

Dear Member

LICENSING SUB-COMMITTEE - THURSDAY, 9TH JULY, 2020

Please find attached, for consideration at the next meeting of the Licensing Sub-Committee, taking place on Thursday, 9th July, 2020, the following reports that were unavailable when the agenda was printed.

Please bring this document with you to the meeting.

Agenda No Item

1. **Application for the Review of a Premises Licence - India Cottage, 35 Christchurch Road, Ringwood**
Additional Representations from the Premises Licence Holder's Representative (Pages 3 - 40)

Yours sincerely

Andy Rogers
Committee Administrator

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INDIA COTTAGE LICENSING REVIEW

New Forest District Council Licensing Sub-Committee

“Skype” Hearing 9th July 2020

REPRESENTATIONS ON BEHALF OF THE PREMISES LICENCE HOLDER

Preliminary Issues

In considering this matter, there are concerns about compliance with GDPR. This document, as well as the video evidence relied upon and the annexes hereto, revealed the identity and (arguably) personal data and images of persons not directly involved in this matter.

Before this document is put in the public domain, careful consideration needs to be given to these matters – indeed, it is the view of the author that this document and the annexes hereto should not be published and that when these matters are considered during the hearing, the press and public should be excluded therefrom.

This however is a matter for the Licensing Authority to take advice from its lawyers.

Introduction and undisputed matters.

On 25 April 2020, Police Constables Hawley and Swallow visited the India Cottage restaurant in Ringwood. At the time, various restrictions were in place as a consequence of the coronavirus pandemic.

The restaurant was providing a food takeaway and delivery service. Customers were placing orders on the telephone and coming to collect the same at prearranged times; a small number of customers were also calling at the premises in order to place an order and waiting for their food to then be prepared.

Two customers (one of whom was accompanied by [REDACTED] [REDACTED]) had arrived to place their orders and sat in the external area covered by a pergola waiting for their food to be prepared and whilst doing so, each drank a bottle of Cobra beer. This was in breach of the regulations and, as it transpired, in breach of the conditions on the licence allowing the sale of alcohol only to persons taking table meals at the premises - neither customer was eating or intending to eat at the premises.

The police asked to view the premises' CCTV and noted that on 23 April 2020, there had been a similar occurrence and that one of the customers who had attended was there for some two hours, drinking beer. This again was in breach of the regulations and a condition on the licence.

That said, a number of the assertions made by the police both in the application for review and the witness statements are disputed.

Matters of Law - the licensing objectives.

This review is said to relate to the licensing objectives of the prevention of crime and disorder and public safety.

As far as the latter is concerned, reference is made to the document at Annex 1 which has been produced by the Institute of Licensing, in conjunction with various other parties, including the Police, the Local Government Association and the National Association of Licensing Enforcement Officers.

The relevant section (the bottom of page 1 on two page 2) reads as follows: –

“Whilst premises licences may allow off sales of alcohol for collection and takeaway, if problems are identified, premises could still face potential enforcement under Coronavirus regulations and the Licensing Act 2003. Given that social distancing is a public health issue, breaches of these rules is not an offence and would not appear to engage the licensing objective of public safety which section 182 Guidance (para 2.7) defines this as “ safety of persons using the relevant premises rather than public health which is addressed in other legislation”.

It is therefore submitted that the licensing objective of "public safety" is not engaged.

Further, it is not suggested that what happened on either occasion referred to in the papers caused any disorder.

With regard to “crime”, the following is part of an exchange of emails with PC Swallow on 18th June 2020 in response to questions I had asked about the BVW footage and whether there was any criminal investigation:

“Hi Phillip

[REDACTED]
[REDACTED] Unfortunately my BWV device did not turn on and we didn't realise. So that is the only BWV footage available.

You are correct that no footage was requested from your client and he was not cautioned (we are not perusing a criminal investigation).

I was one of the attending officers and PC Hawley saw people through the front window of the restaurant. With the venue being closed, the front interior lights were off . The external areas were illuminated making it very easy to see people at the rear.

If you intend to use the CCTV from the venue at the hearing, [REDACTED]
[REDACTED] [REDACTED] [REDACTED]

Regards

PC 2903 Brian Swallow

Whilst it is admitted that an offence under The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 has been committed, there has not been and it would seem that there has never been, any intention to mount a prosecution.

As far as the Licensing Authority is concerned, the matter was dealt with in what (it is submitted) was an entirely reasonable and proportional response in accordance with the regulations – i.e. the service of a Prohibition Notice.

However, it is noted that the view taken by the police is that "In effect, this notice has been no punishment for what is at this time of national crisis a very serious offence" (page 10 agenda papers).

With the greatest of respect of the police, it is submitted that in the circumstances of this case, bringing review proceedings is entirely inappropriate. It should be noted that in respect of the Licensing Act, the principal enforcement authority is the Licensing Authority itself and it should be noted that it (the Licensing Authority) has not made any representation in support of the application.

Disputed matters

Some of the language used by the police in both the application for review and the statement of PC Swallow is highly emotive and, with respect, inappropriate and exaggerated.

For example (and these are from the application for review): –

"I was amazed at what I saw. There were seven people in this small confined area."

Please refer to the photographs in Annex 2 and in particular photograph 17. The subcommittee will take its own view as to whether this was a "small confined area".

The application includes an assertion that there were "2 male customers standing waiting for takeaway order...." In fact, as evidenced by Annex 3 and photographs 8 and 9 from Annex 2, one of these customers did not arrive until a couple of minutes after the police did.

The two males who were outside (one of whom – [REDACTED] [REDACTED] [REDACTED]) were clearly socially distancing – indeed, as the premises CCTV (and the stills taken from it) clearly show, one of them [REDACTED] went out of his way to move an ashtray, even though he is not seen to smoke at any time that he is there.

Further, photographs 15 and 16 from Annex 2 clearly show that the two customers who were waiting to collect orders (one of whom arrived after the police) were both socially distanced from each other and from those seated outside.

It is not accepted that Mr Mannan hesitated before allowing the police to gain access to his CCTV. As is clear from the BVW footage, he was clearly unsettled by the sudden arrival of the police and it is also the case that he is not particularly au fait with the way in which the CCTV system operates.

The application goes on to say that the CCTV footage "clearly showed one of the males currently within the venue drinking beer two days previously." This is simply wrong. Neither of the males who were present on 25 April were there on the 23rd.

