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Bridgend County Borough Council



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*Rydym yn croesawu gohebiaeth yn Gymraeg.
Rhowch wybod i ni os mai Cymraeg yw eich
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**Gwasanaethau Gweithredol a Phartneriaethol /
Operational and Partnership Services**

Deialu uniongyrchol / Direct line /: 01656 643147
Gofynnwch am / Ask for: Andrew Rees

Ein cyf / Our ref:
Eich cyf / Your ref:

Dyddiad/Date: 17 November 2016

Dear Councillor,

LICENSING ACT 2003 SUB-COMMITTEE (B)

A meeting of the Licensing Act 2003 Sub-Committee (B) will be held in the Council Chamber, Civic Offices Angel Street Bridgend CF31 4WB on **Wednesday, 23 November 2016 at 10.00 am.**

AGENDA

1. Apologies for Absence
To receive apologies for absence from Members.
2. Declarations of Interest
To receive Declarations of personal and prejudicial interest (if any) from members/ officers in accordance with the provisions of the Members Code of Conduct adopted by Council from the 1st September 2008.
3. Licensing Act 2003: Section 51 Application for Review of Premises Licence 3 - 32
Costcutter, 175-176 Caerau Road, Caerau, Maesteg
4. Exclusion of the Public
The report relating to the following item is not for publication as it contains exempt information as defined in Paragraph 12 of Part 4 and/or Paragraph 21 of Part 5 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information)(Variation)(Wales) Order 2007.

If following the application of the public interest test the Committee resolves pursuant to the Act to consider this item in private, the public will be excluded from the meeting during such consideration.

Yours faithfully

P A Jolley

Corporate Director Operational and Partnership Services

Councillors:
E Dodd

Councillors
CJ James

Councillors
DRW Lewis

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BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO LICENSING ACT 2003 SUB COMMITTEE

23 NOVEMBER 2016

REPORT OF THE CORPORATE DIRECTOR OPERATIONAL AND PARTNERSHIP SERVICES

LICENSING ACT 2003: SECTION 51 APPLICATION FOR REVIEW OF PREMISES LICENCE COSTCUTTER, 175-176 CAERAU ROAD, CAERAU, MAESTEG

1. Purpose of Report.

- 1.1 On 30 September 2016, an application for a Review of the Premises Licence was submitted by the Chief Officer of Police in relation to the premises known as Costcutter, 175-176 Caerau Road, Caerau, Maesteg.

2. Connection to Corporate Improvement Plan / Other Corporate Priority.

- 2.1 None.

3. Background.

- 3.1 A copy of the application and supporting documentation is attached at Appendix A.

- 3.2 The Premises Licence Holder is H & G Trading Limited. The Premises Licence authorises the following licensable activity during standard times as follows:

Supply of alcohol

Monday to Saturday: 0800 to 2300 hours

Sunday: 1000 to 2230 hours

A copy of the Premises Licence will be available at the meeting.

4. Current situation / proposal.

- 4.1 The application has been advertised in accordance with the regulations. Representations have been received from the Licensing Authority, a copy of which is attached at Appendix B.

- 4.2 At the time of preparing this report the Licensing Section was not aware of any further discussions or exchange of documents between the South Wales Police and the Premises Licence Holder but an update will be provided to the Committee at the start of the hearing. The authority must hold a hearing to determine this application, to consider the application and any relevant representations received.

5. Effect upon Policy Framework & Procedure Rules.

- 5.1 None.

6. Equality Impact Assessment.

6.1 A full Equality Impact Assessment has not been undertaken in relation to this service, however due regard has been given to the implications on persons protected by equality legislation and human rights. Adverse impact of this Legislation on the equality protected groups is very unlikely. Consideration has been given to the guidance issued to accompany the Licensing Act 2003 relating to need to eliminate duplication and conflict with existing disability legislation and to reference and highlight the Council's Race Equality Scheme, policies and codes of conduct to applicants. We do not consider, on the basis of the above, that a detailed Equality Impact Assessment is required for this service. In line with our Inclusive Equalities Scheme we will monitor for any adverse impacts that may develop.

7. Financial Implications.

7.1 None.

8. Recommendation.

8.1 The Licensing Sub-Committee must consider:-

- having regard to the application and any relevant representations, steps it considers necessary for the promotion of the licensing objectives.

8.2 The steps the Licensing Authority can take are:-

- no action;
- modify the conditions of the licence;
- and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.
- exclude a licensable activity from the scope of the licence;
- remove the designated premises supervisor;
- suspend the licence for a period not exceeding three months;
- revoke the licence;

8.3 Members must also have regard to the following: Section 11 of the statutory Guidance issued under Section 182 of the Licensing Act 2003 and Section 12 of the Council's Statement of Licensing Policy which relate to review of licences. Section 10 of the statutory Guidance relates to imposing conditions on premises licences.

