



**Objection to the Grant of New Premises Licence**

**The Queen Victoria/Jalsa Ghar**

**79 Stortford Road, Great Dunmow, CM6 1DL**

**Supplementary documentary information in support of objection.**



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Re the representation against the grant of this licence under the prevention of crime and disorder objective LA2003:

**1.0 Outline of circumstances leading to objection to application**

- 1.1 This premises was raided on dates in 2013, 2014, 2016 and 2018. On each occasion illegal workers were found, resulting in a total of 19 persons being detained, civil penalties and most recently the revocation of the premises licence. Essex Police stress for your awareness that at the time of each of these findings the premises was owned and operated by Aldbrook Ltd. The same company now still owns and operates the business though this application is made in the name of Mr Fazlul Bari CHOUDHURY.
- 1.2 It is also worth noting that the main applicant, Mr Fazlul Bari CHOUDHURY has been a director or major shareholder in Aldbrook LTD since its inception in 2011. Since 2013 Mr CHOUDHURY has been the company's sole director with the notable exception of the period where 'ownership' was passed to was to Shawkat Karim CHOWDHURY and Hadayouth CHOUDHURY (FB CHOUDHURY's Nephew) with the application to transfer the licence under the guise of 'new and changed management'. With the rejection of the application so came the reinstatement of Fazlul Bari CHOUDHURY as sole director.
- 1.3 The remainder of this document will further enhance awareness of the persistent disregard for the legalities of legitimate employment, the undisputed links between the present applicant and previous owners and operators of the business and the likelihood of the Prevention of Crime and Disorder objective to be undermined should this application be granted. A likelihood which is in the committee's power to determine and prevent.
- 1.4 Essex Police in particular wish to draw the sub committees attention to the time line of events (Document 1), the listed shareholders and directors (Documents 2 and 3) and the previously submitted supplementary bundle (Copy enclosed for ease of reference), and also to the East Lindsay V Hanif case, discussed later in this document tells the licensing authority that it can anticipate the future based on past event. This is an established business practice.
- 1.5 Document 1 outlines the changes in directorships and allocation of shares in relation to the various immigration raids and licence applications. It clearly shows that prior to an application, the business was transferred to the relevant individual and when refused, the business was transferred straight back. This only strengthens the argument that these transfers are merely a tactic used to disguise the fact that the business is run by the same individuals.

- 1.6 It is Essex Police's contention that the intention of the applicant is in no way honourable. The premises recent history under the leadership of the very same persons demonstrates that there have been no lessons learnt here and this is merely a belligerent attempt to get the applicant's own way and reinstate the business as it has been for many. Consider the possibility that to grant this application may be to concede to the undermining of legitimate business.
- 1.7 The applicant for this licence is Fazlul Bari CHOUDHURY. Fazlul Bari CHOUDHURY has been intimately connected with the premises for a number of years both as an employee and a significant person of Aldbrook Limited, the current legal entity behind The Queen Victoria/Jalsa Ghar. The premises licence was previously held jointly by a Ziaul CHOWDHURY and Omar SHORIF (until revocation of the licence on 11<sup>th</sup> September 2018) (Document 5). The licence was revoked as a consequence of illegal workers being found on the premises in July 2018 (4 illegal workers found). Previous to this the premises were also found to have employed illegal workers in 2013 (8 illegal workers), 2014 (4 illegal workers) and 2016 (3 illegal workers) when still owned by Aldbrook Limited.
- 1.8 Fazlul Bari CHOUDHURY has been a director and/or a major shareholder of Aldbrook Limited since its creation in 2011. Since 2013 Fazlul Bari CHOUDHURY has been the sole director, excepting the brief period where directorship was handed to Shawkat Karim CHOWDHURY and Wazadur Rob CHOWDHURY in preparation for a new grant application.
- 1.9 Following the immigration raid in July 2018 that prompted the call for review; an application was made to transfer the licence to Shawkat Karim CHOWDHURY and Hadayouth CHOUDHURY. It was ascertained that both were related to both Fazlul Bari CHOUDHURY and to the then DPS.
- 1.10 At a hearing on 21 August 2018 regarding objections to the transfer of the licence (a transfer application made the next working day after the immigration enforcement raid that led to the review hearing) the police successfully argued that this was a transfer in name only and that the same controlling minds were in place. The transfer application was refused and subsequently the licence revoked (at separate hearings).
- 1.11 The ownership of the premises and its proposed method of operation has not significantly changed. Fazlul Bari CHOUDHURY was involved in both the running of The Queen Victoria/Jalsa Ghar, as well as being a significant person in the legal entity behind the business on all occasions of illegal workers being discovered.

- 1.12 As with the previous attempt to transfer the licence, the application before the sub-committee today is, in the police's view, just another attempt to 'pull the wool' over the authorities eyes. Aldbrook Limited was, and is, a family business providing a structure to bring profit to the extended family and provide its members with employment as managers of the premises in question. These connections show a clear link between Fazlul Bari CHOUDHURY, Aldbrook Limited and those responsible for previous criminality and are viewed by Police as an attempt to 'reinstate' the revoked licence in the light of the failure of the past transfer attempt.
- 1.13 There is no suggestion the company has been sold to outside independent interests, or that management control has changed, therefore there is significant scope to suggest the crime and disorder (namely potential for illegal working) objective will be engaged for all the reasons outlined in the upheld application for revocation.
- 1.14 East Lindsey District Council V Abu HANIF (2016) EWHC 1265 Admin, demonstrates the acceptance of the Licensing Objectives as being *prospective* and are concerned with the future avoidance of harm. Previous occurrences inform the likelihood of further criminality and the sub-committee are entitled to take this into consideration when making a decision.
- 1.15 The case of *East Lindsey District Council v Hanif* (see 8.11) determined that in such circumstances, even without a prosecution, the crime prevention objective is engaged. The statutory Guidance issued under the Licensing Act provides that certain criminal activity (in particular employing illegal workers) should be treated particularly seriously and it is envisaged that the police will use the review procedures effectively to deter such activities and crime.
- 1.16 The case reaffirms the principle that responsible authorities need not wait for the licensing objectives to actually be undermined; that crucially in considering whether the crime prevention objective has been engaged a prospective consideration (i.e. what is likely to happen in the future) of what is warranted is a key factor. It also reaffirmed the case of *Bassetlaw* in concluding that deterrence is a legitimate consideration of a sub-committee.
- 1.17 Mr Justice Jay stated: *"The question was not whether the respondent had been found guilty of criminal offences before a relevant tribunal, but whether revocation of his licence was appropriate and proportionate in the light of the salient licensing objectives, namely the prevention of crime and disorder. This requires a much broader approach to the issue than the mere identification of criminal convictions. It is in part retrospective, in as much as antecedent facts will usually impact on the statutory question, but importantly the prevention of crime and disorder requires a prospective consideration of what is warranted in*