The police go on to refer to the sheds that can be seen in the video footage. It is asserted that "it is win (sic) all likelihood that this (sic) two structures are going to be or had been used for the consumption of food."

This is categorically denied. Mr Mannan can be heard in the BWV footage to be denying this to be the case but more to the point, the police could very easily have verified the position by examining other footage from the premises' CCTV but chose not to do so. Had they done so, they would have been able to confirm that Mr Mannan was telling the truth.

It is not accepted that "this venue was clearly knowingly breaching the COVID legislation". Throughout the pandemic and in particular in the early stages, there was a great deal of confusion about what was or was not permitted. Indeed, it appears that even senior Government advisers and Ministers were unaware of the details of the restrictions. References also made to the email from Christa Ferguson at page 51 of the agenda papers in which she states to Mr Mannan "you seem to be unclear as to the arrangements and legislation that applies to all businesses at this current time."

Whilst Mr Mannan now accepts that what he was doing was wrong, at the time, he genuinely believed that he was at liberty to give alcoholic drinks to people who were waiting to collect takeaway meals from his premises. (Ironically, the Bill now going through Parliament will (assuming it passes through all stages in the House of Lords and receives Royal Assent) permit premises such as this to supply alcohol for consumption off the premises).

The review application goes on to assert "it cannot be ruled out that due to MANNAN's blatant dismissive approach based purely on monetary gain (greed), that persons may have become critically ill or have died."

Again, the language used is highly emotive. With regard to the use of the word "greed" the fact of the matter is that throughout 25th April, only two bottles of beer were sold or supplied. The normal selling price of these bottles when the restaurant is operating is £5.90 but on this occasion, Mr Mannan charged £3 a bottle.

Turning then to the supporting statement made by PC Swallow, he refers to arriving at the premises. "At this time our attention was drawn to the Indian (sic) Cottage, 35 Christchurch Rd, Ringwood BH24 1DG. There were lights on in the premises and persons could be seen at the rear of the property (through the front window)."

On the police BWV footage, one of the officers can be heard to say "'We're not here because someone's phoned in or anything, we've come from Southampton. We're driving past and I see 3 or 4 heads and I think (pause) something not quite right there".

We find this somewhat difficult to believe. Please refer to photographs 1, 2 and 3 from Annex 4 and to the BWV of the inside of the restaurant. There were no lights on in the front part of the restaurant but there were lights in the bar area and it was of course still daylight. Even peering through the front window, it is difficult to see through the premises. Further, all three persons in the pergola area were seated and the one customer who had arrived at that point was standing at the far end of the table – see photograph 15. It would have been even more difficult to observe people at the rear of the restaurant area or outside when driving past.

It is perhaps worthy of note that historically, complaints about these premises have been forthcoming from residents in a block of flats that can be seen in photograph 5 in annex 2.

The statement repeats the assertion in the application itself that the officer was amazed at what he saw and that there were "7 people in this small confined area." In fact, there were only six people as the second customer referred to only arrived a short while after the police did.

It is also clear from the photographs, the CCTV and the BWV that all of the customers were properly socially distanced at all times. The gentleman who was waiting for his takeaway when the police arrived has made a statement recounting his observations. His name is [REDACTED] and his statement appears at Annex 5.

The officer asserts (referring to Mr Mannan) "He was instantly clearly very nervous. He began speaking very quickly and repetitively and began to shake visibly." We refer again to the statement made by [REDACTED] and to the BWV which records part of the conversations with Mr Mannan. It is perhaps not surprising that when being confronted/challenged by the officers in what might be described as forceful terms, he displays some signs of nervousness.

PC Swallow then refers to the sheds towards the rear of the external area. "The table had place settings laid out with napkins glasses and cutlery. The inside of the shed was illuminated with fairy/led lights making a cosy intimate setting. I found this to be incredibly suspicious. Why go to the trouble of making these two sheds up every day if they were not going to be used."

As Mr Mannan explained (see BWV), he was trying to maintain a degree of normality within the premises and it is suggested that this is entirely forgivable given that a number of people were coming there to collect takeaway orders. The tables in the sheds were not being made up every day and, had the officers troubled to examine the CCTV more closely, they would have been able to establish that the sheds and indeed no other part of the premises were being or had been used for dining.

It is also asserted that "there was no social distancing measures in place at the venue, no signage, no additional hygiene measures, hand sanitizer etc. in the main public courtyard area. Neither MANNAN now (sic) the female member of staff wear (sic) wearing any form of protective equipment, masks or gloves. I've witnessed two take away food orders (in white plastic bags) being handed directly to the customer."

In fact, as it can be seen from the CCTV footage and noted from the statement of [REDACTED] and other references (see Annex 6, 7 and 8), customers at the premises were

maintaining social distancing. There was at the time no requirement for staff to wear PPE and indeed, there was a severe shortage of such equipment nationally at the time.

As can be seen from the CCTV and BWV evidence, staff were not handing bags directly to customers but putting them down and allowing the customers to pick them up themselves.

It should perhaps be noted that the two police officers were themselves not wearing any form of PPE nor did they maintain social distancing from each other nor from staff as can be seen in their own BWV.

PC Swallow's statement concludes "it was clear to me that this premises was in all likelihood operating as a restaurant supplying meals to eat in, it was clearly operating as a takeaway and supplying alcohol for consumption on the premises in complete regard (sic) to the newly introduced legislation."

Again, it is categorically denied that the premises were operating as a restaurant supplying meals to eat in. It was perfectly entitled to operate as a takeaway, either for customers to collect from the premises or food delivery. No alcohol was being supplied with the takeaway meals. It is accepted that a small number of customers calling at the premises to collect takeaway meals were (wrongly) supplied with alcohol.

Proportionality

The police invite the subcommittee to review the licence "for the purposes of removing the licensable of (sic) activity of the supply of alcohol from the premises licence".

It is submitted that such a response would be disproportionate and inappropriate.

When operating in normal circumstances, the turnover of this business is between £[REDACTED] and £[REDACTED] per week, of which approximately a third relates to the sale of alcohol. Preventing the business from selling alcohol would make it financially unviable and would result in not only its closure but the redundancies of its five full-time members of staff, and approximately 4 or 5 part-timers.

This family business has been operating for some 40 years and is a stalwart part of the Ringwood Community. In that regard, please refer to the various references that have been provided at Annexes 6, 7 and 8.

As mentioned earlier, an appropriate and proportionate response was the service by the Licensing Authority of the Prohibition Notice. That Notice has been fully complied with and there have been no further breaches. It is submitted that if no action was taken, none of the Licensing Objectives would be put at risk.