Andrew Jolley
Corporate Director Operational and Partnership Services

Date: 17 November 2016

Contact Officer: Yvonne Witchell
Team Manager - Licensing

Telephone: (01656) 643643

E-mail: Yvonne.Witchell@bridgend.gov.uk

Postal Address Civic Offices, Angel Street, Bridgend, CF31 4WB

Background documents

Application for Review of Premises Licence.

Bridgend County Borough Council Statement of Licensing Policy: www.bridgend.gov.uk

Amended Guidance issued under Section 182 of the Licensing Act 2003 – March 2015
available at www.homeoffice.gov.uk

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Licensing Act 2003

Section 51 and 87

**Application for Review of a Premises Licence under
Section 51 of the Licensing Act 2003**

(1)

Reference number: B.3-331/2016
--

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

(2) We SOUTH WALES POLICE

Apply for the review of a premises licence for the premises described in Part 1 below

Part 1 - Premises details

Postal address of premises: COSTCUTTER, 175-176 CAERAU ROAD, CAERAU	
Post town: MAESTEG	Postcode (if known): CF34 0PD
Telephone number: (01656) 733332	

Name of the premises licence holder: H & G TRADING LTD. TRADING AS COSTCUTTER
--

Number of the premises licence holder: BCBCLP135, ISSUE 3 OF 17TH AUGUST 2010
--

Part 2 - Applicant details

I am

1) an interested party (Please complete section (A) or (B) below)

- a) a person living in the vicinity of the premises
- b) a body representing persons living in the vicinity of the premises
- c) a person involved in business in the vicinity of the premises
- d) a body representing persons involved in businesses in the vicinity of the premises

Please tick ✓ yes

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Delete any words that do not apply

(1) Insert name and address of relevant licensing authority and its reference number (optional)

(2) Insert name(s) of applicant(s)

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)

Licensing Act 2003

Section 51 and 87

Mr

Mrs

Miss Ms

Other title
(for example, Rev)

Surname

First Names

Please Tick / Yes

Day Month Year

I am 18 years old or over

Current address

Post town

Postcode

Daytime Contact telephone number

Email Address (optional)

(B) Details of other applicant

Name and Address

Post Town

Postcode

Date of Birth

Day Month Year

Telephone Number (If any)

C) Details of Responsible Authority (please see guidance note 5)

South Wales Police

**The Chief Officer of Police
Chief Constable 4395 Vaughan
Police Headquarters
Cowbridge Road**

Post Town **Bridgend**

Postcode **CF31 1BZ**

Telephone number

(01656) 655555

Email Address
(Optional)

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 grounds for review (please see guidance note 1)

Please provide as much information as possible to support the application (please see guidance note 2)

The grounds for this review are based on promoting **3** key licensing objectives and the application is based on a failure to promote those objectives.

THE DESIGNATED PREMISES SUPERVISOR (DPS)

H & G Trading Ltd. has been licence holder since **30th July 2010** whilst **Hardev Singh Johal** has held the position of Designated Premises Supervisor (DPS) since this date.

However; **Harminder Kaur Malhi** has day to day responsibility for the off-licence and she is both the Premises Licence Holder and Designated Premises Supervisor (DPS) of Caerau Village Stores which is situated opposite at 8-9 Caerau Road.

In fact the address which **Harminder Malhi** has given on the Premises Licence of Caerau Village Stores is that of Costcutter.

For reasons outlined in this review Caerau Village Stores is also subject of the review procedure as it is inextricably linked to Costcutter and this information is disclosed as being relevant and necessary for the promotion of the licensing objectives.

THE PREMISES

Costcutter is located in a mid-link building situated in a row of terraced dwellings in an ex-mining community in the Llynfi valley.

The street also comprises other businesses including a number of licensed premises although the area is predominantly made up of residential properties.

In essence the premises is an off-licence/grocery store.

THE PREMISES LICENCE

It is important that the Sub-Committee familiarise themselves with the licence briefly however; the following activity is permitted: -

The licensable activities authorised by the licence are:

Supply of alcohol

Standard times the licence authorises the carrying out of licensable activities:

Monday to Saturday : 0800 - 2300 hours

Sunday : 1000 - 2230 hours

Christmas Day: 1200 to 1500 hours & 1900 and 2230 hours

Good Friday: 0800 - 2230 hours

There is no restriction on the opening timings.

There are mandatory conditions attached at **Annex 1**, one condition attached at **Annex 2** and no conditions appended to **Annex 3**.

THE LICENSING OBJECTIVES

THE PREVENTION OF CRIME AND DISORDER

Occurrence 62110285252 – First United Kingdom Borders Agency (UKBA) enforcement visit

On **25th August 2011** the Immigration Compliance & Enforcement Team (ICET) of the United Kingdom Borders Agency (UKBA) conducted an intelligence led enforcement visit whereupon a warrant was executed and a male Indian migrant (subject 1) was found at the premises.