*the public interest, having regard to the twin considerations of prevention and deterrence. In any event, I agree with Mr Kolvin that criminal convictions are not required.” (Paragraph 18)*

- 1.18 Mr Justice Jay added: *“Having regard in particular to the twin requirements of prevention and deterrence, there was in my judgment only one answer to this case. The respondent exploited a vulnerable individual from his community by acting in plain, albeit covert, breach of the criminal law. In my view his licence should be revoked.” (Paragraph 23)*
- 1.19 An action intended to be both punishment and deterrent. An action undermined in any case if reapplication by connected parties is unchallenged and rewarded with effective reinstatement of a premises licence.
- 1.20 We have a history of immigration crime, evidenced in previous submissions. The Companies House data shows that the original majority shareholder had declared it was a family business, which is now the same company going forward and running the business. Those involved in management were involved when previous offences were committed, one of which was the applicant Fazlul Bari CHOUDHURY.
- 1.21 This is a company with evidence of continuous and wilful disregard for legislation. The history of this business, which, as outlined by Mr Justice Jay, is absolutely right to take into consideration, undermines in a most serious way the prevention of Crime and Disorder objective with illegal workers found in 2013, 2014, 2016 and again in 2018.
- 1.22 1.21 The sub-committee are asked to consider (below) the cases of *R (Bassetlaw District Council) v Worksop Magistrates’ Court*; [2008] WLR (D) 350 and *East Lindsey District Council v Abu Hanif (Trading as Zara’s Restaurant and Takeaway)*, [2016] EWHC 1265 (Admin) where in both cases the High Court stated remedy of the harm or potential harm is not the only consideration and that deterrence is an appropriate consideration in dealing with reviews where there has been activity in connection with crime.
- 1.23 Paragraph 11.27 of the Guidance states:
- a. *There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises (...) for employing a person who is disqualified from that work by reason of their immigration status in the UK.*
- 1.24 The statutory crime prevention objective in the 2003 Act includes the prevention of immigration crime and the prevention of illegal working in licensed premises.

In particular, employing a person who is disqualified from work by reason of their immigration status is a criminal activity which, according to the Home Office Guidance to the Licensing Act 2003, should be treated “particularly seriously”. Essex Police would ask that the sub-committee consider this in addition to the information and evidence provided when making their decision on this matter.

## **2.0 Reasons for representations**

- 2.1 Based on the circumstances outlined above, Essex Police has serious concerns that the Crime and Disorder licensing objective will be breached, namely in the form of employing illegal workers.
- 2.2 There is a clear pattern of behaviour from the business concerning the employment of persons who are disqualified from work by reason of their immigration status.
- 2.3 Despite numerous changes in directors and shareholders of the legal entity, Essex Police are of the opinion that there has not been a significant enough change in the way the business will be managed to allay these concerns.
- 2.4 The most recent application is in the name of Fazlul Bari CHOUDHURY, who is also the current director and 100% shareholder of Aldbrook Limited (Documents 2 and 3). Mr Fazlul CHOUDHURY was also the director of Aldbrook Limited during all listed incidences of illegal workers being discovered working at the premises. It would be reasonable to believe that as Mr Fazlul CHOUDHURY had a financial interest in the business at the time, he would also have had a say in the operation of said business.
- 2.5 A civil penalty resulting from an immigration issue is a relevant offence. A penalty was issued on 27th November 2018 in relation to the illegal workers found in July 2018 and was still being paid as of 5th June 2019. If Fazlul CHOUDHURY had been operating as a sole trader rather than a limited company, he would have been barred from obtaining a personal licence. Essentially he is protected by the incorporation of Aldbrook Limited. As such, this company appears to have accepted the penalty without contest and is in the process of paying it off.

## **3.0 Outcomes sought**

- 3.1 Based on the circumstances outlined above, Essex Police seeks the refusal of the granting of a new premises licence.
- 3.2 Proposed conditions in the application regarding conducting right to work checks cannot be supported, as there is existing legislation requiring businesses to conduct these checks as a matter of course.
- 3.3 The exclusion of certain individuals from the premises holds little weight, as the proposed premises licence holder has been involved in the running of the business during all instances of illegal workers being discovered.