It is also clear that a number of other premises both locally and Ringwood and within the BCP Council area have been operating in breach of the restrictions and, in some cases, in breach of their licences. Please refer to the photographs at Annex 9 for evidence in that regard. Whether or not these breaches have come about because of ignorance or confusion about what is and what is not permitted is a moot point but what is clear is that no actions been taken against these other operators.

It may well be that members of the subcommittee may come to the view that they have to be seen to be "doing something". However, members are invited to take into account the fact that Mr Mannan has incurred substantial legal costs as a result of what happened and, in so far as it is ever appropriate to use review proceedings such as this to "punish" the holder of a Premises Licence, the reality is that Mr Mannan has already incurred what amounts to a significant financial penalty quite apart from the very substantial loss of business that he and other restaurants and bars have suffered over the last three months and are likely to continue suffering into the foreseeable future.

In this case, there does not realistically seem to be any scope to impose additional conditions or restrictions on the licence, nor it is submitted would it be right to suspend or, worse, revoke the licence.

However, one further matter has come to light. There is a condition on the licence that doors and windows must be kept closed after 23:00 hours. As we understand it, this was in order to mitigate potential noise nuisance to occupiers of not the nearby flats.

It is of course the case that the restaurant is now permitted to open and, indeed, has been open since the 4th of July. Government guidance suggests that wherever possible, doors and windows should be kept open so as to increase air circulation and reduce the risk of transmission of the disease. Members are therefore asked to consider varying the condition relating to the doors and windows having to be kept shut, perhaps on the basis that if the rear sliding doors are left open, no music at all should be played at the premises after 23:00 hours.

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Annexes

1. Institute of Licensing Paper
2. CCTV stills from 25th April 2020
3. 25th April sequence of events
4. Photographs of India Cottage and CCTV stills from 23rd April 2020
5. Statement – [REDACTED]
6. Reference [REDACTED]
7. Reference [REDACTED]
8. Reference – [REDACTED]
9. Photographs of other premises

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Off-sales and compliance with the Health Protection (Coronavirus Restrictions) (England) Regulations 2020 (as amended) and the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 (as amended)

This information and following questions and answers has been developed by a cross sector group looking to reduce risk for licensed premises operating during the current pandemic and so ensure the safety of the public, premises staff and officers and provide clarity for all involved.

Jim Cathcart (UK Hospitality)

Ian Graham (National Police Chiefs Council, Licensing Advisory Group)

Rebecca Johnson (Local Government Association)

John Miley (National Association of Licensing Enforcement Officers)

Clare Eames (Poppleston Allen)

Leo Charalambides (Kings Chambers)

David Lucas (Institute of Licensing)

Introduction

The recent fine weather and relaxation in some lockdown measures has seen the public understandably seek to regain a degree of the life that existed before lockdown and this includes consumption of alcohol with friends and family. Licensed premises have seen their businesses severely impacted and are having to adapt quickly to this new world to ensure the reactivation of their businesses can meet the new challenges and laws. The Police and Local Authority are responsible for ensuring compliance and likewise face new challenges and as lockdown is further relaxed no doubt more questions will arise.

One particular concern over the past few weeks has been groups gathering outside or close to premises that are offering off sales and, in some cases ignoring social distancing guidelines or engaging in anti-social behaviour requiring police involvement.

This is challenging for both the Premises and the Police and Local Authorities. The regulations are new, untested and have caused confusion for many. Partnership has never been so important to enable problems to be identified and resolved swiftly. Premises will need to ensure their risk assessment and methods of operation have considered these new risks and where relevant there should be engagement with local police and licensing authorities and we are seeing some Authorities helpfully provide guidance to premises to support them.

Whilst premises licences may allow off sales of alcohol for collection and takeaway, if problems are identified, premises could still face potential enforcement under Coronavirus regulations and the Licensing Act 2003. Given that social distancing is a

public health issue, breaches of these rules is not an offence and would not appear to engage the licensing objective of public safety which section 182 Guidance (para 2.7) defines this as “ safety of persons using the relevant premises rather than public health which is addressed in other legislation”.

Whilst police can and will deal with those persons committing offences, they will also take a holistic view and where alcohol is thought to have played a part in the cause of the problem, they may seek to mitigate further risk by taking action against a premises.

Regulations and laws are always open to interpretation and challenge but in these challenging times with new social risks and rules it is hoped pragmatic partnership working will avoid many issues and resolve the few that might arise quickly as there is a shared common aim to have safe and compliant premises.

Legislative overview

The practical effect of Regulation 4¹ is that pubs and restaurants are required to stop selling food and/or drink for consumption on the premises unless exempt under Regulation 4(2).

Regulation 4(3) states that: *“An area adjacent to the premises of the business where seating is made available for customers of the business (whether or not by the business) is to be treated as part of the premises of that business”*.

The practical effect of Regulation 4(3) is that the prohibition includes places where seating is available that are next to or adjoining premises that sell food or drink, and prevents people from sitting or congregating in those areas. This is to prevent consumption taking place in beer gardens, outside seating and other “adjacent” areas.

Although they are not subject to the closure provisions, supermarkets and off licences would be expected to prevent the consumption of alcohol in areas adjacent to their premises.

These Q and A's have been prepared to assist all involved in how to navigate the issues identified:

Q: Can I legally provide off-sales in sealed or open containers from my premises – for example a pint of draught beer to take away and consume elsewhere?

