



# Agenda

## Licensing Sub-Committee

Thursday, 6 June 2019 at 7.00 pm

Meeting Room 3, 1-2 Seven Arches Road, Brentwood. CM15 8AY.

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### Membership (Quorum – 3 )

Cllrs Keeble, Morrissey and Miss Sanders

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### Agenda

Item	Item	Wards(s) Affected	Page No
	<b>Contents</b>		
1.	<b>Appointment of Chair</b>		
2.	<b>Administrative Function</b> Members are respectfully reminded that, in determining the matters listed below, they are exercising an administrative function with the civil burden of proof, i.e. 'on the balance of probabilities'. The matter will be determined on the facts before the Sub-Committee and the rules of natural justice will apply.		
3.	<b>Application to Transfer a Premises Licence - Licensing Act 2003 - The Raj, 21 Kings Road, Brentwood. CM14 4DJ</b>	Brentwood West	5 - 88
4.	<b>Application to vary a Designated Premises Supervisor - Licensing Act 2003 - The Raj, 21 Kings Road, Brentwood. CM14 4DJ.</b>	Brentwood West	89 - 160

A handwritten signature in black ink, appearing to read "P. L. Russell". The signature is stylized and includes a large, sweeping underline that extends to the right.

Chief Executive

Town Hall  
Brentwood, Essex  
29.05.2019

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### Information for Members

#### Substitutes

Where substitution is permitted, substitutes for quasi-judicial/regulatory committees must be drawn from Members who have received training in quasi-judicial/regulatory decision making. If a casual vacancy occurs on a quasi-judicial/regulatory committee it will not be filled until the nominated member has been trained.

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#### Rights to Attend and Speak

Any Members may attend any Committee to which these procedure rules apply.

A Member who is not a member of the Committee may speak at the meeting. The Member may speak at the Chair's discretion, it being the expectation that a Member will be allowed to speak on a ward matter.

Members requiring further information, or with specific questions, are asked to raise these with the appropriate officer at least two working days before the meeting.

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#### Point of Order/ Personal explanation/ Point of Information

##### Point of Order

A member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Procedure Rules or the law. The Member must indicate the rule or law and the way in which they consider it has been broken. The ruling of the Mayor on the point of order will be final.

##### Personal Explanation

A member may make a personal explanation at any time. A personal explanation must relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate, or outside of the meeting. The ruling of the Mayor on the admissibility of a personal explanation will be final.

##### Point of Information or clarification

A point of information or clarification must relate to the matter being debated. If a Member wishes to raise a point of information, he/she must first seek the permission of the Mayor. The Member must specify the nature of the information he/she wishes to provide and its importance to the current debate. If the Mayor gives his/her permission, the Member will give the additional information succinctly. Points of Information or clarification should be used in exceptional circumstances and should not be used to interrupt other speakers or to make a further speech when he/she has already spoken during the debate. The ruling of the Mayor on the admissibility of a point of information or clarification will be final.

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### Information for Members of the Public

#### Access to Information and Meetings

You have the right to attend all meetings of the Council and Committees. You also have the right to see the agenda, which will be published no later than 5 working days before the meeting, and minutes once they are published.

Dates of the meetings are available at [www.brentwood.gov.uk](http://www.brentwood.gov.uk).

#### Guidelines on filming, photography, recording and use of social media at council and committee meetings

The council welcomes the filming, photography, recording and use of social media at council and committee meetings as a means of reporting on its proceedings because it helps to make the council more transparent and accountable to its local communities.

Where members of the public use a laptop, tablet device, smart phone or similar devices to make recordings, these devices must be set to 'silent' mode to avoid interrupting proceedings of the council or committee.

If you wish to record the proceedings of a meeting and have any special requirements or are intending to bring in large equipment then please contact the Communications Team before the meeting.

The use of flash photography or additional lighting may be allowed provided it has been discussed prior to the meeting and agreement reached to ensure that it will not disrupt proceedings.

The Chair of the meeting may terminate or suspend filming, photography, recording and use of social media if any of these activities, in their opinion, are disrupting proceedings at the meeting.


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 **Private Session**

Occasionally meetings will need to discuss some of its business in private. This can only happen on a limited range of issues, which are set by law. When a Committee does so, you will be asked to leave the meeting.

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  **Access**

There is wheelchair access to the meeting venue from the Main Entrance. If you do wish to attend this meeting, please contact the clerk should you have specific accessibility needs. There is an induction loop in the meeting room.

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 **Evacuation Procedures**

Evacuate the building using the nearest available exit and congregate at the assembly point in the Car Park.



6 June 2019

Licensing and Appeals Committee

**Licensing Sub-Committee Hearing in respect of an  
Application to Transfer a Premises Licence  
Licensing Act 2003**

**THE RAJ, 21 KINGS ROAD, BRENTWOOD CM14 4DJ**

**Report of:** Dave Leonard – Licensing Officer

**Wards Affected:** Brentwood West

**This report is:** Public

**1. Executive Summary**

- 1.1 An application has been received from Mr Kalam Ullah to transfer the premises licence at ***The Raj, 21 Kings Road, Brentwood CM14 4DJ***. Essex Police have objected to the transfer on the grounds of the Prevention of Crime and Disorder.

**2. Recommendation(s)**

- 2.1 That the Sub Committee:

Considers this report and appendices together with any oral submissions at the hearing and determines the application for the transfer of the premises licence in line with either of the following options:

- **allow the application to transfer;**
- **reject the application to transfer.**

### 3. Introduction and Background

- 3.1 Section 42 Licensing Act 2003, allows any person entitled to apply for a Premises Licence under 16(1) Licensing Act 2003, to make an application to transfer an existing Premises Licence to him.
- 3.2 In exceptional circumstances where the chief officer of police believes the transfer may undermine the crime prevention objective, the police may object to the transfer. The Home Office (Immigration Enforcement) may object if it considers that granting the transfer would be prejudicial to the prevention of illegal working in licensed premises.
- 3.3 The premises licence at *The Raj, 21 Kings Road, Brentwood CM14 4DJ* was previously held by Badsha Miah.
- 3.4 This application to transfer has interim effect until this objection is determined. This means that the transfer is allowed to take place temporarily until this objection is determined by this committee.
- 3.5 The current premises licence authorises the sale of alcohol for consumption by such a person as an ancillary to his meal on the premises. A copy of the premises licence, together with a plan of the premises & location map, is attached as **Appendix 2**.
- 3.6 On 5 December 2018, Essex Police applied to Review the premises licence under the statutory crime prevention objective that includes the prevention of immigration crime and the prevention of illegal working in licensed premises. The decision of the subsequently convened Licensing Sub-Committee hearing on 24 January 2019 was to revoke the premises licence. An appeal against this decision was received on 13 February 2019 and a hearing date awaits.
- 3.7 On 12 February 2019, Kalam Ullah submitted an online application with the intention to take transfer of the premises licence from Badsha Miah. On 25 February 2019, Essex Police submitted an objection to the premises licence being transferred to Kalam Ullah on the grounds of the prevention of crime and disorder. A Licensing Sub-Committee Hearing was convened on 22 March 2019 and the application was refused.
- 3.8 On 22 March 2019, Kalam Ullah again submitted an online application with the intention to take transfer of the premises licence from Badsha Miah. On 29 March 2019 the Home Office (Immigration Enforcement) submitted a representation and on 1 April 2019, Essex Police submitted an objection to the premises licence being transferred to Kalam Ullah. Both Authorities cited the prevention of crime objective. A Licensing Sub-Committee Hearing was convened on 1 May 2019 and the application was refused. Copies of both Licensing Sub-Committee Hearing Decision Notices are attached as **Appendix 4**.

3.9 On 21 May 2019, Mr Ullah submitted an online application seeking a minor variation to the premises licence to add the following conditions to the licence;

- 1) Mr Badsha Miah is to be excluded from the premises
- 2) The premises will maintain and operate a CCTV system. The recordings will be kept for a minimum period of 30 days before over recording and made available upon request to the Police or authorised officer of the Local Authority, and the management will be trained to download footage from the system.
- 3) Before any person is employed at the premises sufficient checks will be made to ensure that they are legally entitled to employment in the UK. All documents will be retained for a period of 12 months post termination of employment and will be made available to the police, immigration and/or Licensing officers upon reasonable request. Such checks will include:-
  - Proof of identity (such as a copy of their passport);
  - Nationality;
  - Current immigration status;
  - Details of their full name and address;
  - Date of birth.

This application is still under consultation and the outcome pending at the time of preparing the report. The Licensing Sub-Committee will be appraised of any updates at the hearing.