## Document 1

Date	Event	Directors/significant persons at the time	Shareholders at the time (based on documents filed with Companies House)
2 November 2011	Incorporation of Aldbrook Limited	<ul style="list-style-type: none"> <li>• Arthur Barber</li> </ul>	
16 December 2011	Change of directors	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> <li>• Chowdhury, Ziaul Islam (secretary)</li> <li>• Shorif, Omar</li> <li>• Chowdhury, Mahsana</li> </ul>	
15 February 2012	Resignation of Z Chowdhury, O Shorif and F Chowdhury as directors from Aldbrook Limited	<ul style="list-style-type: none"> <li>• Chowdhury, Mahsana</li> </ul>	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> <li>• Chowdhury, Ziaul Islam</li> <li>• Shorif, Omar</li> </ul>
05 March 2012	Liquidation of Jalsa Ghar (UK) Limited – due to low turnover and HMRC debts	<ul style="list-style-type: none"> <li>• Chowdhury, Mahsana</li> </ul>	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> <li>• Chowdhury, Ziaul Islam</li> <li>• Shorif, Omar</li> </ul>
08 March 2012	Purchase of Jalsa Ghar (UK) Limited assets by Aldbrook Limited	<ul style="list-style-type: none"> <li>• Chowdhury, Mahsana</li> </ul>	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> <li>• Chowdhury, Ziaul Islam</li> <li>• Shorif, Omar</li> </ul>
11 October 2013	Change of directors of Aldbrook Limited from M Chowdhury to F Chowdhury	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> </ul>	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> <li>• Chowdhury, Ziaul Islam</li> <li>• Shorif, Omar</li> </ul>

05 December 2013	8 Illegal workers found during raid	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> </ul>	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> <li>• Chowdhury, Ziaul Islam</li> <li>• Shorif, Omar</li> </ul>
July 2014	4 Illegal workers found during raid	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> </ul>	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> <li>• Chowdhury, Ziaul Islam</li> <li>• Shorif, Omar</li> </ul>
August 2016	3 Illegal workers found during raid	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> </ul>	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari – 75%+</li> <li>• Shorif, Omar – 25-50%</li> </ul>
06 July 2018	4 Illegal workers found during raid– Aldbrook Limited liable for penalty	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> </ul>	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> <li>• Shorif, Omar</li> </ul>
12 July 2018	Application to transfer premises licence to H Chowdhury and MDA Chowdhury – refused	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> </ul>	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> <li>• Shorif, Omar</li> </ul>
21 August 2018	Application for DPS variation to H Chowdhury – refused	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> </ul>	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> <li>• Shorif, Omar</li> </ul>
21 August 2018	Hearing for DPS variation - refused	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> </ul>	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> <li>• Shorif, Omar</li> </ul>
11 September 2018	Hearing for review of Premises Licence – licence revoked	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> </ul>	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> <li>• Shorif, Omar</li> </ul>
19/20 September 2018	Addition of S Chowdhury and W Chowdhury as directors of Aldbrook Limited	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> <li>• Chowdhury, Shawkat Karim</li> </ul>	<ul style="list-style-type: none"> <li>• Chowdhury, Shawkat Karim (remaining 25%+ not mentioned on companies house)</li> </ul>

		<ul style="list-style-type: none"> <li>• Chowdhury, Wazadur Rob</li> </ul>	
27 September 2018	Resignation of F Choudhury as director of Aldbrook Limited	<ul style="list-style-type: none"> <li>• Chowdhury, Shawkat Karim</li> <li>• Chowdhury, Wazadur Rob</li> </ul>	<ul style="list-style-type: none"> <li>• Chowdhury, Shawkat Karim (remaining 25%+ not mentioned on companies house)</li> </ul>
26 September 2018	New Grant premises licence application for Aldbrook Limited – refused	<ul style="list-style-type: none"> <li>• Chowdhury, Shawkat Karim</li> <li>• Chowdhury, Wazadur Rob</li> </ul>	<ul style="list-style-type: none"> <li>• Chowdhury, Shawkat Karim (remaining 25%+ not mentioned on companies house)</li> </ul>
19 November 2018	Hearing for above new grant - refused	<ul style="list-style-type: none"> <li>• Chowdhury, Shawkat Karim</li> <li>• Chowdhury, Wazadur Rob</li> </ul>	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari Shorif, Omar</li> </ul>
23 November 2018	Change in directors from S Chowdhury and W Chowdhury to F Chowdhury and O Shorif for Aldbrook Limited	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> <li>• Shorif, Omar</li> </ul>	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> <li>• Shorif, Omar</li> </ul>
05 February 2019	Resignation of O Shorif as director of Aldbrook Limited	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> </ul>	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> </ul>
14 May 2019	Transfer of 100% shares in Aldbrook Ltd to F Choudhury	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> </ul>	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> </ul>
31 May 2019	Application to transfer premises licence to F Choudhury and DPS to H Choudhury	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> </ul>	<ul style="list-style-type: none"> <li>• Choudhury, Fazlul Bari</li> </ul>

Date of annual return or change	Allocation of shares (Aldbrook Ltd)
02 November 2012	Choudhury, Fazlul Bari – 500 Chowdhury, Ziaul Islam – 300 Shorif, Omar – 400
02 November 2013	Choudhury, Fazlul Bari – 500 Chowdhury, Ziaul Islam – 300 Shorif, Omar – 400
02 November 2014	Choudhury, Fazlul Bari – 500 Chowdhury, Ziaul Islam – 300 Shorif, Omar – 400
02 November 2015	Choudhury, Fazlul Bari – 500 Chowdhury, Ziaul Islam – 300 Shorif, Omar – 400
02 November 2016	Choudhury, Fazlul Bari – 75%+ Shorif, Omar – 25-50%
19 September 2018	Chowdhury, Shawkat Karim – 75%+ (remaining 25%+ not mentioned on companies house)
02 November 2018	Choudhury, Fazlul Bari – 800 Chowdhury, Ziaul Islam – 0 (300 transferred to Fazlul 25/10/18) Shorif, Omar – 400
23 November 2018	Choudhury, Fazlul Bari – 1200 Shorif, Omar – 0 (400 transferred to Fazlul 23/11/18)

**DOCUMENT 2**



Companies House

**CS01** (ef)

**Confirmation Statement**

Company Name: **ALDBROOK LIMITED**  
Company Number: **07831708**



Received for filing in Electronic Format on the: **03/12/2018**

X7JZTB3E

Company Name: **ALDBROOK LIMITED**

Company Number: **07831708**

Confirmation Statement date: **02/11/2018**

Statement date:

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Electronically filed document for Company Number: **07831708**

## Full details of Shareholders

The details below relate to individuals/corporate bodies that were shareholders during the review period or that had ceased to be shareholders since the date of the previous confirmation statement.

