from smells, smoke, refuse storage, vermin and other similar causes of nuisance.

NB Where steps can be taken to mitigate adverse impact and such steps are reliable, practical and robust then an activity may be licensed.

7.3 **Additional Information:**

The Licensing Authority will focus on matters within the control of the individual licensee and the steps they can take to achieve the licensing objectives.

In making its decisions the Licensing Authority accepts the difficulties that licence holders face in preventing anti-social behaviour once patrons are beyond the direct control of the licensee. However, the licensing objective of preventing public nuisance will not be achieved if patrons from licensed premises regularly behave in an anti-social way which impacts on local residents and/or businesses.

The Licensing Authority recognises a the Council's responsibility under the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder. The aim of this Policy therefore is to achieve a balanced approach to these difficult issues.

11.3 **Steps to be taken by Licensees to Address Crime and Disorder Issues**

Policy: The Licensing Authority will expect the applicant to indicate in his operating schedule the steps proposed to prevent crime and disorder on and in the vicinity of their premises and/or events

Reason: Prevention of crime and disorder is both an objective of the Licensing Act 2003 and a responsibility of the Licensing Authority under the Crime and Disorder Act 1998. It is important, therefore, that the applicant be able to demonstrate to the Licensing Authority the practical steps that will be taken to further this objective in the operating schedule. The factors that impact on crime and disorder may include:

- a) Underage drinking.
- b) Drunkenness on premises.
- c) Public drunkenness.
- d) Drugs.
- e) Violent behaviour.
- f) Anti-social behaviour.

11.3 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:

- a) Effective and responsible management of premises.
- b) Training and supervision of staff.

- c) Adoption of best practice guidance (eg Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other Voluntary Codes of Practice, including those relating to drinks promotions eg The Point of Sale Promotions published by BBPA, Security in Design published by BBPA and Drugs and Pubs, published by BBPA).
- d) Acceptance of accredited means of age identification eg DVLA photo driving licence or 'proof of age' cards.
- e) Provision of effective digital CCTV in and around premises.
- f) Employment of Security Industry Authority licensed door-staff.
- g) Provision of plastic or shatter resistant glasses.
- h) Provision of secure, deposit boxes for confiscated items.
- i) Procedures for assessing risk associated with promotions and events such as "happy hours" for the potential to cause crime and disorder and plans for minimising such risks.
- j) Measures to prevent the use or supply of illegal drugs.
- k) Employment of licensed door supervisors and other appropriately trained staff.
- l) Installation of non-retrievable bottle bins at exits and ensuring that patrons do not leave with bottles or glasses (on licence sales).
- m) Provision of litterbins and other security measures, such as lighting, outside premises.
- n) Membership of Darlington 'PubWatch' scheme.

11.4 The Licensing Authority will expect the operating plan to include a risk assessment into the use of door-staff, in terms of the actual need for such a service and also the ratio of such personnel to patrons based on capacity of the premises.

11.5 **Policy: The Licensing Authority will normally require a Personal Licence holder to be on the premises at all times when alcohol is being sold.**

Reason: It is important that there is an accountable, responsible person present at all times when alcohol is being sold. This is to ensure that alcohol is not sold to persons who have had too much to drink and to ensure that alcohol is only sold to persons over the age of 18 years. In terms of crime and disorder, there is a need for an identified person with whom the Licensing Authority and Police can discuss any problems/issues arising from the licensable activities offered on the premises.

**GUIDANCE ISSUED UNDER SECTION 182 OF THE LICENSING ACT 2003
(REVISED DECEMBER 2023)**

PURPOSE

- 1.7 This Guidance is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.
- 1.8 The police remain key enforcers of licensing law. This Guidance does not bind police officers who, within the parameters of their force orders and the law, remain operationally independent. However, this Guidance is provided to support and assist police officers in interpreting and implementing the 2003 Act in the promotion of the four licensing objectives.

Legal status

- 1.9 Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. This Guidance is therefore binding on all licensing authorities to that extent. However, this Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons. Departure from this Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.
- 1.10 Nothing in this Guidance should be taken as indicating that any requirement of licensing law or any other law may be overridden (including the obligations placed on any public authorities under human rights legislation). This Guidance does not in any way replace the statutory provisions of the 2003 Act or add to its scope and licensing authorities should note that interpretation of the 2003 Act is a matter for the courts. Licensing authorities and others using this Guidance must take their own professional and legal advice about its implementation.

Licence conditions – general principles

- 1.16 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as "must", "shall" and "will" is encouraged. Licence conditions:
- must be appropriate for the promotion of the licensing objectives.
 - must be precise and enforceable.
 - must be unambiguous and clear in what they intend to achieve.

- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation.
- must be tailored to the individual type, location and characteristics of the premises and events concerned.
- should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case.
- should not replicate offences set out in the 2003 Act or other legislation.
- should be proportionate, justifiable and be capable of being met.
- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- should be written in a prescriptive format.

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.

Other relevant legislation

- 1.19 While licence conditions should not duplicate other statutory provisions, licensing authorities and licensees should be mindful of requirements and responsibilities placed on them by other legislation.

Crime and disorder

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority ("SIA") as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that

people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.

- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). 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.
- 2.6 The prevention of crime includes the **prevention of immigration crime including the prevention of illegal working in licensed premises**. Licensing authorities should work with Home Office Immigration Enforcement as well as the police, in respect of these matters. **Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that evidence of a right to work check, either physical or digital (e.g. a copy of any document checked as part of a right to work check or a clear copy of the online right to work check) are retained at the licensed premises.**

The review process

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 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.

- 11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility. The applicant must give notice of the review application to the responsible authorities and holder of the licence or certificate. The licensing authority is required to advertise a review application.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.
- 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. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which

would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.

11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 14 of this Guidance.

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. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.

11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.

POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. **Similarly, licensing authorities**

may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.

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 to address the causes of concern that instigated the review.

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 or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to

do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

Reviews arising in connection with crime

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.
- 11.27 **There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously.** These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime.
 - for the sale and distribution of illegal firearms.
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected.
 - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people.

- for prostitution or the sale of unlawful pornography.
- by organised groups of paedophiles to groom children.
- as the base for the organisation of criminal activity, particularly by gangs.
- for the organisation of racist activity or the promotion of racist attacks.
- **for employing a person who is disqualified from that work by reason of their immigration status in the UK.**
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, **it is expected that revocation of the licence – even in the first instance – should be seriously considered.**

LICENSING ACT 2003 SUB COMMITTEE

8 OCTOBER 2024

APPLICATION TO REVIEW A PREMISES LICENCE

Purpose of Report

1. To invite Members to consider an application from Home Office (Immigration Compliance and Enforcement) to review a premises licence on the grounds that the prevention of crime and disorder licensing objective has been undermined.

Background Information

2. Attached to this report are the details of the application to review the premises licence of Bambudda Ltd T/A: TAO Asian Street Food, 27-28 Blackwellgate, Darlington, DL1 5HX.
3. Members are requested to determine this application and give reasons for their decision.

Legal Implications

4. The Borough Solicitor, in accordance with the Council's approved procedures, has considered this report and there are no issues that the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

Human Rights Act

5. When considering matters relating to the grant, suspension, revocation or refusal of licences and the placing of conditions on licences, the Committee must consider whether the decision affects an individual, group or company's Human Rights as set out in the Convention and if it does, whether the interference with those rights is permissible by reason of the justifications set out in the Convention. In addition consideration must be given to whether the interference is proportionate

Section 17 of the Crime and Disorder Act 1998

6. One of the four Licensing Objectives of The Licensing Act 2003 is the prevention of crime and disorder. The attached report includes reference to this.

Recommendation

7. Members are requested to determine the application in accordance with Section 52 of the Licensing Act 2003.

Dave Winstanley
Group Director of Services

Background Papers

The Licensing Act 2003

Darlington Borough Council's Licensing Policy

Guidance issued under Section 182 of the Licensing Act 2003

The Licensing Act 2003 (Hearings) Regulations 2005

Immigration Act 1971

Home Office Guidance - Preventing illegal working in licenced premises

Colin Dobson

Extension: 405988

FOR CHAIR AND MEMBERS
OF THE LICENSING ACT 2003 SUB COMMITTEE
8 OCTOBER 2024

**APPLICATION TO REVIEW PREMISES LICENCE ON THE GROUNDS OF THE PREVENTATION
OF CRIME AND DISORDER**

Licence holder Benjamin Wu **Ref No:** LAPREM00478
408 Geneva Road,
Darlington,
DL1 4HG

Premises: Bambudda Ltd T/A: TAO Asian Street Food
27-28 Blackwellgate,
Darlington,
DL1 5HX

Licensable Activities:
Sale by Retail of Alcohol – On and off premises

11:00 - 23:00 every day

Premises opening Times 09:00 – 23:00 every Day

Home Office Application Review of Premises Licence on the grounds of Crime and Disorder

Notification to Responsible Authorities/Other Persons:

Home Office (Immigration Compliance and Enforcement) has served notice of this application to the following:

Environmental Health	Chief Fire Officer
Durham Constabulary	Trading Standards
Planning	Public Health
The Licence Holder	The Licensing Authority
Darlington Safeguarding Partnership	

Information on the Premises: 22 August 2024
Information on Council's web site: 22 August 2024

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 Premises Licence application was made the applicant described the premises as:

'We are a restaurant and takeaway based in the centre of the city. The premises has three floors. The business operates the ground floor and basement. We are close to many retail units including House of Fraser and Sainsbury's, a number of take away businesses Uno Momento, Salt and Manjaros and close to the Dolphin Centre and covered market. We offer a variety of food from breakfasts, ice creams, noodles and fried chicken. We intend to offer a range of alcoholic products as an accompaniment to our food offer, and will include bottled and draught beer and a variety of wines.'

PURPOSE OF REPORT

To invite Members to consider an application for a review of the Premises Licence submitted by the Home Office (Immigration Compliance and Enforcement) based on the grounds that it undermines the prevention of the crime and disorder objective.

Members are requested to consider any appropriate action, which may include revocation of the licence.

BACKGROUND OF THE PREMISES

This premises was originally a Royal Bank of Scotland building and in July 2020 an application was made to Darlington Borough Council Planning to convert it from a bank into a restaurant/takeaway on the ground floor and two three bedroom flats above. Planning permission was duly granted in April 2021.

On 5 October 2021, Yoby Ltd applied for a premises licence. As this was a new licence a number of conditions in addition to the mandatory conditions were agreed between responsible authorities and their agents. This licence was subsequently granted on 4 November 2021.

On 3 April 2023 Benjamin Wu applied to transfer the premises licence from Yoby Ltd to him, and this was granted on 10 April 2023 following consultation with the relevant responsible authorities. The licence was subject to a number of mandatory conditions and bespoke

conditions for the premises that were transferred from the previous licence. Benjamin Wu was also the named Designated Premises Supervisor (DPS) on the licence. A copy of this licence is at **Appendix 1**.

APPLICATION TO REVIEW THE PREMISES LICENCE

On 21 August 2024 an application was properly made by Home Office (Immigration Compliance and Enforcement) as a Responsible Authority, to review this premises licence under Section 51 Licensing Act 2003 on the grounds that the crime and disorder objective had been undermined. Responsible Authorities were notified and a review notice was prominently displayed on the premises. A copy of the displayed notice is at **Appendix 2**. Further information was also available on Darlington Borough Council's licensing webpage where all consultations are published.

In summary, on 3 July 2024, the North East Immigration Compliance and Enforcement (ICE) team visited TAO Asian Street Food, 27-28 Blackwellgate, Darlington following intelligence that the premises was employing illegal workers. Entry was gained at around 6.26pm under section 28CA of the Immigration Act 1971 and ICE were accompanied by officers from other Responsible Authorities.

Officers encountered eight people working in the kitchen of the premises, of which three were identified as having no lawful right to reside in the UK, and therefore working illegally. A referral has since been made to the Civil Penalty Compliance Team in relation to their illegal working. At the time of reporting, the civil penalty outcome is still outstanding.

At the time of the visit Bich Thuy Nguyen (Lucy) was a Director of the company and business partner of the Premises Licence Holder Benjamin Wu. When interviewed by an Officer from ICE she claimed to have kept copies of employee documents on her phone, however she was unable to provide these to Officers when requested. This is in breach of condition 28 of the Premises Licence:

The premises licence holder is to undertake right to work checks on all staff who are employed at the licensed premises in a paid or unpaid capacity. A copy of any documents checked as part of the right to work check are to be retained at the licenced premises. These documents will be made available to officers and responsible authorities when requested.

It is also of note that a simultaneous visit to a second premises in Darlington by another enforcement team took place and those premises were also under the control of the Benjamin Wu.

Section 36 and Schedule 4 of the Immigration Act 2016 amended the Licensing Act 2003 to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017. The intention was to prevent illegal working in premises licensed for the sale of alcohol or late-night refreshment. The Home Office has requested that the premises licence be revoked to reflect the serious nature of this issue.

The review application is at **Appendix 3** and a comprehensive Premises Licence Review pack (redacted) has been provided by the Home Office, which is at **Appendix 4**.

REPRESENTATIONS

During the statutory consultation period Durham Constabulary made representations in support of the Home Office review application. They made reference to Benjamin Wu and his suitability to manage the premises as Premises Licence Holder and Designated Premises Supervisor. They also expressed concerns of him trying to circumvent the review process by attempting to transfer the licence to a new company established after the visit by ICE Officers. The new company, TAO Rock N Roll Ltd was incorporated on 12 August 2024 and the sole Director is Bich Thuy NGUYEN, who was managing the premises at the time of the visit by ICE Officers.

Police highlighted in their response that the second premises visited simultaneously by ICE Officers is inextricably linked through various registered companies along with people working and involved in their management. The two premises cannot be looked at in isolation as there is clear evidence of joint enterprise in their operation.

The police response (redacted) is produced at **Appendix 5**.

NOTIFICATION

The Premises Licence Holder, Home Office and Police have been issued with a notification to attend this hearing and provided with details of the hearing procedures in accordance with Regulations 6 and 7 of the Licensing Act 2003 (Hearings) Regulations 2005. A copy of these notices are at **Appendix 6**.

