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Queen Victoria Road
High Wycombe
Bucks HP11 1BB

Licensing Panel Hearing Agenda

Date: 9 January 2020
Time: 10.00 am
Venue: Council Chamber
District Council Offices, Queen Victoria Road, High Wycombe Bucks

Panel Members

Chairman: Councillor A E Hill
Councillors: C B Harriss and N B Marshall

Officers

Mr B Whittall (Licensing Officer)
Tel: 01494 421346 Email: brian.whittall@wycombe.gov.uk

Mr R Ricks (Barrister)
Tel: 01494 421192 Email: richard.ricks@wycombe.gov.uk

Fire Alarm - In the event of the fire alarm sounding, please leave the building quickly and calmly by the nearest exit. Do not stop to collect personal belongings and do not use the lifts. Please congregate at the Assembly Point at the corner of Queen Victoria Road and the River Wye, and do not re-enter the building until told to do so by a member of staff.

Filming/Recording/Photographing at Meetings – please note that this may take place during the public part of the meeting in accordance with Standing Orders. Notices are displayed within meeting rooms.

Agenda

Item

1 **Introductory remarks by the Chairman**

The Chairman of the Panel will outline procedures to be adopted in relation to the conduct of the meeting and will introduce the Members of the Panel and other persons present.

2 **Apologies for absence**

To receive apologies for absence.

3 **Declarations of interest**

To receive any disclosure of disclosable pecuniary interests by Members relating to items on the agenda. If any Member is uncertain as to whether an

interest should be disclosed, he or she is asked if possible to contact the District Solicitor prior to the meeting.

Members are reminded that if they are declaring an interest, they should state the nature of that interest whether or not they are required to withdraw from the meeting.

4 Mr Clement Vinothraj Tharmalingham, Corner Express, 97 Roberts Road, High Wycombe, HP13 6XD

To consider an application under s.42 of the Licensing Act 2003 to transfer a premises licence and s.37 to vary a licence in respect of Clement Vinothraj Tharmalingam, Corner Express, 97 Roberts Road, High Wycombe, HP13 6XD (application and report attached).

Report and Documentation

The following documents are attached:

- Report of the Licensing Officer with application documents and associated appendices.
- Supplementary documentation:
 - Procedure at oral hearings

For further information, please contact Democratic Services, 01494 421261, committeeservices@wycombe.gov.uk

**Licensing Panel Hearing
19 December 2019 at 10:00
Council Chamber, Council Offices**

Applicant(s): Clement Vinothraj Tharmalingam

Premises: Corner Express, 97 Roberts Road, High Wycombe, Buckinghamshire,
HP13 6XD

Ward affected: Terriers and Amersham Hill

DETAILS OF APPLICATION:

The applicant has applied under section 42 to transfer the premises licence, **Appendix A**, and under section 37 to vary a licence to specify an individual as a premises supervisor. **Appendix B**.

In accordance with the legislation, the applicant served a copy of the application on the police who have a statutory period of 14 days to raise any objections to the application. Following receipt of a valid representation, in accordance with section 44 and section 39 respectively, the licensing authority must hold a hearing to determine the applications.

Section 37(5) and section 42(6) states, "Where a chief officer of police notified under..... is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, he must give the relevant licensing authority a notice stating the reasons why he is so satisfied." The police have stated that the appointment of Mr Tharmalingam as licence holder and designated premises supervisor would not be consistent with the licensing objective to prevent crime and disorder, **Appendix C**.

Premises background

In September 2019 the Bucks Free Press published a story regarding these premises and the sale of Nitrous Oxide. A number of empty canisters had been found on the floor outside the premises. A visit by an Environmental Health Officer on the 15 October 2019 produced more evidence of these canisters outside the premises.

On the 13 November 2019, an investigation by Council and police licensing officers took place further to these reports. On visiting the premises it was found that the following licence condition was not being complied with: "All alcohol products that are available for sale on the premises shall be labelled with a sticker on which the shop name is written." A significant number of alcohol products did not bear a label containing the name of the premises.