Shareholder information for a non-traded company as at the confirmation statement date is shown below

Shareholding 1: **800 ORDINARY shares held as at the date of this confirmation statement**

Name: **FAZLUL BARI CHOUDHURY**

Shareholding 2: **300 transferred on 2018-10-25**

**0 ORDINARY shares held as at the date of this confirmation statement**

Name: **ZIAUL ISLAM CHOWDHURY**

Shareholding 3: **400 ORDINARY shares held as at the date of this confirmation statement**

Name: **OMAR SHORIF**

DOCUMENT 3



Companies House

**CS01** (ef)

**Confirmation Statement**

Company Name: **ALDBROOK LIMITED**

Company Number: **07831708**



Received for filing in Electronic Format on the: **14/05/2019**

X85GJ1WO

Company Name: **ALDBROOK LIMITED**

Company Number: **07831708**

Confirmation **14/05/2019**

Statement date:

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Electronically filed document for Company Number: **07831708**

## Full details of Shareholders

The details below relate to individuals/corporate bodies that were shareholders during the review period or that had ceased to be shareholders since the date of the previous confirmation statement.

Shareholder information for a non-traded company as at the confirmation statement date is shown below

Shareholding 1: **1200 ORDINARY shares held as at the date of this confirmation statement**

Name: **FAZLUL BARI CHOUDHURY**

Shareholding 2: **400 transferred on 2018-11-23**

**0 ORDINARY shares held as at the date of this confirmation statement**  
Name: **OMAR SHORIF**

## **DOCUMENT 4**

### **DECISION NOTICE – QUEEN VICTORIA PUBLIC HOUSE/INDIAN RESTAURANT**

The application before the Panel today is for the transfer of the premises licence to the Queen Victoria, 79 Stortford Road, Great Dunmow, to Messrs H Choudhury and MDA Chowdhury, to which application Essex Police object. The matter has therefore come before us today pursuant to the provisions of S42 Licensing Act 2003. We have taken into account the provisions of the Act, the most recent Home Office Guidance, issued this year, and the Council's Statement of Licensing Policy.

Mr H Choudhury and Mr MDA Chowdhury have applied to transfer the premises licence of the Queen Victoria, 79 Stortford Road, Great Dunmow into their names from the current licence holders Mr Z Chowdhury and Mr Omar Shorif. This Premises Licence PLO113 was originally granted to Mr Z Chowdhury and Mr Omar Shorif on 9 November 2005. An application to transfer the licence under S42 LA 2003 was received by Uttlesford District Council ("the Licensing Authority") to Mr H Choudhury and Mr MDA Chowdhury on 9 July 2018 although due to errors needing to be corrected on the form it was not officially valid until 12 July 2018. A copy of this document is before us.

An application for the transfer of an existing premises licence under Section 42 of the Act is normally a straightforward licensing procedure and is dealt with as an administrative matter. As part of the application process, notice of the application needs to be served on to the Police and also the Home Office if alcohol and or late-night refreshment is involved. Under Section 42 (6) where a Chief Officer of Police is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, (see post) he must serve notice upon the Licensing Authority within fourteen days of receiving the application. Under normal circumstances, a request to transfer has immediate effect and is administered by the Licensing Authority accordingly, since by virtue of Section 43 of the Act the premises licence has effect during the "application period" as if the applicant were the holder of the licence.

The application period begins when the application was received by the Licensing Authority and ends when the application is granted, or if it is rejected, at the time the rejection is notified to the applicant. Therefore, if a decision is made to appeal the Panel's decision today to the Magistrates Court the "application period" will continue until the determination by that court.

However, when a valid objection under Section 42 (6) is received from the Police and the objection has not been withdrawn, S44(5) LA 2003 requires that the matter must be referred to the Licensing and Environmental Health Committee for a hearing to determine the application. That hearing must take place within 14 days. Notice under S42(6) was received from Essex Police on 24<sup>th</sup> July 2018 accompanied by a very detailed statement of reasons, to be found at Appendix 2 of the bundle of documents before us. A copy of this has been served upon the Applicants.

The Applicants, the Police and the previous licence holder have been notified of the hearing in accordance with the Licensing Act 2003 (Hearings) Regulations 2005 and Licensing Act 2003 (Hearings) (Amendment) Regulations 2005, together referred to as the Regulations. Information to accompany the notice of hearing was provided to the Applicants, the Police and the previous licence holder in accordance with the Regulations.

Though the LA 2003 sets out four licensing objectives, namely:-

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

a Police objection to the transfer of a licence may only be made under Objective 1, the prevention of crime and disorder. The options before us today are also set out by law, and are:-

- To grant the transfer of this premises licence to Mr H Choudhury and Mr MDA Chowdhury or

- To reject the application for the transfer of the premises licence to Mr H Choudhury and Mr MDA Chowdhury if it considers it appropriate to do so for the promotion of the crime prevention objective

We are mindful that the premises are already the subject of a review application made by Essex Police on the crime and disorder ground, specifically immigration offences and we are aware of the provisions of paragraph 8.101 of the Home Office Guidance, which states that objections to transfers in such circumstances are likely to be rare, but will be based on evidence. For the sake of completeness, we add that the Act gives a right of appeal, by any aggrieved person, including the Police, to the Magistrates Court against any such review decision within 21 days.

We have read the papers before us and we have heard from Mr Ashford and Mrs Powell on behalf of Essex Police and from Mr Z Choudhury, the previous licensee, Mr H Choudhury, one of the Applicants, and from Mr Harman, their solicitor. We understand that when an application for the transfer of a licence is made with a request that the transfer have immediate effect, then the licence has effect during the application period as if the applicant were the licensee. Mr H Choudhury has thus been the licensee of the Queen Victoria since 9<sup>th</sup> July 2018.