THE LICENSING POLICY

Members are referred to the following relevant sections of the Council's Licensing Policy which are reproduced at **Appendix 7**.

Section 1.2 – 1.3	Purpose
Section 6 – 7.3	Premises licence and impact of licensable activities
Section 11.3 to 11.5	Steps to address Crime and Disorder

THE GUIDANCE

Members are referred to the Secretary of State's Guidance in relation to the prevention of crime and disorder and the review process. A copy of the relevant sections of the guidance are reproduced at **Appendix 8**.

ADDITIONAL INFORMATION

Members should note that Home Office Immigration Compliance and Enforcement Officers are protected in law from revealing their identities for the purpose of a review.

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. Exclude a licensable activity from the scope of the licence.
3. To remove the Designated Premises Supervisor, for example, because they consider that the problems are the result of poor management.
4. To suspend the entire licence for a period not exceeding 3 months.
5. To revoke the licence.
6. 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 above. Members are reminded that any such conditions should not duplicate existing legislation.

Members are further reminded that any party to the review who is aggrieved at the decision of the Licensing Act Sub Committee (i.e. Premises Licence Holder or Home Office) may appeal the decision to the Magistrates Courts. In the event of such appeal any determination by the Sub Committee will not take effect until the appeal is disposed of.

Contact Officer: Colin Dobson x 5988

Dave Winstanley
Group Director of Services

Appendix 1 – Premises Licence
Appendix 2 – Notice of Review
Appendix 3 – Review Application
Appendix 4 – Review Pack (Redacted)
Appendix 5 – Police Representation (Redacted)
Appendix 6 – Request to attend hearing
Appendix 7 – Extracts from policy
Appendix 8 – Extracts from Section 182 Guidance

**For admin use only:
Sub Committee Decision:**

Date of Sub Committee:

Reasons:

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 responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
5. (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.

6. The responsible person must ensure that—
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available
7. 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.
8. For the purposes of the condition set out at 7 —
- 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—
$$P = D + (D \times V)$$
 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;
 - d)** “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
9. Where the permitted price given by Paragraph (b) of paragraph 8 would (apart from the paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 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.
 - (2) 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

1. All staff engaged in licensable activity at the premises shall receive training and information in relation to the following:
 - The 'Challenge 25' Policy, including the forms of identification that are acceptable;
 - The hours and activities and conditions permitted in the premises licence;
 - How to complete and maintain the refusal register in operation at the premises;
 - Recognising the signs of drunkenness;
 - The operating procedures for refusing service to any person who is drunk, under-age or appears to be under-age, or appears to be making a proxy purchase;
 - Action to be taken in the event of an emergency, including reporting an incident to the emergency services.
2. Training shall be recorded in documentary form and shall be regularly refreshed every year. Training records shall be made available for inspection.
3. The premise shall adhere to the Portman Group Code of Practice for the promotion of alcoholic drinks and follow the Home Office guidance on selling alcohol responsibly. A drink, its packaging and any promotional material or activity shall not in any direct or indirect way appeal to under 18s or incorporate images of people who are or look as if they are under 25 years of age where there is any suggestion that they are drinking alcohol.
4. There shall be a responsible trained person on duty at the premises at all times when the premises are open and selling alcohol.
5. An incident log shall be kept and maintained at the premises which shall include the time and date of the incident, the people involved, the action taken and details of the person responsible for the management of the premises at the time of the incident. The logs shall be kept for at least 12 months following the date of entry and be made available for inspection.
6. Open containers of alcohol shall not be removed from the premises.
7. All alcohol on display shall be in such a position so as not to be obscured from the constant view of staff.
8. A written drugs policy shall be in place and operated at the premises. It shall detail the actions taken to minimise the opportunity to use or supply illegal substances within the premises. The policy shall be made available for inspection.
9. The CCTV system shall be monitored and operated by the Designated Premises Supervisor. The premises shall operate 6 CCTV cameras: 4 on the Ground Floor (Covering the till area, table area and exit and entry points). The system has a 1TB hard drive and will store recordings for 30 days. The system shall be registered with the Information Commissioners Office (ICO) and the premises shall operate a CCTV GDPR policy. This policy shall be made available for inspection. The CCTV system shall be fully compliant with the guidance contained in the ICO guidance document. Clear signage stating that CCTV is operating at the premises shall be displayed.
10. All exits/entrances shall be kept clear at all times and clearly identified.
11. The collection of glasses and bottles shall be undertaken at regular intervals to ensure there is no build-up of empties in and around the premises.

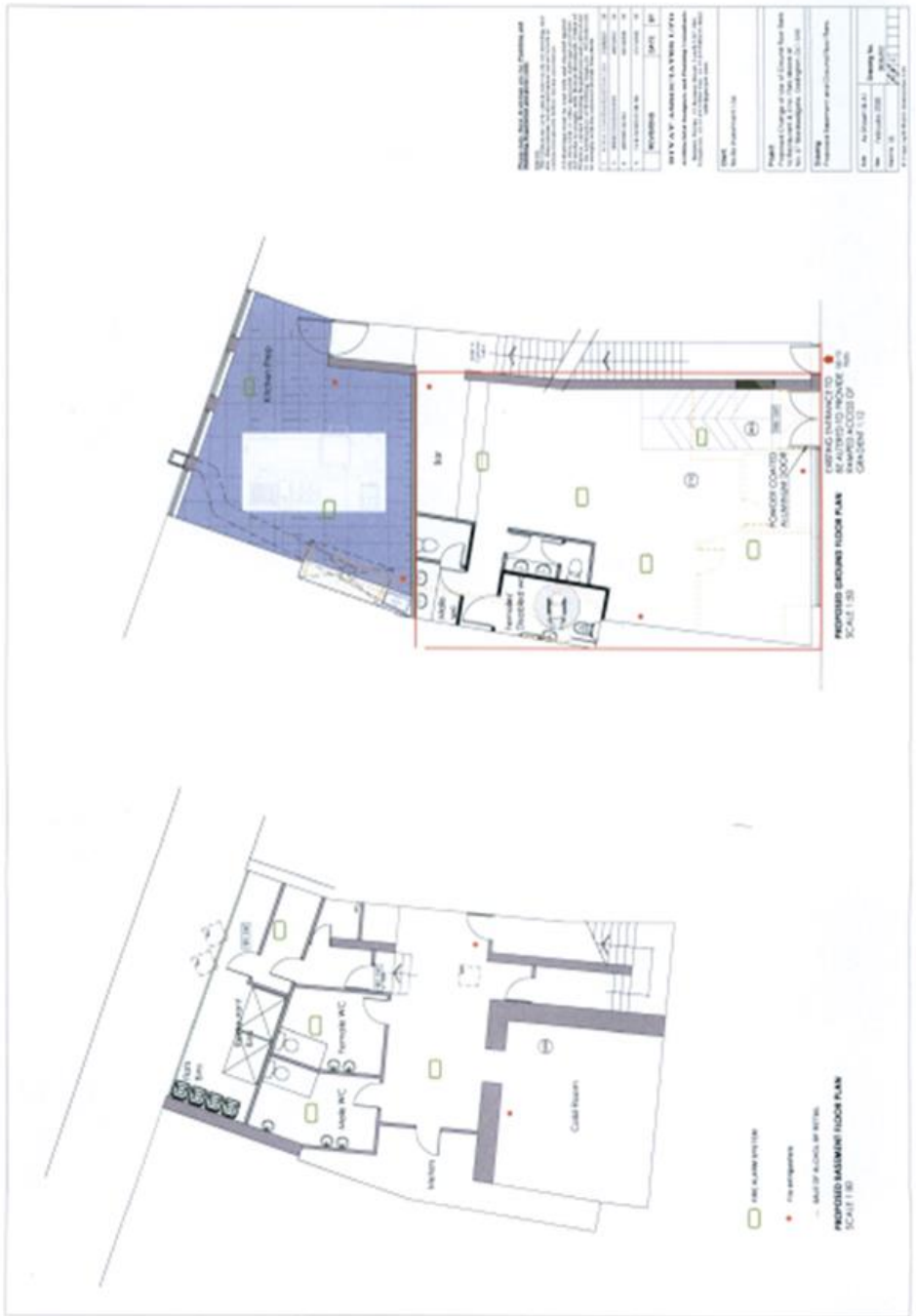
12. All designated escape routes and exits shall be maintained and kept free from obstructions. A logbook shall be maintained to show that regular checks have been carried out.
13. The premises shall maintain a first-aid box and accident book.
14. A written dispersal policy shall be in place and implemented at the premises to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours in the surrounding vicinity.
15. Clear and legible notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and to leave the vicinity as quickly and quietly as possible.
16. No deliveries (in relation to licensable activities) to the premises shall take place between 18:00 hours and 07:00 hours.
17. No collections of waste or recycling materials (including bottles) from the premises shall take place between 18:00 hours and 07:00 hours on the following day.
18. All waste shall be properly presented and placed out for collection. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 22:00 hours and 07:00 hours on the following day.
19. A telephone number shall be made available for neighbours and local residents to contact in the case of noise-nuisance or anti-social behaviour by persons or activities associated with the premises. The telephone number shall be a direct number to the named Designated Premises Supervisor. A record shall be kept by management of all calls received, including the time, date and information of the caller, including action taken following the call. Records shall be made available for inspection and copying by an authorised officer of a responsible authority throughout the trading hours of the premises.
20. All external doors and windows shall be kept shut at all times when the premises are open/during regulated entertainment except for entry and egress.
21. Taxi operator's telephone numbers shall be advertised to customers. The operators shall be advised that drivers should arrive and depart as quietly as possible, should not sound vehicle horns as a signal of their arrival or leave engines idling unnecessarily.
22. All bar staff, supervisors and managers shall be trained in the legality and procedure of alcohol sales to Level 1 Responsible Alcohol Retailing Training or similar. All training shall be signed and documented. Training records shall be kept on the premises and be made available for inspection. The documentation relating to training shall extend back to a period of three years and shall specify the time, date and details of the persons both providing the training and receiving the training.
23. There shall be in place a written age verification policy in relation to the sale or supply of alcohol, which shall specify a Challenge 25 policy. The poster shall be on display. All staff working at the premises shall ask individuals who appear to be under 25 years of age, attempting to purchase alcohol, to produce identification. The only acceptable identification documents shall be:
 - A photo driving licence;
 - A passport;
 - A identification card carrying the 'PASS' hologram.Unless such identification is produced the sale of alcohol will be refused.
24. The age verification policy shall include documented steps taken to prevent adults from purchasing alcohol for or on behalf of children under 18 (proxy sales).

25. An alcohol sales refusal register shall be kept at the premises and be maintained to include details of all alcohol sales refused. The register shall include the date and time and reason for refusal, details of the person refusing the sale and description of the customer. The refusals register shall be made available for inspection.
26. Children over 16 years of age shall be allowed unaccompanied on the premises, under 16's will be accompanied by an adult over 18 years of age.
27. No children under the age of 18 years of age shall be allowed on the premises after 21:00 hours.
28. The premises licence holder is to undertake right to work checks on all staff who are employed at the licensed premise in a paid or unpaid capacity. A copy of any documents checked as part of the right to work check are to be retained at the licenced premises. These documents will be made available to officers and responsible authorities when requested.

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

None

Annex 4 – Plans



Issued in accordance with the application for the transfer of a premise licence and in accordance with the application to vary the premise licence to specify a Designated Premises Supervisor

Authorised Officer
Date of Issue 25 January 2024

PREMISES LICENCE GUIDANCE

1. Your Premises Licence has been granted and is enclosed.
2. The annual fee is due on the anniversary of its grant, unless you are exempt (e.g. community premises). Please ensure that the annual fee is paid on time.
3. Your Premises Licence has been granted for an unlimited period of time and is subject to the conditions mentioned in the licence.
4. You must ensure that the Premises Licence, or a certified copy of it, is kept at the premises in the custody or under the control of yourself or a person ("the nominated person") who works at the premises and whom you have nominated in writing for these purposes. A person commits an offence if he or she fails, without reasonable excuse, to comply with these requirements. The maximum fine is £500 on conviction.
5. You must ensure that a Summary of the Premises Licence, or a certified copy of that Summary, is prominently displayed at the premises. If you have nominated a person ("the nominated person"), under 4 above, you must prominently display at the premises a notice specifying the position held at the premises by that person. A person commits an offence if he or she fails, without reasonable excuse, to comply with these requirements. The maximum fine is £500 on conviction.
6. A Police Constable or an Authorised Person may require the holder of the Premises Licence or the nominated person to produce the Premises Licence, or a certified copy of it, for examination. A person commits an offence if he or she fails, without reasonable excuse to comply with these requirements. The maximum fine is £500 on conviction.
7. Where a Premises Licence or Summary is lost, stolen, damaged or destroyed, the holder of the licence may apply to the Council for a copy of the licence or Summary. A fee of £10.50 is payable.
8. Subject to reinstatement in certain circumstances, a Premises Licence lapses if the holder the licence dies, becomes mentally incapable, becomes insolvent, or is dissolved.
9. Where the holder of a Premises Licence wishes to surrender their licence they may give the Council notice to that effect. The notice must be accompanied by the Premises Licence or, if that is not practicable, by a statement of the reasons for the failure to provide the licence. The Premises Licence lapses on receipt of the notice by the Council.
10. The holder of a Premises Licence must, as soon as reasonably practicable, notify the Council of any changes in:
 - Name and address
 - Name and address of the Designated Premises Supervisor (unless that Supervisor has already notified the Council)

The notice must be accompanied by the Premises Licence or, if that is not practicable, by a statement of the reasons for the failure to provide the licence. The Premises Licence lapses on receipt of the notice by the Council. A fee of £10.50 is payable.

A person commits an offence if he or she fails, without reasonable excuse, to comply with these requirements. The maximum fine is £500 on conviction.