#### 4. The Application

- 4.1 On 2 May 2019, Kalam Ullah submitted a further online application to take transfer of the premises licence from Badsha Miah. A copy of the application to transfer the premises licence is attached as **Appendix 1**.
- 4.2 The Licensing Act 2003 allows for the Chief Officer of Police for the police area in which the premises are situated, if he is satisfied that the exceptional circumstances of the case are such that the granting of the application would undermine the crime prevention objective, to raise objection within 14 days of receiving the application.
- 4.3 On 13 May 2019, Essex Police submitted an objection to the premises licence being transferred to Kalam Ullah on the grounds of the prevention of crime and disorder. The representation is attached as **Appendix 3**.

## **5. Reasons For Recommendation**

- 5.1 These are the options available to the Sub-Committee as provided in the Licensing Act 2003.

## **6. Consultation**

- 6.1 This application has been consulted on in accordance with the requirements of Licensing Act 2003.

## **7. Statement of Licensing Policy**

- 7.1 There are no specific issues arising from this application in relation to the Council's Statement of Licensing Policy.

## **8. Relevant Sections of the Secretary of State's Guidance**

- 8.1 The following Sections 182 Guidance relates to transfer applications;

(8.101) In exceptional circumstances where the chief officer of police believes the transfer may undermine the crime prevention objective, the police may object to the transfer. The Home Office (Immigration Enforcement) may object if it considers that granting the transfer would be prejudicial to the prevention of illegal working in licensed premises. Such objections are expected to be rare and arise because the police or the Home Office (Immigration Enforcement) have evidence that the business or individuals seeking to hold the licence, or businesses or individuals linked to such persons, are involved in crime (or disorder) or employing illegal workers.

(8.102) Such objections (and therefore such hearings) should only arise in truly exceptional circumstances. If the licensing authority believes that the police or the Home Office (Immigration Enforcement) are using this mechanism to vet transfer applicants routinely and to seek hearings as a fishing expedition to inquire into applicants' backgrounds, it is expected that it would raise the matter immediately with the chief officer of police or the Home Office (Immigration Enforcement).

## **9. Legal Considerations**

- 9.1 The committee, after considering the application to transfer and the relevant objection, will need to consider to either:
- allow the application to transfer;
  - reject the application to transfer.

- 9.2 The Licensing Sub-Committee may under Section 44  
(5)(b)(i) reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so, or  
(5)(b)(ii) reject the application if it considers it appropriate for the prevention of illegal working in licensed premises to do so
- 9.3 The decision made by the committee will take immediate effect; the chief officer of police may appeal against a decision to grant the application. The applicant may appeal the decision to refuse the application.
- 9.4 In determining this application to transfer the premises licence, the Sub-Committee should have regard to the Council's Statement of Licensing Policy and to the guidance issued by the Secretary of State under s182 of the Licensing Act 2003.
- 9.5 The Sub-Committee are advised that the hearing is of a quasi-judicial nature and representations from all parties both written and verbal will form part of matters that are to be considered. Findings on issues of fact should be on the balance of probability.
- 9.6 The Sub-Committee are advised that the final decision should be based on the individual merits of the application and findings of fact made at the hearing.

#### **APPENDICES TO THIS REPORT:**

- Appendix 1 - Copy of the Application to Transfer the Premises Licence
- Appendix 2 - Copy of the Premises Licence, Premises Plan & Location Map
- Appendix 3 - Copy of Peter Jones' (Essex Police) Representation
- Appendix 4 - Copy of Licensing Sub-Committee Hearing Decision Notices  
22nd March 2019 and 1<sup>st</sup> May 2019

#### **Report Author Contact Details:**

**Name:** Dave Leonard  
**Telephone:** 01277 312523  
**E-mail:** dave.leonard@brentwood.gov.uk

- 1. The first step in the process of identifying a problem is to define the problem clearly. This involves identifying the symptoms and the underlying causes of the problem.
- 2. Once the problem is defined, the next step is to gather information. This involves collecting data and identifying the resources available to solve the problem.
- 3. The third step is to generate hypotheses. This involves developing a list of possible solutions to the problem.
- 4. The fourth step is to test the hypotheses. This involves implementing the solutions and observing the results.
- 5. The final step is to evaluate the results. This involves comparing the results to the original problem and determining whether the problem has been solved.

**THE RAJ, 21 KINGS ROAD, BRENTWOOD CM14 4DJ**

# **APPENDIX 1**

## **APPLICATION FORM**

*Application to Transfer the Premises Licence & Consent Form*

*(Kalam Ullah)*

UNIVERSITY OF CALIFORNIA, BERKELEY

APPENDIX

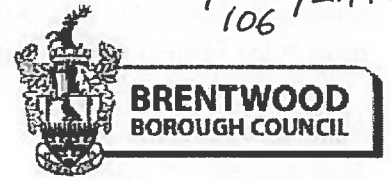
ALGEBRA

THE UNIVERSITY OF CALIFORNIA, BERKELEY



19/000/LATRAW  
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# Application to Transfer a Premises Licence to be granted under the Licensing Act 2003



**Please note:** You must provide online payment to transfer this licence after completing the form. After clicking the submit button at the end of the form you will be taken to our secure online payment website. You can then make the required payment using either a credit or a debit card.

**Cost of Application:** £23.00

I, Kalam Ullah

**apply to transfer the premises licence described below under section 42 of the Licensing Act 2003 for the premises described in Part 1 below.**

Premises Licence Number: PRM/0196/2005

## Part 1 - Premises Details

### Premises Address

Flat number (if any)            The Raj  
House number / name        21  
Road name                      Kings Road  
Town                              Brentwood  
County                            Essex  
Post Code                        CM14 4DJ

Daytime contact telephone number (if any):

Premises email address (optional): office@dadds.co.uk

Please give a brief description of the premises:

Indian Restaurant

Name of the current Premises Licence holder: Badsha Miah

In what capacity are you applying to transfer the premises licence to you?: (a) an individual or individuals

I am: carrying on or proposing to carry on a business which involves the use of premises for licensable activities

### Individual Applicants

Title: Mr.

First name(s): Kalam

Surname: Ullah

Date of Birth: 15/09/1960

I am 18 years old or older: I am 18 years old or older

Nationality: British

Where applicable (if demonstrating a right to work via the Home Office online right to work

checking service), the 9-digit 'share code' provided to the applicant by that service (please see note 2 for information): British

### **Applicant Address**

Flat number (if any)

House number / name 174

Road name Warley Hill

Town Warley

County Essex

Post Code CM14 5HF

Daytime contact telephone number: 01277631811

Applicant email address (optional): office@dadds.co.uk

### **Second Individual Applicant (if applicable)**

Title:

First name(s):

Surname:

Date of Birth:

I am 18 years old or older:

Nationality:

Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service (please see note 2 for information):

### **Applicant Address**

Flat number (if any)

House number / name

Road name

Town

County

Post Code

Daytime contact telephone number:

Applicant email address (optional):

### **Other Applicants**

**Please provide name and registered address of the applicant in full. Where appropriate, please give any registered number.**

**In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.**

## Part 2

Are you the holder of the premises licence under an interim authority notice?: No

Do you wish to transfer with immediate effect?: Yes

If not, when would you like the transfer to take effect?:

**In order to transfer a premises licence, the existing premises licence holder must complete a consent form. This is available on our website as a separate online form.**

**Alternatively, the consent form is available as a pdf, which can be sent to: Licensing, Brentwood Borough Council, Town Hall, Ingrave Road, Brentwood, Essex CM15 8AY. Please include the reference number for this form, which will be produced when you submit it.**

Are you able to submit a copy of the consent form?: I can upload the consent form now

If you have not submitted the consent form, please give reasons why not. What steps have you taken to try to obtain the consent?:

If this application is granted, I would be in a position to use the premises during the application period for the licensable activity or activities authorised by the licence (see section 43 of the Licensing Act 2003): Yes

Are you able to submit a copy of the premises licence?: I can upload the premises licence now

Please send the premises licence to: Licensing, Brentwood Borough Council, Town Hall, Ingrave Road, Brentwood, Essex CM15 8AY. Please include the reference number for this form, which will be produced when you submit it.