A: Yes, if you have the necessary off-sales permission on your licence with no further restrictions. This will be stated on your premises licence and you should check the times and days permitted and review any conditions that might be relevant. **Note: Any off-sales authorised by a Club Premises Certificate MUST be sold in sealed containers.**

¹ <http://www.legislation.gov.uk/ukxi/2020/350/contents/made>

<https://gov.wales/health-protection-coronavirus-restrictions-wales-regulations-2020-amended>

- Q: Can I provide seating for customers of the business, for the purposes of consumption?
- A: No. Seating cannot be made available (and this can include areas not under the control of the premises) and this is not restricted to seating within the premises such as beer gardens and adjoining smoking areas, but would include areas adjacent to the premises which also might include public benches.
- Q: If I knowingly allow customers to take alcohol away in open containers for consumption in a seated area as outlined above, is there an offence committed?
- A: Yes, this would be a breach of Regulation 4, which is a criminal offence and a Prohibition Notice could be served, or it could be felt that this is undermining the licensing objectives and a licence review could be instigated.
- Q: What if customers take away alcohol and are congregating in the immediate vicinity, and consuming their alcohol?
- A: It is clear that the intention of the regulations was to discourage any sort of congregation on or near licensed premises. If there are breaches of the regulations or ASB then as above, the premises could be subject to enforcement.
- Q: What social distancing measures need to be in place?
- A: Adequate social distancing measures should be put in place to protect staff and customers wishing to purchase or collect food or drink from your premises. Consider accepting only contactless payments and consider relevant government guidance.
- Q: To what extent am I responsible for behaviour of customers who lawfully purchase drinks to take away, but then congregate elsewhere in such a fashion to be breaching regulations or social distancing guidelines in an area away from the premises?
- A: It would be hoped that premises will take a common sense approach and would promote and encourage social responsibility of customers (as within the existing Licensing Act responsibilities), and it would not be expected that customers are asked to confirm where they intend to take the alcohol to. If however off sales are made in open containers it might be reasonable to consider where the customer is going to consume the alcohol.
- Enforcement could be both under LA 2003 and the Coronavirus Regulations.
- Q: What about customers who take their drinks whether in sealed or open containers and consume them in an area that is caught by a Public Space Protection Order (PSPO) also known as controlled drinking zones??
- A: If persons are consuming alcohol in a controlled area or PSPO, their alcohol can be seized or the person can be asked to dispose of the alcohol (check

your local authority controlled zones). Consider posters to advise your customers.

Q: What about individual responsibility? – is it right that the premises can be responsible for the behaviour of individuals or groups beyond the premises or adjacent to them?

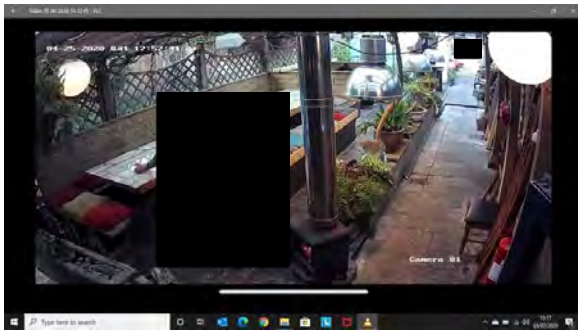
A: Yes they can be – it will depend on the specific circumstances at the time. While individuals have responsibility for their actions depending on the facts their behaviour could be linked to the premises

Q: What advice should I give to customers and should I be warning them about social distancing?

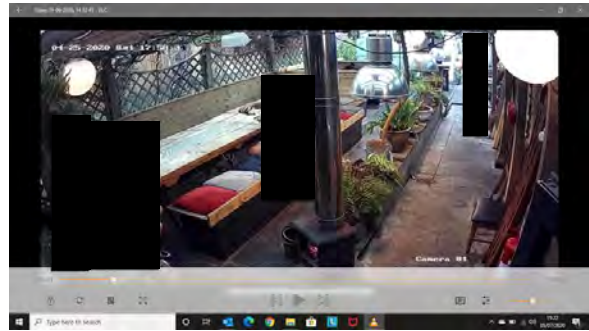
A: While customers are attending to collect or order food or drinks best practice would suggest you have undertaken a risk assessment to consider the issues and in the same way you advertise under age sales policies you may wish to consider customer messaging as their behaviour could have a direct impact on the premises. You may wish to contact your local authority for advice and guidance.

Please note that this document does not constitute legal advice but is the group's considered opinion of the matters contained within.

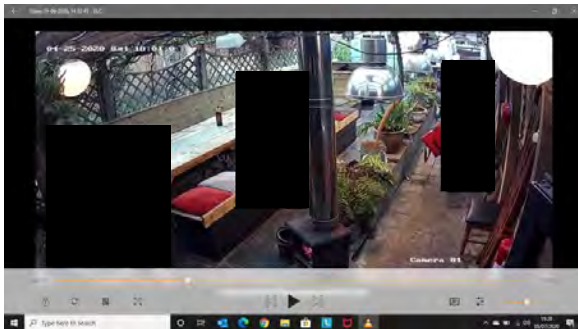
Annex 2 - Stills from CCTV – 25th April 2020



