

LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS) ADDENDUM 1

10.00AM, TUESDAY, 7 JULY 2020

VIRTUAL MEETING - SKYPE

Agendas and minutes are published on the council's website www.brighton-hove.gov.uk. Agendas are available to view five working days prior to the meeting date.

Electronic agendas can also be accessed through our meetings app available through [ModernGov: iOS/Windows/Android](#)

This agenda and all accompanying reports are printed on recycled paper

ADDENDUM

ITEM		Page
9	WIMPEY LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)	5 - 20



Sussex Police
Serving Sussex

www.sussex.police.uk

Brighton & Hove Licensing Unit

Police Station
John Street
Brighton
BN2 0LA

Tel: 101 ext 550828

Email: brighton.licensing@sussex.pnn.police.uk

26th June 2020

The Licensing Technical Support Officers
Environmental Health, Brighton & Hove City Council
Bartholomew House, Bartholomew Square
Brighton
BN1 1JP

Dear Mark Savage-Brookes,

RE: APPLICATION FOR THE REVIEW OF THE PREMISES LICENCE FOR WIMPY, 14 STATION ROAD, PORTSLADE, BRIGHTON, BN41 1GA UNDER THE LICENSING ACT 2003.

Further to the review documents in respect of the above premises served by Sussex Police on the 15th June 2020, I enclose our evidence bundle in support of the application.

Index of documents attached

1. Photo – Hole in the roof – shows where the CCTV Hard drive should have been
2. Photo – Cables – shows the loose cables found during the search.
3. MG11 DC Booth – CCTV Statement written by DC Booth
4. MG11 PC Hancox – Visit to the DPS written by PC Hancox
5. MG11 Insp Lovell – Overview of the criminal investigation written by Insp Rob Lovell.

Yours sincerely,

pp

Insp Rob Lovell
Licensing & Response Inspector (Force Licensing Lead)
Local Policing Support Team
Sussex Police

Please address all future correspondence to Brighton & Hove Licensing Unit, Police Station, John Street, Brighton, BN2 0LA





WITNESS STATEMENT

Criminal Procedure Rules, r 16.2; Criminal Justice Act 1967, s.9

URN

[REDACTED]

[REDACTED]

Statement of: SEAN BOOTH

Age if under 18: Over 18 (if over 18 insert 'over 18') Occupation: Police Constable

This statement (consisting of 01 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.

Signature:  #EA303 BOOTH, S.

Date: 10/03/2020 15:56

Tick if witness evidence is visually recorded

On TUESDAY 10/03/2020 I was on duty at Brighton Police Station. I was tasked to attend WIMPY, 14 BOUNDARY Road, Portslade in relation to an allegation of rape which had occurred on 08/03/2020 to carry out a section 18 search of the premises. This search was authorised by PI RADLEY and was recorded on the custody record. The purpose of the search was to identify further evidence in relation to the offence and to secure any CCTV from the premises.

At 1145hrs I entered the premises and carried out a brief search of the shop floor, as part of this search I found a set of keys which were on a worksurface near the back door in the kitchen area. This set of keys consisted of two keys, a mortis lock type key and a padlock key on a key ring with a red tag. I looked at the keys and considered where they may be for so went out into the rear yard where I found a door to a basement area which the mortis lock style key unlocked. In this basement area was the Wimpy store room containing a number of fridges and freezers and items stored for the restaurant.

As well as this I saw a number of CCTV cameras attached to the wall and followed the cables back to try to locate where the cameras were connected to. By following the cable this led me back up into the restaurant and then into the ceiling, following the cables along the ceiling I located the CCTV connections located in the void above the service area ceiling. The CCTV camera leads were not connected to any recording equipment but were still connected to a power supply.

I have taken a photograph of the disconnected CCTV leads in situ in the ceiling and a further photograph of the location the disconnected cables were located. I took these photographs using my police issued mobile device and have uploaded these to the casefile as my exhibits.

SB/100320/1145 - Photograph of the disconnected cables

SB/100320/1146 - Photograph of the location where the disconnected cables were located

I completed the Section 18 search and left the premises secured at 1255hrs on 10/03/2020.



WITNESS STATEMENT

Criminal Procedure Rules, r 16.2; Criminal Justice Act 1967, s.9

URN

--	--	--	--

Statement of: PC HANCOX DH163

Age if under 18: O'18 (if over 18 insert 'over 18') Occupation: Police Constable

This statement (consisting of 2 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 anything in it, which I know to be false or do not believe to be true.