Immigration checks detailed that he had illegally entered the country and had in fact been previously served immigration papers and was therefore liable to be removed from the UK.

He was duly arrested.

Further enquiries revealed subject 1 has been employed on a number of occasions.

Occurrence 1500254846

On **14th July 2015** a member of the public reported a suspicious incident to South Wales Police which involved a male staff member at Costcutter (subject 2) whose details were obtained by the investigating officer.

On **29th July 2015** South Wales Police and local authority Licensing Officers undertook a joint enforcement visit at **Costcutter** and found **Harminder Malhi**, licensee at Caerau Village Stores, working at the premises alongside a 31 year old female Indian migrant (subject 3).

When questioned it was suspected that both Harminder Malhi and the employee were being obstructive and untruthful concerning the immigration status and details of the employee.

It was also noted that the original summary of the licence, Part B, or a copy certified by the licensing authority was not displayed at the premises.

Part A, the full licence or a certified copy was not initially made available for inspection although it was later produced.

Occurrence 1500302778 - Second UKBA enforcement visit

The officers passed their concerns onto ICET who, on **21st August 2015**, executed another warrant, and the same female (subject 3) was found to be working at the premises.

She was alone as **Hardev Johal** and indeed **Harminder Malhi** were in London and on this occasion questions were put to her by an immigration officer whereupon she was similarly evasive.

Enquiries revealed her to be what UKBA describe as a Section 10 "*overstayer*" in the UK which is referred to below.

In fact on **15th July 2015** she had been served with deportation documents and placed on reporting restrictions which she failed to adhere to and was therefore additionally classed as an "*absconder*" in the UK.

She was also not authorised to work and was also arrested.

Enquiries subsequently led ICET to Caerau Village Stores where subject 2, who was involved in the incident in **July 2015**, was located.

ICET noted that he was a 32 year old Indian migrant who had illegally entered the UK in the rear of a heavy goods vehicle (HGV).

He also admitted working at Caerau Village Stores and became the third illegal migrant worker to be arrested.

It is notable that during the three incidents **Hardev Johal** was not present and during the **July 2015** occurrence and the **August 2015** visit both migrants were working unsupervised.

Employing an individual who has no authorisation to work, entering the UK illegally "*absconding*" and "*overstaying*" are contrary to immigration legislation and are separate offences which are highlighted in more detail within the review.

What should be of serious concern to the Licensing Sub-Committee is that offences had already been committed in **2011** but the very same offences were committed in **2015**.

Therefore 3 individuals have been unlawfully employed and serious offences have been committed.

The immigration offences alone are those which Home Office guidance strongly suggests should trigger the review procedure and in so doing goes further and directs Licensing Sub-Committees to seriously consider revocation of the licence even in the first instance.

However; offending has taken place on more than one occasion.

Additionally; there are also other incidents of crime and disorder which have been reported to South Wales Police via the 101 public service centre or the 999 emergency systems.

PUBLIC SAFETY

The objective is compromised as nothing is known of the antecedent history of those migrants who have illegally entered the UK.

PREVENTION OF CHILDREN FROM HARM

There is a drinking culture amongst children within the Caerau community which has resulted in minors committing offences and engaging in anti-social behaviour.

Incidents and intelligence highlight that alcohol has been sold to minors at Costcutter and notwithstanding the other offences outlined within the review South Wales Police has grave concerns that the management have also failed to promote this objective.

BRIDGEND COUNTY BOROUGH COUNCIL'S "STATEMENT OF LICENSING POLICY"

Section 12 refers to REVIEWS OF LICENCES:

Sub-section 12.1 "Reviews of Premises Licences represent a key protection for the community in respect of problems during the term of a Premises Licence."

HOME OFFICE GUIDANCE UNDER SECTION 182 OF THE LICENSING ACT

Section 11 relates to REVIEWS: -

Sub-section 11.1 "The proceedings set out in the 2003 Act for reviewing Premises Licences represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a Premises Licence."

Sub-sections 11.27 and *11.28* refers to *Reviews arising in connection with crime* and the application meets the guidance criteria outlined in this section which clearly directs Licensing Sub-committee's to consider revocation of the licence even on the first occasion.

IMMIGRATION ISSUES

The guidelines are clear and unambiguous and are freely available to all employers on the Home Office website in detailed documents which the Sub-committee are invited to peruse such as: -

AN EMPLOYERS GUIDE TO RIGHT TO WORK CHECKS ***FULL GUIDE FOR EMPLOYERS ON PREVENTING ILLEGAL WORKING IN THE UK***

UKBA also offer an employee checking service which is freely available to employers who can and must verify the immigration status of potential migrant employees by conducting document checks.

There is also a help line manned by UKBA officials.

The following has also been extracted from the Home Office UKBA website and is a:

SUMMARY GUIDE FOR EMPLOYERS ON PREVENTING ILLEGAL WORKING IN THE UK

"Illegal working has harmful social and economic effects on the UK; it undercuts British businesses and their workers that stay within the law and exploits migrant workers. As long as there are opportunities for illegal working the UK will be an attractive place for illegal migrants. That is why we need to put a stop to employers breaking the law by taking tough action against those who do so.