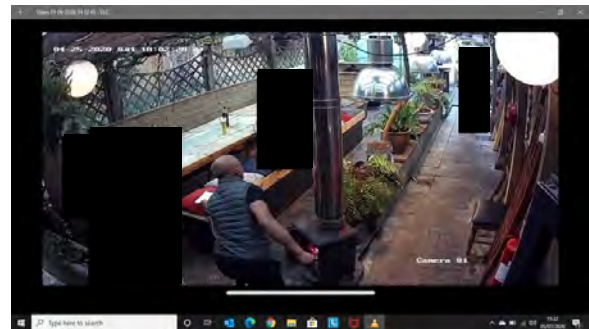
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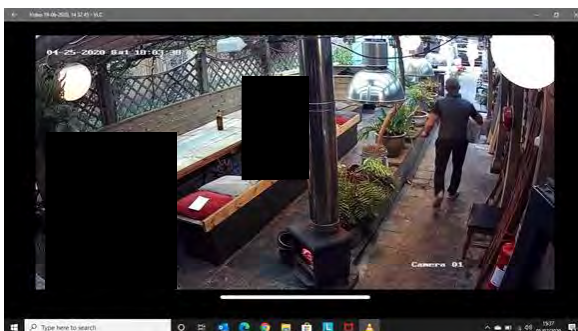
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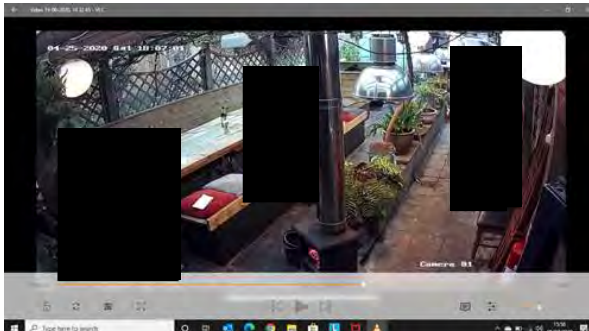
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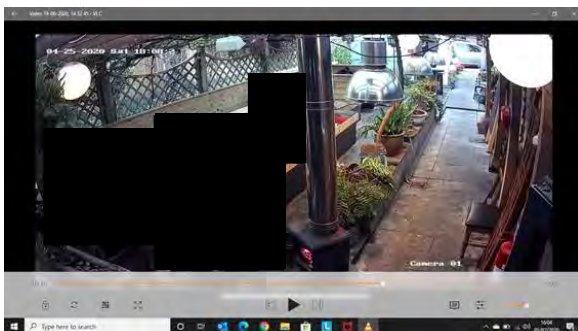
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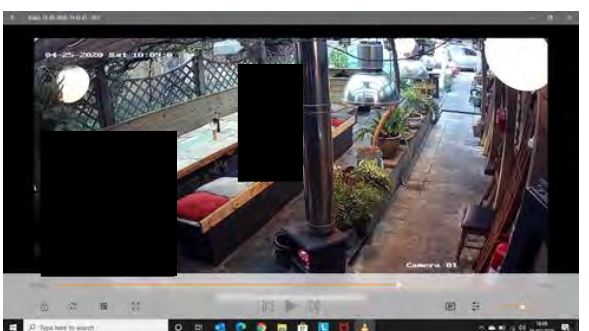
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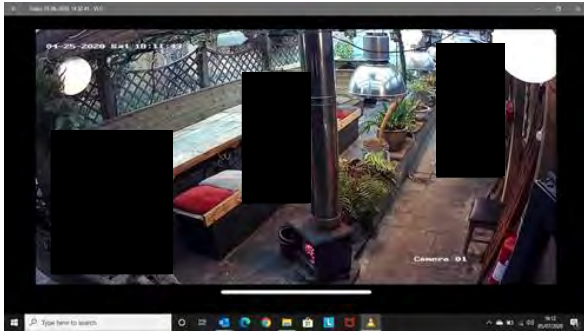
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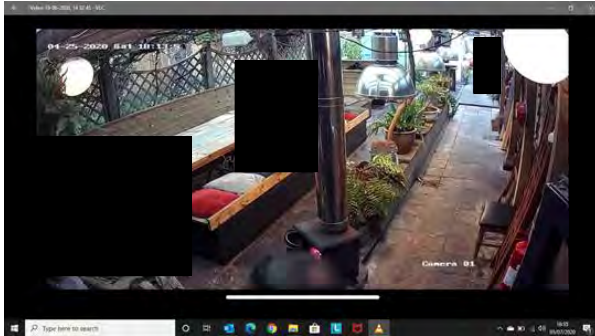
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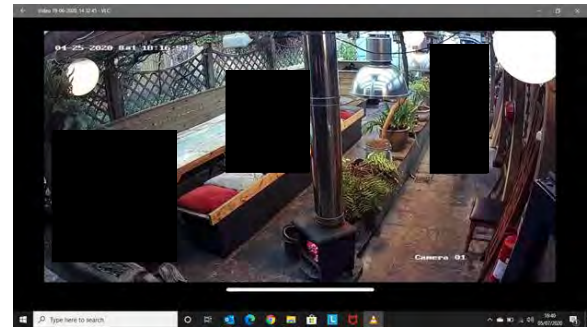
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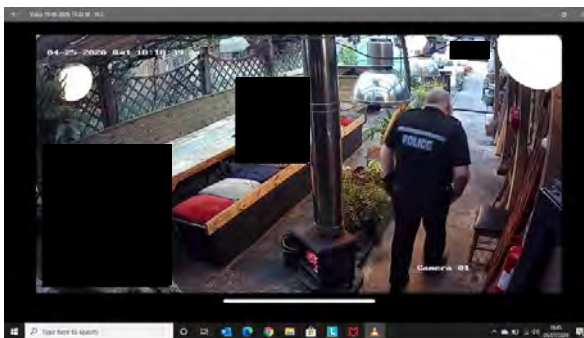
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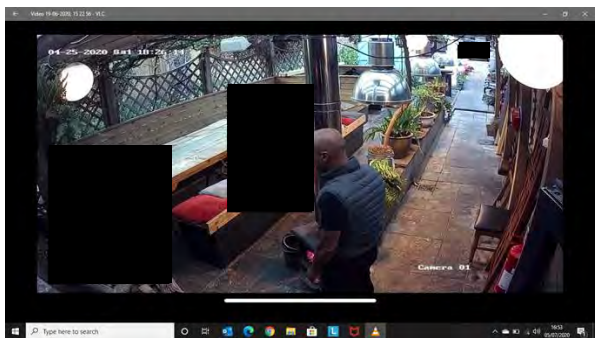
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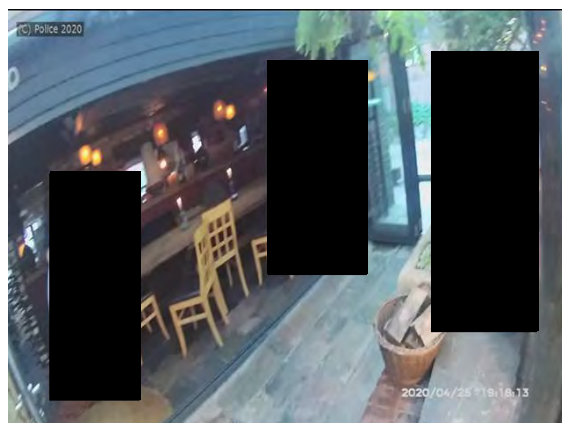
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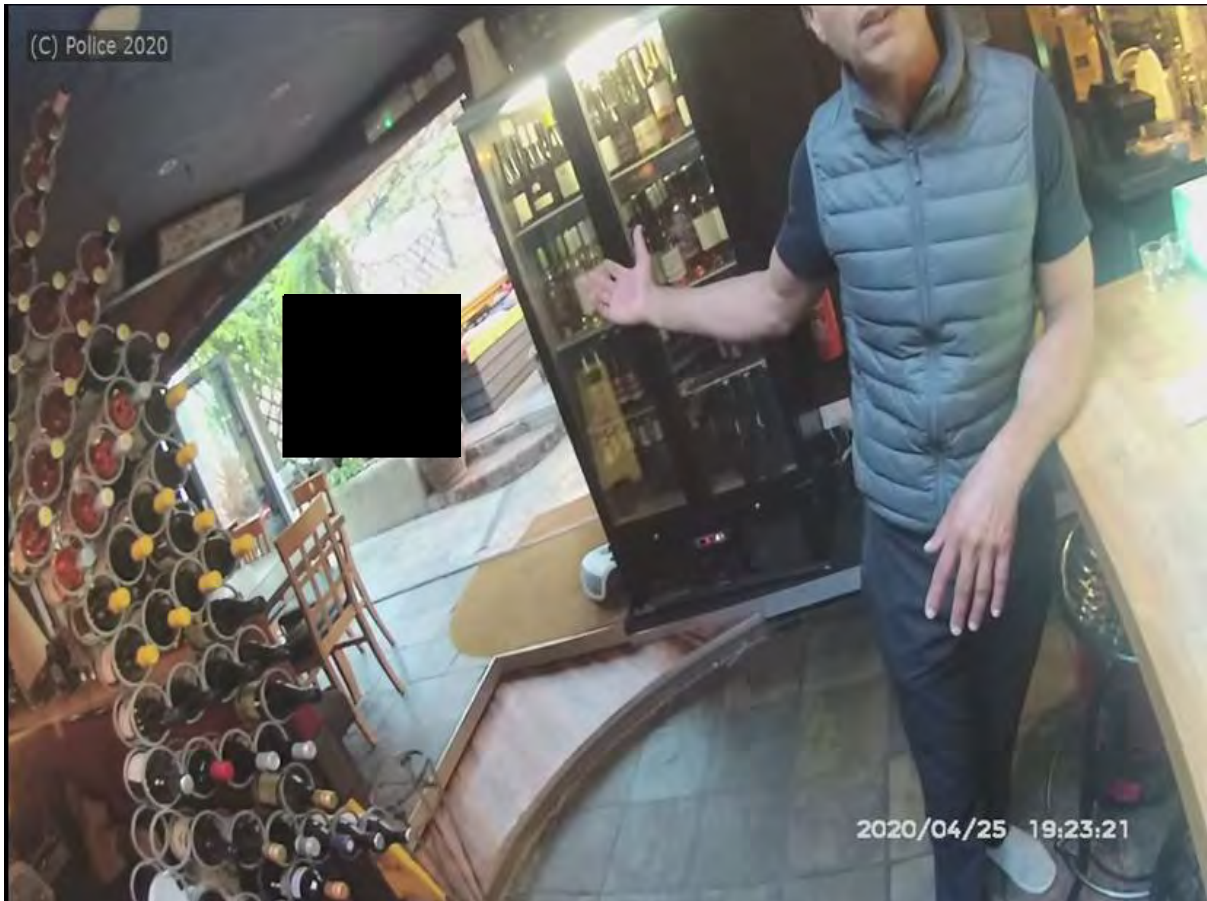
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Philip Day
Laceys Solicitors LLP