WE have listened to what he had to say and he was specifically asked to explain what he would do if a job applicant presented themselves at the premises. He said that he would ring the consultancy, CSS, first: that he knew that there were websites that he could consult and that there were people he could ask for advice – his father and his uncles. He admitted he would have to look into these matters, that he had only been working part-time in the business and that he had had no management responsibility. He did not appear to have at least a theoretical knowledge of his obligations at his fingertips and he appeared to be proposing to rely too heavily upon family members. Because of this, even though we believe it was planned that at some point he would take over management of this business, we do not believe he is ready just yet. He has a lot of homework to do.

Furthermore, he will remain an employee of a small family business. S16 of the Act provides that the applicant for a premises licence – or an intending transferee – should

be a person who carries on, or proposes to carry on, a business involving the premises the subject of the application. There must be an intention to carry on a business. Mr H Choudhury will not be carrying on a business, he will remain employed in a business operated by family members, and on his own admission he has said that he would rely upon his father and his uncle, both of whom have used illegal labour in the operation of that business. We are also aware that the legislature has specifically chosen to include immigration offences among the matters the Police are entitled to bring before this Committee.

We have thought long and hard, and have debated our actual decision most anxiously. Ultimately, though, the fact remains that this business is owned and operated by a limited company and there are no immediate plans for Mr H Choudhury to obtain a substantial interest in that business. He has not used his seven weeks as de facto licensee to even acquire the necessary knowledge to answer our questions with any degree of fluency today. The responsibilities of a licensee are personal and we do not feel that Mr H Choudhury is yet ready to assume those responsibilities, given the persons to whom he admits he will turn for help.

We therefore refuse this application for a transfer. This means the licence will revert to the original holder which in the circumstances of this particular case we feel is the most appropriate result.

Both the Applicants and the Police have a right of appeal against this decision which must be exercised within a period of 21 days. They will receive a letter from the Legal Department, with a copy of this decision notice, explaining this.

## DOCUMENT 5

### DECISION NOTICE – QUEEN VICTORIA PUBLIC HOUSE/JALSA GHAR INDIAN RESTAURANT

The application before the Panel today is for a review of the premises licence to the Queen Victoria, 79 Stortford Road, Great Dunmow at the behest of Essex Police, supported by the immigration authorities pursuant to licensing objective number one, the prevention of crime and disorder. In reaching our decision today we have taken into account the provisions of the Licensing Act 2003, the most recent Home Office Guidance, issued this year which specifically incorporates references to immigration issues, and the Council's Statement of Licensing Policy. We also have before us a document pack containing a report from the Licensing Team Leader, the premises licence, some maps and plans, the Police application, Home Office comments, a number of letters and testimonials from interested parties, and most recently, a bundle of personnel documentation submitted by the licensees.

Historically, the current licence was granted on 9<sup>th</sup> November 2005. No representations were made and the application was granted as asked. Following a raid on the premises made by UKBA and the Police on 6<sup>th</sup> July 2018, in the course of which persons with no right to work in the UK were apprehended (two of those persons also had no right to be in the UK). It appeared no right to work checks were being carried out as required by the various Immigration Acts. This amounts to a breach of licensing objective number one, the prevention of crime and disorder, and for the sake of completeness we set out the four objectives enshrined in the 2003 Act. These are:-

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

We have also been referred to case law which specifically provides that a) deterrence of others is a consideration that this Committee may have in mind (*The Queen on the Application of Bassetlaw District Council v Worksop Magistrates Court*

*[2008] EWHC 3530 Admin*) in making its decision and b) there does not have to be a conviction for an offence under the 2006 Act for a licence to be revoked under the crime prevention objective ( *East Lindsey District Council v Hanif t/a Zara's Restaurant and takeaway [2016]EWHC 1265 Admin*)

Following receipt of the Police application, a notice of review was issued by Uttlesford District Council's licensing department personally served on 18 July 2018. The manager was not present and unable to be contacted so the Enforcement Officer explained to the staff members present what was happening and that the notice being put up in the window had to remain in position for 28 days. All statutory formalities have been observed.

The decisions available to the Committee upon a review are to:

- Allow the licence to continue unmodified
- Modify the conditions of the licence
- Modify the conditions of the licence for a period not exceeding 3 months.
- Exclude a licensable activity from the scope of the licence
- Exclude a licensable activity from the scope of the licence for a period not exceeding 3 months.
- Revoke a licence
- Remove the Designated Premises Supervisor

When carrying out a review of a licence, due regard should be given to the Council's licensing policy and Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003. The Secretary of State's most recent guidance issued in April this year includes new guidance in respect of immigration issues.

**Paragraph 2.6** says 'The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are

considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises’.

**Paragraph 4.22** highlights the importance placed on immigration offences, as it considers that it is grounds for objecting to the granting of a personal licence on the basis that it would be prejudicial to the prevention of crime and disorder.

**Paragraph 8.99** says (although in respect of objections to the transfer of a premises licence, again highlights that it would be appropriate), ‘in exceptional circumstances for objections to be raised by the police or immigration officials where the transfer would be prejudicial to the prevention of illegal working.’

Furthermore, these following paragraphs of the Guidance deal specifically with a review of the premises licence , where crime and disorder is an issue. It highlights the seriousness with which the Secretary of State expects licensing authorities to treat immigration offences on licensing premises.

**Paragraph 11.18** says ‘Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.’ I add that for civil immigration policies to apply there must be a contract of employment which is not the norm in the catering/hospitality industry.

