



**EAST CAMBRIDGESHIRE DISTRICT COUNCIL**

**LICENSING ACT 2003**

**NOTICE OF DETERMINATION OF LICENSING SUB-COMMITTEE HEARING**

**DECISION NOTICE**

<b><u>Date of Hearing:</u></b>	Friday 24th November 2023
<b><u>Sub-Committee Members:</u></b>	Councillor Keith Horgan (Chairman) Councillor Martin Goodearl Councillor Charlotte Cane
<b><u>Officers</u></b>	Jane Webb – Senior Democratic Services Officer Stewart Broome – Senior Licensing Officer Maggie Camp - Director (Legal Services) Angela Tyrrell - Senior Legal Assistant
<b><u>Applicant:</u></b>	Home Office Immigration Enforcement represented by: Chief Immigration Officer Rose
<b><u>Licence holder:</u></b>	ARUN Capital Limited represented by Mr Giles (Appointed Barrister) and accompanied by Mr Sakthivel Vijithran, the premises Designated Premises Supervisor
<b><u>Responsible Authorities:</u></b>	None
<b><u>Other Persons:</u></b>	None
<b><u>Application by:</u></b>	Home Office Immigration Enforcement
<b><u>Premises Address:</u></b>	Londis, 31 Carter Street, Fordham, Cambridgeshire CB7 5NG.
<b><u>Date of Application:</u></b>	Wednesday 27th September 2023
<b><u>Details of Application:</u></b>	Application to review the Premises Licence under Section 51 of the Licensing Act 2003.

**ORAL AND WRITTEN EVIDENCE PRESENTED TO THE HEARING**

**Written Evidence**

The Sub-Committee members have read the material presented to them and listed below:

The Licensing Officer's Report - this included:

1. A copy of the Applicant's application form and their supporting documentation;

2. A copy of the existing licence for Londis held by ARUN Capital Limited;
3. A copy of a representation supporting the Licence Holder;
4. A location plan of the premises;
5. Section 182 Statutory Guidance extracts;
6. Local Statement of Licensing Policy extracts.

### The Licence Holder

A defence bundle provided by the Licence Holder after the report had been published, but prior to the start of the hearing.

### Oral Evidence

The Sub-Committee members heard the following oral evidence:

#### The Licensing Officer

The Licensing Officer presented the report.

#### The Applicant

The Applicant's agent Chief Immigration Officer Rose provided an overview of their application, explaining why they considered it necessary to apply to review the licence, and then answered questions from Members, officers, and the licence holder's representative Mr Giles through the Chairman.

#### The Licence Holder

The Licence Holder's agent Mr Giles presented his client's case, explaining why they felt the application was not justified, and then answered questions from Members, and officers. During this stage of the hearing certain questions were deferred by Mr Giles to Mr Sakthivel Vijithran to answer.

#### The following Guidance was considered:

East Cambridgeshire District Council Statement of Licensing Policy – 7th January 2021  
Revised Guidance issued under section 182 of the Licensing Act 2003 – August 2023

### DECISION

The decision of the Licensing Sub-Committee (in exercise of the powers delegated by East Cambridgeshire District Council as Licensing Authority) was to:

**REVOKE** the premises licence held by ARUN Capital Limited in respect of Londis, 31 Carter Street, Fordham, Ely, Cambridgeshire CB7 5NG due to their failure to uphold and promote the licensing objective of the Prevention of Crime and Disorder, pursuant to the Licensing Act 2003.

### REASONS FOR THE DECISION

1. In making their decision, the Sub Committee had regard to the four licensing objectives, namely the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. The Sub Committee agreed that the licensing objective of the prevention of crime and disorder was engaged and the Premises Licence Holder had failed to uphold and promote this.
2. This was evidenced by :

- The Premises Licence holder's failure to follow the requirements in relation to the right to work checks in force at the time of the employment of the employee alleged to be working in breach of his student visa;
  - The Premises Licence holder's failure to follow up on basic activities of establishing term dates for the employee as required by Annex B of the Home Office Guidance and for which online guidance is available and should be part of "business as usual" practices. It is clear from the guidance that the emphasis is very much on the employer to obtain this information and there had been a failure to obtain this;
  - Oral evidence given at the hearing raised considerable concern that the Licence Holder failed to follow appropriate HMRC rules and regulations to ensure the correct payment of tax, the level of salary provided to a particular employee, NI deductions and the correct keeping of records in relation to such matters. This evidence, in addition to that regarding the employment of a potentially illegal worker, pointed to a culture of a disregard for legislation and the need to comply with UK law;
  - No written evidence was available before, or provided during the hearing, in relation to good record keeping in relation to employment matters;
  - General poor level of management practices; and
  - The Licence holder acknowledged their mistake regarding the hours permitted to be worked by the employee as 30 instead of 20; however, evidence was provided that indicated that the employee was working in excess of 30 hours in some weeks.
3. Members noted that the Home Office had not pursued a penalty against the Premises Licence holder under immigration legislation but had pursued a review of the Premises Licence. The application details that the Licence Holder could have avoided the review if it had conducted the proper right to work checks and adhered to the restrictions placed on the employee's visa. The supporting documentation details that the use of illegal labour provides an unfair competitive edge and deprives the UK economy of tax revenue, which cannot be taken lightly.
  4. Having considered all the evidence presented, the Sub-Committee determined that the Premises Licence Holder had failed to uphold and promote the Licensing objective of the Prevention of Crime and Disorder and consequently, for all the above reasons, the Premises Licence should be revoked.

### **RIGHTS OF APPEAL**

The Applicant or any persons who made a relevant objection have a right of appeal against this decision. Notice must be given to the Clerk to the Cambridge Magistrates' Court, The Court House, Bridge Street, Peterborough PE1 1ED within 21 days of notification of the Licensing Sub-Committee's decision. Email: [cb-enquiries@hmcts.gsi.gov.uk](mailto:cb-enquiries@hmcts.gsi.gov.uk)