11. The holder of a Premises Licence may apply to the Council at any time for variation of the licence. Amongst other things, an application form will need to be completed, a fee will need to be paid and the application will need to be advertised and served on the Responsible Authorities. Please contact the Council for an application form and a guidance leaflet on how to apply for a variation. Please note that a Licence may not be varied to extend the period for which a licence has effect, or to vary substantially the premises to which it relates – in those cases an application for a new Premises Licence will need to be made; please contact the Council for further details.
12. The holder of a Premises Licence may, if the licence authorises the supply of alcohol (or if it is intended to vary a licence so that it authorises the supply of alcohol), apply to vary the licence so as to specify the individual named in the application as the Designated Premises Supervisor. Amongst other things, an application form will need to be completed, a fee will need to be paid and the notice of the application must be given to the Police. It is possible for the applicant to ask for such a variation to have immediate effect on an interim basis. Please contact the Council for an application form and guidance leaflet on how to apply for a variation.
13. The Premises Licence may be transferred following an application made to the Council for a transfer of the Licence. Amongst other things, an application form will need to be completed, a fee will need to be paid and notice of the application must be given to the Police. It is possible for the applicant to ask for a transfer to have immediate effect on an interim basis. Please contact the Council for an application form and a guidance leaflet on how to apply for a transfer.
14. Where a Premises Licence has effect, and Interested Party or a Responsible Authority may apply to the Council for a review of the licence. You will be notified if an application is made to review your Premises Licence and you will have the opportunity to make representations about a review and to attend before the Council's Licensing Committee.
15. Your attention is drawn in particular to Part 7 of the Licensing Act 2003 which concerns offences under the Licensing Act 2003.



Licensing Act 2003 – Part A

PREMISES LICENCE – LAPREM00478

Premise Details:	Bambudda Ltd T/A: TAO Asian Street Food 27 - 28 Blackwellgate DARLINGTON DL1 5HX
------------------	---

Date Granted:	25 January 2024	Duration of Licence:	Not Time Limited
---------------	-----------------	----------------------	------------------

Licensable Activities

Activity	Days of Week	Open	Close
Sale of Alcohol for consumption both on and off the Premises	Every Day	11:00	23:00

Opening Hours	Every Day	09:00	23:00
---------------	-----------	-------	-------

Non Standard Times N/A

Premises Licence Holder:	Mr Benjamin Wu 408 Geneva Road Darlington DL1 4HG
--------------------------	--

Details of designated premises supervisor where the premises licence authorises for the supply of alcohol	
Name:	Mr Benjamin Wu
Licence Number:	LN/199316488
Licensing Authority:	Harrogate Borough Council

This page is intentionally left blank

**LICENSING ACT 2003
APPLICATION FOR REVIEW OF PREMISES LICENCE**

PREMISES NAME: Bambudda Ltd T/A: TAO Asian Street Food

PREMISES ADDRESS: 27 – 28 Blackwellgate
Darlington
DL1 5HX

Notice is hereby given that Darlington Borough Council has received from Home Office on 21 August 2024, an application for a review of the Premises Licence in respect of the above-named premises.

Grounds of Review

This review has been prompted due to concerns relating to Crime and Disorder objective of the Licensing Act 2003.

This Notice must be displayed on the premises for a minimum of 28 days, commencing from the day after the date the request for review was submitted to the relevant authority, this being Darlington Borough Council, Licensing Section, Town Hall, Darlington, DL1 5QT.

Anyone wishing to make representations/comments regarding this review must do so in writing to Darlington Borough Council by;

18 September 2024

Grounds for the review may be inspected at the office stated above or by visiting: www.darlington.gov.uk

It is an offence, knowingly or recklessly, to make a false statement in connection with an application and the maximum fine of £20,000 for which a person is liable on summary conviction for the offence.

This page is intentionally left blank

Licensing Authority: Darlington Borough Council
By email: licensing@darlington.gov.uk

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 Home Office Immigration Enforcement

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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Bambudda Ltd T/A:TAO Asian Street Food 27 – 28 Blackwellgate	
Post town Darlington	Post code (if known) DL1 5HX

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

Number of premises licence or club premises certificate (if known) LAPREM00478
--

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)

Please tick ✓ yes

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

Surname

First names

I am 18 years old or over

Please tick ✓ yes

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Home Office Immigration Enforcement Alcohol Licensing Team Lunar House 40 Wellesley Road Croydon CR9 2BY
Telephone number (if any)
E-mail address (optional) IE.Alcoholreviews@homeoffice.gov.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)

Grounds for review:

We have grounds to believe the license holder has failed to meet the licensing objectives of prevention of crime and disorder, as illegal working has been identified at this premises.

Section 36 and Schedule 4 of the Immigration Act 2016 (the 2016 Act) amended the Licensing Act 2003 (the 2003 Act) to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017. The intention is to prevent illegal working in premises licensed for the sale of alcohol or late-night refreshment.

The Home Secretary (in practice Home Office (Immigration Enforcement)) was added to the list of Responsible Authorities (RA) in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences and applications to vary a Designated Premises Supervisor (DPS)), and in some limited circumstances personal licence applications. In carrying out the role of responsible authority, Home Office (Immigration Enforcement) is permitted to make relevant representations and objections to the grant of a licence or request a review of an existing licence as a responsible authority where there is concern that a licence and related licensable activity is prejudicial to the prevention of immigration crime including illegal working.

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

Please refer to accompanied review pack for detailed information.

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
<input type="text"/>	<input type="text"/>	<input type="text"/>

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

yes

Please tick ✓

- 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, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

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 K Sooriyaarachchi
.....

Date 21 August 2024
.....

Capacity Responsible Authority
.....

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

Alcohol Licensing Team
Lunar House
40 Wellesley Road

Post town

Croydon

Post Code

CR9 2BY

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) IE.Alcoholreviews@homeoffice.gov.uk

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

This page is intentionally left blank



Home Office

Premises Licence Review

Bambudda Ltd T/A:TAO Asian Street
Food
27 – 28 Blackwellgate
Darlington
DL1 5HX

Contents

Case Summary	3
Licensed Premises History	4
Enforcement Visit dated: 03 July 2024	5
Reasons for Review	11
Outcome Sought	13
Appendix A – Supporting Evidence	14

Case Summary

On 03 July 2024, the North East, Yorkshire & Humber Immigration Compliance and Enforcement (ICE) team visited TAO Asian Street Food, 27 – 28 Blackwellgate, Darlington, DL1 5HX, after receiving intelligence that the business is employing illegal workers. Entry to the premises was gained at approximately 18:26hrs under section 28CA of the Immigration Act 1971.

The officers encountered eight persons working at the premises of which three were identified as working illegally.

A referral has been made to the Civil Penalty Compliance team in relation to the illegal working. The civil penalty's outcome is still outstanding.

It is pertinent to note that another enforcement visit was conducted simultaneously at second premises under the control of the same license holder.

Licensed Premises History

The premises licence number is LAPREM00478 and held by Mr Benjamin Wu. The Designated Premises Supervisor (DPS) is listed as Mr Benjamin Wu.

TAO (DARLINGTON) LTD shows on Companies House with reference 14445984, it was incorporated on 27 October 2022, it is currently active, and Nguyen Bich Thuy was appointed as director on 27 October 2022.

The premises is licensed for the sale of alcohol for consumption both on and off the premises. Details as follow:

Activity	Days of Week	Open Close
Sale of Alcohol for consumption both on and off the Premises	Every Day	11:00 23:00
Opening Hours	Every Day	09:00 23:00

Enforcement Visit dated: 03 July 2024

Entry to the premises was gained at approximately 18:26hrs. Upon entering, immigration officers encountered a total of eight persons working within the premises of which three individuals were suspected to be immigration offenders.

██████████

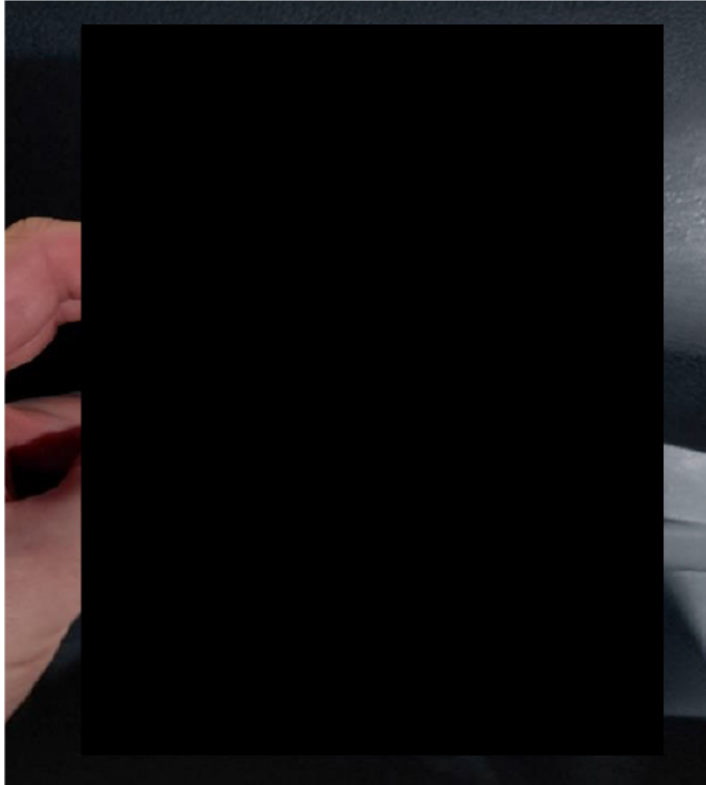
██████████ was witnessed working in the kitchen by police officers during the joint visit.

An illegal working interview was conducted with ██████████. When immigration officers questioned about his job role, his tasks and payment ██████████ maintained that he did not work at the premises. He was aware of his immigration status and about not being allowed “to help”.

When questioned as to why he was in the kitchen he stated that the police officers who encountered him initially had misunderstood the situation. He claimed he was there on a social visit to meet his friend ██████████, the owner, and was leaving the following morning to go to London where he had rent free accommodation.

██████████ denied living at the restaurant. ██████████ stated he was staying at ██████████ house and that he did not have any clothes or ID documents. However, during a search conducted in the upstairs accommodation ██████████ passport was found by officers. Immigration officers also noted that whilst being interviewed, ██████████ “kept looking at the door, bouncing his legs and appeared nervous”.

Home Office checks showed ██████████ entered the UK on a temporary work (Seasonal Worker) migrant visa valid from 24 June 2022 to 24 December 2022. No further applications to regularise his status, ██████████ is an overstayer with no right to work and therefore he was served with immigration bail and detained. Following the enforcement visit, he declined a voluntary departure’s offer and claimed protection. His claim is currently outstanding.



Photograph of [REDACTED] passport found in a suitcase in the flat above TAO Asian.

[REDACTED]

[REDACTED] was encountered working in the kitchen. On seeing the officers, he immediately sat in the customer area and initially refused to cooperate with officers.

An illegal working interview was conducted with [REDACTED]. [REDACTED] stated that he did not work at the premises and that he was there to see a friend, [REDACTED]. He stated that he was in the kitchen talking with the others.

[REDACTED] stated that he entered the UK via flight when he was 15/16 years old, but he couldn't remember where in the UK he landed and which airport. He had no passport, did not encounter an immigration officer, and was accompanied by a person who helped him to enter the country, but he didn't know who this person was.

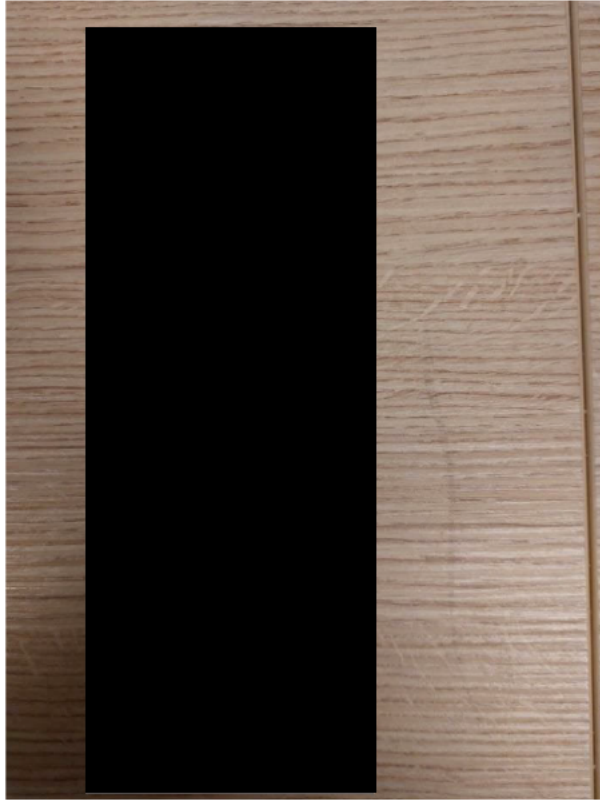
When questioned about where he lived, [REDACTED] initially stated he resided in Liverpool in a place where he didn't need to pay the rent and he didn't know who the owner was. He denied living upstairs the restaurant. At the same question he later provided the address: 27 Blackwell Gate, Darlington, DL1 5HG, which is the same address of TAO Asian restaurant. This was confirmed during a search of the accommodation above the premises where [REDACTED] personal belongings were found in a room, including multiple ID cards with his photo but different names and nationality (image below).

█████ claimed that he was unable to understand his immigration status and stated that he thought about regularising his status, but some friends had warned him that he could have been sent back.

