

GUIDELINES FOR LICENSING REVIEW HEARING PANELS

The Chairman will control the proceedings and the following is a guideline for each hearing but may be adjusted if appropriate.

1. The Chairman explains the proposed format for the meeting and asks everyone to introduce themselves.
2. The Licensing Officer briefly outlines the review application.
3. The Applicant (responsible authority and or interested party) who asked for the review speaks in support of their application and call any witnesses. Other parties who have made representations on the review to speak in support.
4. The Licence Holder asks the applicant, witnesses and other parties questions.
5. The Panel asks the Applicant, witnesses and other parties questions.
6. The Licence Holder responds to the review application.
7. The Applicant and other parties (responsible authorities and interested parties) ask the Licence Holder questions.
8. The Panel asks questions.
9. All parties are asked if they wish to add anything further.
10. The Chairman requests everyone to leave the room in order that the panel may reach a decision. The Legal Officer and Committee Co-ordinator to the Panel remain.
11. Everyone will be invited to return to receive the decision. In the event of complex or lengthy applications, the Panel may decide to give its decision at a later date.



LICENSING HEARING PANEL

12 DECEMBER 2017

LICENSING ACT 2003 APPLICATION FOR REVIEW OF A PREMISES LICENCE

**SHOZNA, 153-155 MAIDSTONE ROAD, ROCHESTER,
KENT ME1 1RR**

Report from: Perry Holmes, Chief Legal Officer

Author: Mandy Francis, Principal Licensing and Enforcement Officer

Summary

In accordance with Section 51 of the Licensing Act 2003, the Council has received an application from Kent Police, as a responsible authority, for a review of the existing premises licence in respect of Shozna, 153-155 Maidstone Road, Rochester, Kent, ME1 1RR.

All responsible authorities have been consulted in line with the Licensing Act 2003.

Representations supporting the review have been received from the Home Office (Immigration Enforcement), who are a responsible authority under the Licensing Act 2003, and from a member of the public. No further representations supporting the review have been received from other responsible authorities or members of the public.

1. Budget and Policy Framework

- 1.1 Medway Council has published its Statement of Licensing Policy, which it takes into account in all applications relating to the Licensing Act 2003.

2. Background to the application & relevant representations

- 2.1 An application for review was received from Kent Police as a responsible authority, in respect of Shozna, 153-155 Maidstone Road, Rochester, Kent, ME1 1RR.
- 2.2 The premises currently operate by way of a premises licence granted in accordance with the Licensing Act 2003, a copy of which is attached at

Appendix A. A copy of a plan showing the location of the premises is at Appendix B.

- 2.3 A redacted copy of the review application is at Appendix C (the full version is attached as Exempt Appendix 1 under item 8 – Exclusion of the Press and Public) and the Panel’s attention is drawn to the grounds for the review, which relate to the prevention of crime and disorder and public safety licensing objectives of the Licensing Act 2003.
- 2.4 The application has been correctly advertised by way of the display of notices at and around the premises and on the Council’s website for the required period, in accordance with regulations made under the Licensing Act 2003. Also, in accordance with the legislation, notice of the application (and the application itself) was served on the licence holder and the other responsible authorities. Before determining the review application, the Council as licensing authority, must hold a hearing to consider it and any relevant representations received.
- 2.5 Following the advertising of the review application, a representation supporting the review has been received from the Home Office (Immigration Enforcement) (copy attached at Exempt Appendix 2 under item 8 – Exclusion of the Press and Public). A representation in support of the review application has also been received from the Neighbourhood Watch Co-ordinator, who is a local resident. A copy is attached at Appendix D.
- 2.6 A representation from the licensee’s solicitor has been received in response to the application for review. A copy is attached at Exempt Appendix 3 under item 8 – Exclusion of the Press and Public.

3. Advice and analysis on determination of review application

- 3.1 At the panel hearing, Members must, having regard to the review application and the relevant representations received, take any of the following steps considered necessary to promote the licensing objectives of the Act:-
 - (a) modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
 - (b) exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
 - (c) remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - (d) suspend the licence for a period not exceeding three months;
 - (e) revoke the licence
- 3.2 Paragraph 11.16 – 11.18 of the revised guidance issued by the Home Office in March 2015 under Section 182 of the Licensing Act 2003 states “The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it

considers them appropriate for the promotion of the licensing objectives. The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder. However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker. ”

4. Risk Management

- 4.1 The Council has to consider and determine this application, which is a function relating to licensing and registration as set out in Schedule 1 to the Functions Regulations, the Licensing Act 2003, Gambling Act 2005 and other licensing functions reserved by law to the Council's Licensing and Safety Committee and its Sub-Committees, in accordance with the law (both statutory and case law), relevant statutory guidance and statements of policy.