The person identified as being in daily management control of the premises at the time of this visit was Mr Tharmalingam. He stated that he was taking over the business, although at this time he was not named as either the licence holder or premises supervisor. These positions were held by a Mrs Tharmini Sureshkumar and Mr Kanaganayagam Shanthakumar respectively.

Under questioning by officers during the visit on the 13 November 2019 Mr Tharmalingam confirmed that nitrous oxide was on the premises and available for sale. He confirmed that each canister had a retail price of £7. Officers were shown a box of multiple canisters and Mr Tharmalingam was advised that they should not be sold or on the premises unless they were being sold for catering purposes and there was sufficient evidence to confirm this.

During this visit a member of the general public entered the premises and attempted to buy 4 of cans of lager. Mr Tharmalingam was working behind the sales counter at the time. He was advised by officers that, given that the premises were not fully compliant with the terms of the premises licence, he would be knowingly committing an offence under the Act if he made the sale. Mr Tharmalingam continued with this sale, contrary to the advice given.

RELEVANT PARTS OF THE COUNCIL'S LICENSING POLICY AND OF THE NATIONAL GUIDANCE ISSUED UNDER S.182 OF THE ACT

Transfers of premises licences (p.64)

8.100 In the vast majority of cases, it is expected that a transfer will be a very simple administrative process. Section 43 of the 2003 Act provides a mechanism which allows the transfer to come into immediate interim effect as soon as the licensing authority receives it, until it is formally determined or withdrawn. This is to ensure that there should be no interruption to normal business at the premises. If the police or the Home Office (Immigration Enforcement) raise no objection (Emphasis added) about the application, the licensing authority must transfer the licence in accordance with the application, amend the licence accordingly and return it to the new holder.

8.101 In exceptional circumstances where the chief officer of police believes the transfer may undermine the crime prevention objective, the police may object to the transfer. The Home Office (Immigration Enforcement) may object if it considers that granting the transfer would be prejudicial to the prevention of illegal working in licensed premises. Such objections are expected to be rare and arise because the police or the Home Office (Immigration Enforcement) have evidence that the business or individuals seeking to hold the licence, or businesses or individuals linked to such persons, are involved in crime (or disorder) or employing illegal workers.

8.102 Such objections (and therefore such hearings) should only arise in truly exceptional circumstances. If the licensing authority believes that the police or the Home Office (Immigration Enforcement) are using this mechanism to vet transfer applicants routinely and to seek hearings as a fishing expedition to inquire into applicants' backgrounds, it is expected that it would raise the matter immediately with the chief officer of police or the Home Office (Immigration Enforcement).

Specification of new designated premises supervisors (p.26)

4.18 Every premises licence that authorises the sale of alcohol must specify a DPS. This will normally be the person who has been given day to day responsibility for running the premises by the premises licence holder.

Police objections to new designated premises supervisors (p.27)

4.39 The police may object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment would undermine the crime

prevention objective. The police can object where, for example, a DPS is first specified in relation to particular premises and the specification of that DPS in relation to the particular premises gives rise to exceptional concerns. For example, where a personal licence holder has been allowed by the courts to retain their licence despite convictions for selling alcohol to children (a relevant offence) and then transfers into premises known for underage drinking.

- 4.40 Where the police do object, the licensing authority must arrange for a hearing at which the issue can be considered and both parties can put forward their arguments. The 2003 Act provides that the applicant may apply for the individual to take up post as DPS immediately and, in such cases, the issue would be whether the individual should be removed from this post. The licensing authority considering the matter must restrict its consideration to the issue of crime and disorder and give comprehensive reasons for its decision. Either party would be entitled to appeal if their argument is rejected.