If you are not able to submit the premises licence, please give the reasons why not:

## Declaration

I will submit a consent form (available as a separate online form or as a paper form on our website) completed by the existing premises licence holder or my statement as to why it is not available: I agree

I have uploaded the premises licence or relevant part of it or explanation: I agree

I will send a copy of this application to the chief officer of police today: I agree

I will send a copy of this form to Home Office Immigration Enforcement today: I agree

I understand that if I do not comply with the above requirements my application will be rejected: I agree

Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents, or my Home Office online right to work checking service share code, to demonstrate my entitlement to work in the United Kingdom (please read note 2): I agree

**IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.**

**IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.**

**I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 2)**

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## 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: David Dadds

Date: 02/05/2019

Capacity: Applicant's Solicitor

**For joint applications, signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent (please read guidance note 5). If signing on behalf of the applicant, please state in what capacity.**

Signature:

Date: 02/05/2019

Capacity: Billericay

**Contact name (where not previously given) and postal address for correspondence**

**associated with this application (please read guidance note 6)**

Correspondence name: Dadds LLP

**Correspondence Address**

Flat number (if any)

House number / name Crescent House

Road name 51 High Street

Town Billericay

County Essex

Post Code CM12 9AX

Telephone number: 01277631811

Mobile telephone number:

Correspondence email address: office@dadds.co.uk

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**Consent of premises licence holder to transfer**

I/we BADSHA MIAH

*[full name of premises licence holder(s)]*

the premises licence holder of premises licence number PRM/0196/2005

*[insert premises licence number]*

relating to

THE RAJ, 21 KINGS ROAD, BRENTWOOD, ESSEX, CM14 4DJ

*[name and address of premises to which the application relates]*

hereby give my consent for the transfer of premises licence number

PRM/0196/2005

*[insert premises licence number]*

to

KALAM ULLAH

*[full name of transferee].*

signed



name

(please print)

BADSHA MIAH

dated

12/02/2019

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**THE RAJ, 21 KINGS ROAD, BRENTWOOD CM14 4DJ**

# **APPENDIX 2**

## **PREMISES LICENCE**

*Premises Licence, Premises Plan, OS Maps & Images*

THE UNIVERSITY OF THE SOUTH PACIFIC

# APPENDIX

## EXHIBIT

THE UNIVERSITY OF THE SOUTH PACIFIC

**Licensing Act 2003  
Premises Licence**

**Premises licence number PRM/0196/2005**

**Part 1 – Premises details**

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

**The Raj  
21 Kings Road  
Brentwood  
Essex**

<b>Post town</b>	<b>Brentwood</b>	<b>Post code</b>	<b>CM14 4DJ</b>
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<b>Telephone number</b>	<b>01277 212755</b>
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**Where the licence is time limited the dates**

**Not applicable**

**Licensable activities authorised by the licence**

- 1. Sale of alcohol**
- 2. Late Night Refreshment**

**The times the licence authorises the carrying out of licensable activities**

**Supply of Alcohol:-**

- 1) Monday to Saturday, other than Christmas Day, Good Friday or New Year's Eve 11.00 to 00.00
- 2) Sundays, Good Friday & Christmas Day, 12.00 to 23.30
- 3) New Year's Eve, except on a Sunday 11.00 to 00.00
- 4) New Year's Eve, on a Sunday, 12.00 to 23.30pm
- 5) New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day

**Late Night Refreshment:-**

- 1) Monday to Saturday, other than Christmas Day, Good Friday or New Year's Eve 23.00 to 00.30 the following day.
- 2) Sundays, Good Friday & Christmas Day, 23.00 to 00.00
- 3) New Year's Eve, except on a Sunday 23.00 to 00.30 the following day
- 4) New Year's Eve, on a Sunday, 23.00 to 00.00 the following day
- 5) New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day

**The opening hours of the premises**

- 1) Monday to Saturday, other than Christmas Day, Good Friday or New Year's Eve 11.00 to 00.30 the following day.
- 2) Sundays, Good Friday & Christmas Day, 12.00 to 00.00
- 3) New Year's Eve, except on a Sunday 23.00 to 00.30 the following day
- 4) New Year's Eve, on a Sunday, 23.00 to 00.00 the following day
- 5) New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day

**Where the licence authorises supplies of alcohol whether these are on and/or off supplies**

**On supplies**

**Part 2**

**Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence**

**Badsha Miah  
174 Warley Hill  
Brentwood  
Essex  
CM14 5HF**

**07903 931012**

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

Badsha Miah  
174 Warley Hill  
Brentwood  
Essex  
CM14 5HF

07903 931012

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

PRM/0183/2005 Issued by Brentwood Borough Council.

Dated 21<sup>st</sup> September 2005



for Licensing Authority

INFORMATIVE

THIS LICENCE NOT CONFER ANY APPROVAL UNDER THE PLANNING ACTS OR  
BUILDING CONTROL REGULATIONS.

## Annex 1 - Mandatory conditions

### SUPPLY OF ALCOHOL

- a)
  - i. No supply of alcohol may be made under this Licence at a time when there is no Designated Premises Supervisor as defined in The Licensing Act 2003 in respect of this Licence,
  - ii. or at a time when the Designated Premises Supervisor does not hold a personal licence or his personal licence is suspended.
- b) Every supply of alcohol under this licence must be made or authorised by a person who holds a Personal Licence as defined in The Licensing Act 2003.

## **Annex 2 - Conditions consistent with the Operating Schedule**

### **EMBEDDED CONDITIONS**

#### **1. PERMITTED HOURS**

Alcohol shall not be sold or supplied except during the permitted hours.

The above restrictions do not prohibit:

- (a) during the first twenty minutes after the above hours the consumption of the alcohol on the premises;
- (b) during the first twenty minutes after the above hours the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- (c) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by person taking meals there if the alcohol was supplied for consumption as ancillary to the meals;
- (d) consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;

#### **B. SUPPLY OF NON-ALCOHOLIC BEVERAGES**

Suitable non-alcoholic beverages, including drinking water, shall be equally available for consumption with or otherwise as an ancillary to meals served in the licensed premises.

#### **C. USE OF PREMISES**

The premises must be bona fide used for the purpose of habitually providing the customary main meal at midday or in the evening, or both, for the accommodation of persons frequenting the premises.

#### **4. SUPPLY OF ALCOHOL ONLY TO PERSON TAKING TABLE MEALS.**

Intoxicating liquor shall not be sold or supplied on the premises otherwise than to person taking table meals, and for consumption by such a person as an ancillary to his meal.

**Annex 3 - Conditions attached after a hearing by the licensing authority**

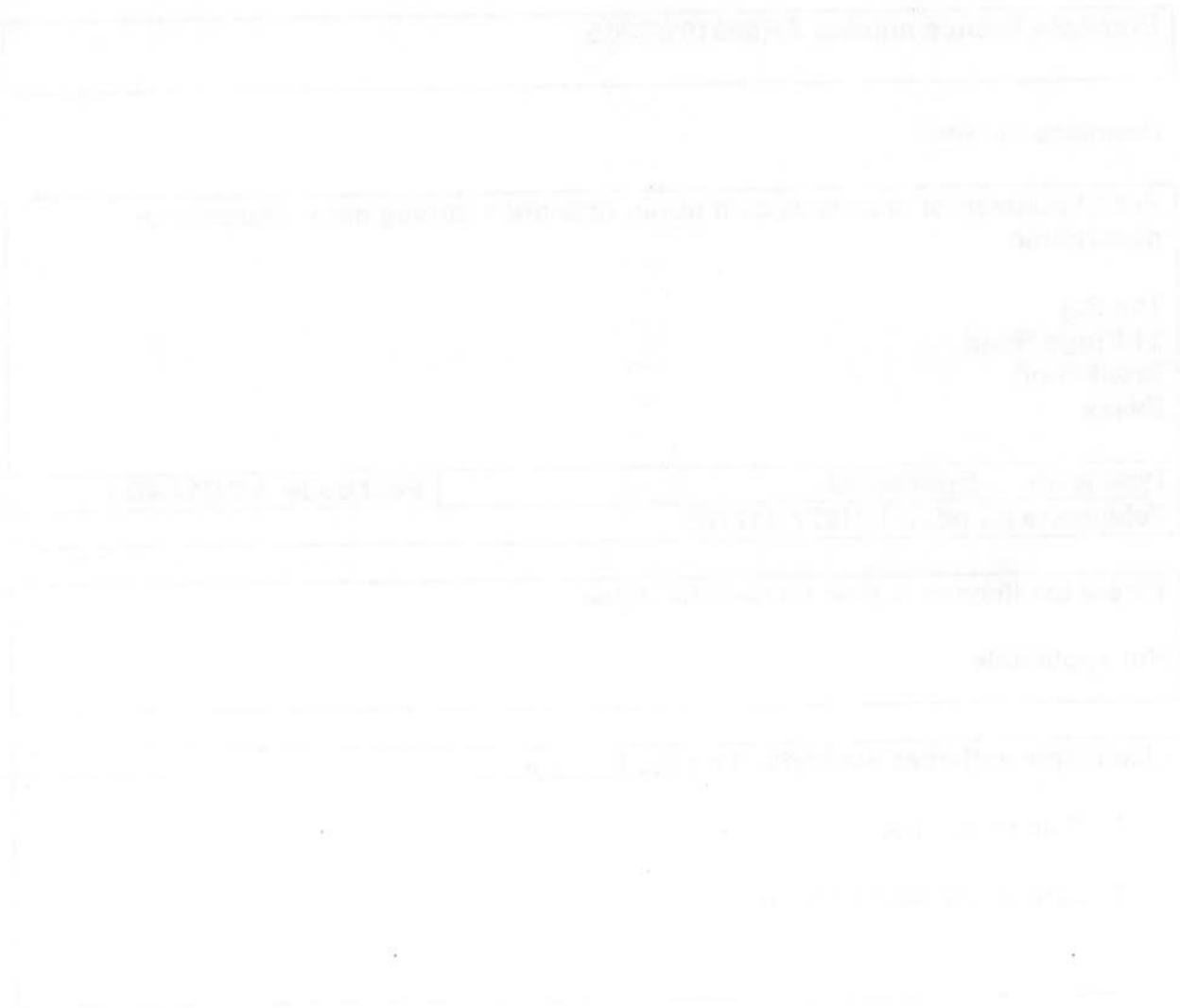
None



**Annex 4 – Plans**

This licence is issued subject to the following attached plans:

Drawing no. 5717 title The Raj Restaurant.



