

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

18 DECEMBER 2017

LICENSING ACT 2003 APPLICATION FOR REVIEW OF A PREMISES LICENCE

**SPICE FUSION, DEANWOOD DRIVE, GILLINGHAM,
ME8 9LH**

Report from: Perry Holmes, Chief Legal Officer

Author: Alison Poulson Licensing & Local Land Charges
Manager

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 Spice Fusion Deanwood Drive Gillingham ME8 9LH

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. No further representations supporting the review have been received from members of the public or other responsible authorities.

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 Spice Fusion, Deanwood Drive, Gillingham, ME8 9LH.

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).

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 April 2017 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 promote 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. Recommendations

- 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 licence.
- 6.2 The steps that the Licensing Hearing Panel may consider taking are set out in paragraph 3.1.

Lead officer contact:

Alison Poulson Licensing & Local Land Charges Manager

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Email: alison.poulson@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
Exempt Appendix 1 – Copy of the full version of the Review Application
Exempt Appendix 2 – Copy of representation from Home Office

Background documents

None



MEDWAY COUNCIL

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

Premises Licence

Premises Licence Number

Medway-05-PREM-0608

Part 1 - Premises Details

Postal address of premises, or if none, Ordnance Survey map reference or description	
Spice Fusion Deanwood Drive Parkwood Rainham	
Post town	Gillingham, Kent Post code ME8 9LH
Telephone number	01634 234071
Where the licence is time limited the dates: Not Applicable	
Licensable Activities authorised by the licence Sale of Retail of Alcohol, Live Music (on the premises), Recorded Music (on the premises), Dancing (on the premises), Films (on the premises), Indoor Sporting Events and Late Night Refreshment (on the premises).	
The times the licence authorises the carrying out of licensable activities <u>Sale of Retail of Alcohol</u> Sunday to Thursday 07:00 to 00:30 and Friday to Saturday 07:00 to 01:00. Non Standard Times: New Years Eve 07:00 to New Years Day end of hours. <u>Live Music, Recorded Music, Dancing, Films and Indoor Sporting Events</u> Sunday to Wednesday 07:00 to 00:00, Thursday 07:00 to 01:00 and Friday to Saturday 07:00 to 01:30. <u>Late Night Refreshment</u> Monday to Sunday 23:00 to 01:00.	
The opening hours of the premises Sunday to Thursday 07:00 to 01:00 and Friday to Saturday 07:00 to 01:30. Non Standard Times:- Opening hours will end 30 minutes after the times and occasions listed. 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 Mustafizul Haque
--

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 Enamul Haque

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-0412

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

The admission of children under the age of 18 to film exhibitions permitted under the terms of this licence shall be restricted in accordance with any recommendations made by:-

- (a) The British Board of Film classification (BBFC), where the film has been classified by that Board or**
- (b) The Licensing Authority where no classification certificate has been granted by the BBFC, or, where the Licensing Authority has notified the licence holder that section 20 (3) (b) applies to the film in question and the admission of children must be in accordance with any recommendation made by the Licensing Authority.**

Condition 4

(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 5

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 6

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

Condition 7

- (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 8

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 9

CCTV cameras installed and maintained with an incorporated recording facility. Recordings to be stored for an appropriate period (generally one month – but to be agreed with Police and Licensing Authority). The CCTV system to be fully operationally throughout the hours

that the premises are open for any licensable activities. Recordings to be made available to Police and Local Authority on request.

Condition 10

All staff to be trained in all aspects of the licensing legislation and in particular under age sales. It is recommended that records are kept of the nature and frequency of such training.

Condition 11

A notice is displayed at the entrance/exit of the premises to remind customers to leave the premises quietly.

Condition 12

No drink will be allowed outside after 00:00 (midnight) on any day. Plastic glasses to be available in the evening for consumption of alcohol up to 00:00 (midnight) on their external front decking area to allow for smokers to be able enjoy a drink with their cigarette.

Annex 3 – Conditions attached after a hearing by the licensing authority

Condition 13

When regulated entertainment, which generates significant noise, is taking place, doors and windows will be kept shut.

Condition 14

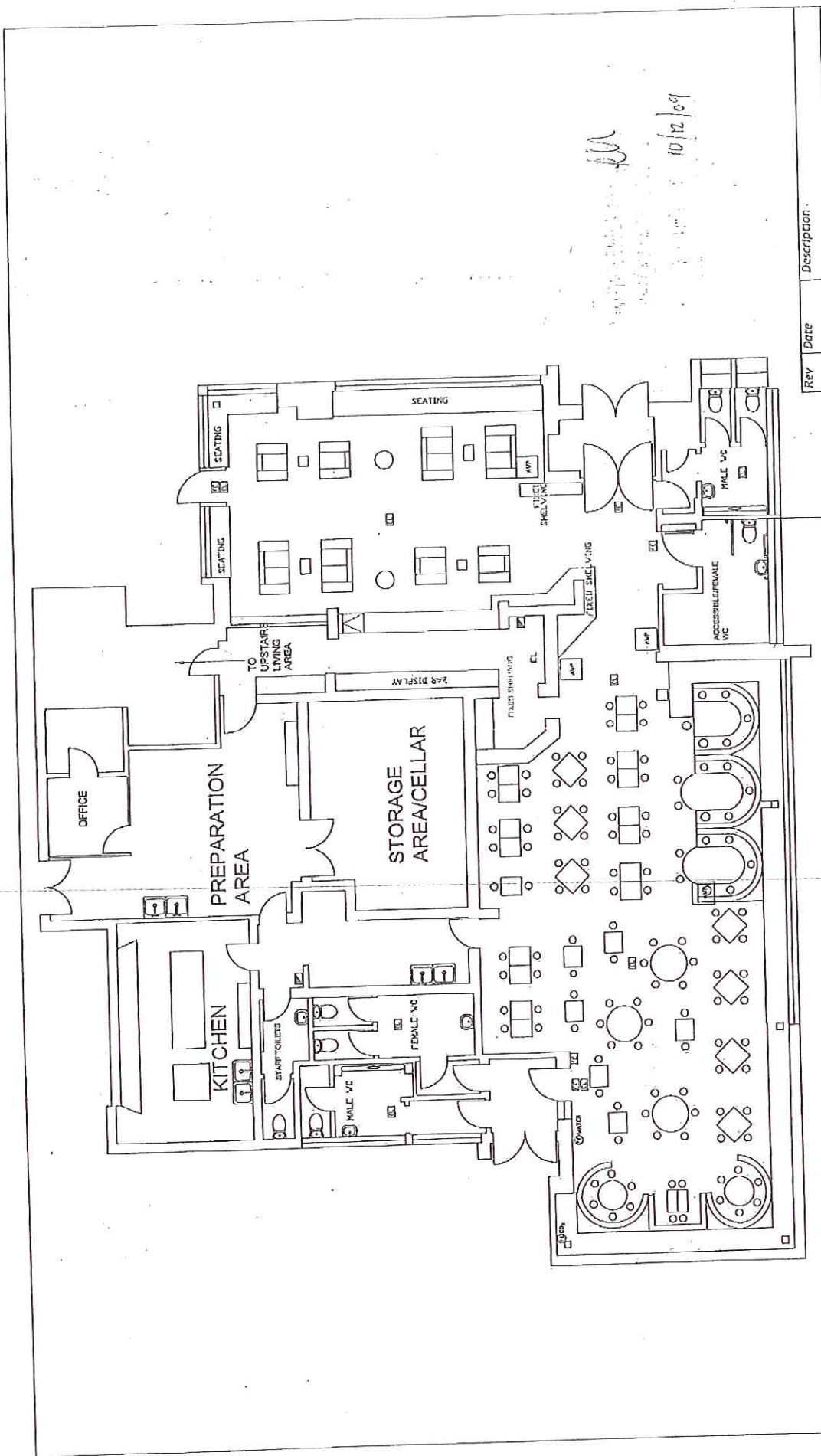
Reproduced or live music is to be set at a level so as not to be audible at the façade of the nearest residential property.

Condition 15

The designated premises supervisor, duty manager or relevant person should assess noise levels on a regular basis, to prevent excessive breakout.

Condition 16

The outside area to be cleared of bottles and glasses immediately.



REV	Date	Description

Project: The Cherries, Park Wood, Gillingham Kent

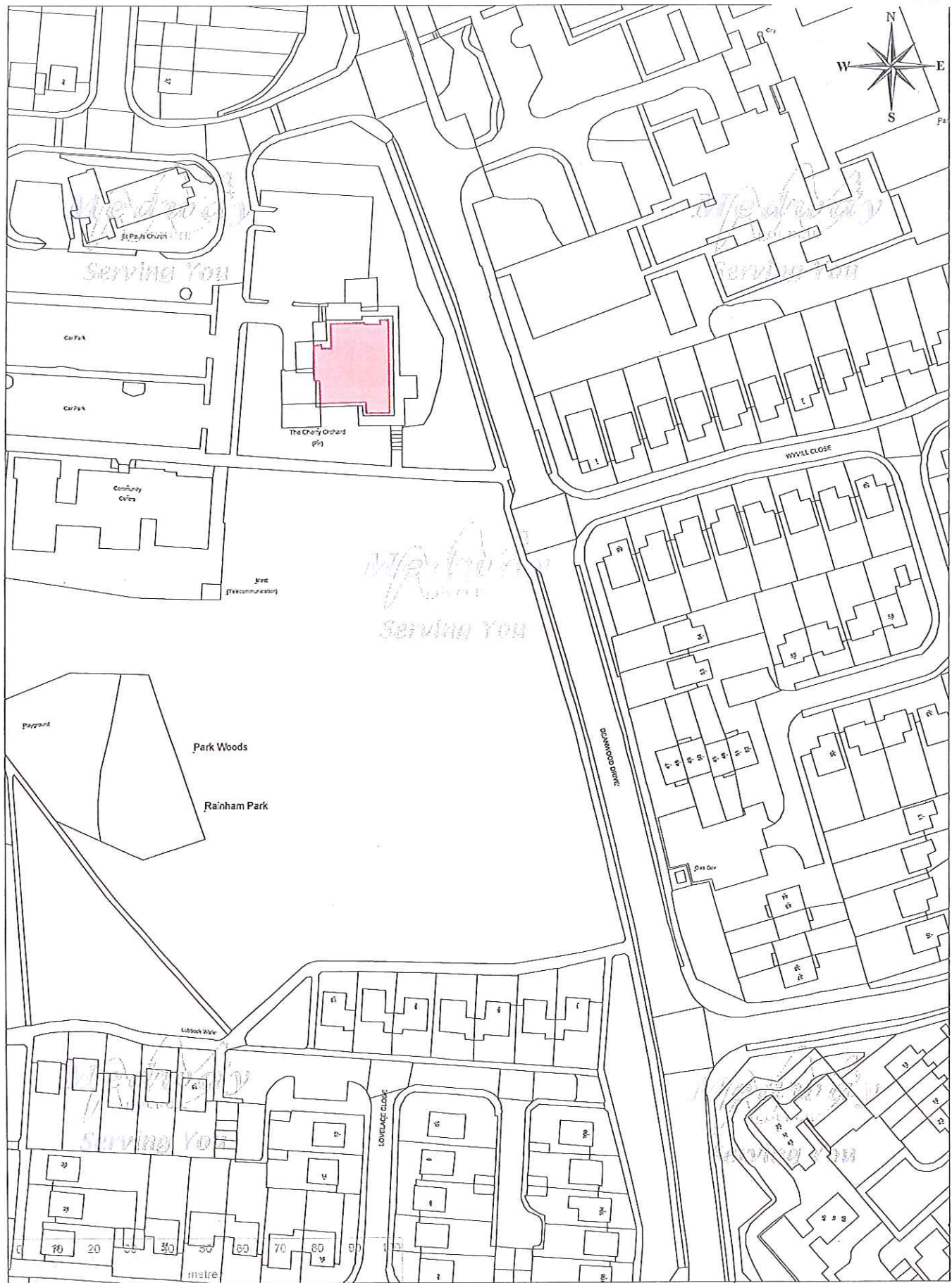
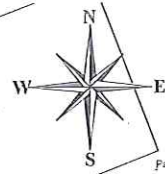
ME8 9PW

Client: Enamul Haque

DAY MONTAGUE YOUENS
 chartered surveyors & property consultant
 4 Bloors Lane
 Rainham
 Kent, ME8 7EG
 Tel: 01634 263616

Scale: 1:100
 Drawn By: CL
 Date: November 2009
 Checked By: PD

DRG. No. 2482/01



Spice Fusion



Scale: Not to Scale 05/12/17

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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 Spice Fusion Deanwood Drive Gillingham Kent	
Post town Gillingham	Post code (if known) ME89LH

Name of premises licence holder or club holding club premises certificate (if known) Mustafizul HAQUE
--

Number of premises licence or club premises certificate (if known) MEDWAY-05-PREM-0608

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)

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
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

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

Kent Police submit this application to review Spice Fusion 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 three members of staff were found to be illegally working and were arrested. Two were arrested on suspicion of overstaying their visa and one was arrested as a person liable for removal.

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

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 27/10/17

Capacity POLICE LICENSING 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.