

## 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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