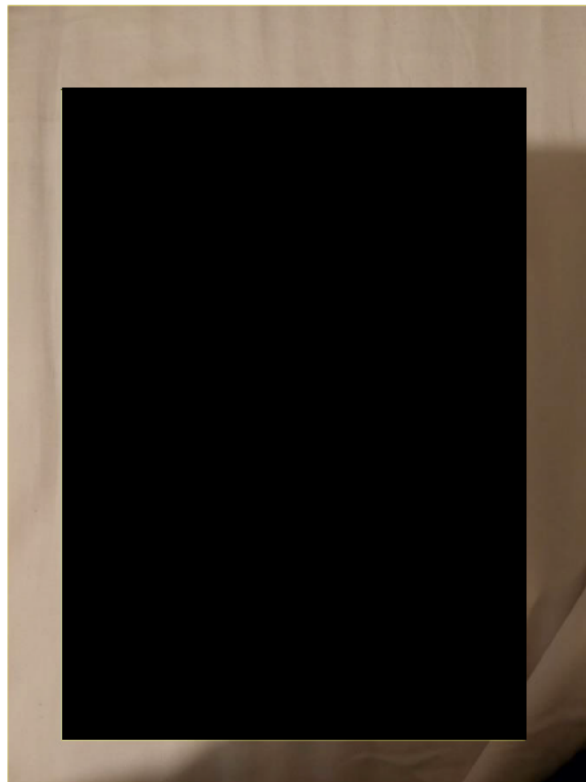
Home Office checks showed no trace of ██████ lawfully entering the UK or of any attempts to regularise his status. ██████ has never had status or the right to work in the UK and therefore he was served with immigration bail and detained. Following the enforcement visit, he accepted a voluntary departure's offer, and he is currently subject to administrative removal.



Photograph of ██████ wearing a uniform when he was encountered at TAO Asian.



Photograph of [REDACTED] four ID cards found at the flat above TAO Asian.



Photograph of multiple bank cards in multiple names found in wallet in [REDACTED] room.

██████████

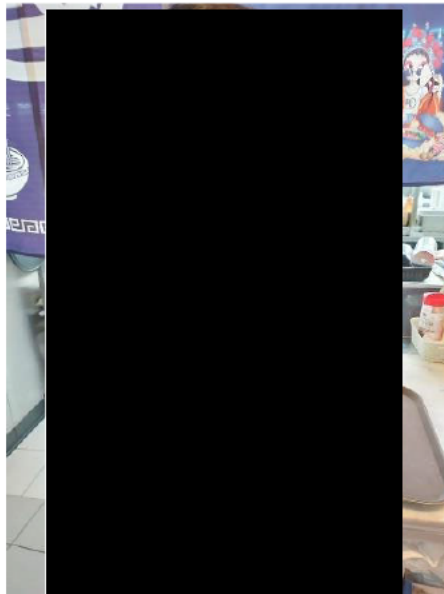
██████████ was encountered working in the premises kitchen (image below).

An interview was conducted with ██████. ██████ stated that he had been working at the premises for one year. He works five days per week, eight hours per day and was paid £400 per week to his bank. ██████ stated that he works as a chef and that he was recruited by ██████, the manager.

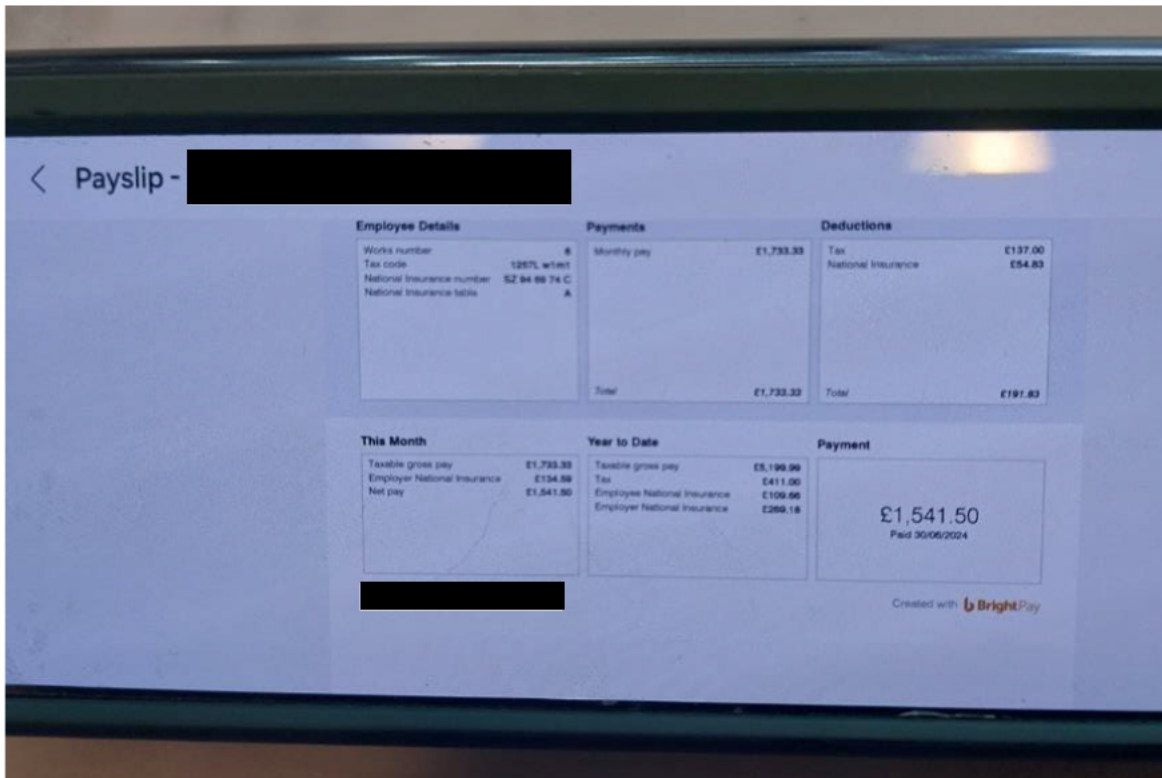
██████████ stated that he presented his application registration card (ARC) as proof of his right to work in order to gain employment. ██████ also had evidence of his payslips on his phone (image below).

Home Office checks showed that ██████ had an outstanding appeal and, on 11 March 2022, was granted permission to work in a role included on the Shortage Occupation List (SOL). Working as a chef in a restaurant does not fall within this list. Therefore, ██████ was working in breach of his work conditions.

To note, the Shortage Occupation List was renamed the Immigration Salary List (ISL) on 04 April 2024. Chef does not feature on the ISL.



Photograph of ██████ when encountered in the kitchen at TAO Asian.



Photograph of [redacted] payslip saved on his phone.

Bich Thuy NGUYEN - Employer

An illegal working interview was conducted with company director Bich Thuy NGUYEN. NGUYEN stated to be the manager and owner of TAO Asian.

She confirmed [redacted] was employed as a chef and had been working there for a year, but denied that [redacted], and [redacted] were employed. She stated that they were at the premises to visit friends. When questioned about why they were in the kitchen, NGUYEN stated that [redacted] and [redacted] were used to hanging around in the kitchen talking with their friends and cooking food for themselves. Food that she had bought for them.

NGUYEN stated that she provides food and accommodation for the employees. She stated that they eat at the restaurant and that [redacted], and his girlfriend lived at [redacted].

When questioned about asking employees for their right to work, NGUYEN stated that she checked the passport and BRP card and from these documents she would check right to work and right to live in the UK. She stated that she had checked [redacted] BRP card and that it showed his right to work. She stated that copies of employees' documents are stored on her phone. When officers requested to see proof of these copies she replied 'They send it to me via WhatsApp but its broken'.

Reasons for Review

Section 36 and Schedule 4 of the Immigration Act 2016 amended the Licensing Act 2003 to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 06 April 2017. The intention is to prevent illegal working in premises licensed for the sale of alcohol or late-night refreshment.

There were three illegal workers encountered at the premises. The business's director, Bich Thuy NGUYEN, admitted that one of them, [REDACTED], worked at TAO Asian. During a simultaneous visit to Bambudda Darlington where Benjamin Hin Ho WU is also the owner/DPS for both Bambudda and Tao Asian a further three illegal workers were found.

It is an offence to work when a person is disqualified to do so, and such an offence can only be committed with the co-operation of a premises licence holder or its agents. In this case, the employees were found working when they did not hold the right to work. One of the illegal worker's was issued an Application Registration Card (ARC) and he confirmed showing this to the employer. This card would have clearly stated the holder's employment restrictions. Bich Thuy NGUYEN failed to check the list of work allowed by the ARC. Below an image of an ARC example.



Photograph of a sample Application Registration Card (ARC).

NGUYEN claimed to have kept copies of employee documents on her phone, but was unable to provide these to immigration officers when requested. 'Annex 2 - Conditions consistent with the operating schedule' at point 28 of the premises license state the following,

"The premises licence holder is to undertake right to work checks on all staff who are employed at the licensed premise in a paid or unpaid capacity. A copy of any documents checked as part of the right to work check are to be retained at the licenced premises. These documents will be made available to officers and responsible authorities when requested."

As the employee records were not presented upon request it is considered a breach in complying with the conditions of the license.

Whether by negligence or wilful blindness illegal workers were engaged in activity on the premises, yet it is a simple process for an employer to ascertain what documents they should check before a person can work. It is an offence to work when a person is disqualified to do so, and such an offence can only be committed with the co-operation of a premises licence holder or its agents. It is also an offence to employ an illegal worker where there is reason to believe this is the case.

Immigration Enforcement submits that for commercial reasons those engaged in the management of the premises employed illegal workers and a warning or other activity falling short of a review is inappropriate; therefore, Immigration Enforcement has proceeded to review.

Outcome Sought

The objective of the Licensing Act 2003 (the Act) is to provide a clear, transparent framework for making decisions about applications by individuals or businesses wishing to sell or supply alcohol or provide certain types of regulated entertainment and late-night refreshment.

There are four licensing objectives which underpin the Act, and which need to be taken into account and promoted throughout the licensing process.

The licensing objectives are:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance and
- the protection of children from harm

Tao Asian Street Food has been found employing illegal workers. This business has clearly failed to meet the prevention of crime and disorder objective. The license holder would have been aware of their responsibilities to uphold the licensing objectives as they are clearly defined as part of the premises license application.

Immigration officers found multiple employees working at the premises when they did not hold the right to do so. In addition, there has been a breach in the conditions attached to the license. This business has clearly failed to meet the prevention of crime and disorder objective.

Immigration Enforcement asks that the premises licence is revoked. Merely remedying the existing situation (for instance by the imposition of additional conditions or a suspension) is insufficient to act as a deterrent to the licence holder and other premises' licence holders from engaging in criminal activity by employing illegal workers and facilitating disqualified immigrants to work illegally.

Appendix A – Supporting Evidence

Illegal Working-Employee [REDACTED]

QA [REDACTED]

Search of Premises - Passport [REDACTED]

Illegal Working-Employee [REDACTED]

QA [REDACTED]

Search of Premises - ID Cards [REDACTED]




Search of Premises - Bank cards [REDACTED]

QA [REDACTED]

Freetext Photo of payslip [REDACTED]

Illegal Working-Employer Bich thuy Nguyen [REDACTED]

Illegal Working - Employee					
Details					
Type of work	Visit				
Visit reference	██████████				
Created by	██████████				
ProntoID	██████████ - Vietnam				
Subject CIDPID/CEPR	██████████				
Subject name	██████████				
Subject DOB	██████████				
Subject nationality	Vietnam				
Subject gender	Male				
Time	19:26				
Created at geolocation	<table style="width: 100%; border: none;"> <tr> <td style="width: 30%;">Easting</td> <td style="text-align: right;">428800</td> </tr> <tr> <td>Northing</td> <td style="text-align: right;">514374</td> </tr> </table>	Easting	428800	Northing	514374
Easting	428800				
Northing	514374				
Creation date	03-07-2024 19:26:39				
Language of Interview					
What language is the interview carried out in?	Vietnamese				
Interpreter used?	Yes				
Details of interpreter	██████████				
Does the individual understand the interpreter?	Yes				
Obligation					
What is your job role/ what are your duties?	I don't really do anything, I'm leaving in the morning				
have you been assisting in the kitchen area	I don't do anything. I know I'm not allowed to help				
why did the policeman see you working in the kitchen.	He miss understood the situation				
Control					
Who tells you what tasks/ duties to do each day?	I don't work here				
Remuneration					
How are you paid (money, accommodation, food)?	I don't work here				

Pre-employment Checks	
No details provided.	
Additional Questions	
No details provided.	
Photographs	
No photographs.	
Declaration	
I confirm that I have understood all the questions and that the details are true and correct.	
Interviewee signature 	 03-07-2024 19:31:57
Observations	
Observations	Police officer observed male working on kitchen. When questioning every question asked was replied with not working here
Do you suspect this person of illegal working?	Yes
Management Checks Complete	
Date management checks complete	15-07-2024 12:03:35
Reviewer(s)	

Q&A

Details

Type of work	Visit				
Visit reference	[REDACTED]				
Created by	[REDACTED]				
Prontold	[REDACTED] - Vietnam				
Subject CIDPID/CEPR	[REDACTED]				
Subject name	[REDACTED]				
Subject DOB	[REDACTED]				
Subject nationality	Vietnam				
Subject gender	Male				
Time	18:47				
Created at geolocation	<table border="0"> <tr> <td>Easting</td> <td>428802</td> </tr> <tr> <td>Northing</td> <td>514374</td> </tr> </table>	Easting	428802	Northing	514374
Easting	428802				
Northing	514374				
Creation date	03-07-2024 18:47:37				

Language of Interview

What language is the interview carried out in?	Vietnamese
Interpreter used?	Yes
Details of interpreter	[REDACTED]
Does the individual understand the interpreter?	Yes