There is evidence that some workers employed illegally are paid less than the minimum wage, do not pay tax, and may be doing dangerous work that breaks health and safety regulations. Employers who use illegal workers may do so because they want to avoid providing minimum standards, such as the National Minimum Wage and paid holidays. This is harmful to the workers involved and enables dishonest employers to gain an unfair advantage over competitors who operate within the law".

Illegal working is defined in more detail below but briefly persons working unlawfully include: -

- students with expired visas
- students working more hours than they are allowed to
- persons who work on a visitor's only visa
- persons who have illegally entered or unlawfully remain in the UK

IMMIGRATION, ASYLUM & NATIONALITY ACT 2006 (KNOWN AS THE 2006 ACT)

The following information is freely available on the Home Office UKBA website and is summary guidance for employees and Human Resources (HR) staff involved in recruiting people and aims at preventing illegal working in the UK: -

It contains important and detailed information and advice in respect of:

- ***the law on illegal working***
- ***your role and duty as an employer***
- ***the document checks you should carry out***
- ***the various documents you could be given***
- ***the various types of immigration statuses held by people; and***
- ***the consequences if you do not carry out your duty and UKBA find you employing an illegal worker.***

THE LAW AND YOUR DUTY AS AN EMPLOYER

"The law on preventing illegal working is set out in sections 15 to 25 of the 2006 Act.

These rules came into force on 29th February 2008.

You are breaking the law if you employ a person who does not have the right to work in the UK.

You can be fined up to £20,000 for each illegal worker or face criminal prosecution."

YOUR DUTY UNDER THE 2006 ACT

"Under the 2006 Act you have a duty to prevent illegal working by carrying out document checks to confirm if a person has the right to work in the UK.

You should check and keep copies of original, acceptable documents before someone starts working for you.

If a person has a time limit on their stay then you should carry out repeat checks at least once every 12 months.

If a person has a restriction on the type of work they can do and, or, the amount of hours they can work, then you must not employ them in breach of these restrictions.

You should also verify that a person has the right to work when certain documents or scenarios are presented to you.

You can find out more about carrying out document checks in the section 'Right to work document checks'.

This duty applies to anyone who starts working for you on or after 29 February 2008."

PENALTIES IF YOU FAIL TO CARRY OUT YOUR DUTY

If you do not carry out these checks you may be required to pay a fine, known as a civil penalty, under Section 15 of the 2006 Act if you employ an illegal worker.

An illegal worker is defined as someone who:

- is subject to immigration control; and***
- is aged over 16; and***
- is not allowed to carry out the work in question because either they have not been***

granted leave to enter or remain in the UK or because their leave to enter or remain in the UK:

is invalid,

has ceased to have effect (meaning it no longer applies) whether by reason of curtailment, revocation, cancellation, passage of time or otherwise, or

is subject to a condition preventing them from accepting the employment.

A civil penalty up to a maximum amount of £20,000 for each illegal worker can be imposed on you.

We can serve you with a Notice of Liability to pay a penalty for a specific amount on behalf of the Secretary of State."

A Notice of Liability has since been replaced by a Referral Notice.

At the conclusion of the enforcement visit as neither the DPS or Harminder Malhi were present, or indeed any person of responsibility, the Immigration Compliance & Enforcement Team were unable to personally serve a Referral Notice.

The notice was subsequently served by post on **Harminder Malhi** on **20th August 2015** and related to the illegal migrant who was arrested at Caerau Village Stores and the other at Costcutter and such a notice informs offenders that the case is being considered by the Home Office for a civil penalty.

ICET duly passed details of the case to the Home Office Illegal Working Civil Penalties Compliance Team (IWCPCT) and the evidence was such that on **6th October 2015** a *Civil Penalty Notice* was served on H & G Trading Limited (trading as Costcutter) for £30,000.

SECTION 10 OF THE IMMIGRATION & ASYLUM ACT 1999

Section 10 contains the provisions under which certain categories of people who are in the UK unlawfully may be subjected to administrative removal procedures i.e. deportation.

A person who is not a British citizen may be removed from the UK, in accordance with directions given by an immigration officer, if:

He/she does not observe a condition of his limited leave to enter/remain or remains beyond the period of his limited leave.

CRIMINAL OFFENCES COMMITTED UNDER THE IMMIGRATION ACT 1971 BY THE EMPLOYEE

1) Offence: Knowingly remaining beyond the time limited by leave i.e. "overstaying" in the UK contrary to Section 24(1)(b)(i)

Penalty: Six months imprisonment and / or a fine not exceeding level five (£5,000) on the standard scale.

A person commits the offence on the day when he or she first knows that leave to enter or remain has expired, and continues to commit it until such time as his or her position is regularised, for example through a further grant of leave in any category.