5. Financial and legal implications

- 5.1 There are no direct financial requirements at this time.
- 5.2 This hearing is regulated by The Licensing Act 2003 (Hearings) Regulations 2005 (as amended).
- 5.3 There is the possibility of a challenge by way of appeal to the decision by either the applicant or objector. Legal advice will be given to Members as appropriate at the hearing. However, whatever the decision of the panel members, this must be based on the evidence placed before it and the panel must decide what weight to attribute to this information.

6. Recommendation

- 6.1 That the Licensing Hearing Panel, having regard to Licensing Act 2003, the statutory guidance issued under S182, the Council's Licensing Policy and all matters before it, both written and oral, considers and determines the application to review the premises license.
- 6.2 The steps that the Licensing Hearing Panel may consider taking are set out in paragraph 3.1.

Lead officer contact:

Mandy Francis, Principal Licensing and Enforcement Officer

Telephone: 01634 331922

Email: mandy.francis@medway.gov.uk

Appendices:

Appendix A – Copy of current premises licence

Appendix B - Plan showing the location of the premises

Appendix C - Redacted copy of the Review Application

Appendix D – Copy of public representation

Exempt Appendix 1 – Copy of the full version of the Review Application

Exempt Appendix 2 – Copy of representation from Home Office

Exempt Appendix 3 – Submission from Licensee's solicitor.

Background documents

None



MEDWAY COUNCIL

Licensing Authority, Gun Wharf, Dock Road, Chatham, Kent ME4 4TR

Premises Licence

Premises Licence Number

Medway-05-PREM-0188

Part 1 - Premises Details

Postal address of premises, or if none, ordnance survey map reference or description Shozna Indian Restaurant 153-155 Maidstone Road	
Post town	Rochester, Kent Post code ME1 1RR
Telephone number	01634 847847
Where the licence is time limited the dates: Not Applicable	
Licensable Activities authorised by the licence Sale of Retail of Alcohol and Late Night Refreshment (on the Premises)	
The times the licence authorises the carrying out of licensable activities Sale of Retail of Alcohol Sunday to Thursday 12:00 to 00:00 and Friday to Saturday 12:00 to 01:00 Late Night Refreshment Sunday to Thursday 23:00 to 00:00 and Friday to Saturday 23:00 to 01:00.	
The opening hours of the premises Sunday to Thursday 12:00 to 00:30 and Friday to Saturday 12:00 to 01:30 The premises may open outside authorised hours for non-licensable activities subject to planning or other legislation.	
Where the licence authorises supplies of alcohol whether these are on and/or off supplies On and Off Supplies	

Part 2

Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence Mr Jamal Ahmed 59 Wilson Avenue Rochester Kent ME1 2RJ
Registered number of holder, for example company number, charity number (where applicable) Not Applicable
Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol Mr Jamal Ahmed 59 Wilson Avenue Rochester Kent ME1 2RJ
Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the supply of alcohol Medway-05-PL-0503 Medway Council

Annex 1 – Mandatory Conditions

Condition 1

No supply of alcohol maybe made under this licence:-

- (a) At a time when there is no designated premises supervisor in respect of it or**
- (b) At a time when the designated premises supervisor does not hold a personal licence or his/her personal licence is suspended.**

Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.

Condition 2

Only individuals licensed by the Security Industry Authority (SIA) maybe used at the premises to guard against:-

- (a) Unauthorised access or occupation (e.g. through door supervision)**
- (b) Outbreaks of disorder**
- (c) Damage**

Condition 3

- (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.**
- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale of supply of alcohol for consumption on the premises in a manner which carries a significant risk or leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children**
 - (a) Games or other activities which require or encourage, or are designed to require or encourage, individuals to**
 - (i) Drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol) or**
 - (ii) Drink as much alcohol as possible (whether within a time limit or otherwise)**
 - (b) Provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act)**
 - (c) Provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less**
 - (d) Provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on**
 - (i) The outcome of a race, competition or other event or process or**
 - (ii) The likelihood of anything occurring or not occurring**
 - (e) Selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.**

Condition 4

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

Condition 5

The responsible person shall ensure that free tap water is provided on request to customers where it reasonably available.