Q&A

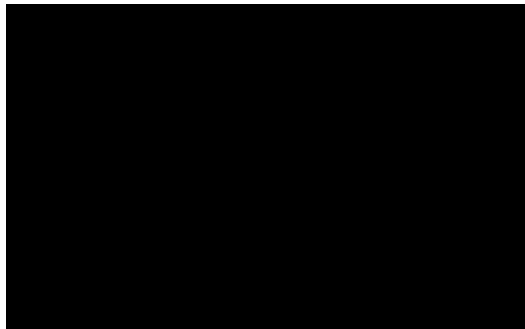
where ia your belongings	I'm here on a social visit
if you're here on a social visit why did the policeman see you working in the kitchen	I was seeing a friend
if you're here seeing a friend, where's your coat or belongings	Only jave a phone
where are you going after you've been here	London
your going to London wirh no money, no wallet no belongings?	I've got my phone
I don't believe you, it's in your interest to tell me the truth and be honest.	I only have my phone, some money but my friends will pay for me to go to London

otherwise we can just go to the police station	
I still don't believe you, you've lied about working here, you e overstayed hour permitted leave you don't look homeless, you don't look like you're sleeping rough, you're well kept. where are you living	I don't live upstairs
where are you living	18a summerhill road. N15 4hd
how much is you're rent	I live with a man who doesn't charge me
again, I don't believe you. what you've said so far doesn't make sense.	I'm being honest.
you can't even tell me where your belongings are? how long have you been working here for?	Yesterday I don't work here
how long have you been in the North east	I don't stay here. I visited the area yesterday for a social visit
how long did it take for you to get to London to here	3 hours
and you travelled from one side of thr country to the other with no wallet	It's summer. I have one set or clothes I didn't expect to stay here very long
why did the police officer see you working in the kitchen	I'm not working. I'm visiting my friend
the police seen you working. who is your friend	█, it's a Chinese or English name. Shes the owner
does the owner speak Vietnamese	Yes
do you know her nationality	vnm
how did you meet her	We were friends in Vietnam and we met in thr UK again
█ owns the flats upstairs. is that right?	I don't know
do you have a train ticket for going back to London	Tomorrow
where's the ticket	My friend will book it for me
so you don't have a ticket then?	No
where is the staff area in here	The stafg go home at the end of the dsy
do you have a coat	No
can you understand why I'm struggling to believe you? you have your phone ans £50, travelledfrom London to here in shorts and tshirt,	It's at my friends house I will collect it tonight

and the policeman seen you working in the kitchen	
where does your friend live	I don't know
why did you shout to the female	So I can arrange collection of my jacket
does the girl know the address	I don't know
you were going to make arrangements to have it collected so she must know where you're living	I don't know who's there
I didn't ask who was there what's the address? are you living with that girl	No, I just came to visit a friend to leave in the morning
are you staying with the girl tonight	Yes
mj asks female address	19 rundall road, ts19 0xf
if I go to this address, what property of yours will I find there	Maybe a jeans and a jacket
any ID documents?	No
where's your passport?	Maybe I've lost it
are you telling me the truth?	I think I got drunk with a friend and lost it
do you understand you're liable to be removed from thr UK? you overstayed your permitted leave.	I don't want to be in this situation.
you should have returned, reapplied and came back but you haven't. you've overstayed	Ok


Declaration

Interviewee signature 



03-07-2024 19:26:30

Search of Premises					
Details					
Type of work	Visit				
Visit reference	[REDACTED]				
Created by	[REDACTED]				
Address	TAO Asian Street Food, 27-28 Blackwellgate, Darlington, DL1 5HX (Visit Address)				
Prontoid	[REDACTED] - Vietnam				
Subject CIDPID/CEPR	[REDACTED]				
Subject name	[REDACTED]				
Subject DOB	[REDACTED]				
Subject nationality	Vietnam				
Subject gender	Male				
Created at geolocation	<table style="width: 100%; border: none;"> <tr> <td style="width: 30%;">Easting</td> <td style="text-align: right;">430420</td> </tr> <tr> <td>Northing</td> <td style="text-align: right;">515606</td> </tr> </table>	Easting	430420	Northing	515606
Easting	430420				
Northing	515606				
Creation date	03-07-2024 22:26:08				
Search Details					
Power of search	Paragraph 25A Schedule 2 Immigration Act 1971				
Search start time	03-07-2024 21:35:00				
Search end time	03-07-2024 22:12:00				
Name of authorising officer, if applicable					
Location within search premises (e.g., garden)					
Location notes	Passport located in suitcas3				
People Present					
Occupants					
Team members present	[REDACTED]				
Comments (general observations, evidence of children, vulnerable adults, potential victims of trafficking etc.)					
Record of Items Seized					
Item 1					
Power of seizure	Paragraph 25A Schedule 2 Immigration Act 1971				

Type	Identity documentation
Description	vnm passport
Where found	
Time seized	21:45
Exhibit reference number	
Evidence bag seal number	
Comments (including questions and answers about the item)	
Photos	 <p style="text-align: center;">ppt</p>
<p>I acknowledge the seizure of the listed items. I confirm I have answered any questions truthfully and that these have been captured accurately.</p>	
Signature of subject [REDACTED]	Unsigned
Plan of the Premises	
No sketch entered.	
Notes	
No notes entered.	
Management Checks Complete	
Date management checks complete	15-07-2024 12:03:35
Reviewer(s)	[REDACTED]

Illegal Working - Employee

Details

Type of work	Visit				
Visit reference	██████████				
Created by	██████████				
ProntoID	██████████ - China				
Subject CIDPID/CEPR	Unknown				
Subject name	Nicholas YEOW				
Subject DOB	██████████				
Subject nationality	China				
Subject gender	Male				
Time	20:08				
Created at geolocation	<table border="0"> <tr> <td>Easting</td> <td>428802</td> </tr> <tr> <td>Northing</td> <td>514374</td> </tr> </table>	Easting	428802	Northing	514374
Easting	428802				
Northing	514374				
Creation date	03-07-2024 20:08:14				

Language of Interview

What language is the interview carried out in?	English
Interpreter used?	No

Obligation

How long have you been working at this business?	I don't work here, I came here this morning.
How many times before have you been here?	Two times.
Why?	To see my friend.
What's your friend's name?	████
Do you ever work here?	No.
Do get food here?	Yes.
Do you prepare any food?	No.
My colleagues saw you in the kitchen, what were you doing there?	Talking.
Do you ever help in the kitchen?	No.
Do you cook in the kitchen?	No.

Control	
Has anyone asked you to help or do some work here?	No.
Why do you and [REDACTED] have the same crocs?	I don't know.
Who gave you these shoes?	Someone gave them to me, not here.
Are you working here against your will?	No.
Remuneration	
No details provided.	
Pre-employment Checks	
No details provided.	
Additional Questions	
Are you living upstairs?	No.
Have you been upstairs?	No.
Where does [REDACTED] live?	I don't know.
How did you meet [REDACTED]?	A friend of a friend of a friend.
Where is [REDACTED] from?	I don't know.
What language do you speak together?	Mandarin
You have been here three times, you are friends with [REDACTED] but you don't know where he is from?	Yes, I've been here two times.
Where is your train ticket from Liverpool?	I throw it away.

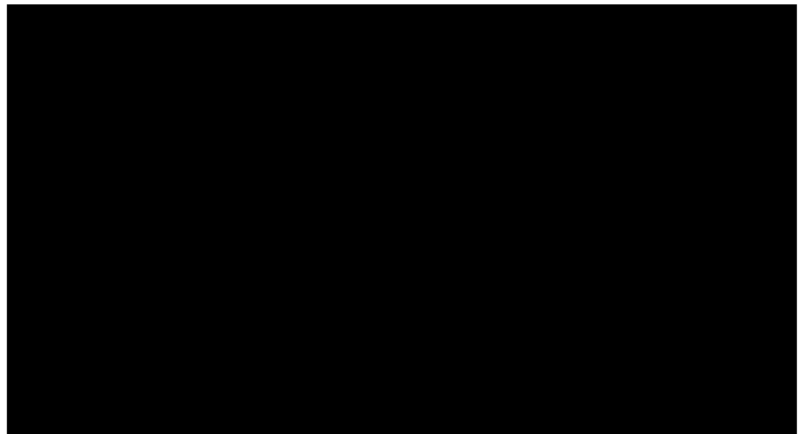
Photographs



Declaration

I confirm that I have understood all the questions and that the details are true and correct.

Interviewee signature



03-07-2024 20:22:39

Observations

Observations

█ was seen in kitchen by officers, he then sat down in customer area.

Do you suspect this person of illegal working?

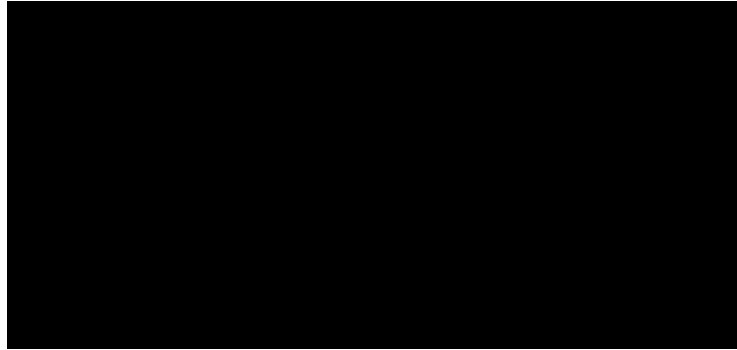
Yes

Q&A					
Details					
Type of work	Visit				
Visit reference	██████████				
Created by	██████████				
ProntolD	██████████ - China				
Subject CIDPID/CEPR	Unknown				
Subject name	██████████				
Subject DOB	██████████				
Subject nationality	China				
Subject gender	Male				
Time	18:49				
Created at geolocation	<table border="0" style="width: 100%;"> <tr> <td style="width: 150px;">Easting</td> <td style="text-align: right;">428802</td> </tr> <tr> <td>Northing</td> <td style="text-align: right;">514374</td> </tr> </table>	Easting	428802	Northing	514374
Easting	428802				
Northing	514374				
Creation date	03-07-2024 18:49:54				
Language of Interview					
What language is the interview carried out in?	English				
Interpreter used?	No				
Q&A					
Are you fit and well to be interviewed?	Yes.				
You told me you have been here since you were 16 years old and that you were brought here, who brought you here?	I don't know.				
When you arrived in the UK, you said you arrived at an airport, did you speak with an immigration officer?	No.				
Did you have a passport?	No.				
Did the person you were with have your passport?	No.				
Where were you taken when you arrived here?	I stayed in a house, I don't know where it is.				
How long did you stay in that house?	2 or 3 years.				
Did you go to school?	No.				
What did you do?	Cleaning.				

Did you get paid money?	Sometimes and sometimes not.
Did you clean for a family?	I was taken to a house to clean.
Where did you live?	I don't know.
Who did you live with?	With 6 or 7 other Chinese people.
Did you want to clean?	Somebody said I must clean.
Where do you live now?	Somewhere else?
Where?	I catch a train to Liverpool.
Do you have any documentation?	No.
Do you have national insurance?	No.
What have you been doing here?	I came here to find my friend, [REDACTED]
Where are you staying tonight?	I'm going back to Liverpool.
Where is your train ticket?	I'll buy one.
What time does your train leave?	Anytime.
When did you arrive in Darlington?	This morning.
How do you survive financially?	Sometimes I clean, my friend's sometimes give me money.
How do you pay your rent?	There no need to pay money.
Who does your house belong to?	I don't know, I have lived there 2 or 3 weeks.
Where is your jacket?	No jacket.
I suspect you know where you live and I suspect you are working here?	No.
Have you ever been to the Home Office?	No.
Why not?	I just haven't.
For the last 15 or 16 years have you moved about?	Yes.
Are you working here?	No.
Does someone make you work here?	No.
Have you understood all the questions?	Yes.


Declaration

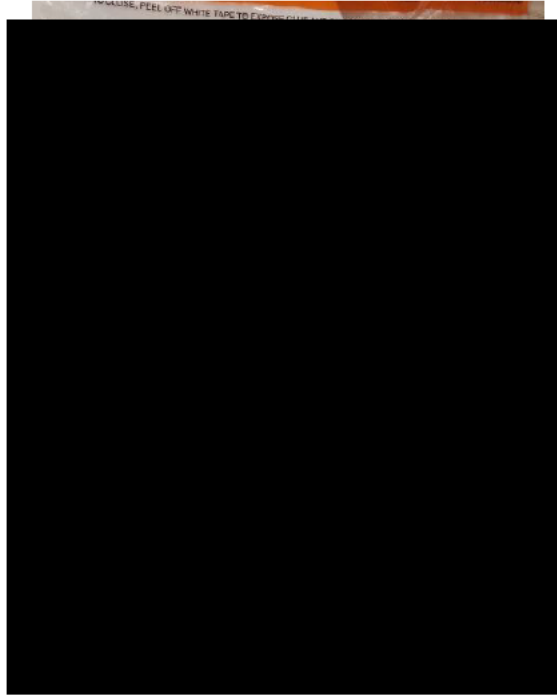
Interviewee signature [REDACTED]



03-07-2024 19:23:54

Search of Premises					
Details					
Type of work	Visit				
Visit reference	[REDACTED]				
Created by	[REDACTED]				
Address	TAO Asian Street Food, 27-28 Blackwellgate, Darlington, DL1 5HX (Visit Address)				
ProntID	[REDACTED] - China				
Subject CIDPID/CEPR	Unknown				
Subject name	[REDACTED]				
Subject DOB	[REDACTED]				
Subject nationality	China				
Subject gender	Male				
Created at geolocation	<table style="width: 100%; border: none;"> <tr> <td style="width: 30%;">Easting</td> <td style="text-align: right;">436435</td> </tr> <tr> <td>Northing</td> <td style="text-align: right;">551768</td> </tr> </table>	Easting	436435	Northing	551768
Easting	436435				
Northing	551768				
Creation date	04-07-2024 00:57:14				
Search Details					
Power of search	Paragraph 25A Schedule 2 Immigration Act 1971				
Search start time	03-07-2024 21:35:00				
Search end time	03-07-2024 22:13:00				
Name of authorising officer, if applicable	[REDACTED]				
Location within search premises (e.g., garden)	Bedroom belonging to [REDACTED].				
Location notes	Bedroom belonging to [REDACTED] in bedside table drawer.				
People Present					
Occupants	[REDACTED]				
Team members present	[REDACTED]				
Comments (general observations, evidence of children, vulnerable adults, potential victims of trafficking etc.)	<p>[REDACTED] informed me he was residing in Liverpool and that he had never been in the upstairs flat above the restaurant claiming this was his third visit to Darlington. It was evident he resides in his bedroom, cash kept in different parts of his bedroom, however u/k what quantity but not believed to be in excess of £1000 but not confirmed.</p> <p>Various mobile phone boxes, large quantity of aftershaves, condoms and sex toys.</p>				

Record of Items Seized	
Item 1	
Power of seizure	Paragraph 25A Schedule 2 Immigration Act 1971
Type	Identity documentation
Description	4x times ID cards with his photo but different names and nationality
Where found	Bedside table drawer
Time seized	22:13
Exhibit reference number	[REDACTED]
Evidence bag seal number	[REDACTED]
Comments (including questions and answers about the item)	[REDACTED] stated these are fakes and still claims his real name is [REDACTED] and that he is Chinese.
Photos	 <p>4x ID Cards</p>



Seized ID Cards x4

I acknowledge the seizure of the listed items. I confirm I have answered any questions truthfully and that these have been captured accurately.