OBSTRUCTING A CONSTABLE: POLICE ACT 1964

2) Offence: Willfully obstructs a constable in the execution of their duty contrary to Section 15(3)

Penalty: Maximum one month imprisonment and / or a fine not exceeding level 3 (£1,000) on the standard scale.

IMMIGRATION ACT 1971

4) Offence: Obstructing an Immigration Officer: contrary to Section 26(1)(g) (see below)

5) Offence: Without reasonable excuse, fails to observe any restriction imposed on him under Schedule 2 or 3 to this Act as to residence or as to reporting to the police, an immigration officer or to the Secretary of State: contrary to Section 24(1)(e)

Penalty: Six months imprisonment and / or a fine not exceeding level five (£5,000) on the standard scale.

CRIMINAL OFFENCES COMMITTED BY HARDEV JOHAL, THE LICENCE HOLDER, AND HARMINDER MALHI AS EMPLOYERS

As an employer he is also liable for the offence of aiding and abetting employees to enter the UK without leave or remain in the UK unlawfully as they are providing job opportunities for such individuals.

OFFENCES UNDER THE IMMIGRATION, ASYLUM & NATIONALITY ACT 2006

1) Offence: Section 15

It is contrary to this section to employ an adult subject to immigration control if:

- a) He has not been granted leave to enter/remain in the UK OR
- b) His leave to enter/remain in the UK:
 - i) Is invalid
 - ii) Has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time, or otherwise) OR
 - iii) Is subject of a condition preventing him from accepting the employment

Section 18

A sum payable to the Secretary of State as a penalty* under Section 15 may be recovered by the Secretary of State as a debt due to him.

* Where a breach of Section 15 has occurred on or after **16th May 2014**, the maximum civil penalty amount that can be imposed increased from £10,000 to £20,000 per illegal worker.

One will note that the penalties for employing such persons are extremely severe but this has not deterred the management.

2) Offence: Section 21

A person commits an offence if he employs another (the employee) **KNOWING** that that person is an adult subject to immigration control and that

- a) He has not been granted leave to enter/remain in the UK or
- b) His leave to enter/remain in the UK:
 - i) Is invalid
 - ii) Has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time, or otherwise) or
 - iii) Is subject of a condition preventing him from accepting the employment

Penalty: Indictment - Imprisonment for a term not exceeding two years, a fine, or both.

Summary - Imprisonment for a term not exceeding 12 months in England and Wales or a fine, or both.

OFFENCES UNDER THE LICENSING ACT 2003

3) Offence: Section 57

Failing to ensure that a summary of the Premises Licence, or certified copy, is prominently displayed at the premises

4) Offence: Section 57

Failing to keep the Premises Licence, or certified copy, at the premises

5) **Offence: Section 57**

Failing to produce the Premises Licence for inspection by a constable or authorised person

Penalty: A fine not exceeding level 2 (£500) on the standard scale.

6) **Offence: Section 146**

Sale of alcohol to a person under the age of 18 years.

Penalty: A fine not exceeding level 5 (£5,000) on the standard scale.

CRIMINAL OFFENCES COMMITTED BY HARMINDER MALHI

OBSTRUCTING A CONSTABLE: POLICE ACT 1964

1) **Offence: as above**

CONCLUSION

In order to promote the licensing objectives South Wales Police feel that there is no alternative but to review the Premises Licence given the seriousness and persistence of the offending and:-

- the clear guidelines given by the Home Office in respect of the serious offences committed under the Immigration Acts
- the like offences which have been committed
- the concerns of both South Wales Police and the Home Office of employing illegal migrants
- the impact on these illegal activities on the licensing objectives

As previously highlighted reviews represent a key protection for the community in respect of problems which arise during the term of an authorisation.

The guidance dictates that licensing authorities, the police and other law enforcement agencies will use the review procedures effectively to deter criminal activities one of which is the employment of a person who is unlawfully in the UK i.e. illegal entrants or "overstayers" or those who cannot lawfully be employed as a result of a condition on that person's leave to enter.

Particular focus is placed on reviews in connection with crime which details that the immigration offences alone should be treated very gravely and lead to review and emphasises that revocation of the licence, even in the first instance, should be seriously considered by Sub-Committees if it is determined that the premise is being used to further crimes which impacts on the crime prevention objective.

This is such a case as the premises is being used to commit offences under the Immigration Act and the Immigration, Asylum & Nationality Act whilst offences under other legislation have also been committed.

The immigration offences in relation to the 2006 act warrant revocation however; other offences have been committed and South Wales Police suggest that the situation will not change and feel that the only option open which would address the failures outlined and promote the objectives is to review the Premises

Licence.

Please tick / yes

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

If yes, please state the date of that application

Day			Month			Year		

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

South Wales Police made application to review the licence on **29th November 2015** and a hearing was listed for **1st December 2015** however; the application was withdrawn pending further investigation into the premises.