Council Policy: Prevention of Crime and Disorder

- 3.6 If, upon receipt of a relevant representation, there is a likelihood of crime and disorder increasing as a result of the application being granted, the Authority will refuse the application, unless there are exceptional circumstances or it can be demonstrated that additional conditions will alleviate the concerns. In cases where conditions are attached to licences, the conditions will aim to reflect local crime prevention strategies
- 3.7 The Authority accepts that the legislation does not require the presence of either a personal licence holder or the Designated Premises Supervisor on the premises at all times when alcohol is sold. The Authority would recommend that personal licence holders give written authority to other staff for alcohol sales and clear guidance on whom alcohol may be sold to. Applicants are invited to provide details of how Personal Licence holders will authorise alcohol sales. In exceptional circumstances and upon receipt of a relevant representation, the Authority will consider whether a condition should be imposed requiring the presence of a Personal Licence holder on the premises at all times when alcohol is available for sale.
- 3.8 The Authority will expect prevention of crime and disorder measures to be appropriate to the type and location of premises e.g. the provision of door supervisors and CCTV are likely to be more appropriate in larger venues, dance venues and those in busy town centre locations.
- 3.9 In considering licence applications, the Authority will particularly take into account the following where relevant:-
- The measures proposed to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies.
 - The measures proposed to prevent or reduce violence and public disorder in the vicinity of the premises, e.g. the provision of door supervisors, security lighting and signage both inside and outside the premises.
 - Physical security features such as the use of CCTV; where a licensed premises is required to have CCTV as a condition of the licence then unless

there are good reasons provided to the satisfaction of the Licensing Committee, the premises must be equipped to a standard and in a manner in accordance with established Thames Valley Police guidance in relation to CCTV.

- Measures taken to prevent bottles and glasses being used as weapons.
- Measures to control the strength (alcohol by volume) of beers, lagers and ciders for sale by retail off the premises only may be appropriate in those areas considered to be at risk of public nuisance from street drinkers and/or areas of existing anti-social behaviour.
- Policies in relation to drinks promotions – the Authority encourages the adoption of voluntary codes covering responsible price promotions.
- Measures taken to prevent underage drinking offences, in particular the Council advocates use of schemes such as Challenge 21 and PASS accredited proof of age cards.
- Representations from the police.
- Representations from local residents in the vicinity of the premises.
- Representations from Parish and Town Councils.

Administration and Delegation

5.1 'Relevant representations' are those:

- about the likely effect of the Premises Licence on the promotion of the licensing objectives;
- made by a responsible authority or another party within prescribed time periods, have not been withdrawn and, in the case of representations not made by a responsible authority they are not in the Authority's opinion irrelevant, frivolous or vexatious.

Where no relevant representations are made there will be no need for a Hearing and the Licence or Certificate will be issued on the terms requested.

5.11 In determining the application with a view to promoting the licensing objectives in the overall interests of the community, the Authority must give appropriate weight to; the steps that are necessary to promote the licensing objectives, all relevant representations, the government Guidance and this Policy.

OBSERVATIONS

The Panel is obliged to determine this application with a view to promoting the licensing objectives which are:

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

In making its decision, the Panel is also obliged to have regard to national guidance and the Council's Licensing Policy. Should the Panel depart from either it must specify its reasons for doing so. The Panel must also take into consideration all of the representations made and the evidence submitted, both written and orally at the hearing.

In promoting the licensing objectives the Panel can take any of the following steps in relation to the application:

- (a) Grant the application
- (b) Refuse the application on the grounds of the prevention of crime and disorder

The Panel should also consider its responsibilities under the Human Rights Act when considering the fair balance between the interests of the applicant and their duty under section 4 of the Licensing Act to promote the licensing objectives

Any decision taken must be appropriate and proportionate to the objective being pursued. In particular the following should be taken onto consideration:

Article 6 - the right to a fair hearing

Article 8 - respect for private and family life

Article 1, First Protocol - peaceful enjoyment of possessions (which can include the possession of a licence).

4/12

CORNER E

Application to transfer premises licence to be granted 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/We CLEMENT VINOTHRAJ THARMALINGAM

(Insert name of applicant)

apply to transfer the premises licence described below under section 42 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number

426 / PREM.