Signature of subject [REDACTED]

Unsigned

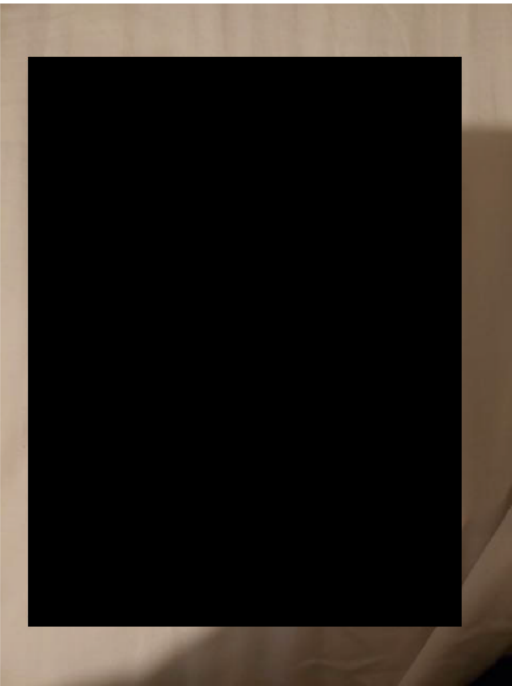
Plan of the Premises

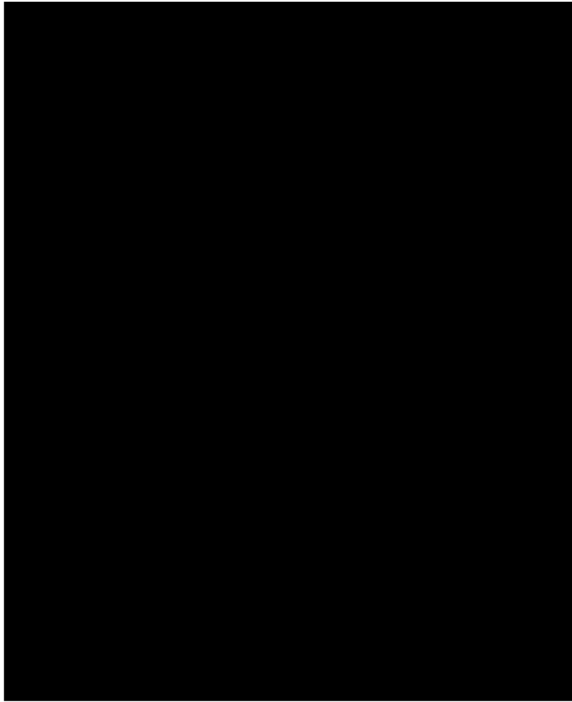
No sketch entered.

Notes

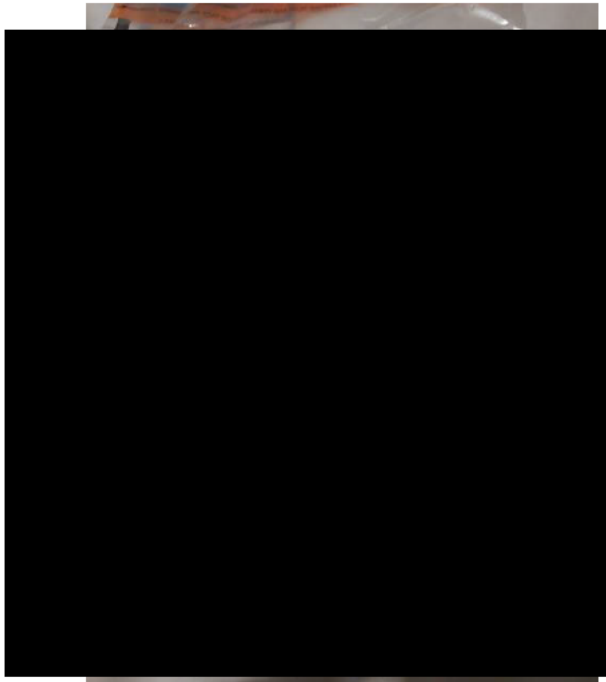
No notes entered.

Search of Premises					
Details					
Type of work	Visit				
Visit reference	[REDACTED]				
Created by	[REDACTED]				
Address	TAO Asian Street Food, 27-28 Blackwellgate, Darlington, DL1 5HX (Visit Address)				
ProntID	[REDACTED] - China				
Subject CIDPID/CEPR	Unknown				
Subject name	[REDACTED]				
Subject DOB	[REDACTED]				
Subject nationality	China				
Subject gender	Male				
Created at geolocation	<table style="width: 100%; border: none;"> <tr> <td style="width: 30%;">Easting</td> <td style="text-align: right;">428802</td> </tr> <tr> <td>Northing</td> <td style="text-align: right;">514375</td> </tr> </table>	Easting	428802	Northing	514375
Easting	428802				
Northing	514375				
Creation date	03-07-2024 23:21:15				
Search Details					
Power of search	Paragraph 25A Schedule 2 Immigration Act 1971				
Search start time	03-07-2024 23:22:00				
Search end time					
Name of authorising officer, if applicable					
Location within search premises (e.g., garden)	Room A6				
Location notes	Room in ground floor flat				
People Present					
Occupants					
Team members present	[REDACTED]				
Comments (general observations, evidence of children, vulnerable adults, potential victims of trafficking etc.)					
Record of Items Seized					
Item 1					
Power of seizure	Section 48 Immigration Act 2016				

Type	Other
If other, details	Bank cards
Description	Multiple bank cards in multiple names found in wallet in room of [REDACTED]
Where found	Top drawer in bedside table
Time seized	23:26
Exhibit reference number	[REDACTED]
Evidence bag seal number	
Comments (including questions and answers about the item)	
Photos	 <p>Bank cards</p>



evidence bag



sealed bag

I acknowledge the seizure of the listed items. I confirm I have answered any questions truthfully and that these have been captured accurately.

Signature of subject 

Unsigned

Plan of the Premises

No sketch entered.

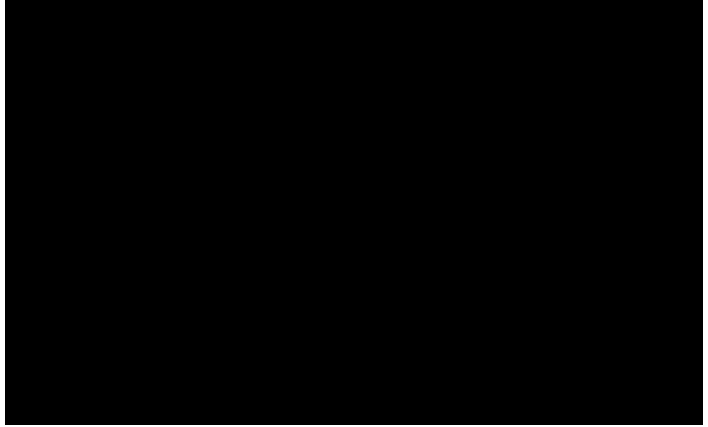
Notes

No notes entered.

Q&A					
Details					
Type of work	Visit				
Visit reference	██████████				
Created by	██████████				
ProntoID	██████████ - Malaysia				
Subject CIDPID/CEPR	██████████				
Subject name	██████████				
Subject DOB	██████████				
Subject nationality	Malaysia				
Subject gender	Male				
Time	18:39				
Created at geolocation	<table style="width: 100%; border: none;"> <tr> <td style="width: 30%;">Easting</td> <td style="text-align: right;">428802</td> </tr> <tr> <td>Northing</td> <td style="text-align: right;">514376</td> </tr> </table>	Easting	428802	Northing	514376
Easting	428802				
Northing	514376				
Creation date	03-07-2024 18:39:38				
Language of Interview					
What language is the interview carried out in?	English				
Interpreter used?	No				
Q&A					
How long have you been working here	1 year				
how many days do you work	1 year 2 months				
how many days do you work	5 days a week				
what hours do you work	8 hrs a day				
what is your job role here	Chef				
who employed you	████ the manager				
how much do you get paid	£400 per week				
how is this paid to you	Paid through the bank				
do you have any copies of your payslips on your phone	Yes				
Did █████ ask to see any proof that you can work in the UK	Yes				
what did you show her	I showed her my ARC card				
Are you aware you can only work in certain places on the SOL list	I asked a lawyer				

Declaration

Interviewee signature [REDACTED]

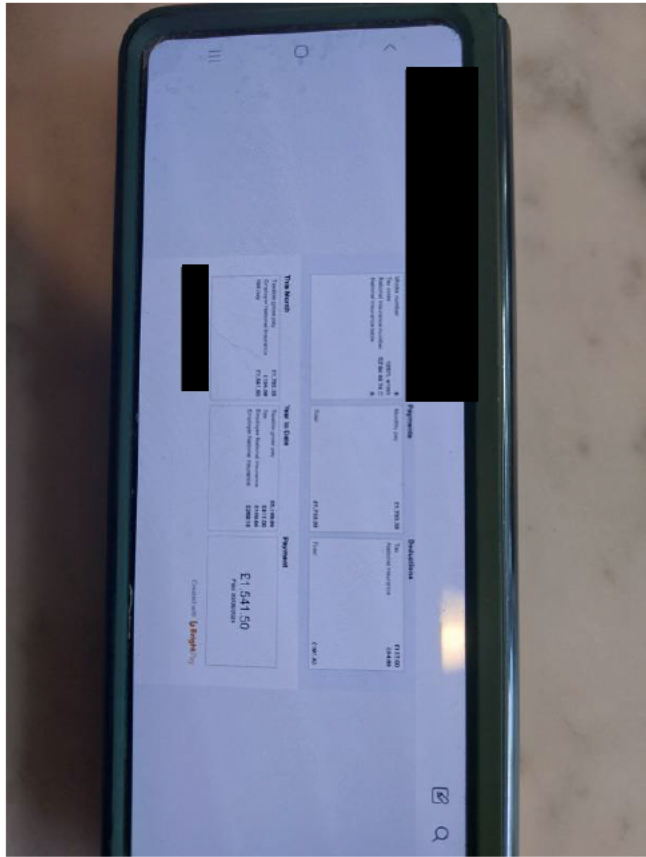


03-07-2024 18:52:10

Freetext					
Details					
Type of work	Visit				
Visit reference	██████████				
Created by	██████████				
Address	TAO Asian Street Food, 27-28 Blackwellgate, Darlington, DL1 5HX (Visit Address)				
Subject CIDPID/CEPR	██████████				
Subject name	██████████				
Subject DOB	██████████				
Subject nationality	Malaysia				
Subject gender	Male				
Time	19:49				
Created at geolocation	<table style="width: 100%; border: none;"> <tr> <td style="width: 30%;">Easting</td> <td style="text-align: right;">428801</td> </tr> <tr> <td>Northing</td> <td style="text-align: right;">514374</td> </tr> </table>	Easting	428801	Northing	514374
Easting	428801				
Northing	514374				
Creation date	03-07-2024 19:49:01				
Is this entry related to a Critical Incident?	No				
Entry					
Title	Photo of payslip				
Text	Copy of payslip				

Photographs

copy of payslip



Illegal Working - Employer

Details

Type of work	Visit				
Visit reference	██████████				
Created by	██████████				
ProntoID	Bich thuy Nguyen - ██████████ - Vietnam				
Subject CIDPID/CEPR	Unknown				
Employer	Bich thuy Nguyen				
Subject DOB	██████████				
Subject nationality	Vietnam				
Subject gender	Female				
Time	20:05				
Created at geolocation	<table style="width: 100%; border: none;"> <tr> <td style="width: 150px;">Easting</td> <td style="text-align: right;">428801</td> </tr> <tr> <td>Northing</td> <td style="text-align: right;">514374</td> </tr> </table>	Easting	428801	Northing	514374
Easting	428801				
Northing	514374				
Creation date	03-07-2024 20:05:17				

Language of Interview

What language is the interview carried out in?	English
Interpreter used?	No

Employer Details

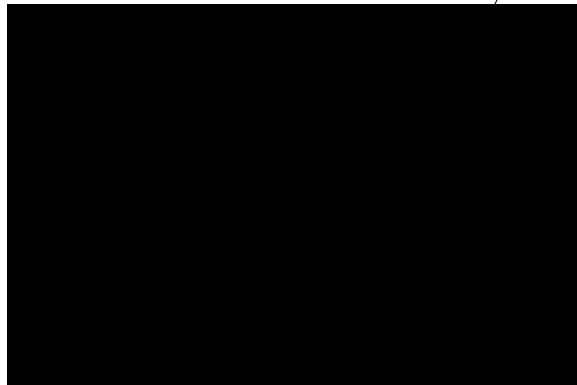
What are the Companies House and VAT numbers of the business?	Don't have it at the moment.
What is your position here?	Manager and owner
do you have any proof of this?	I have companies house. Company no. 14445984
who employed ██████████, ██████████ and ██████████?	I only employed ██████████.
who was responsible for employing the other gentlemen?	They are not working here.
can you explain what they were doing here at the restaurant this evening?	They came to visit friends, eat and cook food for themselves. I bought some food for them as they asked.
how do you know them?	Friends of friends as they are friends with the staff.
how often do they frequent here?	Not sure because I don't pay attention They come to hang around.
██████████ was found in the kitchen, can you explain this?	Because they normally do they hang around in there talking.

who pays the wages for employees?	I do
do you provide food and accommodation for the employees?	Yes They eat in here they are currently are living 408 Geneva Road Darlington but only two.of them.
which two live there?	█ and his girlfriend █.
when did they all start working for you?	Two not working here. █ started August 2023.
did you ask for any documentation	Yes I do
what is that	Passport and BRP card allowed to work or live here.
did you ask for proof that █ was allowed to work?	Yes he had his BRP card allowed him to wwork
did you keep a copy	I did take a photo no folder
do you keep copies of the workers documents?	On my phone.
have you got a copy ?	They send it to me vi what's app but its bbroken.
did you do any employment checks for █	No
what work/duties does █ do?	Chef
what days does he work	5 days a week
what hours does he work?	30 hrs a week
what times ?	From 11.30 until 8pm they have a break at 2pm till 4.30pm
how. much does he get paid?	I am sorry trying to remember £1541.50 per month -Net
how does he get paid?	Pay him via his bank

Declaration by Employer

I confirm that I have understood all the questions and that the details are true and correct.