Caerau Village Stores was subject of similar action.

Please tick / yes

• I have sent copies of this form and enclosures to the responsible authorities and the premises license holder

• 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 of up to level 5 on the standard scale, under section 158 of the licensing act 2003 to make a false statement in or in connection with this application

Part 3 - Signatures (please read guidance notes 3 and 4)

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

Signature N. Drew Insp 3675

Date 2016 30th Sept.

Capacity **Inspector 3675 Drew on behalf of Chief Constable 4395 Peter Vaughan**

Notes for guidance

1. The grounds for review must be based on one of the licensing objectives
2. Please list any additional information or details, for example dates of problems which are included in the grounds for review, if available.
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. This is the address we shall use to correspond with you about this application

NOT PROTECTIVELY MARKED

COSTCUTTER, 175-176 CAERAU
ROAD, CAERAU



Pen-y-bont ar Ogwr
Mwy Diogel



Safer Bridgend

www.saferbridgend.org.uk

APPLICATION FOR A REVIEW OF THE
PREMISES LICENCE

HOME OFFICE CHECKS TO ASCERTAIN IF
SOMEONE CAN WORK IN THE UK
AND
ADDITIONAL INFORMATION

NOT PROTECTIVELY MARKED

NOT PROTECTIVELY MARKED

The following information was freely obtained from: -

- 1) Prevention of illegal working – This is the link to the Home Office employer’s guidance. The ‘Comprehensive Guidance for Employers on Preventing illegal working’ contains details of all the documents to prove entitlement to work:
<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/preventingillegalworking/>
- 2) Document verification – This site contains the information on forged & counterfeit documentation:
http://www.cpni.gov.uk/documents/publications/2007/2007044-gpg_document_verification_guidance.pdf?epslanguage=en-gb
- 3) Right to work (SEE BELOW) – This site guides you through the process of establishing whether or not a person has permission to work in the UK:
www.gov.uk/legal-right-to-work-in-the-uk

If employers are unsure of the steps required to avoid employing illegal workers there is also a UKBA help line available: 03000 123 4699

3) RIGHT TO WORK CHECK IF SOMEONE CAN WORK IN THE UK

1. Does the worker have a UK passport?

Yes/No

2. Is the worker:

A British citizen? Yes/No

From Channel Islands, Isle of Man, Republic of Ireland? Yes/No

From EU, EEA or Switzerland? Yes/No

From somewhere else? Yes/No

3. Does the worker have a permit or visa showing their ongoing right to work in the UK? Yes/No

A permit or visa would show one of these:

They’re exempt from immigration control

They have indefinite leave to remain

They have no time limit to their stay in the UK

They have a Certificate of Entitlement to Right of Abode (in a current, valid passport)

4. Does the worker have documents entitling them to work in the UK? Yes/No

The worker should have both of these documents to work in the UK:

An official document from a UK government agency (e.g. HM Revenue & Customs, Department for Work and Pensions, or the Social Security Agency in Northern Ireland) showing their National Insurance number

Either an ‘immigration status document’

NOT PROTECTIVELY MARKED

NOT PROTECTIVELY MARKED

Or

A letter from the Home Office saying that they have a right to permanent residence

5. Does the worker have a visa, biometric permit or residence document?
Yes/No

The worker needs one of these:

***Visa for the relevant type of work**

***Biometric residence card for the right type of work (or a 'Certificate of Application' for a card less than 6 months old)**

***Document issued by the Home Office to a family member of an EU/EEA/Swiss national showing that they can work in the UK**

The worker MAY NOT be currently entitled to work in the UK.

If the worker can't produce any of these documents, they may not be entitled to work in the UK. They might need to be sponsored.

BEFORE YOU CAN SPONSOR AN EMPLOYEE

Before you can apply for a sponsorship licence you need to know which type of licence you need.

There are different categories (or tiers) of sponsorship for employees:

Tier 2 - skilled workers with a job offer

Tier 5 - temporary workers

TIER 2 - Skilled workers with a job offer

Tier 2 sponsorship can be:

*General - for people coming to work in the UK with a skilled job offer which is National Qualifications Framework (NQF) level 6 or above.

*Intra-company transfer - for multinational companies sending their employees to the UK for jobs of NQF level 6 or above

*Sportsperson - for elite sportspeople and coaches that will be based in the UK

*Minister of religion - for people coming to work for a recognised religious organisation (for up to 3 years)

TIER 5 - Temporary workers

Tier 5 sponsorship can be:

*Creative and sporting - to work as a sportsperson (up to 12 months), entertainer or artist (up to 24 months)

*Charity worker - includes both paid and voluntary workers (up to 12 months)

*Religious worker - for those doing preaching, pastoral and non-pastoral work (24 months)

*Government authorised exchange - for those coming to the UK through an approved scheme (24 months)

NOT PROTECTIVELY MARKED

*International agreement - for those coming to the UK for a job that is covered under
*international law, e.g. employees of overseas governments