**Paragraph 11.26** says ‘Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still

empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder. '

**Paragraph 11.27** says 'There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- **for employing a person who is disqualified from that work by reason of their immigration status in the UK; [our emphasis]**
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol. '

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

Further, the Council's licensing policy has the following relevant paragraphs

- 3.3 The prevention of crime includes the prevention of immigration crime, and the Licensing Authority will work with Home Office Immigration Enforcement in respect of these matters.
- The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. If representations are made to the Licensing Authority **applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.**
- 3.4 When addressing the issue of crime and disorder, the applicant should consider those factors that impact on crime and disorder. These may include:
- Underage drinking
  - Drunkenness on premises
  - Public drunkenness
  - Drugs
  - Violent behaviour
  - Anti-social behaviour
  - Illegal working

### Control Measures

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

- (a) Effective and responsible management of premises
- (b) Training and supervision of staff
- (c) Adoption of best practice guidance (e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice, including those relating to drinks promotions e.g. The Point of Sale Promotions published by BBPA, Security in Design published by BBPA and Drugs and Pubs, published by BBPA)
- (d) Acceptance of accredited 'proof of age' cards e.g. PASS, locally approved 'proof of age' cards e.g. 'Prove It' and/or 'new type' driving licences with photographs or adoption of industry best practice (e.g. Challenge 25 policy)
- (e) Provision of effective CCTV and mirrors in and around premises
- (f) Employment of Security Industry Authority licensed Doorstaff
- (g) Provision of toughened or plastic drinking vessels
- (h) Provision of secure, deposit boxes for confiscated items ('sin bins')
- (i) Provision of litterbins and other security measures, such as lighting, outside premises
- (j) Membership of local 'Pubwatch' schemes or similar organisations
- (k) Right to work checks on staff and retention of documents

If the Committee wishes to impose condition for the continuance of the licence , the only conditions that can be imposed are those that are necessary and proportionate to promote the licensing objective relative to the representations received. Equally, the Committee should not impose conditions that duplicate the effect of existing legislation. We cannot therefore impose a condition regarding the undertaking of right to work checks – they are a legal requirement under the Immigration Acts

The Secretary of State's Guidance provides further assistance, and in paragraphs 10.8 and 10.10 it provides: -

10.8 The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises.

10.10 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided... Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions.

WE have considered all the material before us with care and we have heard from Mrs Powell and Mr Ashford on behalf of Essex Police, Immigration Officer Gear on behalf of the Home Office, and from Messrs Choudhury and Sharif. Their solicitor, Mr Harman, has also spoken on their behalf.

We have also listened to a number of members of the public, who I will not list, but in listening to them we have been mindful that Regulation 19(b) Licensing Act 2003

(Hearings) Regulations 2005 requires us to disregard information given by anyone that is not specifically relevant to the promotion of a licensing objective: what these people had to say was in the character of character referees only and we did not that they dealt only with Mr Choudhury. We therefore give what they said no weight. We have noted the history of the premises and observed that on his own admission in 2013 and again in 2014 the business was sanctioned. Similarly, another business operated by Messrs Choudhury and Sharif, the Pride of Sylhet, was sanctioned in 2011 for the same reason. There have been ample opportunities for lessons to be learned.

We have taken into account everything we have both read and heard and at this point I repeat the provisions of the April 2018 edition of the Home Office Guidance. For the first time, it **specifically** includes immigration offences in the list of matters Licensing committees are required to take into consideration, and says:-

“There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of licensed premises for.....

- Employing a person who is disqualified from that work by reason of their immigration status in the UK.

A civil penalty of up to £20,000 can only be levied if there is a contract of employment: however, the use of the words “disqualified from that work” suggest the Guidance also covers those who under the employment protection legislation are referred to as “Limb B” workers.

This Guidance repeats and reinforces the ratio of the decision of Mr Justice Jay in the *East Lindsey* case [2016] EWHC 1265, where he states

“The question was not whether the respondent had been found guilty of criminal offences before a relevant tribunal but whether revocation of his licence was appropriate and proportionate in the light of the salient licensing objectives, namely the prevention of crime and disorder....the prevention of crime and disorder requires a prospective consideration of what is warranted in the public interest, having regard to the twin considerations of prevention and deterrence....criminal convictions are not required.” We respectfully adopt this. Furthermore, His Lordship then said “...the respondent exploited a vulnerable individual from his community by acting in plain,

albeit covert, breach of the criminal law. In my view his licence should be revoked". This case is on all fours with the one before us today, and in the light of the revised Guidance reinforcing the point, we agree with His Lordship's conclusion.

The evidence we have seen shows that the individuals concerned admitted working without the proper immigration checks having been undertaken, and furthermore, that one of them also admitted to working less than minimum wage, ie for board and lodging, which is also a breach of other employee rights legislation. Finally, we cannot overlook the fact that this is not a first offence: this is the fourth time immigration officers have visited the premises, we also take into account the incident at the Pride of Sylhet, and we also appreciate that an Illegal Working Civil Penalty may only be imposed if the existence of a contract of employment can be established.

The grounds upon which the Police have made this application are that Licensing Objective One, the prevention of crime and disorder, has been breached. The important word is "prevention" and Mr Choudhury and Mr Sharif have failed to prevent, not for the first time, illegal working. We have considered the decisions of *R on the application of Bassetlaw District Council v Worksop Magistrates Court [2008] EWHC 3530* and *East Lindsey District Council v Hanif t/a Zara Restaurant [2016] EWHC 1265* and are satisfied that even though on this occasion so far as we are aware Mr Choudhury has not on this occasion been subject to any penalty, the licensing objective is nevertheless engaged.

This Committee's primary function is the protection of the public. Though we are not a Court and the standard of proof before us is the civil one of the balance of probabilities, we are satisfied that Mr Choudhury engaged the people referred to in the Police submissions to work unlawfully in this country.

We therefore consider that the premises licence should be revoked under S52 (4) (e) of the Licensing Act 2003 and that revocation is an appropriate step with a view to promoting the crime prevention licensing objective.

There is a right of appeal against this decision which must be exercised within a period of 21 days and during this period the license remains in force. Mr Choudhury will receive a letter from the Legal Department explaining this.