Signed by Bich thuy Nguyen



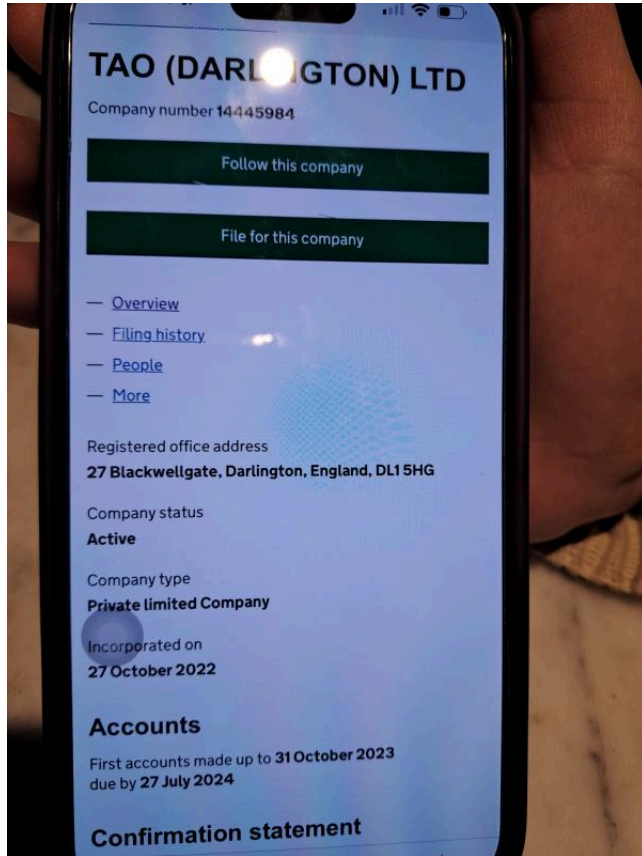
03-07-2024 20:24:01

Observations

Observations

██████████ has copy of payslip for ██████████

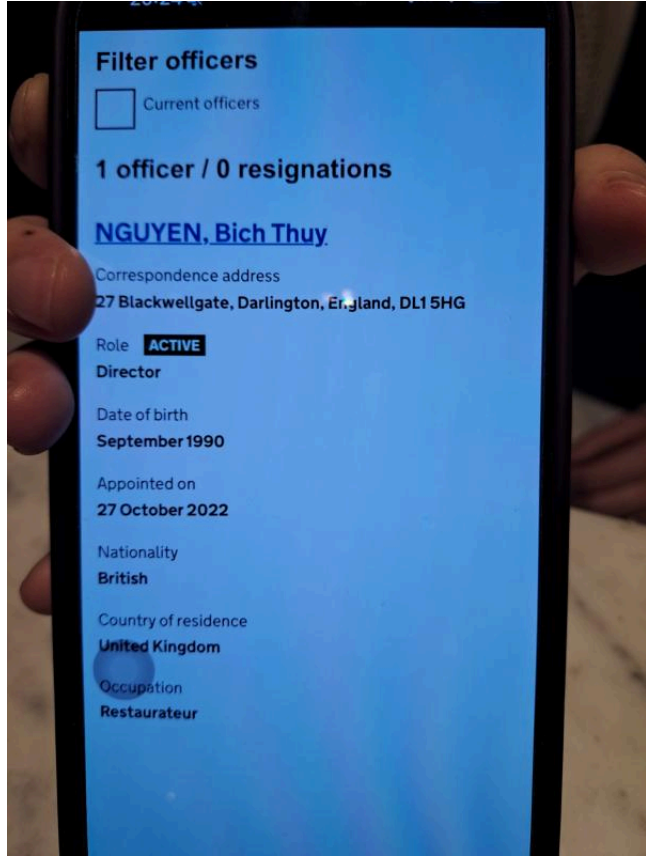
Photo 1



Caption

companies house page 1

Photo 2



Caption

companies house page 2

Management Checks Complete

Date management checks complete 15-07-2024 15:16:47

Reviewer(s) [REDACTED]

This page is intentionally left blank

To whom it may concern.

On 21st August 2024 Durham Constabulary received an application for a review of the premises licence at Bambudda Ltd T/A: TAO Asian Street Food, 27 – 28 Blackwellgate, Darlington, DL1 5HX which had been made by Home Office Immigration team.

On 03 July 2024, the Northeast, Yorkshire & Humber Immigration Compliance and Enforcement (ICE) team visited TAO Asian Street Food, 27 – 28 Blackwellgate, Darlington, DL1 5HX, after receiving intelligence that the business is employing illegal workers. Entry to the premises was gained at approximately 18:26hrs under section 28CA of the Immigration Act 1971. The officers encountered eight persons working at the premises of which three were identified as working illegally.

Following the arrests of a number of people at the premises a search was carried out at 27-28 Blackwellgate Darlington. It was found that two rooms were linked by keys held by [REDACTED] (male arrested at Bambudda for illegal entry into the uk) and [REDACTED] (male arrested at Bambudda for illegal entry into the UK) and a sum of over £10k was seized from the two rooms. A female was located in a locked room with small child who was safeguarded and taken to a hotel.

Durham Constabulary licensing team were not in attendance at this visit however having read the grounds of the review we believe the Premises licence holder (PLH) who is also the designated premises supervisor (DPS) Mr Benjamin Wu is not promoting the licensing objective of prevention of crime and disorder, as illegal workers have been identified at this premises.

As the PLH of this company I would expect Mr Benjamin WU to have had better management of his employees and to have a full understanding of their right to work in the uk, or lack of it

The revised guidance issued under section 182 of the Licensing Act 2003 (issued December 2023) states at section 11.27 and 11.28

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises for employing a person who is disqualified from that work by reason of their immigration status in the UK;

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered

Durham Constabulary are therefore fully supportive of the outcome sought by the ICE team and feel that revocation of the premises license should be considered by sub licencing committee.

Following the review of the premise licence application submitted on 21st August 2024 by Immigration, Durham Constabulary received 2 applications on 28th August 2024, one to the transfer premise license for TAO ref no LAPREM00478 and which is currently held by Mr Benjamin Wu, to TAO Rock N Roll LTD and an application to vary the designated premise supervisor from Mr Benjamin Wu to Bich Thuy Nguyen.

Durham Constabulary objected to the transfers on the following grounds.

At the time of visit conducted by the ICE team Bich Thuy NGUYEN 03/09/1990 (the applicant for the VDPS) was on site and she stated she was the manager and owner of TAO Asian Street Food. On checking companies house TAO (DARLINGTON) LTD reference no 14445984 showed that the business was incorporated on 27 October 2022 with Bich Thuy NGUYEN as the sole director from 27 October 2022 to when she resigned on 12th July 2024 (After the immigration visit). The address of the registered office of TAO (DARLINGTON) LTD was changed from 27 Blackwellgate, Darlington on 26th July 2024 (After the immigration visit) to 74 Bristol Street, Birmingham, B5 7AH.

On further searching companies house under Bich Thuy NGUYEN 03/09/1990 she is now currently the sole director of TAO Rock N Roll Ltd (the company named on the transfer of premises license) ref no 15890652.

TAO Rock N Roll Ltd was incorporated on 12th August 2024 (After the immigration visit) and Bich Thuy NGUYEN was appointed on the same date. The registered office of team Bich Thuy NGUYEN is 74 Bristol Street, Birmingham, B5 7AH, the same as TAO (DARLINGTON) LTD .

Bich Thuy NGUYEN was questioned at the time of the visit on the 3rd July 2024 and asked what checks she does to ensure employees have a right to work, she stated that she checks the individual's passport and the biometric residence permit (BRP card) and from these documents she would check right to work and right to live in the UK. She stated that copies of employees' documents are stored on her phone, however when immigration officers requested to see the copies on her phone, she was unable to provide them stating 'They send it to me via WhatsApp but its broken'.

Durham Constabulary did not feel that Bich Thuy NGUYEN was a suitable person to be the designated premise supervisor of TAO Rock N Roll LTD as this company is in essence TAO (DARLINGTON) LTD, whereby she was the sole director, owner and manager at the premises when illegal workers were found at the premises. We felt there were exceptional circumstances in this case and the appointment of Bich Thuy NGUYEN would undermine the crime prevention objective.

In relation to the application to transfer of premise license, as the licence for TAO (DARLINGTON) LTD was currently subject to review proceedings instigated by the Home Office Immigration Enforcement Team. Durham Constabulary felt that the transfer would undermine the review process and the licensing objectives as should the transfer of Premise licence transfer be granted there is a possibility that they would try to argue that TAO Rock N Roll LTD was nothing to do with TAO (DARLINGTON) LTD and they should not be held responsible for the actions of another business.

It is clear however from the information held on companies house that TAO Rock N Roll LTD which was incorporated after the immigration visit and has the same sole director as TAO (DARLINGTON) LTD did at the time of the visit Bich Thuy NGUYEN and both businesses now have the same registered office address, I would argue they are one of

the same and by trying to transfer the premises license is a way to circumvent the licensing act 2003 and prevent the review of the premises license.

On receipt of Durham Constabulary's objection, the applications to vary the DPS and PLH were withdrawn.

Thankyou

Caroline

Sgt 484 Caroline Dickenson

Licensed Economy Team Sg

Safeguarding Neighbourhoods Command

Durham Constabulary

01325 742782 or 0191 3752351

**LICENSING ACT 2003
NOTIFICATION OF HEARING
(Regulations 6 and 7)**

Date of Notification: 25 September 2024

Type of Hearing: Application to Review a Premises Licence

Premises: Bambudda Ltd: TOA Asian Street Food
27-28 Blackwellgate,
DARLINGTON DL1 5HX

Hearing Details: 09.30, Tuesday 8 October 2024

Location: Darlington Borough Council,
Town Hall, Darlington,
DL1 5QT

Copy of notice sent to:

- Benjamin Wu (Premises Licence Holder)
- Home Office (Immigration Compliance and Enforcement) (Responsible Authority)
- Durham Constabulary (Representations)

Attendance: All parties may attend this hearing. You may find it useful to be accompanied by your legal representative(s) or any other person who may be able to assist you. Please complete the attached form and return to the Licensing Section **no later than 1 October 2024**.

Non-attendance: If you notify the Licensing Authority that you will not be attending this hearing and that you will not be legally represented in your absence, the hearing may proceed in your absence. If you do not notify your non-attendance and then do not attend this hearing the Licensing Sub Committee will decide whether it is in the public interest to adjourn the hearing to enable you to attend or whether to hold the hearing in your absence. If the hearing does proceed in your absence your representations will still be considered.

Procedure at the Hearing: You will find attached, the procedure that will be followed at the Hearing. The Hearing will take place in public unless it is deemed in the public interest to exclude the public or any party to the Hearing from all or part of the Hearing. If a party is excluded from the Hearing (s)he will be able to provide written information to cover any verbal representations (s)he may have made if (s)he had not been so excluded. The Hearing will take the form of a discussion and each party will be permitted an equal period of time to provide information, make comment and express their views.

Withdrawal of Representations: Anyone wishing to withdraw representations should do so as soon as possible. Although this can be done at the Hearing, you are requested, where

possible, to give at least 24 hours' notice as it may no longer be necessary for the Hearing to proceed.

Outcome of Hearing: A decision will be made as soon as possible after the hearing and must be within the period of five working days beginning with the day or the last day on which the hearing was held.



DARLINGTON
Borough Council

Services Group
Licensing
Town Hall
Darlington DL1 5QT
Tel: 01325 405888
Email: licensing@darlington.gov.uk

**NOTICE OF ATTENDANCE
APPLICATION FOR REVIEW OF PREMISE LICENCE**

Please complete the following notice in block capitals and return to the address detailed below:

DATE OF HEARING: 8 October 2024

NAME OF PREMISES: Bambudda Ltd: TAO Asian Street Food
27-28 Blackwellgate,
DARLINGTON DL1 5HX

YOUR NAME:

I will* will not* be attending the meeting

I will* will not* be legally represented

NAME OF LEGAL REPRESENTATIVE
(IF APPROPRIATE):

(*please ✓ where appropriate)

If you wish to be accompanied by any other person please provide details of their name and an outline of what they wish to say and how this will assist you:

Name:

Details:

Please return to: Licensing
Darlington Borough Council
Block D, Town Hall
Feethams
DARLINGTON

Or email **DL1 5QT**
licensing@darlington.gov.uk
LICENSING SUB COMMITTEES

**FULL HEARING PROCEDURE FOR APPLICATIONS FOR REVIEWS OF PREMISES
LICENCES/CLUB PREMISES CERTIFICATES WHERE RELEVANT REPRESENTATIONS HAVE
BEEN RECEIVED**

1. The Chair will welcome all parties who are present and introduce the Members. The Chair will explain to the parties at the beginning of a hearing the procedure that it is proposed to follow. The hearing will take the form of a discussion. Cross-examination will not be permitted without the consent of the Chair.