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description CORNER EXPRESS 97 ROBERTS ROAD	
Post town HIGH WYCOMBE	Post code HP13 6XD
Telephone number at premises (if any) 01494708063	

Please give a brief description of the premises (see note 1)
OFF LIVENCE AND GROCERY

Name of current premises licence holder
KANAGANAYAGAM SHANTHAKUMAR

Part 2 - Applicant details

In what capacity are you applying for the premises licence to be transferred to you?

Please tick yes

a) an individual or individuals*

please complete section (A)

b) a person other than an individual *

i. as a limited company

please complete section (B)

ii. as a partnership

please complete section (B)

iii. as an unincorporated association or

please complete section (B)

- iv. other (for example a statutory corporation) please complete section (B)
- c) a recognised club please complete section (B)
- d) a charity please complete section (B)
- e) the proprietor of an educational establishment please complete section (B)
- f) a health service body please complete section (B)
- g) an individual who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in respect of an independent hospital in England please complete section (B)
- h) the chief officer of police of a police force in England and Wales please complete section (B)

*If you are applying as a person described in (a) or (b) please confirm:

Please tick yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a
 - statutory function or
 - a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

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

Surname

THARMALINGAM

First names

CLEMENT VINOTHRAJ

Date of birth 16/04/1976

I am 18 years old or over

Please tick yes

Nationality ITALIAN

Current residential address if different from premises

11B Crendon Street

address

Post town

Post code

Daytime contact telephone number

E-mail address
(optional)

SECOND INDIVIDUAL APPLICANT (fill in as applicable)

Mr Mrs Miss Ms

Other title
(for example, Rev)

Surname

First names

Date of birth

I am 18 years old or over

Please tick yes

Nationality

Current
residential
address if
different from
premises
address

Post town

Post code

Daytime contact telephone number

E-mail address
(optional)

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name
Address
Registered number (where applicable)
Description of applicant (for example partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

Part 3

Please tick yes

Are you the holder of the premises licence under an interim authority notice?

Do you wish the transfer to have immediate effect?

If not when would you like the transfer to take effect?

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

Please tick yes

I have enclosed the consent form signed by the existing premises licence holder

If you have not enclosed the consent form referred to above please give the reasons why not. What steps have you taken to try and obtain the consent?

Please tick yes

If this application is granted I would be in a position to use the premises during the application period for the licensable activity or activities authorised by the licence (see section 43 of the Licensing Act 2003)

Please tick yes

I have enclosed the premises licence

If you have not enclosed premises licence referred to above please give the reasons why not.

- I have made or enclosed payment of the fee
- I have enclosed the consent form signed by the existing premises licence holder or my statement as to why it is not enclosed
- I have enclosed the premises licence or relevant part of it or explanation
- I have sent a copy of this application to the chief officer of police today
- I have sent a copy of this form to Home Office Immigration Enforcement today

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.

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 2)

carrying on of a licensable activity.

Any premises licence issued on or after 6 April 2017 will lapse if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have the right to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensing activity. They do this by providing with this application copies or scanned copies of the following documents (which do not need to be certified).

Documents which demonstrate entitlement to work in the UK

- An expired or current passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK [please see note below about which sections of the passport apply].
- An expired or current passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- A Registration Certificate or document certifying permanent residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A **full** birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, **together with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

- A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A certificate of registration or naturalisation as a British citizen, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A **current** passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.
- A **current** Residence Card issued by the Home Office to a person who is not a national of an EEA state or Switzerland but who is a family member of such a national or who has derivative rights or residence.
- A **current** Immigration Status Document containing a photograph issued by the Home Office to the holder with an endorsement indicating that the named person may stay in the UK, and is allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A Certificate of Application, **less than 6 months old**, issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (European Economic Area) Regulations 2006, to a person who is not a national of an EEA state or Switzerland but who is a family member of such a national or who has derivative rights of residence.
- Reasonable evidence that the person has an outstanding application to vary their permission to be in the UK with the Home Office such as the Home Office acknowledgement letter or proof of postage evidence, or evidence that the person has an appeal or administrative review pending on an immigration decision, such as an appeal or administrative review reference number.
- Reasonable evidence that a person who is not a national of an EEA state or Switzerland but who is a family member of such a national or who has derivative rights of residence in exercising treaty rights in the UK including:-
 - evidence of the applicant's own identity – such as a passport,
 - evidence of their relationship with the EEA family member – e.g. a marriage certificate, civil partnership certificate or birth certificate, and
 - evidence that the EEA national has a right of permanent residence in the UK or is one of the following if they have been in the UK for more than 3 months:
 - (i) working e.g. employment contract, wage slips, letter from the employer,

- (ii) self-employed e.g. contracts, invoices, or audited accounts with a bank,
- (iii) studying e.g. letter from the school, college or university and evidence of sufficient funds; or
- (iv) self-sufficient e.g. bank statements.

Family members of EEA nationals who are studying or financially independent must also provide evidence that the EEA national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical insurance policy, an EHIC card or an S1, S2 or S3 form.

Original documents must not be sent to licensing authorities. If the document copied is a passport, a copy of the following pages should be provided:-

- (i). any page containing the holder's personal details including nationality;
- (ii) any page containing the holder's photograph;
- (iii) any page containing the holder's signature;
- (iv) any page containing the date of expiry; and
- (v) any page containing information indicating the holder has permission to enter or remain in the UK and is permitted to work.

If the document is not a passport, a copy of the whole document should be provided.

Your right to work will be checked as part of your licensing application and this could involve us checking your immigration status with the Home Office. We may otherwise share information with the Home Office. Your licence application will not be determined until you have complied with this guidance

3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
6. This is the address which we shall use to correspond with you about this application.

Consent of premises licence holder to transfer

I/we THARMINI SURESHKUMAR
[full name of premises licence holder(s)]

the premises licence holder of premises licence number _____
[insert premises licence number]

relating to

**CORNER EXPRESS
97 ROBERTS ROAD
HIGH WYCOMBE
HP13 6XD**

[name and address of premises to which the application relates]

hereby give my consent for the transfer of premises licence number

[insert premises licence number]

to

CLEMENT VINOTHRAJ THARMALINGAM
[full name of transferee]

signed

J. Tharmini

name

(please print)

THARMINI SURESHKUMAR

dated

18.11.19

Application to vary a premises licence to specify an individual as designated premises supervisor 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 / we CLEMENT VINOTHRAJ THARMALINGAM

(full name(s) of premises licence holder)

being the premises licence holder, apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003

Premises licence number

426 / PREM

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description

**CORNER EXPRESS
97 ROBERTS ROAD**

Post town **HIGH WYCOMBE**

Post code (if known)
HP13 6XD

Telephone number (if any)

01494708063

Description of premises (please read guidance note 1)

OFF LICENCE AND GROCERY

Part 2

Full name of proposed designated premises supervisor

CLEMENT VINOTHRAJ THARMALINGAM

Personal licence number of proposed designated premises supervisor and issuing authority of that licence (if any)

19/02308

Full name of existing designated premises supervisor (if any)

KANAGANAYAGAM SHANTHAKUMAR

Please tick yes

I would like this application to have immediate effect under section 38 of the Licensing Act 2003



I have enclosed the premises licence or relevant part of it



(If you have not enclosed the premises licence, or relevant part of it, please give reasons why not)

Reasons why I have failed to enclose the premises licence or relevant part of it

Please tick yes

- I have made or enclosed payment of the fee
- I will give a copy of this application to the chief officer of police
- I have enclosed the consent form completed by the proposed premises supervisor
- I have enclosed the premises licence, or relevant part of it or explanation
- I will give a copy of this form to the existing premises supervisor, if any
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Guidance notes

1. Describe the premises. For example the type of premises it is.
2. The application form must be signed.
3. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
4. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
5. This is the address which we shall use to correspond with you about this application.