## DOCUMENT 6

### DECISION NOTICE – QUEEN VICTORIA, STORTFORD ROAD, DUNMOW

The application before the Panel today is for the grant of a new premises licence of the Queen Victoria, Stortford Road, Dunmow.. The application is dated 26<sup>th</sup> September 2018 and is made by Aldbrook Limited

Representations have been made by Essex Police and accordingly the matter has been referred to us for determination.

We have had sight of a detailed report and have considered the extensive background papers, including:-

- (a) Premises licence application (Appendix A)
- (b) Plan of premises (Appendix B)
- (c) Representation from Statutory consultee (Essex Police) (Appendix C)
- (d) Location map of premises (Appendix D)
- (e) A bundle of supplementary information from the Police including full set of the information held by Companies House in respect of the applicant company
- (f) Revised Guidance issued under section 182 of the Licensing Act 2003
- (g) Uttlesford District Council Statement of Licensing Act 2003 Policy 2017-22

We have also seen some documents submitted late by the applicant's agent Stuart Gibson regarding the share transfers. This includes P45s for the outgoing directors but we are mindful of the fact that there is no legal requirement whatsoever for a director to be an employee and so we give these very little weight.

As prescribed by the Licensing Act 2003, where an applicant submits documentation supporting a premises licence application, then an operating schedule must be

submitted. This demonstrates how the licensing objectives will be met and also outlines what licensable activities are sought.

These are set out in part M of the application form ( Appendix A of the bundle before us).

The licensable activities being sought on the application are listed below:

(J) Supply of Alcohol for consumption on the premises (on the premises)

Monday to Saturday	10am - 11pm
Sunday	10am - 10.30pm

(L) The opening hours of the premises

Monday to Saturday	10am – 11.30pm
Sunday	10am - 11pm

Copies of the application have been served on all of the statutory bodies, and has attracted representations from Essex Police based on the Crime and Disorder objective. Details of these representations can be seen at Appendix C and the supplementary documents and we have also heard from Mrs Powell and Mr Ashford from Essex Police. We also heard from Mr Gibson, the applicant's licensing agent and from Messrs Shawkat and Wazadur Chowdhury themselves.

In carrying out the statutory function, the Licensing Authority must promote the the licensing objectives as set out in the 2003 Act, namely:-

- a. The prevention of crime and disorder
- b. Public safety
- c. The prevention of public nuisance
- d. The protection of children from harm

The options that are available to this Committee are to

- Grant the application
- Modify the application by inserting conditions
- Reject the whole or part of the application

When determining an application due regard should be given to the Council's licensing policy and the Secretary of State's Guidance issued in accordance of the Act. The most recent version is dated April 2018 and we are mindful of the contents thereof. It includes new guidance in respect of immigration issues.

Paragraph 2.6 says The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters.

Paragraph 11.26 relates to reviews, but can be taken into consideration in determining new applications - 'Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder. '

Paragraph 11.27 says ‘There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- **for employing a person who is disqualified from that work by reason of their immigration status in the UK [our emphasis];**
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol. ‘

The relevant sections of the Council’s Licensing Policy are:

- 3.3 The prevention of crime includes the prevention of immigration crime, and the Licensing Authority will work with Home Office Immigration Enforcement in respect of these matters.
- The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. If representations are made to the Licensing Authority **applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events [our emphasis].**

3.4 When addressing the issue of crime and disorder, the applicant should consider those factors that impact on crime and disorder. These may include:

- Underage drinking
- Drunkenness on premises
- Public drunkenness
- Drugs
- Violent behaviour
- Anti-social behaviour
- **Illegal working**

#### Control Measures

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

- (a) Effective and responsible management of premises
- (b) Training and supervision of staff
- (c) Adoption of best practice guidance (e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice, including those relating to drinks promotions e.g. The Point of Sale Promotions published by BBPA (British Beer and Pubs Association) Security in Design published by BBPA and Drugs and Pubs, published by BBPA)
- (d) Acceptance of accredited 'proof of age' cards e.g. PASS, locally approved 'proof of age' cards e.g. 'Prove It' and/or 'new type' driving licences with photographs or adoption of industry best practice (e.g. Challenge 25 policy)

- (e) Provision of effective CCTV and mirrors in and around premises
- (f) Employment of Security Industry Authority licensed door staff
- (g) Provision of toughened or plastic drinking vessels
- (h) Provision of secure, deposit boxes for confiscated items ('sin bins')
- (i) Provision of litterbins and other security measures, such as lighting, outside premises
- (j) Membership of local 'Pubwatch' schemes or similar organisations

**(k) Right to work checks on staff and retention of documents**

Should the Committee be minded to impose conditions on the grant of a licence, the only conditions that can be imposed are those that are necessary and proportionate to promote the licensing objective relative to the representations received. This is made clear in paragraphs 10.8 and 10.10 of the Home Office Guidance. Equally, the Committee should not impose conditions that duplicate the effect of existing legislation.

Specifically, that guidance provides as follows:-

10.8 The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises.

10.10 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the

premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided... Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions.

We have heard from Mrs Powell, who presented the Police case supported by Mr Ashford.

We have also heard from Mr Gibson on behalf of the applicant company and from the two Messrs Chowdhury. Unfortunately, the latter have failed to convince us regarding a number of matters, and we are extremely concerned regarding whether or not the sale of this business is genuinely an arms length transaction between unconnected persons. On the balance of probabilities we believe that it is not.