**Licensing Act 2003  
Premises Licence Summary**

**Premises licence number PRM/0196/2005**

**Premises details**

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

**The Raj  
21 Kings Road  
Brentwood  
Essex**

<b>Post town</b>	<b>Brentwood</b>	<b>Post code</b>	<b>CM14 4DJ</b>
<b>Telephone number</b>	<b>01277 212755</b>		

**Where the licence is time limited the dates**

**Not applicable**

**Licensable activities authorised by the licence**

- 1. Sale of alcohol**
- 2. Late Night Refreshment**

**The times the licence authorises the carrying out of licensable activities**

**Supply of Alcohol:-**

- 1) Monday to Saturday, other than Christmas Day, Good Friday or New Year's Eve 11.00 to 00.00
- 2) Sundays, Good Friday & Christmas Day, 12.00 to 23.30
- 3) New Year's Eve, except on a Sunday 11.00 to 00.00
- 4) New Year's Eve, on a Sunday, 12.00 to 23.30pm
- 5) New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day

**Late Night Refreshment:-**

- 1) Monday to Saturday, other than Christmas Day, Good Friday or New Year's Eve 23.00 to 00.30 the following day.
- 2) Sundays, Good Friday & Christmas Day, 23.00 to 00.00
- 3) New Year's Eve, except on a Sunday 23.00 to 00.30 the following day
- 4) New Year's Eve, on a Sunday, 23.00 to 00.00 the following day
- 5) New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day

**The opening hours of the premises**

- 1) Monday to Saturday, other than Christmas Day, Good Friday or New Year's Eve 11.00 to 00.30 the following day.
- 2) Sundays, Good Friday & Christmas Day, 12.00 to 00.00
- 3) New Year's Eve, except on a Sunday 23.00 to 00.30 the following day
- 4) New Year's Eve, on a Sunday, 23.00 to 00.00 the following day
- 5) New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day

**Where the licence authorises supplies of alcohol whether these are on and/or off supplies**

On supplies

**Name, (registered) address of holder of premises licence**

Badsha Miah  
174 Warley Hill  
Brentwood  
Essex  
CM14 5HF

**Registered number of holder, for example company number, charity number  
(where applicable)**

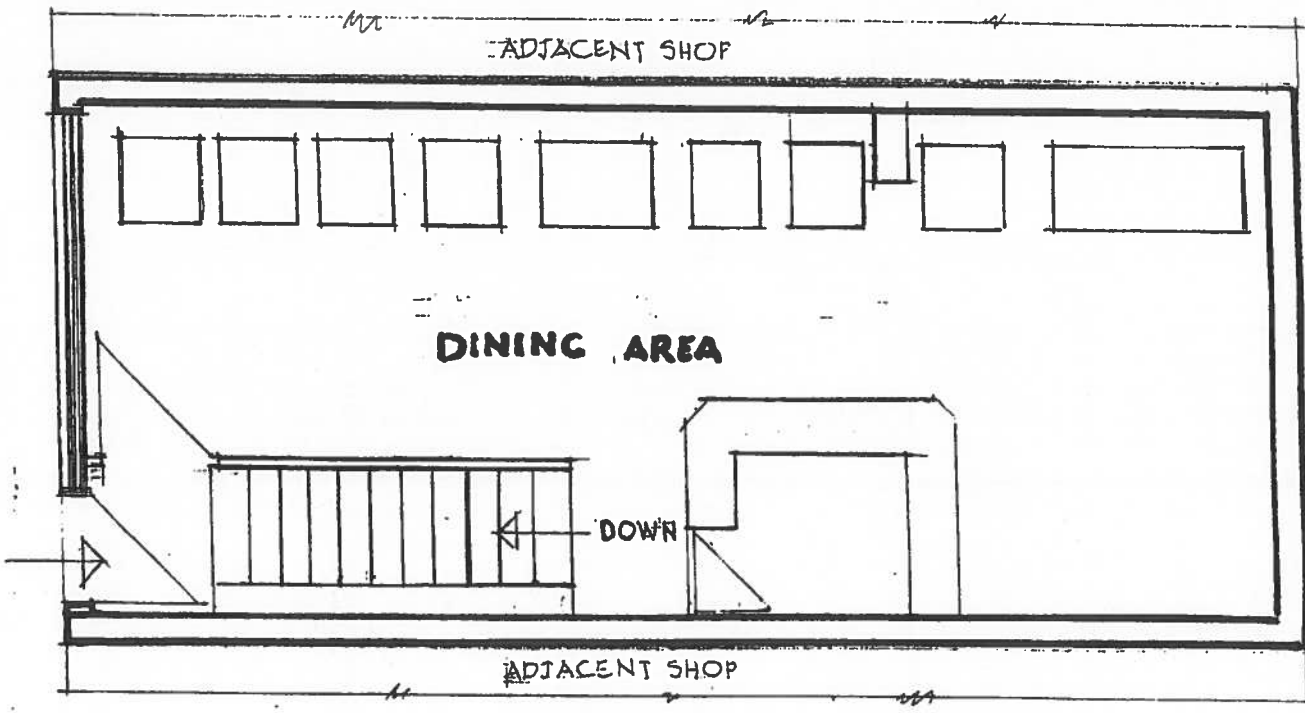
**Not applicable**

**Name of designated premises supervisor where the premises licence authorises  
the supply of alcohol**

**Badsha Miah**

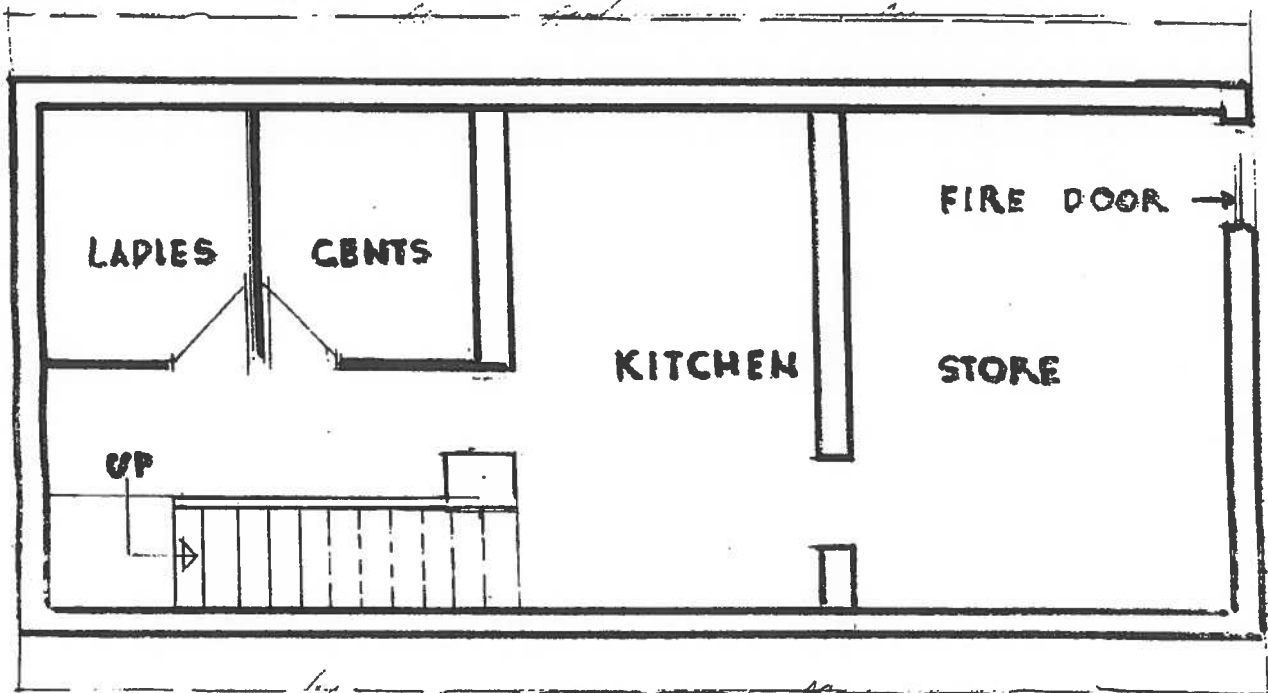
**State whether access to the premises by children is restricted or prohibited**