ADDITIONAL INFORMATION

THE PREVENTION OF THE CRIME & DISORDER AND PUBLIC SAFETY OBJECTIVES

The following are some of the reported incidents which have taken place at the premises: -

- 1) Occurrence 1600309024 of 14th August 2016 @ 13.11hrs – Assault on a staff member.
- 2) 1600138851 of 19th April 2016 @ 19.16hrs – Suspicious incident involving staff member.
- 3) 1500302778 of 20th August 2015 @ 07.12hrs – A warrant obtained by the UK Borders Agency was executed and staff members were arrested at Costcutter and Caerau Village Stores for being illegally in the UK.
- 4) 1500254846 of 14th July 2015 @ 19.44hrs – Suspicious incident involving a staff member.
- 5) 1400082325 of 11th March 2014 @ 21.10hrs – Staff member making a complaint of racially aggravated assault.
- 6) 62130267704 of 25th August 2013 @ 19.30hrs – Theft of alcohol. Reported by a staff member.
- 7) 62130076242 of 15th March 2013 @ 12.16hrs – UK Borders Agency executed a warrant. No arrests made.
- 8) 62110285252 of 25th August 2011 – UK Borders Agency executed a warrant and arrested a staff member for being illegally in the UK.
- 9) 62090290794 of 20th August 2009 @ 20.15hrs – Suspicious incident involving staff member.
- 10) 62090227045 29th June 2009 @ 19.46hrs (3 x incidents) – Assault on a staff member and criminal damage to premises. Reported by a staff member.
- 11) 62090221132 of 26th June 2009 @ 15.08hrs – Assault on a customer by a staff member.
- 12) 62090289076 of 5th June 2009 @ 19.54hrs (2 x incidents) – Racially aggravated Common Assault and Affray. Reported by a staff member.

THE PROTECTION OF CHILDREN FROM HARM OBJECTIVE

The following recent occurrences suggest that alcohol is being sold to children: -

- 1) Reference 1600044936 of 2nd September 2016 – Alcohol seized from minors in Nantyllyon.
- 2) 1600043511 of 25th August 2016 – Alcohol confiscated from children in Caerau.

NOT PROTECTIVELY MARKED

- 3) 1600308048 of 13th August 2016 – Customer witnessed alcohol being sold to a child.
-

NOT PROTECTIVELY MARKED



Licensing Enforcement representations in support of an application for review of a premises licence

Licensing Enforcement of Bridgend County Borough Council supports the application made by South Wales Police to review the premises licence of Costcutter, 175-176 Caerau Road, Caerau, Maesteg, CF34 0PD and make the following representation.

1. Introduction

Licensing Enforcement Officers are responsible for the enforcement of conditions set on Premises Licences under the Licensing Act 2003. The team is also responsible for investigating licensing related complaints received by the Council.

2. Concerns over management of the premises under the Licensing Act 2003

The service notes the evidence of South Wales Police and shares the concern that the Costcutter store at 175-176 Caerau Road, Caerau, Maesteg, CF34 0PD is failing to promote the licensing objectives.

Summary

The Premises Licence is held by H and G Trading Ltd T/A Costcutter and the Designated Premises Supervisor (DPS) is Hardev Singh Johal, both licences took effect on 30 July 2010.

On Wednesday 29 July 2015 a joint routine licensing inspection was carried out by Bridgend County Borough Council Licensing enforcement and the South Wales Police Licensing Section. On entering the shop a lone female (who's name was later given as *****) was present behind the counter, the female was asked if the Premises Licence Holder or Designated Premises Supervisor was present, she proceeded to get another female, the manager of the premises, who stated her name was Harminder Malhi.

Harminder Malhi advised she lived above the premises and ran Costcutter as well as being the Premises Licence Holder and Designated Premises Supervisor of the Premier Store at 8-9 Caerau Road, she also advised that the DPS was not at the premises but did visit the premises on a regular basis, Harminder Malhi confirmed she managed both premises.

During the inspection enquiries were made as to ***** personal details, it was suspected that both females were not being truthful to the immigration status or personal details of *****.

During the inspection it was also noted that there was no authorisation list from the Designated Premises Supervisor and no paperwork could be produced to show any authorisation for staff who did not hold a personal licence. ***** had served customers alcohol whilst we were carrying out our inspection. It was also noted that the Premises Licence displayed was a copy and not certified, however, during the inspection the original licence was produced and displayed.

Concerns regarding the immigration status of ***** were passed to the United Kingdom Borders Agency (UKBA) on 06 August 2015.

On Thursday 20 August 2015 at approximately 0730 hours, I Fiona Colwill, accompanied UKBA on a visit to the premises. (Witness Statement attached).

3. Conclusion

Even though there has been no further visits to the premises, mainly due to not interfering or hampering any immigration investigation, in light of the above, Licensing enforcement has no confidence that the management at Costcutter, 175-176 Caerau Road, Caerau, Maesteg, CF34 0PD is effectively promoting the Licensing Objectives under the Licensing Act 2003.