Signature: _____ Date 27/05/2020

Tick if witness evidence is visually recorded (supply witness details on rear)

On 7th April 2020 I was in the company of Hannah STAPLEHURST whom is a Sussex Police Licensing Officer carrying out various licensing checks across Brighton. One of our intentions was to attempt to speak with the DPS of the Wimpy, 14 Station Road, Portslade, Katheesan THARMASSEELAN [REDACTED].

On our arrival at the Wilmington Convenience there was male I recognised to be [REDACTED] [REDACTED] nloading his car with items that I presume had been bought at a cash and carry and taking them into the shop. This male is the husband of [REDACTED].
[REDACTED] Katheesan THARMASSEELAN.

I asked [REDACTED] if Katheesan THARMASSEELAN was around as we wanted to speak with him in reference to Wimpy and the serious incident that had occurred there the previous month to which he replied that he was upstairs in the flat and he would go and get him. After a period of time Katheesan THARMASSEELAN appeared and [REDACTED] moved to one side to make a phone call.

Katheesan THARMASSEELAN was asked in regards to Wimpy were they open to which he replied he didn't know, we were on the understanding that the premises was open for take away only so he was asked if they were open for takeaways to which he replied Yes. He was then asked if there was any CCTV working in the premises to which he replied that he didn't know, it was pointed out to him that as the DPS he should know whether there was any CCTV but he didn't respond and just stared at the floor. He was finally asked when he was last at the Wimpy and he replied 1 week ago. It is my belief that he had no idea what was going on at the Wimpy at that time and was merely the DPS for the paperwork only, he did not seem keen to engage with us or have any real knowledge or interest in the running of Wimpy.

[REDACTED] then finished his call and stated that the Wimpy was open for takeaways during its normal hours and that the CCTV had been replaced and an engineer was coming the next week, he further stated that Kapilraj VIGNESWARAN was currently managing the Wimpy. I know Kapilraj VIGNESWARAN to be the PLH of Wimpy and also the PLH of Ecrin 434 Portland Rd Hove, BN3 5SJ where Katheesan THARMASSEELAN is also the DPS.

Hannah and myself next visited the Wimpy and confirmed they were open as a Takeaway venue only and conforming with social distancing etc, in the premise there were 2 members of staff who confirmed Kapilraj VIGNESWARAN was the temporary manager, the front of house member of staff confirmed that they were not selling any alcohol, (they only have on sales) and there was no alcohol on display. The member of staff believed there was now CCTV but was not able to show us anything.

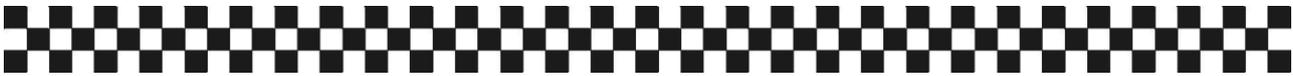
Continuation of statement of

The following week I paid another visit to the Wimpy, the date and time being 18th April 2020 at 17.00, as I entered the premise I immediately recognised a male sitting at a table near the door to be Kapilraj VIGNESWARAN, the PLH. I firstly asked him if the chef known as [REDACTED] was working today to which he told me he was, I asked him why he was working when he knew he didn't have the correct visa to do so to which he replied he was helping him out. I then asked what times [REDACTED] was helping him out for to which I was told 10.30-19.30. I then asked Kapilraj VIGNESWARAN about the CCTV, he showed me a hard drive behind a ceiling panel and showed me the app on his phone where he was able to show me the system was recording from the 8th April 2020.

Signature

Signature witnessed by:

PTO



RESTRICTED - FOR POLICE AND PROSECUTION ONLY
(when complete)





WITNESS STATEMENT

Criminal Procedure Rules, r 16.2; Criminal Justice Act 1967, s.9

URN

--	--	--	--

Statement of: Rob Lovell

Age if under 18: O'18 (if over 18 insert 'over 18') Occupation: Police Inspector

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.

Signature: R Lovell Date 25th June 2020

Tick if witness evidence is visually recorded (supply witness details on rear)

I am a police officer of 22 and a half years service. I have held the rank of Inspector for the past 10 years and I am currently the Sussex Police lead for licensing, a position I have held since May 2019.

In this position, I lead the licensing teams across the force area and hold delegated authority from the Chief Constable for all parts of the Licensing Act 2003.

In March 2020 I became aware of an investigation into an offence of rape, that was reported to have been committed within the Wimpy restaurant in Portslade, which is a licensed premises.

Alongside the criminal investigation, I directed the licensing team to investigate whether the licensing objectives had been undermined and it quickly became evident that there were a number of serious concerns identified which have undoubtedly undermined the licensing objectives, particularly the prevention of crime and disorder and public safety.