**Not restricted or prohibited**



**GROUND FLOOR PLAN**

**TWO FIRE EXTINGUISHERS - GROUND FLOOR  
ONE EXTINGUISHER TO BASEMENT AND ONE BLANKET**



**BASEMENT**

**THE RAJ RESTAURANT**

**DO NOT SCALE FOR DETAILS  
ALL DIMENSIONS TO BE CHECKED ON SITE  
FOR DRINK LICENCE**

Client: MR MIAH 174 WARLEY HILL BRENTWOOD	Title GROUND & BASEMENT PLANS THE RAJ RESTAURANT 21 KINGS ROAD BRENTWOOD SX	Scale 1:100	Dwn. By <i>John Aldous</i> MBent (MIAS) Date 22 JULY 2005	Dwng. No. 5717
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*FD1898*



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Faint text, possibly a title or reference number, located below the second diagram.

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THE RAJ

01277 210003

UNIT 11/12/13

01277 210003







THE RAD

01277 210003

01277 210003

services









# THE RAJ, 21 KINGS ROAD, BRENTWOOD CM14 4DJ



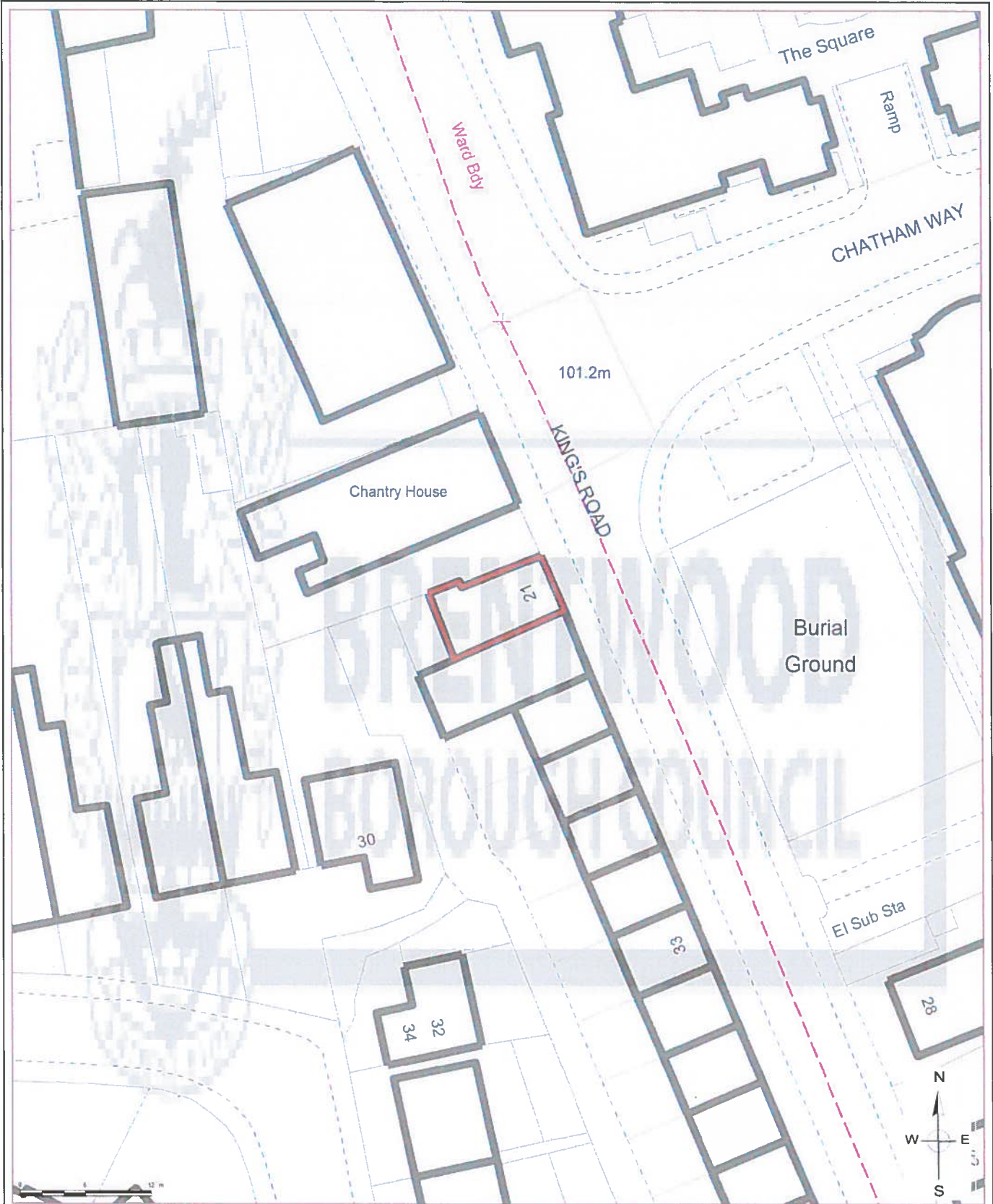
Drawing No. :  
 Scale at A4 : 1:1250  
 Drawn by : OSJ  
 Service : ICT  
 Date : 21st December 2018

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Philip Ruck  
 Chief Executive  
 Brentwood Borough Council  
 Town Hall, Ingrave Road  
 Brentwood, CM15 8AY  
 Tel.: (01277) 312500







# THE RAJ, 21 KINGS ROAD, BRENTWOOD CM14 4DJ



Drawing No. :  
 Scale at A4 : 1:500  
 Drawn by : OSJ  
 Service : ICT  
 Date : 21st December 2018

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 Chief Executive  
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 Tel.: (01277) 312500



**THE RAJ, 21 KINGS ROAD, BRENTWOOD CM14 4DJ**

# **APPENDIX 3**

## **REPRESENTATION**

**&**

***Supplementary Supporting Evidence***

***Mr. Peter Jones - Essex Police Licensing***

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APPENDIX 3

EXHIBIT

1

EXHIBIT 1 - [Illegible]

EXHIBIT 2 - [Illegible]



Mr P Adams  
Licensing Department  
Brentwood Borough Council  
Town Hall  
Ingrave Road  
Brentwood  
CM15 8AY



Essex Police  
Licensing Department  
Braintree Police Station  
Blyths Meadow  
Braintree  
CM7 3DJ

13<sup>th</sup> May 2019

Dear Mr Adams,

### **APPLICATION TO TRANSFER PREMISES LICENCE (S42 LICENSING ACT 2003)**

The Raj, 21 Kings Road, Brentwood, CM14 4DJ is a family run business whose existing licence was issued in 2005. Those involved in running and profiting from the restaurant remain the same today as they have been for several years – despite this application to transfer the licence immediately to Kalum ULLAH.

The application purports to be a new start with an applicant unconnected with how the premises has been run in recent years leading to its revocation in January 2019 – it is not. There are clear associations between what Essex Police contend is still the principal mind Badsha MIAH (outgoing Premises Licence Holder and current Designated Premises Supervisor) and the applicant (Kalum ULLAH).

Essex Police objects to the transfer under the crime and disorder objective, which includes the prevention of illegal working.

Case law details that the Licensing Act 2003 is a 'prospective' looking piece of legislation whose intent is to prevent criminality from occurring when that is a likelihood.

The outgoing Premises Licence Holder facilitated a criminal offence taking place. Essex Police believe there are clear associations between the old and new Premises Licence Holder; and suggest the employment of illegal workers and failure to conduct right to work checks will continue. The sub-committee is entitled to exercise common sense and its own judgement based on the life experiences of its members.

On 20<sup>th</sup> November 2018 The Raj was subject of an intelligence led operation conducted by Immigration Enforcement and Compliance officers. On that occasion 5 illegal workers were discovered at the premises, one of whom had been detained at the same premises in 2014 for illegally working and who had subsequently absconded whilst an application for leave to remain was under consideration.