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Annex 3 – Timetable of Events 25th April 2020

Time per CCTV (GMT not BST) Still photo number (x)	Comment
17:57 (1)	██████████ arrives and moves ashtray
17:57	Black hatchback arrives
17:58	██████████ appear
17:58 (2)	All three seated and ██████ from car who is collecting ██████ order waits some distance away.
17:59	██████████ walks in to pay for ██████ order
18:00	Another car arrives
18:00	Shad appears from kitchen and remains socially distanced
18:01 (3)	1 st delivery driver arrives back
18:01	██████████ walks back to ██████ car (without carrying anything)
18:02 (4)	Delivery driver goes out to the ██████ and Shad places bill next to ██████
18:02	Driver puts log on fire – ██████ still waiting.
18:03 (5)	Shad takes order out to ██████ but places it on ground so that ██████ can then pick it up.
18:04	1 st delivery driver runs out to car park with a receipt and gives to ██████ now sitting in ██████ ca which then leaves.
18:05	Silver car arrives
18:05:27	Customer enters via side entrance (only glimpsed in video)
18:05	1 st delivery driver appears from side entrance and (18:06) 2 nd delivery driver (taller one) arrives back.
18:07 (6)	1 st driver leaves with order and 2 nd appear from kitchen
18:08 (7)	2 nd driver leaves via side entrance and then the lady member of staff comes out but maintains distance whilst ██████ pays.
18:09 (8)	Police arrive (statement says 19:15) and almost immediately, 2 nd driver goes to car park.
18:09	Lady member of staff gives ██████ change (police inside)
18:10	2 nd driver walks back in then out and into kitchen.
18:11 (9)	2 nd ██████ customer arrives (note that the first one hasn't been seen)
18:12 (10)	PC Hawley officer speaks to ██████ and ██████ for a few seconds then wanders out to the "sheds" and then the car park.
18:13:05	Someone else arrives via side entrance.
18:13	2 nd driver leaves again to put something in his car. PC Hawley re-appears, looks at the sheds then into the lavatory (This is 19:17:35 on the BWV)
18:13:51 (11)	Just as PC Hawley goes back inside, a customer leaves by the side entrance and the 2 nd driver returns inside then goes back out almost immediately, gets in his car and drives off.
18:17 (12)	2 nd ██████ customer leaves via car park – ██████ been there for about 6

	minutes.
18:18	Kitchen staff member leaves via store room
18:18 (13)	PC Hawley walks out again to car park.
18:19	PC Hawley walks back in next to the sheds, followed by the kitchen staff member. Looks at the sheds, goes into the lavatory then out the side entrance then back inside.
18:20	Lady staff member appears briefly and talk to [REDACTED] and [REDACTED] [REDACTED] finishes [REDACTED] drink.
18:25:55	Police leave (can only just be seen in video – no still) (after 16 minutes) 19:30:16 on police BVW
18:26 (14)	Shad re-appears and talk to [REDACTED] and [REDACTED]
18:26	[REDACTED] get ready to go and actually leave at 18:27:41 (after 29 minutes)
18:29	[REDACTED] goes inside and leaves at 18:30:07
18:30	Another [REDACTED] customer arrives to collect and order. Goes in briefly, then waits seated outside before leaving at 18:34 just before a [REDACTED] customer arrives

Police DVD

19:18:10 (15 and 16)	Shows one customer at right end of table, another at left hand end – lady staff member places bag at left end of table, customer picks it up and leaves. [REDACTED] outside.
19:23:21 (17)	Shows distance between inside table and external seating etc.
19:24:58	“We’re not here because someone’s phoned in or anything, we’ve come from Southampton. We’re driving past and I see 3 or 4 heads and I think (pause) something not quite right there”.
19:30	Police leave

Philip Day
Laceys Solicitors LLP

ANNEX 4 - INDIA COTTAGE RINGWOOD

1.



View of front from Southampton Road

2.



Taken through front window.

3.



Taken from inside front window (different day)

4.



