

## Supplementary Evidence from the Police – Summary & Case Law Examples

Below is a **formal legal submission** for the Licensing Committee, expanded to include **relevant case law** supporting the police objection. It is structured for inclusion in committee papers.

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### **Formal Legal Submission: Police Representation Against Premises Licence Application**

**Premises:** Neluxa Sparkles, 103 Cherry Hinton Road, Cambridge, CB1 7BS

**Applicant:** Mrs MARIFLO (Proposed Premises Licence Holder and Designated Premises Supervisor)

**Responsible Authority:** Cambridgeshire Constabulary

**Licensing Objectives engaged:**

- **Prevention of Crime and Disorder**
- **Protection of Children from Harm**

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#### **1. Statutory Framework**

1. **Licensing Act 2003, s.4** obliges the licensing authority to carry out its functions with a view to promoting the four licensing objectives, including the **Prevention of Crime and Disorder** and **Protection of Children from Harm**.
2. **Licensing Act 2003, s.18(3):** On determining an application for a premises licence, the authority **must grant** the licence **unless** it is **appropriate** to take steps (including refusal) to promote the licensing objectives.
3. **Responsible Authority status (s.13(4)):** The **police** are a responsible authority and may make **relevant representations** where granting the licence would undermine the objectives.
4. **Offences: s.137** prohibits **exposing alcohol for sale** where such sale would constitute an unauthorised licensable activity (i.e., no premises licence in force).

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#### **2. Facts and Evidential Background (Summary)**

- **Location risk:** Proximity to **Hills Road Sixth Form College** (0.3 miles) and **Cambridge Leisure Park** (0.2 miles), both frequented by under-18s.
- **Proven history of underage sales:**
  - **Underage alcohol sale** (Aug 2022) – **police caution** issued.
  - **Underage vape sale** (Aug 2023) – **prosecution** of company and **guilty plea** (Apr 2024).
  - **Failed test purchase** for alcohol (Aug 2024).
- **Illegal working:** Immigration Enforcement found an **illegal worker** (Aug 2023).

- **Seizure of illegal vapes:** 159 illegal vapes seized (Feb 2024).
- **Display of alcohol without licence:** Alcohol exposed for sale after licence surrender (Oct 2025) – potential s.137 offence.
- **Premises layout concerns:** Spirits display obscures window visibility, hindering passive surveillance and increasing risk.
- **Management concerns:** The applicant (proposed DPS/PLH) previously admitted failing responsibilities; the current application omits robust conditions previously imposed by the Sub-Committee (Oct 2024).

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### 3. Legal Submissions with Case Law

#### A. “Appropriate” Test and Decision-Making Approach

- **R (Hope and Glory (Public House) Ltd) v City of Westminster Magistrates’ Court [2011] EWCA Civ 31**  
The Court of Appeal confirmed that the licensing authority’s task is to decide what is “appropriate” to promote the licensing objectives, not to apply a civil balance-of-probabilities or criminal standard of proof template. The authority must make an evaluative judgment on the merits in context, having regard to the forward-looking risk of undermining the objectives.  
**Application here:** The cumulative history and proximity to children present an ongoing risk profile. It is therefore appropriate—within the authority’s evaluative discretion—to refuse the application and DPS appointment to promote the objectives.

#### B. Evidence-Led and Proportionate Conditions (and When Refusal is Warranted)

- **Daniel Thwaites plc v Wirral Borough Magistrates’ Court [2008] EWHC 838 (Admin)**  
The High Court stressed the need for licensing decisions to be evidence-based and proportionate, tailored to the specific risks. While conditions can mitigate risk, they are not a panacea; where the evidence shows persistent non-compliance or heightened risk, refusal can be the proportionate step to promote the objectives.  
**Application here:** Given multiple proven underage sales, illegal vapes, illegal working, and recent display of alcohol without a licence, simply re-imposing conditions (especially when the applicant has excluded the robust suite previously imposed) would be insufficient. Refusal is the proportionate measure supported by the evidential record.

#### C. Crime and Disorder—Illegal Working as a Ground for Serious Action

- **East Lindsey District Council v Abu Hanif [2016] EWHC 1265 (Admin)**  
The High Court upheld revocation where illegal workers were found, emphasising that the Prevention of Crime and Disorder objective extends to serious criminality associated with the running of the premises, and that a licensing authority can act robustly to deter unlawful conduct even absent criminal convictions against the licence holder.

**Application here:** The **illegal worker** incident (Aug 2023), combined with the applicant's **management failings**, reinforces that crime/disorder risks are **intrinsic** to the operation as managed. The authority is entitled to take firm action (**refusal**) to prevent recurrence and to uphold the objective.

#### **D. Protection of Children from Harm—Entrenched Risk and Premises Reputation**

- In line with **s.4(2)(d)**, the authority must prioritise **children's protection**. Case law (e.g., **Hope and Glory**) supports a **preventive** stance based on **forward-looking risk** rather than waiting for new incidents. Premises with a **track record** of underage access may justifiably face **refusal** where mitigation has **failed** or **cannot be relied upon** due to management history.  
**Application here:** Multiple **underage sales** across several years, failed test purchase, and the **location** near youth-centric venues demonstrate a **continuing risk**. The applicant's **history** and the **weakened conditions** proposed do not provide assurance that the risk can be effectively mitigated.

#### **E. Layout and Passive Surveillance—Risk Management**

- Guided by **Thwaites**, conditions and layout changes must be **fit for purpose**. A spirits display that **blocks window sightlines** diminishes passive surveillance and increases opportunities for **unobserved offending** (e.g., proxy purchases, theft, sale to minors). Where previously identified risks are **not addressed**, the authority may determine that only **refusal** achieves the objectives.

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#### **4. Suitability of the Proposed DPS (s.19 Licensing Act 2003)**

- The **DPS** is the individual tasked with day-to-day control and ensuring compliance with licence conditions and the licensing objectives.
- The applicant has **admitted failing** responsibilities; the record shows **two proven underage sales, illegal worker, illegal vapes seizure**, and an incident of **displaying alcohol without a licence**.
- Consistent with **Thwaites** and **Abu Hanif**, where management has **persistently failed**, the authority is justified in concluding that appointing the same person as **DPS undermines** the objectives and should be **refused**.

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#### **5. Conclusion**

Applying **s.18(3)** and the principles in **Hope and Glory**, **Thwaites**, and **Abu Hanif**, the cumulative evidence demonstrates a **clear, continuing, and foreseeable risk** to the **Prevention of Crime and Disorder** and **Protection of Children from Harm** objectives. In these circumstances, it is **appropriate** and **proportionate** to:

1. **Refuse the premises licence application; and**
2. **Refuse the appointment of Mrs MARIFLO as DPS.**

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## **6. Proposed Decision**

The Licensing Committee is respectfully invited to determine that, in order to promote the licensing objectives, the application **be refused in full**, and the proposed **DPS appointment** likewise **be refused**.

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