Any Members who know the Premises Licence holder or any of the objectors will declare this fact and not take part in the hearing of the application. This is in addition to the declaration of any personal or prejudicial interest.

(NB. The Secretariat will endeavour to ensure that Ward Members and Members that are personally known to the applicant are not included on the Sub Committee.)

All hearings will usually be in public. The Sub Committee may however exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

The Licensing Manager will outline the application.

2. **The Application for the Review**

NB: Where the application comes from Interested Parties, i.e. local residents or businesses within the vicinity of the premises, the Sub Committee will expect that wherever possible a spokesperson be elected to speak on behalf of the group. This person will make the application. At the conclusion of the application the Chair will ask the group if there is any information which is additional to the application made by the spokesperson and if so will permit this information to be given.

- [1] The Applicant for the review or their representative will give their reasons for making the application.
- [2] The Applicant for the review or their representative will then call any witnesses and/or give reasons for their objection.
- [3] The Premises Licence Holder or his/her representative may then question the Applicant for the review [if they have given evidence] and any witnesses.
- [4] The Chair or any member of the Licensing Sub Committee, through the Chair, may ask questions of the Applicant for the Review and any witnesses.

If several applications/representations have been received and the Applicants for the Review have not agreed to present the case jointly, this procedure will normally be repeated for each individual Applicant.

3. **The Premise Licence holder's (PLH) Case**

- [1] The PLH or their representative presents their response to the application for review.
- [2] The PLH or their representative will then call any witnesses and/or give evidence in support of his/her response.
- [3] The Applicant(s) for the Review may then question the PLH if they have given evidence] and any witnesses.
- [4] The Chair or any Member of the Licensing Sub Committee through the Chair will ask questions of the PLH and any witnesses.
- [5] The PLH or their representative will then be given a final opportunity of asking any further questions of any witnesses to clear up any points raised in the earlier questioning.

4. The PLH will be asked by the Chair of the Sub Committee whether, in the light of the information heard in relation to the review, they wish to amend the operating schedule, change the designated premises supervisor (Premises Licences only) or offer additional conditions, as when they retire, Members will consider only the information before them at that time.

If the PLH wishes to amend the operating schedule, change the designated premises supervisor (Premises Licences only) or offer additional conditions the Applicant(s) for the Review will be given the opportunity to comment on the proposal.

5. **Closing Statement or Summary**

- [1] **By or on behalf of the Applicant(s) for the Review.** The Applicant(s) for the review may summarise any points they wish to make and comment briefly on the Applicant's replies to questions. They cannot introduce new issues.
- [2] **By or on behalf of the PLH.** The PLH will be invited to summarise any points they wish to make and comment briefly on the Applicant for the Review's replies to questions. They cannot introduce new issues

6. **Conclusion**

All decisions will be made in private.

The Legal Officer will repeat, in summary form, any legal advice given to Members when the public is re-admitted.

Once a decision has been reached, the press and public will be re-admitted to the meeting together with the Premises Licence Holder, Responsible Authorities and Other Persons. At this stage, the Chair will announce the Sub Committee's decision, will give reasons for the decision and advise all parties of rights of appeal. The decision will subsequently be formally notified to the Applicant(s), Responsible

Authorities and Other Persons in writing, including their rights of appeal as soon as possible after the Hearing.

This page is intentionally left blank

**EXTRACTS FROM DARLINGTON COUNCIL'S LICENSING POLICY
(EFFECTIVE FROM 07 JANUARY 2022)**

1.2 The Licensing Act 2003 supports a number of other key aims and purposes.

These include:

- a) Providing the Police and the Council with powers to effectively manage and police the night-time economy and take action against any premises that are causing problems.
- b) Protecting local residents and visitors to Darlington from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises.
- c) Recognising the important role which pubs and other licensed premises play in the local economy by reducing, where possible the regulatory burden on businesses and supporting responsible premises.
- d) Providing a regulatory framework for alcohol which enables the Council to make and enforce appropriate decisions about the most appropriate licensing strategies for the borough of Darlington; and
- e) Encouraging greater involvement in licensing decisions by local residents the opportunity in respect of licensing decisions which may affect them.

1.3 In addition this Policy also aims to:

- promote more responsible attitudes to alcohol and responsible drinking.
- raise awareness of the level of alcohol related health problems.
- protect children and residents from the negative impact of alcohol.
- reduce the rate of alcohol related crime and disorder and anti-social behaviour.
- promote a responsible licensed trade.

6.0 PREMISES LICENCES AND CLUB PREMISES CERTIFICATES

NB This Policy concentrates on premises that provide multiple licensable activities. Further information is provided at Section 12.7 - 12.8 in respect of premises to which many parts of this Policy do not fully apply.

In many cases it may be helpful to all concerned for applicants and/or their advisers to discuss with Licensing Authority Officers the draft-operating schedule before it is formally submitted. This will help to ensure it properly addresses all issues of concern to the Licensing Authority (see glossary of terms in respect of "grandfather rights" for current licensees).

6.1 Policy: Applicants for Premises Licences will be expected to address the licensing objectives. It may assist to consider Local Crime Prevention Strategies, Planning and Transportation Policies and Tourism and Cultural Strategies when determining their operating schedule.

The Licensing Authority will expect the operating schedule to have regard to the nature of the area in which the premises are located, the type of premises, the licensable activities to be provided, the hours of operation, impact on the locality and the needs of the local community.

In this respect the Licensing Authority will expect the applicant to demonstrate how the premises will be a “good neighbour” both to residents and other venues and businesses. The applicant will be required to demonstrate that he/she has satisfactorily addressed each of the licensing objectives as part of any application to vary the operation of the premises.

Reason: To comply with the legislative requirements of the Licensing Act 2003.

7.0 THE IMPACT OF LICENSABLE ACTIVITIES

7.1 **Policy:** When considering whether a licensable activity should be approved the Licensing Authority will, if relevant representations are received, assess the likelihood of it contributing to unacceptable, adverse impact in terms of crime and disorder and public nuisance, in particular to local residents and businesses.

Applicants should therefore consider the following when making an application:

- a) The proposed hours and days of operation and how often an activity occurs.
- b) The location of the premises, particularly in relation to residential properties and such places as hospitals, hospices and places of worship.
- c) The number and type of current and future customers.
- d) The means of access and egress to the premises which should have public access on principal pedestrian routes.
- e) The availability of public transport for patrons arriving at and leaving the premises compared to the anticipated level of private transport usage.
- f) The likely effect of car parking demand on both principal roads and residential streets and the impact this may have on local residents and emergency access.
- g) The need for provision of portable toilet facilities outside of the premises.
- h) The cumulative impact of licensed premises within the area and the scope for mitigating such impact.
- i) Waste disposal arrangements including bin storage and the collection and containment of litter from the vicinity of the premises.
- j) Public nuisance caused by unauthorised advertising and fly-posting

and, in considering any application from premises which are currently licensed, the Licensing Authority will, if relevant representations are received, take into account any evidence of:

- k) Past demonstrable adverse impact from the activity, particularly on local residents and businesses; or
- l) If adverse impact has been caused, that appropriate measures have been agreed and put into place to address any future adverse impact. If measures are to be put into effect or alternatively if there has been insufficient time to assess their usefulness a licence may be granted for a limited period only.

7.2 **Reason:** To achieve the licensing objective of preventing public nuisance. To promote this objective the Licensing Authority, in considering the likelihood of adverse impact, will take into account, among other matters:

- The precise nature of the activity, particularly in terms of entertainment, as this may impact in terms of the age of patrons and their behaviour.

- Noise levels and type of noise, which may be acceptable during daytime hours but may have greater impact at times when ambient noise levels are much lower.
- The impact of patrons arriving, queuing and exiting which should take place on main pedestrian routes rather than through residential areas.
- The impact of other sources of nuisance from smells, smoke, refuse storage, vermin and other similar causes of nuisance.

NB Where steps can be taken to mitigate adverse impact and such steps are reliable, practical and robust then an activity may be licensed.

7.3 **Additional Information:**

The Licensing Authority will focus on matters within the control of the individual licensee and the steps they can take to achieve the licensing objectives.

In making its decisions the Licensing Authority accepts the difficulties that licence holders face in preventing anti-social behaviour once patrons are beyond the direct control of the licensee. However, the licensing objective of preventing public nuisance will not be achieved if patrons from licensed premises regularly behave in an anti-social way which impacts on local residents and/or businesses.

The Licensing Authority recognises a the Council's responsibility under the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder. The aim of this Policy therefore is to achieve a balanced approach to these difficult issues.

11.3 **Steps to be taken by Licensees to Address Crime and Disorder Issues**

Policy: The Licensing Authority will expect the applicant to indicate in his operating schedule the steps proposed to prevent crime and disorder on and in the vicinity of their premises and/or events

Reason: Prevention of crime and disorder is both an objective of the Licensing Act 2003 and a responsibility of the Licensing Authority under the Crime and Disorder Act 1998. It is important, therefore, that the applicant be able to demonstrate to the Licensing Authority the practical steps that will be taken to further this objective in the operating schedule. The factors that impact on crime and disorder may include:

- a) Underage drinking.
- b) Drunkenness on premises.
- c) Public drunkenness.
- d) Drugs.
- e) Violent behaviour.
- f) Anti-social behaviour.

11.3 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:

- a) Effective and responsible management of premises.
- b) Training and supervision of staff.

- c) Adoption of best practice guidance (eg Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other Voluntary Codes of Practice, including those relating to drinks promotions eg The Point of Sale Promotions published by BBPA, Security in Design published by BBPA and Drugs and Pubs, published by BBPA).
- d) Acceptance of accredited means of age identification eg DVLA photo driving licence or 'proof of age' cards.
- e) Provision of effective digital CCTV in and around premises.
- f) Employment of Security Industry Authority licensed door-staff.
- g) Provision of plastic or shatter resistant glasses.
- h) Provision of secure, deposit boxes for confiscated items.
- i) Procedures for assessing risk associated with promotions and events such as "happy hours" for the potential to cause crime and disorder and plans for minimising such risks.
- j) Measures to prevent the use or supply of illegal drugs.
- k) Employment of licensed door supervisors and other appropriately trained staff.
- l) Installation of non-retrievable bottle bins at exits and ensuring that patrons do not leave with bottles or glasses (on licence sales).
- m) Provision of litterbins and other security measures, such as lighting, outside premises.
- n) Membership of Darlington 'PubWatch' scheme.

11.4 The Licensing Authority will expect the operating plan to include a risk assessment into the use of door-staff, in terms of the actual need for such a service and also the ratio of such personnel to patrons based on capacity of the premises.

11.5 **Policy: The Licensing Authority will normally require a Personal Licence holder to be on the premises at all times when alcohol is being sold.**

Reason: It is important that there is an accountable, responsible person present at all times when alcohol is being sold. This is to ensure that alcohol is not sold to persons who have had too much to drink and to ensure that alcohol is only sold to persons over the age of 18 years. In terms of crime and disorder, there is a need for an identified person with whom the Licensing Authority and Police can discuss any problems/issues arising from the licensable activities offered on the premises.

**GUIDANCE ISSUED UNDER SECTION 182 OF THE LICENSING ACT 2003
(REVISED DECEMBER 2023)**

PURPOSE

- 1.7 This Guidance is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.
- 1.8 The police remain key enforcers of licensing law. This Guidance does not bind police officers who, within the parameters of their force orders and the law, remain operationally independent. However, this Guidance is provided to support and assist police officers in interpreting and implementing the 2003 Act in the promotion of the four licensing objectives.

Legal status

- 1.9 Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. This Guidance is therefore binding on all licensing authorities to that extent. However, this Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons. Departure from this Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.
- 1.10 Nothing in this Guidance should be taken as indicating that any requirement of licensing law or any other law may be overridden (including the obligations placed on any public authorities under human rights legislation). This Guidance does not in any way replace the statutory provisions of the 2003 Act or add to its scope and licensing authorities should note that interpretation of the 2003 Act is a matter for the courts. Licensing authorities and others using this Guidance must take their own professional and legal advice about its implementation.

Licence conditions – general principles

- 1.16 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as "must", "shall" and "will" is encouraged. Licence conditions:
- must be appropriate for the promotion of the licensing objectives.
 - must be precise and enforceable.
 - must be unambiguous and clear in what they intend to achieve.

- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation.
- must be tailored to the individual type, location and characteristics of the premises and events concerned.
- should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case.
- should not replicate offences set out in the 2003 Act or other legislation.
- should be proportionate, justifiable and be capable of being met.
- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- should be written in a prescriptive format.

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.

Other relevant legislation

1.19 While licence conditions should not duplicate other statutory provisions, licensing authorities and licensees should be mindful of requirements and responsibilities placed on them by other legislation.

Crime and disorder

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority ("SIA") as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that

people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.

- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). 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.
- 2.6 The prevention of crime includes the **prevention of immigration crime including the prevention of illegal working in licensed premises**. Licensing authorities should work with Home Office Immigration Enforcement as well as the police, in respect of these matters. **Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that evidence of a right to work check, either physical or digital (e.g. a copy of any document checked as part of a right to work check or a clear copy of the online right to work check) are retained at the licensed premises.**

The review process

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 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.

- 11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility. The applicant must give notice of the review application to the responsible authorities and holder of the licence or certificate. The licensing authority is required to advertise a review application.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.
- 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. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which

would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.

11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 14 of this Guidance.

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. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.

11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.

POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. **Similarly, licensing authorities**

may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.

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 to address the causes of concern that instigated the review.

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 or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to

do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

Reviews arising in connection with crime

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.
- 11.27 **There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously.** These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime.
 - for the sale and distribution of illegal firearms.
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected.
 - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people.

- for prostitution or the sale of unlawful pornography.
- by organised groups of paedophiles to groom children.
- as the base for the organisation of criminal activity, particularly by gangs.
- for the organisation of racist activity or the promotion of racist attacks.
- **for employing a person who is disqualified from that work by reason of their immigration status in the UK.**
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, **it is expected that revocation of the licence – even in the first instance – should be seriously considered.**