Condition 6

- (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol
- (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

Condition 7

The responsible person shall ensure that:-

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:-
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25ml or 35 ml; and
 - (iii) still wine in a glass: 125ml; and
- (b) customers are made aware of the availability of these measures.

Annex 2 – Conditions consistent with the Operating Schedule

Condition 8

The licence holder will maintain auditable refusal/incident records. These records will detail the following:- (a) day, date and time of refusal/incident (b) nature of refusal/incident and reason (c) details of or description of the individual. Each entry is to be checked and signed by the DPS on the day of the event or as soon as practicable. These records will be made available for inspection to any Police Officer, Police Licensing Officer and Officer of the Local Authority immediately upon demand when practicable.

Condition 9

Anyone employed at the premises in a paid or unpaid capacity shall receive training in relation but not limited to all the condition of this Premises Licence and under age sales that enables them to comply with the conditions of this Premises Licence and the promotion of the licensing objectives. Training records of all those employed at the premises are to be kept on the premises; they shall include the nature, examples of content and frequency of any training. These records will be made available for inspection by any Police Officer, Police Licensing Officer and Officer of the Local Authority immediately upon demand when practicable.

Condition 10

No new admissions to the premises after 23:30 (11.30pm).

Condition 11






CCTV system to be installed and maintained to be used to monitor the licensed premises. All CCTV recordings to be stored for one calendar month. The CCTV system to be fully operational throughout the hours that the premises are open to the public or a section of the public. Access of the recordings to be made available to a Police Officer immediately upon request or as soon as practicable within 24 hours. At least one member of staff on duty who is able to provide a copy of any stored or recorded CCTV data in a format that can be taken away to be viewed. In the event of technical failure of the CCTV equipment the premises licence holder or DPS must report the failure to the Police Licensing Officer immediately (licensing.north.division@kent.pnn.police.uk).