As in 2014, on the date of the latest enforcement operation the premises licence holder and designated premises supervisor was Badsha MIAH.

Since 2004 both the pre-existing premises licence holder (Badsha MIAH) and the applicant for this transfer (Kalam ULLAH) have shared a close financial interest in the premises and Essex Police believe there are familial relationships between the two.

There has already been one unsuccessful attempt to transfer the licence to the nephew of Badsha MIAH; since the premises licence was the subject of a review application that attempt was rejected by a previous sub-committee.

It is the contention of Essex Police that this application is another attempt to allow the family to continue to run the premises and that Badsha MIAH remains the primary mind in how the premises will be run. It is Essex Police's view that the employment of illegal workers (an undermining of the crime and disorder objective) will continue should this transfer take place.

The Chief Officer of Police hereby objects to the proposed transfer and proposes to adduce further documentary and other material ahead of the hearing date in accordance with the statutory guidance and the relevant Hearing Regulations.

Please advise me of when the Licensing Panel will be meeting to hear this so representatives of the Chief Officer of Police can be in attendance.

Yours sincerely,



Mr Peter Jones MIOL, MBII  
Essex Police Licensing Officer  
Epping Forest | Brentwood | Harlow



**Objection to Transfer of Premises Licence**

**The Raj**

**21 Kings Road, Brentwood, CM14 4DJ**

**Supplementary documentary information in support of objection.**



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- 1.0 Outline of circumstances leading to the objection to transfer the premises licence.**
- 1.1** The grounds for objection are that the crime and disorder objective of the Licensing Act has been undermined in that Immigration Compliance and Enforcement officers of the Home Office discovered disqualified persons working illegally on the premises. Paragraph 11.26 Guidance for Licensing Authorities to Prevent Illegal Working in Licensed Premises in England & Wales (6 April 2017, Home Office).
- 1.2** The statutory crime prevention objective in the 2003 Act includes the prevention of immigration crime and the prevention of illegal working in licensed premises. In particular, employing a person who is disqualified from work by reason of their immigration status is a criminal activity which, according to the Home Office Guidance to the Licensing Act 2003, should be treated "particularly seriously".
- 1.3** On Tuesday 20<sup>th</sup> November 2018 Immigration Compliance & Enforcement (ICE) officers attended The Raj, 21 Kings Road, Brentwood, Essex, CM14 4DJ. They entered using their powers under section 179 Licensing Act 2003.
- 1.4** Immigration Officers conducted checks of those present and found a total of five persons listed as immigration offenders with no permission to remain or work in the United Kingdom. **Document 1** is a statement from the Chief Immigration Officer summarising the offenders.
- 1.5** With the evidence obtained a Notice of Potential Liability (NOPL) to a civil penalty of up to £20,000 per illegal worker was served in respect of these illegal workers.
- 1.6** The premises has previously been found to be employing illegal workers and was subject to an immigration enforcement operation on 23<sup>rd</sup> April 2014 when 3 of the 5 workers present at that time were found to be immigration offenders. Contemporary records pertaining to that operation show the manager at that time to be the same Badsha (Bad ha) MIAH, still in post at the most recent immigration enforcement operation. (**Document 1**).
- 1.7** Essex Police subsequently applied for a review of the premises licence and at a sub-committee hearing on 24<sup>th</sup> January 2019 the premise licence was revoked.
- 1.8** A mere 13 working days after this latest immigration enforcement and 2 days after applying for the review; an application was made to transfer the Premises Licence to Jetu MIAH. Essex Police objected to this and at a sub-committee hearing on 17<sup>th</sup> January 2019 the application was rejected.
- 1.9** Then on 12<sup>th</sup> February 2019 a further application was received to transfer the Premises Licence to Kalam ULLAH. Essex Police objected to the transfer and on 22<sup>nd</sup> March 2019 the application was rejected by the Licensing Sub-Committee.
- 1.10** Immediately afterwards on the same day; the 22<sup>nd</sup> March 2019 a repeat, identical application from the same applicant was received. Again Essex Police objected on 1<sup>st</sup> April 2019 and on 1<sup>st</sup> May 2019 the application was rejected.

- 1.11 This again is an identical application and so, Essex Police object to the transfer of the premises licence to Kalam ULLAH as land registry records show that he with the outgoing premises licence holder Badsha MIAH is part leaseholder and has been since 7<sup>th</sup> September 2004. **Document 2** is a Land Registry extract. At previous hearings the applicant has made reference to the lease expiring and a new application in his own right being made. Having spoken with Land Registry they advise there are no pending applications in respect of the lease of this premises.
- 1.12 It is therefore reasonable to adduce that ULLAH already has a financial interest in the premises with MIAH and has some control over the premises and therefore was implicit in the employment of illegal workers.
- 1.13 MIAH remains a leaseholder; and therefore regardless of this transfer remains financially linked to the premises and Essex Police suggest will remain involved in the operation of the premises.
- 1.14 It is worth noting there are multiple companies active on Companies House connected to the premises address
- The Raj Brentwood Ltd was incorporated on 1<sup>st</sup> October 2018. **Document 3** shows the sole director and majority shareholder is Mr Badsha MIAH. With shares to the value of £10,000.
  - The Raj CM14 Ltd was incorporated on 27<sup>th</sup> November 2018. **Document 4** shows the sole director and majority shareholder is Mr Jetu MIAH. With shares to the value of £100.
  - The Raj Restaurant Essex Ltd was incorporated on 14<sup>th</sup> March 2019. This new company shows sole director and majority shareholder is Mr Kalam ULLAH. With shares to the value of £1,000.
- 1.15 Essex Police Licensing also brings to your attention that the alleged 'new' owner Mr Kalam ULLAH is the older brother of Mr Badsha MIAH. **Document 5** is an extract of a Pocket notebook entry of Mr David LEONARD, Licensing Officer for Brentwood Borough Council. In it he records serving the aforementioned review application upon Mr ULLAH in the absence of Mr Badsha MIAH; recording the relations between Mr Badsha MIAH, Mr Kalam ULLAH and Mr Jetu MIAH.
- 1.16 Given the information to hand and provided within, it is no stretch to conclude that the controlling party remains Mr Badsha MIAH and that the transfer is to Kalam ULLAH who is Badsha MIAH's older brother, has been put up as a front to attempt to deceive the Licensing Committee and avoid business limiting action.
- 1.17 It is contended that nothing has changed at the premises and that Mr Badsha MIAH remains the owner of the premises taking an active interest.
- 1.18 It is also pointed out that as shown in **Document 1**, that this is the 2<sup>nd</sup> occurrence of illegal workers being found at this premises whilst Badsha MIAH and Kalam ULLAH have been leaseholders of the premises.



- 1.19 At previous hearings the applicant has made reference to Badsha MIAH having no involvement in the premises and have offered conditions to exclude him from the premises. No such application to vary the licence to add this condition has been come forward; and just looking at the website for The Raj, Brentwood; shows the contact email for Badsha MIAH. (See Document 6)
- 1.20 This transfer is not a change of operational management and the total disregard for the framework of regulatory legislation is liable to continue if the transfer were to be granted. The Licensing Act 2003 is prospective (what is likely to happen) (see East Lindsey District Council v Abu Hanif (t/a Zara's restaurant and take away) [2016] EWHC 1265 Admin. (Appendix 8.11).
- 1.21 One only has to look at what has happened in the past to glimpse what is likely to happen in the future. On two occasions illegal workers were found at the premises. The pre-existing licence holder and DPS is the joint leaseholder and brother of the applicant for this transfer. This was and remains a joint business venture and the controlling mind will remain as Badsha MIAH – the person responsible for employing a number of illegal workers.
- 1.22 Paragraph 8.101 of the Statutory Guidance states that: *"in exceptional circumstances where the chief officer of police believes the transfer may undermine the crime prevention objective, the police may object to the transfer. The Home Office (Immigration Enforcement) may object if it considers that granting the transfer would be prejudicial to the prevention of illegal working in licensed premises. Such objections are expected to be rare and arise because the police or the Home Office (Immigration Enforcement) have evidence that the business or individuals seeking to hold the licence, or businesses or individuals linked to such persons, are involved in crime (or disorder) or employing illegal workers."*
- 1.23 Paragraph 2.6 of the Guidance explicitly states that *"the prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters."*
- 1.24 Thus as regards occasions where evidence of illegal working exists, either the police or Immigration Enforcement may object to the transfer.
- 1.25 In this particular case, Immigration Enforcement has provided evidence to Essex Police which supports the police's belief that the crime prevention objective will be undermined if this transfer takes place. This evidential material has been provided to the police under section 185 of the Licensing Act 2003 to enable Essex Police to submit the earlier review application and this objection to a licence transfer; both because the crime prevention objective has been engaged.
- 1.26 Essex Police believe that this transfer is an attempt to circumvent the legal process (appeal hearing following the revocation at a review hearing). In this circumstance Mr ULLAH (the applicant) is directly linked to Mr MIAH (the pre-existing licence holder), and Mr MIAH has been involved in employing illegal workers at The Raj, 21 Kings Road, Brentwood, which is also a criminal activity.