Consent of individual to being specified as premises supervisor

CLEMENT VINOTHRAJ THARMALINGAM

I
[full name of prospective premises supervisor]

of

11B Crendon Street

**HIGH WYCOMBE
HP13 6LE**

.....
[home address of prospective premises supervisor]

hereby confirm that I give my consent to be specified as the designated premises supervisor in relation to the application for

off licence and grocery

.....
[type of application]

by

CLEMENT VINOTHRAJ THARMALINGAM

.....
[name of applicant]

relating to a premises licence

.....
[number of existing licence, if any]

for

**CORNER EXPRESS
97 ROBERTS ROAD
HIGH WYCOMBE
HP13 6LE**

.....
[name and address of premises to which the application relates]

and any premises licence to be granted or varied in respect of this application made by

CLEMENT VINOTHRAJ THARMALINGAM

[name of applicant]

concerning the supply of alcohol at

**CORNER EXPRESS
97 ROBERTS ROAD
HIGH WYCOMBE
HP13 6LE**

[name and address of premises to which application relates]

I also confirm that I am entitled to work in the United Kingdom and am applying for, intend to apply for or currently hold a personal licence, details of which I set out below.

Personal licence number

19/02308

[insert personal licence number, if any]

Personal licence issuing authority

Wycombe District Council

[insert name and address and telephone number of personal licence issuing authority, if any]

Signed



Name (please print)

CLEMENT VINOTHRAJ THARMALINGAM

Date

20/11/19

Division/Station : High Wycombe

From : Andy Dean
Licensing Officer TVP

To : Licensing Authority
Wycombe Distiret Council

Ref :

Date : 2 December 2019

Tel.No. 01865 309 275

Subject :

Corner Express, Roberts Road, High Wycombe

With regard to the above premises I must report as follows;-

On behalf of the Chief Officer of Police for Thames Valley Police we wish to lay an objection to the transfer application and the DPs variation application as submitted by Mr Tharmalingam on the 27th November 2019.

The reasons behind the Objection relate to the management of the premises involving the Licensing Objectives and in particular the Prevention of Crime and Disorder.

I visited the premises (Corner Express) on 13 November 2019 with Brian Whittall, Licensing Officer from Wycombe District Council. Mr Clement Vinothraj Tharmalingam entered the shop as he was called by a shop assistant and identified himself as the person in charge. We found he was selling a substance, namely Nitrous Oxide canisters, in unlawful circumstances in that he confirmed that he knew that they were not being sold for catering purposes which is an offence under sections 5 and 7 of the Psychoactive Substances Act 2016.

Mr Tharmalingam had difficulty understanding questions put to him by Authorised Officers and his responses were very difficult to understand as it was obvious that English is not his first language.

Mr Tharmalingam confirmed that he had a personal licence but when questioned appeared to have no knowledge regarding the Licensing Act 2003. He was unable to confirm what any of the licensing objectives were.

Mr Tharmalingam was found to be operating the premises otherwise in accordance with the authorisation of the premises licence by displaying alcohol products for sale that were not "labelled with a sticker on which the shop name is written".

During this visit Mr Tharmalingam was advised by Mr Whittall (licensing officer) that it would be an offence to continue with the retail sale of alcohol whilst not compliant with the conditions of the premises licence. Officers then witnessed a sale of alcohol after this advice was given.

I have been informed that a further visit was made to the premises by Licensing Officers from Wycombe District Council on the 27th November 2019 and that conditions of the licence were still not being complied with, in that there were many containers of alcohol available for sale which did not bear labels containing the shop's name and the female behind the counter was not able to operate the CCTV system.

Thames Valley Police therefore on the above circumstances alone have no confidence in Mr Tharmalingam that he even understands the basic requirements of the Licensing Act 2003 or that he is able to operate Corner Express in accordance with the relevant legislation

In view of this Thames Valley Police object to the transfer of the premises licence in to his name and also object to the fact that he becomes the Designated Premises Supervisor.