Alley leading to car park at rear.

5.



Ditto with complainants' flats to the left

6.



Side entrance to rear patio/pergola area

7.



Car park at rear (closest vehicle is mine)

8.



Path from car park – sheds on the right - store, toilet and kitchen to the left.

9.



Pergola seating area.

10.



Pergola seating area looking towards car park.

11.



Sliding doors and food waiting/collection Area.

12.



Same area as 11 – different angle.

13.



Same table as in 11 & 12 looking into bar.

14.



Bar – taken from same position as 13.

15.



Bar – beer pump and kitchen door.

16.



Kitchen.

17.

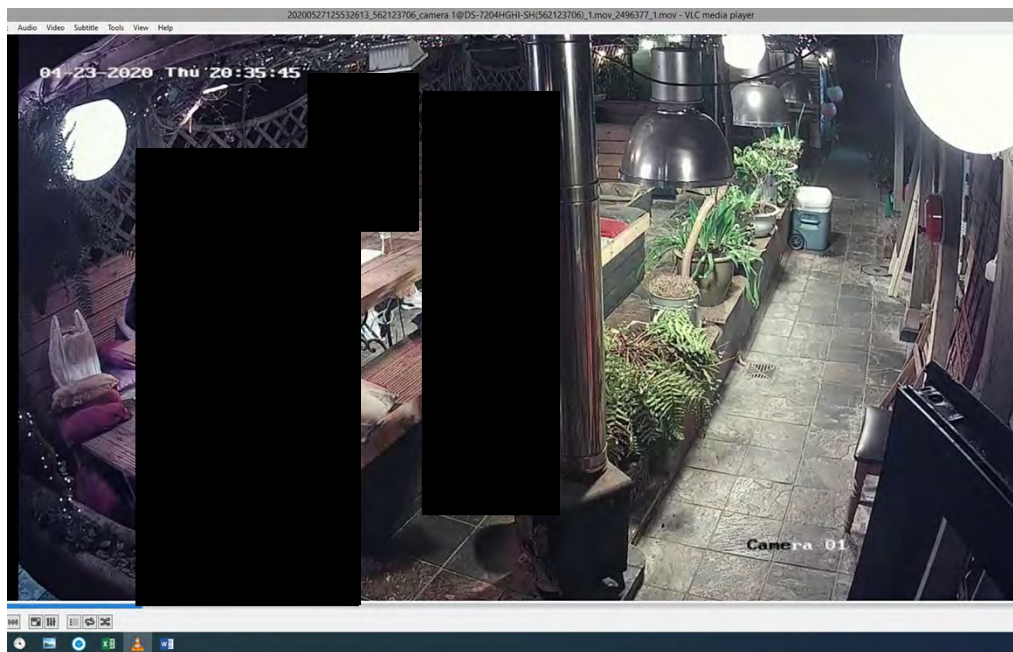


Front part of restaurant.

Stills from CCTV 23rd April 2020



20:21



21:35

The persons in the photographs are not the same individuals as were present on 25th April 2020.

Philip Day
Laceys Solicitors LLP

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Witness statement

On Saturday 25th April 2020 in the early evening I went to the India Cottage restaurant in Ringwood to collect a take-away meal.

I had placed my order by phone and arrived at the restaurant a little before the time I'd been told my food would be ready.

When I arrived, there were two staff at the serving counter. They were busy putting meals in bags to be taken away by a waiting delivery driver.

I paid for my meal, and was told that my food would be a short while. Although I'd have to wait, I didn't ask for a drink and wasn't offered one.

A customer, [REDACTED] with a dog, was standing at the far end of the serving counter, nearest to the main restaurant seating area. [REDACTED] was at a distance from the restaurant staff.

Two other customers, [REDACTED], were sitting at a table on the outdoor patio at the back of the restaurant. The [REDACTED] were sitting on opposite sides of the table and were seated diagonally from each other so that they were distanced from each other. The two [REDACTED] each had a bottle of beer.

I took a seat at the end of a long table between the entrance to the restaurant and the serving counter.

A further customer, [REDACTED], arrived. After going to the counter to let the staff know that [REDACTED] was there, [REDACTED] walked back and stood close to the entrance.

All five customers were distanced from each other. I was distanced from the [REDACTED] at the counter, the two [REDACTED] at the table on the patio and from the [REDACTED] standing close to the entrance.

Two policemen came into the restaurant. I'd guess that one of the policemen was in his fifties and the other in his forties, and from their ages I took it that they were experienced officers. I assumed they were collecting food and at first thought nothing of them being there.

Both policemen stood close to me, between me and the counter.

I heard the older policeman ask the restaurant staff something like 'What is going on, why are those men drinking?'

The staff were apologetic and said that they were not aware that they could not serve drinks to customers who were waiting to collect a take-away meal. One of the staff said that they weren't promoting the sale of alcohol. He demonstrated that the draft pump was switched off, and showed the policemen that the spirits had been removed from the bar and stored.

The older policeman asked to be shown the restaurant CCTV. The restaurant manager politely asked if, before getting the CCTV, he could have a few minutes to finish bagging up the meals so that they could be taken away by the waiting delivery driver.

The older policeman then abruptly and very loudly said “I meant now; now means immediately”.

The policeman’s approach appeared to be intended to intimidate the staff. Given that the staff had been polite, co-operative and compliant, this was simply not necessary.

It appeared to me that the staff were startled and alarmed by the aggression of the policeman’s demand.

I was genuinely shocked by the robustness of the policeman’s instruction. It was unnecessarily heavy-handed and there was no need to embarrass and humiliate the staff in front of their customers.

The staff quickly produced a laptop and set about preparing for the CCTV to be viewed.

The younger policeman went to the patio. I heard him ask the two customers sitting at the table on the patio how long they had been in the restaurant. It seemed to me that the policeman was treating the [REDACTED] as if they had committed an offence. The policeman said that the issue was that they had drinks. The [REDACTED] were co-operative and apologetic. They offered to surrender their drinks and to make that clear they pushed the drinks away from themselves.

My food was brought out from the kitchen by one of the chefs and given to me. I left.

In all I was in the restaurant for something like ten or fifteen minutes; a few minutes before the two policemen arrived and ten or so minutes after they arrived.

The incident left me feeling distinctly uncomfortable. It was more like a police raid than a simple check that new rules were being followed.