- 1.27 Essex Police therefore strongly believe that on the balance of probabilities it is likely that the applicant Mr ULLAH is applying for this licence transfer on behalf of the current premises licence holder Mr MIAH, and that it is more than possible that he is applying for the role as purely a “figure head”, with the objective of enabling a ruse to prevent sanction against the illegal activity carried out within the business.
- 1.28 No proof of assignment of lease or proof of segregation of the above relationship in the business has been submitted with the application to show a clear separation between the new applicant and the previously revoked (pending an appeal) licence holder.
- 1.29 In a recent appeal court judgement in June 2018 District Judge Julie Cooper at Camberwell Green Magistrates Court regarding Peckham Food & Wine v London Borough of Southwark upheld the decision of the London Borough of Southwark to revoke a convenience store’s premises licence following allegations of illegal workers being employed.
- 1.30 In its successful submission, the Council relied on Lord Justice Griffiths observations in R v Knightsbridge Crown Court ex parte International Sporting Club (London) Ltd [1982] 1 QB 304.
- 1.31 This case concerned three London casinos which had operated in breach of the relevant gaming laws. Each lost its licence. The licence holders appealed and then sold the companies to third parties in the interim. The new owners replaced the entire previous management with new staff, the sale amounted to a restructuring of the business and a transfer of the licences was applied for.
- 1.32 However, in its judgement, the Court stated:  
*“We have no hesitation in saying that past misconduct by the licence holder will be in every case be a relevant consideration to take into account when considering whether to cancel a licence. The weight to be accorded to it will vary according to the circumstances of the case. There may well be cases in which the wrongdoing of the company licence holder has been so flagrant and so well publicised that no amount of restructuring can restore confidence in it as a fit and proper person to hold a licence; it will stand condemned in the public mind as a person unfit to hold a licence and public confidence in the licensing justices would be gravely shaken by allowing it to continue to run a casino”*
- 1.33 Of direct relevance to this police objection to the transfer of the licence in circumstances where the police have called for a review of the licence to prevent crime; the court commented (LJ Griffiths) that:  
*“it risks bringing the licensing regime into disrepute if reckless licence holders can avoid the consequences of their behaviour by simply transferring the licence into someone else’s name or selling the business when they got caught and so, effectively, get away with it. The deterrent effect of licensing enforcement would be lost and licensing authorities are right to take a robust stance against such transfers, particularly those which appeared to be a ruse.”*
- 1.34 The concern is this application has been made in an attempt to circumvent the current review outcome and appeal process relating to this premises and if granted will likely lead to the continuation of poor practice and a failure to uphold the licensing objectives.



- 1.35 Essex Police believe that that the proposed licence holder will have no day to day control of this business and that he is, in effect, applying for a licence on behalf of someone else – notably the pre-existing business owner who has committed serious criminal offences at the premises.
- 1.36 The Licensing Authority is required to take steps to promote the prevention of crime and disorder (which includes illegal working) and Essex Police would ask that the sub-committee rejects the transfer of the premises licence.

## 2.0 Immigration Offences

- 2.1 Illegal workers are those subject to immigration control who either do not have leave to enter or remain in the UK, or who are in breach of a condition preventing them taking up the work in question. It is an employer's responsibility to be aware of their obligations and ensure they understand the immigration landscape to avoid the risk of prosecution, the imposition of a civil penalty or the revocation/suspension of their premises licence.
- 2.2 Since 1996 it has been unlawful to employ a person who is disqualified from employment because of their immigration status. A statutory excuse exists where the employer can demonstrate they correctly carried out document checks, i.e. that they were duped by fake or forged documents.
- 2.3 The Immigration Act 2016 came into force in July 2016 and its explanatory notes state that *"these offences were broadened to capture, in particular, employers who deliberately did not undertake right to work checks in order that they could not have the specific intent required to 'knowingly' employ an illegal worker"*.
- 2.4 Since 2016 an employer may be prosecuted not only if they knew their employee was disqualified from working but also if they had reasonable cause to believe that an employee did not have the right to work: what might be described as **wilful ignorance**, where either no documents are requested or none are presented despite a request. This means an offence is committed when an employer 'ought to have known' the person did not have the right to work.
- 2.5 Since 2016 it has also been an offence to work when disqualified from doing so. It is obvious that without a negligent or wilfully ignorant employer, an illegal worker cannot work. Such an employer facilitates a criminal offence and Essex Police highlights this as relevant irrespective of whether a civil penalty is imposed or a prosecution launched for employing an illegal worker.
- 2.6 In this context, under section 3(1)(C)(i) Immigration Act 1971 (as amended by the 2016 Act) restrictions are not limited simply to employment (i.e. paid work) but now includes all work.
- 2.7 Thus an individual with no right to work in the UK commits offences if they undertake paid or unpaid work, paid or unpaid work placements undertaken as part of a course etc. are self-employed or engage in business or professional activity. For instance, undertaking an unpaid work trial or working in exchange for a non-monetary reward (such as board and lodging) is working illegally and is a criminal offence committed by the worker and facilitated by the 'employer'.

### 3.0 Statutory Guidance (s182 LA 2003) and the Authority's Licensing Policy

3.1 Whilst this is an objection to a transfer, Essex Police believes that part of the guidance relating to reviews is appropriate in considering whether allowing this transfer would undermine the licensing objective of preventing crime and disorder, which includes illegal working. In particular; Essex Police submits that paragraphs 11.24 – 11.29 of the Guidance is relevant.

#### 3.2 Paragraph 11.26

*Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. (...). The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.*

3.3 Thus the financial hardship occasioned by the existing revocation of the premises licence should not sway the sub-committee but instead it should look at what is appropriate to promote the objective within the wider business and local community given "illegal labour exploits workers, denies work to UK citizens and legal migrants and drives down wages" (Rt. Hon James Brokenshine, Immigration Minister on the introduction of the 2016 Act).

#### 3.4 Paragraph 11.27 of the Guidance states:

*There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises (...) for employing a person who is disqualified from that work by reason of their immigration status in the UK.*

Essex Police would draw the sub-committee's attention to the change in wording of this paragraph following the April 2017 revision of the guidance, where the previous reference to 'knowingly employing' was removed.

#### 3.5 Paragraph 11.28 of the Guidance states:

*It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that 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.*

Essex Police considers this paragraph self-explanatory; where an enterprise employs illegal workers it is the duty of Essex Police to work with Immigration Enforcement to bring forward reviews and for the authority to consider revocation in the first instance.

- 3.6 In support of this statement; Essex Police would draw the sub-committee's attention to the "Guidance for Licensing Authorities to Prevent Illegal Working in Licensed Premises in England and Wales" (Home Office)[April 2017] where at section 4.1 it states;  
*"It is envisaged that licensing authorities, the police, Home Office (Immigration Enforcement) and other law enforcement agencies will use the review procedures effectively to deter illegal working".*
- 3.7 Since the main draw for illegal migration is work, and since low-skilled migrants are increasingly vulnerable to exploitation at the hand of criminal enterprises, the government has strengthened enforcement measures and the statutory Guidance to deter illegal workers and those that employ them.
- 3.8 Deterrence is a key element of the UK government's strategy to reduce illegal working and is supported by both the Guidance and Case Law.
- 4.0 **Case Law**
- 4.1 Deterrence as a legitimate consideration by a licensing sub-committee has been considered before the High Court where remedial measures (such as the imposition of additional conditions) were distinguished from legitimate deterrent (punitive) measures such as revocation.
- 4.2 *R (Bassetlaw District Council) v Worksop Magistrates' Court; [2008] WLR (D) 350.* Issues relevant to the case before today's sub-committee which were considered in the *Bassetlaw* judgement included whether a licensing authority was restricted to remedial action (as opposed to punitive action such as revocation); and **the precedence of wider considerations than those relating to an individual holder of a premises licence** when certain criminal activities (as specified in the Guidance) took place.
- 4.3 It specifically examined (and set aside in the case of 'certain activities') those parts of the Guidance now contained within paragraph 11.20 and 11.23, viz.