Andy Dean
Thames Valley Police
Licensing Officer

Brian Whittal

From: Dean Andy (Licensing) <Andy.Dean@thamesvalley.pnn.police.uk>
Sent: 02 December 2019 12:02
To: Licensing
Subject: TVP Application Response - Transfer and DPS Change for Corner Express, 97 Roberts Road, High Wycombe, HP13 6XD: OBJECTION
Attachments: 19-12-02 Objection DPS & transfer.docx

On 27/11/2019, we received a Transfer and DPS Change application relating to Corner Express, 97 Roberts Road, High Wycombe, HP13 6XD

=====
From S. Kananayagam & Tharmini Sureshkumar to Mr Clement Vinothraj Tharmalingam
=====

Based on the supplied information, the Thames Valley Police response is: *** OBJECTION ***

Details of the objection and our rationale will be sent shortly by the Licensing Officer, who will also notify the applicant if appropriate.

** Prevention of Crime and Disorder – report attached***

Andy

Andy Dean C2915 - Licensing Officer (Wycombe);
Address – Police Station, Queen Victoria Road, High Wycombe, Bucks HP11 1BE;
Telephone - (Ext) 01865 309275, (int) 312 6077
Headquarters – 01865 542 059
(Hours – Mon – Thurs 0700 – 1530, Fri 0700 – 1500)
NOT RESTRICTED



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LICENSING PANEL HEARING (Application) CHAIRMAN'S NOTES

INTRODUCTION

Good (*morning/afternoon*) ladies and gentlemen and welcome to Wycombe District Council

I just want to introduce myself and the rest of the Panel and explain briefly the procedure for today's hearing.

But before I do so, I would ask you all to switch off your mobile phones. Also, in the event of the alarm going off please evacuate the room in an orderly manner, follow me and assemble in the front of the Council offices.

I am the Chairman of the panel today and my name is Cllr.....

I am accompanied by Cllr..... and Cllr

You should all have a copy of the Council's Procedure to be followed today and we have spare copies should anyone need one. I would like to draw your attention particularly to point 13, which deals with the order of oral presentations. This is the order that will be followed today:

Order of Oral Presentations

- a. The Licensing Officer will present the report on the application and outline any objections received. He/she will refer in particular to objections and representations where a party has chosen not to attend the hearing.
- b. Any party may question the Licensing Officer.
- c. The Panel may question the Licensing Officer.
- d. Any Responsible Body having made a written representation may present their case.
- e. Any other person may question a Responsible Body.
- f. The Panel may question a Responsible Body.
- g. Any other person, having made a written representation, may present their case.
- h. Any other party may question a person who has made a written representation.
- i. The Panel may question the person who has made a written representation.
- j. The Applicant may present their case.
- k. Any other person may question the Applicant.
- l. The Panel may question the Applicant.

I would remind those making representations and any person speaking on their behalf that the purpose of this hearing is to amplify and expand upon written representations which have been made as part of the application process. Speakers *must* therefore stick to these issues, as new evidence or information cannot be heard at this stage. Oral presentations should be to the point and should not be used as a means to make long speeches. I would

remind all parties that the Chair retains the right to conclude oral presentations that drift onto those matters not applicable to the Licensing Act, or that include matters not relevant to this hearing and its jurisdiction.

If any parties want to appoint a spokesperson, please let me know now before we commence the hearing.

Additional points

You should also have been provided with the Council's statement of licensing policy and a plan of the relevant area.

- At this stage before the hearing begins, as part of procedural matters, may I ask the Applicant if there are any amendments or changes to be considered by the Panel or if the Application is to stand as submitted to the Council?
- Are there any other procedural matters that we need to resolve before we begin the hearing?

I would like to start by going around the room so that everybody can introduce themselves and the capacity in which they are here.

Unless there are any urgent questions we will now proceed with the hearing.

We will start by formally opening the Panel with the Agenda in front of you:

- Apologies for Absence
- Declarations of Interest
- Introductory Remarks

Will the Licensing Officer now please present his/her report on behalf of the licensing authority?

CLOSING

We have now heard all of the representations and unless anyone has anything further to add we will now go into private session so that the Panel may consider the application in light of what we have heard and read. The legal advisor and clerk will accompany us whilst a decision is reached.

The Legal Advisor will endeavour to notify you of our decision in writing forthwith, but in any case no later than 7 days, if there is to be a delay the Licensing Officer will inform you of this.

Thank you all for attending.