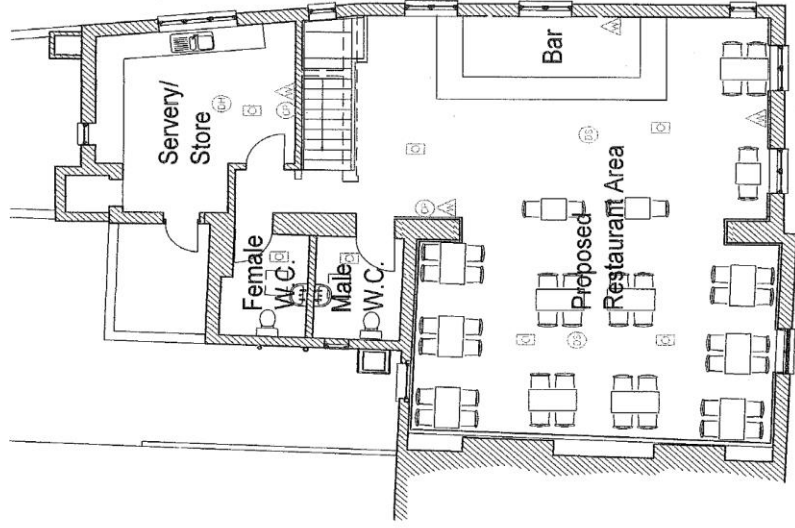
Not Applicable

Annex 4 – Plans

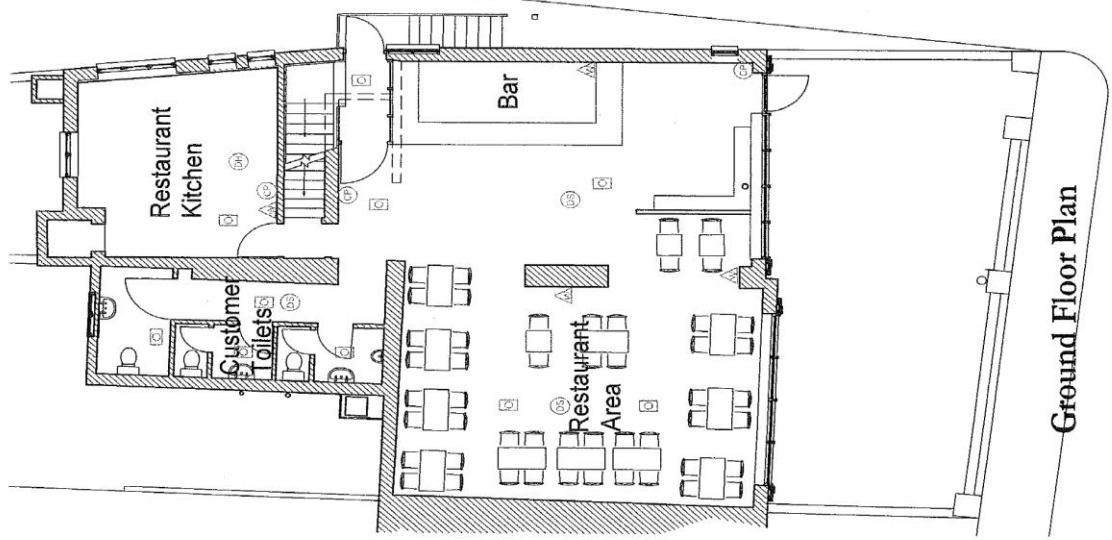
153-155 Maidstone Road, Rochester

Key:

-  Smoke Detector
-  Heat Detector
-  Call Point
-  Water Extinguisher
-  Emergency Lighting



First Floor Plan

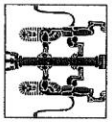


Ground Floor Plan

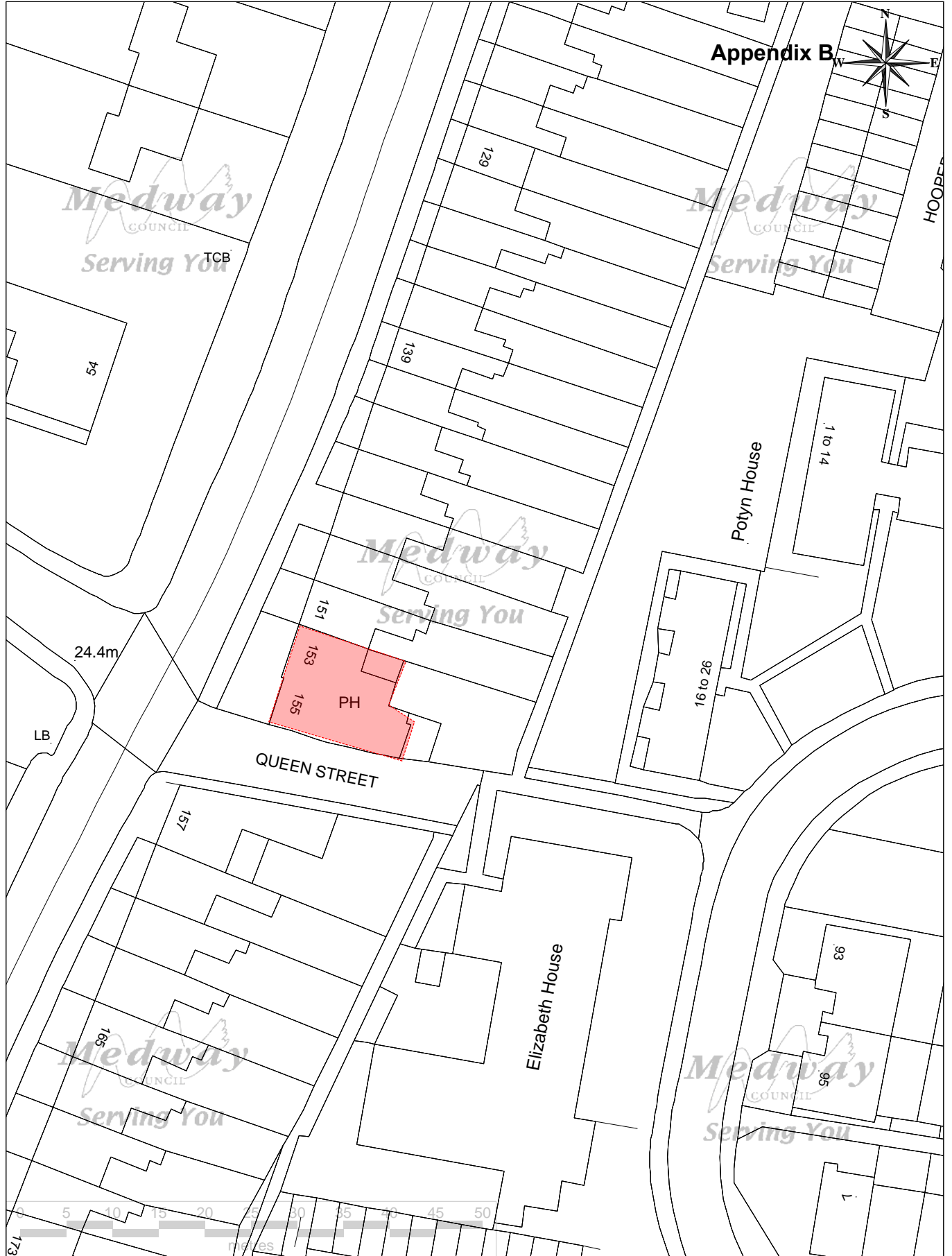
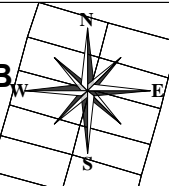
Project: 153-155 Maidstone Road, Rochester
Client: Mr Ahmed
Title: License plans
Drawing No.: MRR11/06
Scale: 1:100
Date: April 2011
Drawn: MB
Amendments:

ANTHONY SWAINE, FSA, FRIBA, AABC, HBBC, FC008,
CHARTERED ARCHITECT

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Shozna



Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I PC 11044 HUNT

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Shozna 153-155 Maidstone Road Rochester Kent	
Post town Rochester	Post code (if known) ME11RR

Name of premises licence holder or club holding club premises certificate (if known) Jamal AHMED
--

Number of premises licence or club premises certificate (if known) MEDWAY-05-PREM-0188
--

Part 2 – Applicant details

I am

Please tick yes

- 1) an interested part (please complete (A) or (B) below)
 - a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises
 - d) a body representing persons involved in business in the vicinity of the premises

- 2) a responsible authority (please complete (C) below)

RESTRICTED (when complete)

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

3 a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in a applicable)

Please tick

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

First names

Please tick yes

I am 18 years old or over

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address PC 11044 Hunt Medway Police Station Purser Way Gillingham Kent Police ME71NE
Telephone number (if any) 01634 792388
E-mail address (optional) 11044@kent.pnn.police.uk

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input checked="" type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 1)

Kent Police submit this application to review Shozna in order to promote the licensing objectives of the prevention of crime and disorder and public safety.

This review is following a recent visit to the premises by immigration officers operating on the power of a search warrant under Paragraph 17(2), Schedule 2 of the Immigration Act 1971. The purpose of the search being to locate any persons working illegally or to locate any persons that may be in the country unlawfully.

As a result 2 members of staff were found to be illegally working and were arrested on suspicion of overstaying their visa. Approximately £6000 was also seized under the Proceeds of Crime Act 2002.

Please provide as much information as possible to support the application (please read guidance note 3)

PAGE REMOVED

Please provide as much information as possible to support the application (please read guidance note 3)

PAGE REMOVED

RESTRICTED (when complete)

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

Having considered the available options, Kent Police seek revocation of the premises licence as repeated offending shows that allowing the premises to continue to operate with the benefits of a premises licence will likely perpetuate this activity.

RESTRICTED (when complete)

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

Please tick yes

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

If you have made representations before relating to this premises please state what they were and when you made them

RESTRICTED (when complete)

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent
(See guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature

.....

Date

23/10/2017

Capacity

Police Licencing Officer

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)

Post town

Post code

Telephone number (if any)

If you would prefer us to correspond with you using an e mail address your e mail address (optional)

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

From: licensing
Sent: 22 November 2017 13:27
Subject: FW: RE: Shozna , 153 - 155 Maidstone Road , Rochester ME1 1RR - Review of Premises Licence

From: [REDACTED]
Sent: 20 November 2017 19:50
To: licensing
Cc: licensing.north.division@kent.pnn.police.uk
Subject: Shozna , 153 - 155 Maidstone Road , Rochester ME1 1RR - Review of Premises Licence

Hello - I have read the public notice in connection with the application from Kent Police for a review of the premises licence pursuant to Section 51 of the Licensing Act 2003 for the above licensed premises . I note that the application for review is under the Licensing Act 2003 objectives for preventing crime & disorder and public safety . The consultation period for public representations expires today .

I have established that the Police are submitting the review in connection with the employment of illegal workers at the premises . As a resident of Medway and Neighbourhood Watch Co ordinator for my area , I fully support the Police in this licence review . The police have hit the nail on the head here . The employment of illegal workers is a nationwide problem , particularly at restaurants and fast food premises . There are many opportunities to break the law in Medway and this is compounded and encouraged by the actions of the Shozna as indicated by the Police . Public safety is also a major issue here as illegal workers are far less likely to have any understanding of their responsibilities and duty of care to the general public . Unfortunately , there are a number of licensees who have no respect for the law and their whole scenario is driven by profit at any cost , whether legal or illegal .

I would very much welcome an opportunity to expand on my representation at the Licensing Committee hearing . No doubt you will notify me of the date etc . Many thanks .