At the time of the incident, the Covid-19 lockdown advice and rules were new, had been evolving and were confusing. All of us were working out what we could and could not do. At the time of the incident, the sale and collection of take-away food was allowed. This was only the first or second time I’d collected a take-away meal from any restaurant under lockdown, and was myself finding out what the process would be.

I believe that it would have been perfectly possible for two experienced police officers to have quietly and discretely explained the rules to the restaurant staff, said that they should not have given the two customers alcohol, and asked that the drinks be immediately confiscated and disposed of. They could have told the

staff that alcohol must not be served until such time as the lockdown rules were revised to allow it. They could have said that they would return to make further checks. I have no doubt that the restaurant staff would have realised their mistake and willingly complied both on the day and into the future.

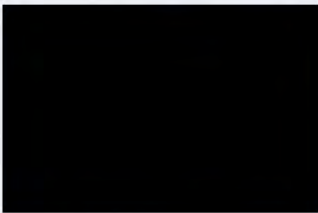
Two weeks later I was again at the India Cottage to collect a take-away meal. The customer who had been standing at the far end of the counter on the night of the incident was also there, and we discussed it. ■■■ said that ■■■ thought that the policemen had been unnecessarily aggressive. It was interesting for me to hear that I wasn't the only customer of that opinion.

■■■

■■■
■■■

■■■

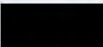
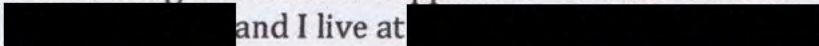
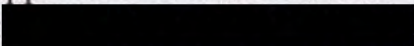
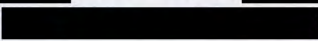
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01 July 2020

Reference for Mr. Shad Mannan

Dear Sir,

I am writing this letter in support of Mr. Shad Mannan. My name is 
 and I live at  I am the Managing
Director of  and have known Mr. Mannan for 12 years.

I know Mr. Mannan both as a friend and also as a regular customer of his
Restaurant "India Cottage" Ringwood, Hampshire.

As a friend I find him to be a bright sole that cares for his family and his friends.
He truly does care more for others than he does for himself. Mr. Mannan is
always willing to give of his time to help others.

On a professional level Mr. Mannan is exemplarily. Leading by example he sets
and maintains very high standards of himself. His staff benefit from his
leadership resulting in very high levels of customer care and quality of foods
offered at his Restaurant. For these reasons, he is a very popular individual and
restaurateur.

With regards to the "Offence", Mr. Mannan is mortified that he may have
inadvertently breeched Government guidelines for the sale and use of alcohol
during the COVID 19 lock down. Mr. Mannan did not set out to breech, flout or
ignore the Government guidelines and if he has done so, I can assure you it was a
genuine error/mistake on his part.

Yours Faithfully



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From: [REDACTED]
Sent: Mon, 6 Jul 2020 09:30:24 +0100
To: Philip Day
Subject: India Cottage

Hi Philip

To whom it may concern.

Dear Sirs

I am writing in support of Shad, the owner of India Cottage restaurant in Ringwood.

The restaurant has been owned by this family for 40 years and is a great asset to the town, offering excellent food which attracts people from many miles away.

During "lockdown" I have enjoyed their takeaway service every week and have witnessed their observance of social distancing rules; I have not seen any customer eating on the premises, or any suggestion that this would be allowed.

Enforcement action is being taken against the owner, accusing him of non-compliance, seemingly on the word of a serial complainer who appears to be waging a vendetta to get the restaurant closed down. This has resulted in visits from several officials, including police officers. We often hear "lack of resources" as the reason for police being unable to defend the town [REDACTED]

[REDACTED] yet they can find the resources to send 2 officers, from Southampton to Ringwood to investigate Shad because of some spurious allegations.

In these unprecedented times, when everyone is trying to interpret ever changing Government rules and guidelines, we should, surely, give benefit of the doubt to someone who is working hard to save one of the few remaining, successful businesses in the town centre.

Yours Sincerely,

[REDACTED]

[REDACTED]

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29th June 2020.

Personal reference for Shad Mannan.

Dear Sir/Madam,

I have known Shad for 11 years, initially as a supplier but now more as a friend. In all of that time I have only seen him act with kindness and sincerity to all he comes into contact with, whether it be a customer in his restaurant or a friend in need.

In these strange times that we currently find ourselves, I feel we should all pull together for the common good. Honest and trustworthy, he has my full respect of his desire to add what he can to society and help others whenever possible. I do hope that you too can see the man as I do.

Yours sincerely,

[Redacted signature]
[Redacted name]

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INDIA COTTAGE LICENCE REVIEW

ANNEX 9 – OTHER PREMISES

These photographs were all taken by Shad Mannan during the “lockdown” period and show other premises flouting the restrictions but which have had no action taken against them:



These premises have a restaurant licence only. This [redacted] was drinking wine outside and there were other customers drinking inside



Westbourne and the Square, Bournemouth – drinkers outside venues.



Winton (Bournemouth)



Ringwood – drinking a bottle of beer on the premises.

From: [REDACTED]
Sent: Tue, 7 Jul 2020 10:28:22 +0100
To: Philip Day
Cc: [REDACTED]
Subject: INDIA COTTAGE RESTAURANT - CHAD

TO WHOM IT MAY CONCERN

I have been a resident in Ringwood for 25 years and my partner 30 years and as such feel very much part of the community here in this market town. One of the components we feel that are very important to establish a successful community spirit are the characters and people who belong in it and the individual businesses they run. Chad is one such character, he is well known and very much liked. He offers a friendly service and makes his clients feel they are valued.

On one such occasion to demonstrate this, is when we were in his restaurant on a Summer's evening eating outside in the garden area. However, it got chilly and Chad went to his car and gave out to the [REDACTED] sitting at the table his own jumpers to keep warm. This is not unusual behaviour from him. If there were to be a constructive criticism to be made of the restaurant, the only point that comes to mind would be that the restaurant offers authentic cuisine cooked fresh to order, and as such service periods can be long.

India Cottage is one of the pivotal restaurants in Ringwood in our opinion, it would be a great loss to us if it were not to survive the recent shut down due to the pandemic. It is vitally important that retail premises are occupied, and a bonus is when they are occupied with individually run businesses which offer their bespoke services. Restaurants/shops from large chains are beneficial but it is the individual restaurants and shops which make a town unique in its character. I think recent times more so than ever have made us focus on the importance of supporting our local businesses and appreciating their value to the town.

Kind regards

[REDACTED]

[REDACTED]