The Premises Licence Holder (PLH) and Designated Premises Supervisor (DPS), Hardev Singh Johal, lives in Hounslow, Middlesex and is rarely at the premises, thus, it is impossible that he has day to day control of the sale of alcohol, therefore, Mr Johal is not fulfilling his duties as DPS.

During the visit in July 2015, whilst officers discussed issues with Harminder Malhi, officers observed the female located behind the counter serve alcohol to customers, yet there was no DPS authorisation in place for any members of staff who were not personal licence holders (it was clarified at the time that the female serving did not hold a Personal Licence), even more concerning, at a later date, it was discovered the female in question and Harminder Malhi had given false details regarding the status and name of the female serving and the female was actually in the country illegally, yet was being left on her

own at the premises for long periods of time, where she was regularly serving alcohol to customers, this was witnessed during the Immigration visit in August 2015.

This review is welcomed as a means of identifying the most appropriate way to ensure that these concerns are addressed.

Fiona Colwill
Licensing Enforcement Officer

STATEMENT OF WITNESS
*(Criminal Procedure Rules, r 27.1(1);
Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980, s.5B)*

STATEMENT OF: Fiona Colwill

Age of witness (if over 18 enter "Over 18"):

Occupation of witness: **Licensing Enforcement Officer (Bridgend County Borough Council)**

This statement, consisting of page(s) each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the Twenty-first day of August 2015

(Signed) _____

On Wednesday 29 July 2015 at approximately 0150 hours, in my role as Licensing Enforcement Officer for Bridgend County Borough Council, I carried out a joint routine licensing visit with PC Sarah Rowlatt of South Wales Police Licensing Section, at Costcutter, 175–176 Caerau Road, Caerau, Maesteg, CF34 0PD. On entering the shop a lone female was present behind the counter. I would describe this female, (female1), as of Indian appearance, approximately thirty years old with long black hair in a ponytail. I asked this female if the Premises Licence Holder or Designated Premises Supervisor was present, she proceeded to get another female, the manager of the premises who stated her name was Harminder MALHI.

Harminder MALHI advised me that she ran the Costcutter premises as well as being the Premises Licence Holder and Designated Premises Supervisor of the Premier Store, 8/9 Caerau Road, Caerau, Maesteg. This store is located opposite and a

(Signed) _____

short way along the road. I asked Harminder MALHI if she managed both premises to which she confirmed she did. Myself and PC Sarah Rowlatt asked female 1, who had been serving whilst we entered the premises for her name. However, Harminder MAHLI replied *****, we then asked for her surname and were told *****. *****, female 1, was asked for her date of birth, to which she replied *****, I asked her to repeat this as I could not hear her clearly, female 1 repeated (the date) and I in turn repeated *****, she said she was born in Punjab, India and was currently in the UK on a Student Visa which expires in December 2015, at present she was living above the premises at 175-176 Caerau Road, Caerau, Maesteg with Harminder MALHI and her husband. Female 1 was asked at which college she was studying to which we were told 'Bennett International, London'. During the conversation female 1 spoke very little and what little she did speak was inaudible, the majority of the conversation was communicated through Harminder MALHI.

Licensing issues, along with issues surrounding anti- social behaviour in the locality, which have been linked to alcohol and underage drinking, were discussed with Harminder MALHI. During the licensing discussions with Harminder MALHI, female 1 continued to serve a number of customers. Harminder MALHI was asked for the authorisation list from the Designated Premises Supervisor Mr Hardev Singh JOHAL, the Premises Licence Holder is H&G Trading Ltd, authorising non Personal Licence holders to sell alcohol on his behalf. Harminder MALHI stated there was no list but employees had letters from the DPS but it would take her a while to go through the

(Signed) _____

paperwork and find the letters. Harminder MALHI was asked if female 1 was authorised to sell alcohol to which she replied she was.

On Thursday 20 August 2015 at approximately 0730 hours, I Fiona Colwill, attended the premises Costcutter, 175 –176 Caerau Road, Caerau, Maesteg, CF34 0PD, on an Immigration visit by United Kingdom Borders Agency, after Immigration Officers had entered and secured the premises. On entering the premises I was informed that officers were, currently, detaining one female in the upstairs of the property. I was asked by Immigration Officer C if I would be able to identify the female, female 1, who had been at the premises on Wednesday 29 July 2015 during my routine licensing visit. I confirmed that I would be able to recognise and identify female 1. I entered the upstairs of the premises where officers were speaking to a female of Indian origin. I looked at the female and instantly recognised this female to be female 1 who was present at the shop on Wednesday 29 July 2015, who I had been informed was called female 1. I saw officers arrest and detain this female for Immigration matters and believe she was taken into custody. I had no further part to play in the investigation.

(Signed) _____