In providing this evidence I have reviewed the crime report for the offence and will highlight a number of pertinent points that are documented within that crime report.

The offence occurred on the 8th March 2020 and the offender was an employee of Wimpy reported to be the manager at the time. The offence occurred on the licensed premises. DS STARR was the supervisory detective who attended that evening and she has recorded on the crime report, minuted at 0341hrs on 09/03/20, that the arrested male was wanted for immigration offences. She has noted that the shop was littered with empty vodka bottles. She has also documented that the shop was covered with CCTV with a camera directly above where the victim was found. She notes that a ceiling tile had been dislodged and a camera was pointing in an 'odd direction'.

The Crime Scene Investigator that attended Wimpy that evening has documented on the report

Signature: _____ Signature witnessed by: _____





that samples were taken from 'an open bottle of wine' and that she was unable to find a CCTV monitor anywhere in the restaurant.

It is also recorded on the crime report that the victim was given drinks by the offender, which she believed to be brandy mixed with coke. She reports seeing a bottle that was 40% proof.

It is documented on 10/03/20, as part of the ongoing investigation, that DC CANDY made contact with the Premises Licence Holder, Kapilraj VIGNESWARAN. This enquiry was in relation to the premises CCTV.

It is documented that VIGNESWARAN told the officer that the last time he checked, the CCTV was working but he does not state when he actually checked it. DC CANDY enquires again with VIGNESWARAN on 11/03/20 and he has told officers that he had never actually seen a Digital Video Recorder (DVR) box or operated it at Wimpy so was unable to confirm if one was actually ever installed. VIGNESWARAN is spoken to on the same date by DC BOOTH and attends Wimpy with him. It is noted that VIGNESWARAN has tried to locate the CCTV at Wimpy and having inspected the roof space has found that there was no DVR. He told DC BOOTH that he was unable to say whether it had been removed or whether it was not installed in the first place. He stated that he could not access CCTV via his phone and had never been able to access the Wimpy CCTV by the internet but did state that he 'used to have some live streaming capability but it became faulty so he deleted the app from his phone'. He does not state when this was or clarify at any stage for how long he has not been able to access CCTV for.

The offender in this matter has subsequently pleaded guilty to the offence of rape. The fact that an offence of such gravity has occurred within a licensed premises, clearly undermines the licensing objective of the prevention of crime and disorder but the investigation has highlighted wider concerns that calls into question the management of the premises and their suitability to retain a premises licence.

There is evidence provided that alcohol has been openly drunk on the premises by staff. The evidence of empty vodka bottles, an open bottle of wine and the victim's own account of being supplied with what she believed to be brandy are evidence of this. While it is not clear if Mr VIGNESWARAN, as the PLH was aware that alcohol was being used on the premises, he has a responsibility for the way his staff conduct themselves. The named DPS was not present on the day of the offence and the male purported to be the manager at the time, was the offender.

The fact that this male, who's immigration status, should have prevented him from employment, was employed and put in a position of trust at the restaurant, raises serious questions as to the due diligence



and judgement of the PLH. However, the manager was not the only employee with restricted employment status who was found to be employed at this restaurant so it cannot be claimed that it was just a one off occurrence. Not only is it an offence to employ workers who do not have correct immigration status, the employees themselves do not have automatic access to employment rights enjoyed by legitimate company employees. The licensing objectives of the prevention of crime and disorder and public safety have been seriously undermined.

The lack of CCTV at the premises, causes me serious concern. It is clear that there was not a viable CCTV system installed when the premises was visited in January 2020 by Donna Lynsdale of Brighton and Hove City Council. This was a clear breach of the existing premises licence condition. During the investigation into the offence in March 2020, it has been found that there was no CCTV available and enquiries to locate a recording device (DVR) have proved fruitless. Mr VIGNESWARAN has been unable to state if a DVR was ever installed at all and has been unable to state when the system was last checked as working. I would expect any Premises Licence Holder to have rigorous systems in place. It is clear the Mr VIGNESWARAN has not taken any responsibility to ensure he is complying with the condition on his licence around CCTV despite a previous warning and in this instance it has led to evidence of a serious offence committed on the premises, not being captured. The absence of CCTV, increases the risks to the public and to the restaurants' own employees therefore I believe that the licensing objectives of the Prevention of Crime and Disorder and Public Safety have been serious undermined.

I have supervised the completion of the Section 51 Review document and am satisfied that it is an accurate and truthful reflection of the problems with this particular premises.

I am firmly of the belief, due the considerable failings in management, that the measures outlined in that review document are the most appropriate and proportionate steps to ensuring that the licensing objectives do not continued to be undermined.

