

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.

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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:

