

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

11 JUNE 2019

LICENSING ACT 2003 APPLICATION FOR A REVIEW OF A PREMISES LICENCE

**TAJ CUISINE, 1 SHERWOOD HOUSE, WALDESLADE,
CHATHAM, KENT, ME5 9UD.**

Report from: Perry Holmes, Chief Legal Officer

Author: Lisa Hopson, Licensing 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 Taj Cuisine, 1 Sherwood House, Walderslade, Chatham, Kent, ME5 9UD.

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

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 and relevant representations

- 2.1 An application for review was received from Kent Police as a responsible authority, in respect of Taj Cuisine, 1 Sherwood House, Walderslade, Chatham, Kent, ME5 9UD.
- 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 copy of the review application is at Appendix C 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, no representations have been received from members of the public or other responsible authorities.

3. Advice and analysis on determination of the 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 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."

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 it's 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, 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 by Kent Police for a review of the premises licence.

Lead officer contact:

Lisa Hopson, Licensing Officer
Telephone: 01634 331926

Email: lisa.hopson@medway.gov.uk

Appendices:

Appendix A - Copy of current premises licence
Appendix B - Plan showing the location of the premises
Appendix C - Copy of the Review Application

Background documents

None

MEDWAY COUNCIL

Licensing Unit, Civic Centre, Strood, Kent, ME2 4AU

Appendix A

Medway
COUNCIL

Premises Licence

Serving You

es licence number

Medway-05-PREM-0591

Postal address of premises, or if none, ordnance survey map reference or description

Taj Cuisine

Unit 1, Sherwood House, Walderslade Centre, Chatham, Kent ME5 9UD

Telephone No: **01634 686648**

Where the licence is time limited the date

Not Applicable

Name, (registered) Address, Telephone No and email (where relevant) of the holder of this premises licence:-

**Taj Cuisine Limited
Unit 1, Sherwood House, Walderslade Centre
Chatham, Kent ME5 9UD**

Registered number of holder, for example company number or Charity number (where applicable):-

**Limited Company
4811079**

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol:-

**Mr Abul Monsur
Sherwood House, Walderslade Centre
Chatham, Kent ME5 9UD**

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises Licence authorises for the supply of alcohol:-

**Medway Council
Medway-05-PL-0821**

Mandatory Conditions

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 at 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.

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 or
- c) Damage

Embedded Conditions

Not Applicable

Conditions consistent with the 'Operating Schedule'

- 3. To only accept as proof of age and identity a photo card driving licence, passport or any government issued photograph identity card or 'pass accredited' proof of age card.
- 4. 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.
- 5. 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.

Conditions attached after a hearing by the Licensing Authority

Not Applicable

Licensable activities authorised by the licence and times the licence authorises the carrying out of the licensable activities.

Opening Hours

Monday	12:00 to 14:30 & 18:00 to 24:00
Tuesday	12:00 to 14:30 & 18:00 to 24:00
Wednesday	12:00 to 14:30 & 18:00 to 24:00
Thursday	12:00 to 14:30 & 18:00 to 24:00
Friday	18:00 to 24:00
Saturday	12:00 to 14:30 & 18:00 to 24:00
Sunday	12:00 to 14:30 & 18:00 to 24:00
Seasonal	Not Applicable
Non Standard	Not Applicable

Sale of Retail of Alcohol - Where the licence authorises supplies of alcohol whether these are on and / or off supplies

ON the Premises	Yes	OFF the Premises	No
Monday	12:00 to 14:30 & 18:00 to 23:30		
Tuesday	12:00 to 14:30 & 18:00 to 23:30		
Wednesday	12:00 to 14:30 & 18:00 to 23:30		
Thursday	12:00 to 14:30 & 18:00 to 23:30		
Friday	18:00 to 23:30		
Saturday	12:00 to 14:30 & 18:00 to 23:30		
Sunday	12:00 to 14:30 & 18:00 to 23:30		
Seasonal	Not Applicable		
Non Standard	Not Applicable		

Late Night Refreshment

ON the Premises	Yes	OFF the Premises	Yes
Monday	23:00 to 24:00		
Tuesday	23:00 to 24:00		
Wednesday	23:00 to 24:00		
Thursday	23:00 to 24:00		
Friday	23:00 to 24:00		
Saturday	23:00 to 24:00		
Sunday	23:30 to 23:30		
Seasonal	Not Applicable		
Non Standard	Not Applicable		

The premises may open outside authorised hours for non-licensable activities subject to planning or other legislation.

Signed and Dated on behalf of Medway Council Licensing Authority



Licensing Manager

23 February 2007

Dated



Taj Cuisine 1 Sherwood House Walderslade Chatham Kent ME5 9UD

Appendix B

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

**Taj Cuisine
1 Sherwood House
Walderslade
Chatham
Kent**

Post town Chatham

Post code (if known) ME59UD

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

Taj Cuisine Ltd

Number of premises licence or club premises certificate (if known)

MEDWAY-05-PREM-0591

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 Taj Cuisine in order to promote the licensing objectives of the prevention of crime and disorder and public safety.

This review is following the execution of two recent warrants at the premises conducted by immigration officers.

As a result of a warrant executed on 18th January 2019, four persons were found to be working at the premises illegally. As a result of a warrant executed on 15th February 2019, one person was found to be working at the premises illegally.

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

Please provide as much information as possible to support the application

(please read guidance note 2)

This premises has been granted a premises licence by Medway Council and is authorised to conduct the following licensable activities:

Sale of alcohol: Monday to Thursday 12:00 to 14:30 and 18:00 to 00:00 (midnight), Friday 18:00 to 00:00 (midnight) and Saturday to Sunday 12:00 to 14:30 and 18:00 to 00:00 (midnight).

Late night refreshment: Monday to Saturday 23:00 to 00:00 (midnight) and Sunday 23:00 to 23:30.

The opening hours of the premises reflect the permitted hours for the sale of alcohol.

Taj Cuisine operates as a restaurant and takeaway providing Indian cuisine. The premises licence holder is Taj Cuisine Limited and the designated premises supervisor is Mr Abul Monsur, positions held since 2005. Mr Abul Monsur is the registered company director of Taj Cuisine Limited.

Taj Cuisine was visited by Home Office Immigration Officers executing a warrant at approximately 20:00 hours on Friday 18th January 2019. Also in attendance was PC HUNT from Kent Police Licensing. Abul Monsur was present at the time of this visit. Upon entry, immigration officers took up strategic positions within the premises in an attempt to cover key areas in order to best monitor those inside the premises. Unfortunately before the premises was fully contained, three persons presumed to be staff members ran from the premises via a fire exit. One of those persons was detained but two were never located. In total four persons were found to be working at the premises illegally. All four persons were interviewed at scene.

Person one made admissions to working as a waiter. He claimed he had worked at the premises for 2 months and that Abul Monsur had given him the job. He stated that he worked each Friday and Saturday for £30 to £40 cash per day. He claimed never to have shown Abul Monsur any immigration documents prior to his employment at the premises.

Person two made admissions to working at the premises for 1 day stating that his job was washing up. He stated that he had no contract and did not know how he was to be paid. He stated that he had previously worked at the premises from 2009 to 2014 whilst he was a student.

Person three stated that he had worked at the premises for 3 days. He stated that he was in the United Kingdom on a student visa which had now expired. He described his job as washing and helping out. He did not know how much he would be paid and stated he was receiving food. He said it was only his intention to work at the premises until the end of the week. He stated he showed no identification to the boss prior to his employment.

Person four stated that he had worked at the premises for a few days. He stated he was working as kitchen porter and described his employer as being called Monsur. He claimed he was to be paid £100 per week. He made admissions to knowing he had no right to work and stated that he had not shown any papers prior to his employment. He stated his hours of work are 11:00 to 14:00 and 17:30 to 23:00.

Immigration officer's offered Abul Monsur the opportunity to be interviewed in relation to employing illegal workers but Abul Monsur declined to be interviewed.

PC Hunt later met Abul Monsur at the premises at approximately 12:00 on Tuesday 29th January 2019 in order to conduct a premises licence compliance check.

Condition 5 of the premises licence states:

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 licensable activity.

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

During the premises licence compliance check PC Hunt attempted to view the footage recorded on the system hard drive covering the time period of the warrant on 18th January 2019. There appeared to be a fault on the CCTV system as it would not allow PC Hunt to view previously recorded footage. During this same visit Abul Monsur explained that he does conduct the necessary checks required to ensure that his employees have a legal entitlement to work. He stated that he had previously kept records of such checks and documents on his mobile phone which sadly he no longer had access to. Abul Monsur was given advice regarding his record keeping.

Taj Cuisine was visited by Home Office Immigration Officers executing another warrant in the evening of Friday 15th February 2019. On this occasion one person was found to be working at the premises illegally. This same person had been found working illegally at the premises on Friday 18th January 2019. On this occasion he claimed to be only making his own food. Abul Monsur claimed that this person was a relative of the chef and was just getting some food.

Home Office Immigration have served Taj Cuisine with two separate Civil Penalty Notices for employing illegal workers as a result of the execution of the two recent warrants.

Home Office Immigration officers have provided evidence of other occasions when persons have been found to be working at this premises illegally. On 27th August 2008 immigration officers attended the premises and located one person working illegally. On 22nd February 2013 immigration officers attended the premises and located three person working illegally. Mr Abul Monsur has been the designated premises supervisor at Taj Cuisine at the time of each and every immigration visit mentioned in this review application. It is apparent through the repeated detection of illegal workers at Taj Cuisine that both Taj Cuisine Limited and Abul Monsur have a total disregard and lack of responsibility for ensuring that persons working at the premises are legitimately available for employment and are clearly failing to promote the licensing objective of the prevention of crime and disorder. The accounts from those found working illegally provides an insight into the poor conditions and pay they were enduring, which effectively traps these persons and can provide exploitation opportunities for serious and organised criminals.

The Licensing Act 2003 is clearly intended to prevent crime and disorder from occurring in relation to licensed premises but also to deter and prevent criminals from operating under the auspices of a Premise Licence granted by the local authority.

Section 11.24 of the Guidance to the Licensing Act states that reviews do not have to be directly linked or connected with the licensable activities at any premise, although in this case the offences are directly linked to the operation of the premises as a restaurant, selling alcohol and providing late night refreshment and the staff actively involved in these activities.

Section 11.27 states that there is certain criminal activity which should be treated particularly seriously, one of these being knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that persons leave to enter. (It is pertinent to note that the inclusion of this in the statutory guidance indicates the offence has now become a particular concern).

Section 11.28 states that where the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence, even in the first instance, should be seriously considered.

By paying wages to illegal workers off the record and with no tax or national insurance deductions which are then potentially omitted from an employer's tax report to the HMRC, multiple offences will be committed and become a concern of HMRC.

There are potentially many criminal offences which apply to the employment of illegal workers at this establishment.

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

It is a legal requirement that employers do not employ illegal workers and do take such measures as are required to prevent it. Employers should demonstrate responsibility and due diligence in determining that the persons they employ are entitled to work. The 15th of February 2019 is the fourth occasion when illegal workers have been found employed at the premises under the control of Taj Cuisine Limited and Abul Monsur. Thus these are not merely cases of mistakes or lack of knowledge but deliberate ignorance or actual knowledge of the fact.

Illegal workers are prone to exploitation by employers. Illegal workers are unable to declare themselves to local authorities and are unable to claim any form of benefits or financial support because in doing so they would render themselves liable to detention. It is often the case that they are poorly paid and work long hours, receiving wages below the minimum wage or restricted hours as prescribed in law. They are not afforded the benefit of the protections of United Kingdom employment legislation.

The employing of illegal workers also raises concern with regards to the licensing objective of public safety. Licence holders have a clear responsibility to ensure the safety of all persons using their premises. Employing illegal workers raises potential concerns in areas such as competency and training levels, for example with regards to food preparation levels or hygiene which could have a direct effect on those dining at the location. As illegal workers may not have been subjected to the appropriate immigration checks such persons could pose a risk to the public by means of historical criminal activity which potentially could have been a bar to their lawful entry.

Having considered the available options, Kent Police seek revocation of the premises licence. Allowing the premises to continue to operate with the benefits of a premises licence will merely serve to 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

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**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

- 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

Please tick yes



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

[Redacted Signature]

Date

28/03/19

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.