The previous owner, Mr Ziaul Chowdhury, has tried to lobby some of our number. Why? The financial information before us makes no mention of the ownership of and payment of the outgoings upon the physical premises at Stortford Road. The person whom Mr S Chowdhury believes to be the landlord, a Mr Hussein from Turkey, is not the registered proprietor of the building and there is no note of any leasehold interests upon the title at HM Land Registry. Nobody undertakes works as substantial as the rethatching of a roof without having a secure legal interest in the property. A transfer of shares in a limited company that does not own its operating assets is not the transfer of a business and neither Mr S nor Mr W Chowdhury could give proper explanations for this failure. Nor do we believe that Mr W Chowdhury can

act as designated premises supervisor for two sets of premises AND work as a taxi driver, and we recall from the previous hearings before us that Mr Z Chowdhury mentioned his dedication of time and effort to a restaurant business in Sawston as being why he neglected certain aspects of the management of the Queen Victoria.

We have considered all the material before us very carefully indeed, including the documents put before us for the first time today, and we are mindful of the history of these premises vis a vis the licensing authority over the past six months. To recap, the applicant is Aldbrook Ltd and that company has at all material times operated a business from these premises trading as Jalsa Ghar. This company has employed the workers in this business and has accounted to HMRC for taxes. Aldbrook itself acquired the assets of its business from the liquidator of a company called Jalsa Ghar (UK) Ltd, also based at 79 Stortford Road, of which the outgoing licensees, Ziaul Choudhury and Omar Shorif, were shareholders. They became directors of Aldbrook between December 2011 and February 2012, while remaining as shareholders until Autumn 2018.

The share transfers of which we have heard today took place very shortly after the revocation of the previous licence. The transfer of shares in a company that does not own the operating assets of the business does not necessarily a sale of that business make, plus the P45s submitted in respect of the outgoing directors have no probative value whatever. A director does not have to be an employee and the fact that a person is now holder of shares does not mean they are the true beneficial owner of them. No prudent businessman would enter into a contract under which a further payment is due upon the occurrence of a contingency without that agreement being evidence in writing, and Aldbrook's financial statements make no mention of either a lease of the premises or payment of a substantive rent. In the light of all this, and the inability of Messrs Chowdhury to answer our questions, reinforces the feeling that this is not a true sale to bona fide purchasers for value at arms length..

Continuing, we note there was also a third director, Fazul Bari Chowdhury, who remained in post throughout and is recorded as being resident at the same address as Hadayouth Ahmed Chowdhury, who also figures in the history of these premises, see post.

Ziaul Choudhury held a 75% shareholding giving him significant control. On 19<sup>th</sup> September, again within the appeal period for the revocation of the licence, a 75% shareholding was acquired by Shawkat Karim Chowdhury, notification being given to Companies House in form PSC01 on 27<sup>th</sup> September. He has also been appointed a director.

Further searches carried out by the Police against SK Chowdhury at Companies House show that he is also a director of Comfort Transport (UK) Ltd. We have learned today that that company is a taxi firm licensed by TfL. That company's other director is Hadayouth Ahmed Chowdhury (see above) who unsuccessfully applied for a transfer of the premises licence to him on 21<sup>st</sup> August 2018 in the hope of forestalling the 11<sup>th</sup> September review. Mr H Chowdhury worked in the business in a management role at that time though we are told he has ceased to do so.

Similar directorship searches against Ziaul Choudhury revealed involvement with another company called Karhold Ltd: a co-director of this company was one Wazadur Chowdhury, who holds the premises licence for Kaz's Indian Restaurant, Sawston, which is the premises in Sawston referred to by Mr Z Chowdhury in evidence before us in September. The manner in which Mr W Chowdhury acquired that business from Mr Z Chowdhury is identical to the way in which this business has been transferred.

This Committee's primary function is the protection of the public. Though we are not a Court and the standard of proof before us is the civil one of the balance of probabilities, we are satisfied that the Police have made out their case and that this

application does not relate to a wholly new business; at all material times this business has been operated by closely connected persons. The corporate veil is being used to provide a structure whereby these associated persons may trade in common. We cannot ignore the history of the premises and observe that businesses operated by these people have on several occasions been sanctioned for immigration offences. There have been ample opportunities for lessons to be learned. We have no guarantee whatsoever that they will be, and furthermore an attempt has been made by Mr Z Chowdhury to lobby members of this Committee. This aspect of the matter has been referred to the Council's Monitoring Officer.

This only serves to reinforce the Police contentions, and Mr S Chowdhury did have to admit that there is indeed a verbal agreement for the payment of a further [REDACTED] to Mr Z Chowdhury if a licence is granted today. He further admitted that the business was worthless without a licence which to our minds poses yet further questions regarding the bona fides of this application.

I repeat, we have taken into account everything we have both read and heard and at this point I repeat the provisions of the April 2018 edition of the Home Office Guidance. For the first time, it **specifically** includes immigration offences in the list of matters Licensing Committees are required to take into consideration, and says:-  
"There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of licensed premises for.....

- Employing a person who is disqualified from that work by reason of their immigration status in the UK.

This Guidance repeats and reinforces the ratio of the decision of Mr Justice Jay in the *East Lindsey* case [2016] EWHC 1265, where he states

"The question was not whether the respondent had been found guilty of criminal offences before a relevant tribunal but whether revocation of his licence was appropriate and proportionate in the light of the salient licensing objectives, namely the prevention of crime and disorder....the prevention of crime and disorder requires a prospective consideration of what is warranted in the public interest, having regard to the twin considerations of prevention and deterrence....criminal convictions are

not required.” We respectfully adopt His Lordship’s conclusion albeit in the context of the grant of a new licence. The directors and shareholders of Aldbrook Ltd are not fit and proper people to hold a licence.

It is very clear that this closely linked group have traded collaboratively from these premises since before 2000. It is equally plain that they will continue to do so and that nothing has changed. We are aware that the Home Office guidance permits this Committee to use its powers to deter others, and this is a case where we should do so. This application is a flagrant abuse of the law, and like the Police, we take this matter very seriously.

Accordingly this application is refused.

There is a right of appeal against this decision which must be exercised within a period of 21 days. The Applicant will receive a letter from the Legal Department explaining this.