*In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.*

*However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the **promotion of the licensing objectives and for the prevention of illegal working in licensed premises.***

4.4 In her judgement, Mrs Justice Slade stated (at 32.1 & 33.1 of the citation):

*“Where criminal activity is applicable, as here, wider considerations come into play and the furtherance of the licensing objective engaged includes the prevention of crime. In those circumstances, deterrence, in my judgment, is an appropriate objective and one contemplated by the guidance issued by the Secretary of State. (...) However, in my judgment deterrence is an appropriate consideration when the paragraphs specifically directed to dealing with reviews where there has been activity in connection with crime are applicable.”*

4.5 *East Lindsey District Council v Abu Hanif (Trading as Zara’s Restaurant and Takeaway), [2016] EWHC 1265 (Admin)*

This is a recent High Court decision (published April 2016) which has established that in considering whether the licensing objectives may be undermined one should look at what is likely to happen in the future.

4.6 The case reaffirms the principle that responsible authorities need not wait for the licensing objectives to actually be undermined; that crucially in considering whether the crime prevention objective has been engaged or likely to be engaged a prospective consideration (i.e. what is likely to happen in the future) of what is warranted is a key factor. It also reaffirmed the case of *Bassetlaw* in concluding that deterrence is a legitimate consideration of a sub-committee.

Mr Justice Jay stated: *“The question was not whether the respondent had been found guilty of criminal offences before a relevant tribunal, but whether revocation of his licence was appropriate and proportionate in the light of the salient licensing objectives, namely the prevention of crime and disorder. This requires a much broader approach to the issue than the mere identification of criminal convictions. It is in part retrospective, in as much as antecedent facts will usually impact on the statutory question, but importantly the prevention of crime and disorder requires a prospective consideration of what is warranted in the public interest, having regard to the twin considerations of prevention and deterrence. In any event, I agree with Mr Kolvin that criminal convictions are not required.”* (Paragraph 18)

Mr Justice Jay added: *“Having regard in particular to the twin requirements of prevention and deterrence, there was in my judgment only one answer to this case. The respondent exploited a vulnerable individual from his community by acting in plain, albeit covert, breach of the criminal law. In my view his licence should be revoked.”* (Paragraph 23)

**RESTRICTED (when complete)**

**WITNESS STATEMENT**

(CJ Act 1967, s.9 MC Act 1980, ss.5A(3) (a) and 5B; MC Rules 1981, r.70)

URN 

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Statement of:            **DAVIS**.....

Age if under 18: **OVER 18** (If over 18 insert "over 18") Occupation: **CHIEF IMMIGRATION OFFICER**

This statement (consisting of 4 pages signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything which I know to be false or do not believe to be true.

Signature ..... Date: 26 November 2018

Tick if witness evidence is visually recorded  (supply witness details on rear)

I am a Chief Immigration Officer of the Home Office Immigration Enforcement Immigration Compliance & Engagement Team East of England, based at Custom House, Viewpoint Road, Felixstowe, Suffolk IP11 3RF. I have been an Immigration Officer since April 1991 and have worked at a number of ports of entry to the UK, although my main work has been in the areas of enforcement and crime investigation. My current role is as the senior officer of the Immigration Enforcement arrest team, operating in the counties of Norfolk, Suffolk and Essex, responding to intelligence relating to alleged immigration offences in this area, liaising with local police and other law enforcement agencies and supporting other government departments, local authorities and relevant other organisations in enquiries or investigations relating to non-British nationals. As part of my duties I have responsibility for the compilation and custody of Home Office records in both written and electronic form. These records are compiled by officers and members of staff during their duties, from information which they have particular and specific knowledge of at the time of compiling, in light of the volume of records compiled and the length of time that has elapsed, they cannot reasonably be expected to have any recollection of the matters dealt with in relation to a specific record.

At the request of Essex Police Licensing Team, I have examined Home Office records relating to immigration offenders encountered during an enforcement visit conducted to the premises of "The Raj" located at 21 Kings Road, Brentwood, Essex CM14 4DJ.

Home Office records show that on 20 November 2018 Immigration Officers from this team conducted an enforcement visit to these premises to locate and arrest persons subject to immigration control who

Signature:..... **Page 57** Witnessed by: .....

**RESTRICTED (when complete)**Continuation of Statement of: [REDACTED] DAVIS.....

Page 2

were suspected of working illegally in the United Kingdom.

Home Office records show that a total of five immigration offenders were recorded as being encountered by the officers during the execution of the search warrant. They are recorded as:

[REDACTED] a Bangladeshi national born [REDACTED] who was first encountered by Immigration Officers following his arrest in Wiltshire on 04.11.2011. He stated that he'd entered the United Kingdom with a false visa valid in January 2010. He was served notification that he was an illegal entrant to the UK and was released pending documentation to remove him. He subsequently absconded from his reporting conditions and was not encountered until he was arrested on 20.11.2018 at "The Raj" when on being seen by officers, he attempted to escape. Following his arrest he stated that he was not working, merely helping out in exchange for food and accommodation. He was detained and transferred into Immigration detention facilities on the same night. He has never been granted any permission to remain or to work in the United Kingdom.

[REDACTED] a Bangladeshi national born [REDACTED] originally entered the United Kingdom on 08.04.2010 when he held a visa to study, valid until 31.12.2012. In February 2016, he sought asylum in the United Kingdom and as an overstayer was notified of his liability to removal and placed on reporting restrictions., he last reported in October 2017, shortly before his application for asylum, which had been refused, was finally determined at an appeal hearing. Having lost his appeal, nothing more was heard from him until 20.11.2018 when he was seen by officers at "The Raj" and attempted to escape, having been arrested and detained, he told officers that he'd only been at the premises working for a week, although he was found to have in his possession the front door key to the property. He was detained and transferred to immigration detention facilities the same night.

[REDACTED] a Bangladeshi national born [REDACTED] arrived in the United Kingdom in 2008 with a visa valid until 04.05.2009 after which he made no contact whatsoever with the Home Office. On 20.11.2018 he was arrested at "The Raj" in Brentwood when immigration officers entered the premises and he was one of several staff seen to attempt to escape out of the back door through the kitchen. When interviewed, he admitted to working at the Raj for approx one month as a kitchen porter, working Monday, Tuesday, Friday, Saturday, Sunday between the hours of 1700 until 2300. He stated that he was paid £100 per week by Badsha MIAH, whom he described as the restaurant manager and that his accommodation is also included as he lives above the restaurant in a room with another two individuals. He provided no documentary evidence before being given the job by

Signature: ..... Signature Witnessed by: .....  
2004/05(1)

**RESTRICTED (when complete)**Continuation of Statement of: [REDACTED] DAVIS.....

Page 3

Badsha MIAH and has been given no contract. He stated his work clothes were provided by the boss and he then signed the officer's notebook to confirm the accuracy of his statements. He was detained and transferred to immigration detention facilities the same night.

[REDACTED] a Bangladeshi national born [REDACTED] arrived in the United Kingdom with a visa valid as a student until 30.04.2012; he subsequently gained an extension of student leave until 15.05.2014. This was later curtailed until 01.09.2013 due to issues with his college and he made no further applications or contact with the Home Office until he was arrested at "The Raj" on 23.04.2014 when he claimed to be on a "work placement" however his employer stated that he was working 20 hours per week and when he produced identification, his residence permit clearly showed that he was prohibited from employment. He was detained and had a removal flight booked for early May 2014 but subsequent representation by a solicitor led to an application for him to remain and he was released pending this being concluded. On 03.06.2014 during an Employer Liaison Visit to "The Raj of India" Restaurant, 17 The Street, Rayne Essex CM77 6RW he was encountered at the premises, folding serviettes and preparing tables but denied working and stated that he was just visiting a friend; however the manager on duty stated that subject was working there as a waiter and had done so for a couple of weeks. Due to his pending application he could not be detained at that point. Following refusal of his application, he was subsequently listed as an absconder after he failed to report in line with his bail conditions. On 20.11.2018 he was again encountered by Immigration Officers, this time having returned to work at "The Raj" in Brentwood, where on seeing officers he immediately sought to remove his tie and jacket. He was detained and transferred to immigration detention facilities the same night.

[REDACTED] a Bangladeshi national who gave his date of birth initially as [REDACTED] and subsequently was recorded as [REDACTED]. He had been encountered by enforcement officer in Tyneside on 08.10.2009 when there was a dispute over his age and stats and he was subsequently found to have been issued a visa to visit the United Kingdom in 2007, this expiring on 18.04.2007. He was served with notice that he was liable to removal and released pending documentation; he was not heard from again until 20.11.2018 when he was encountered in an upstairs room at "The Raj" in Brentwood and was arrested and detained whilst in bed. He admitted that he'd been working at the restaurant for six month, washing up; and signed an officer's notebook to confirm this. He was detained and transferred to immigration detention facilities the same night. Further Home Office records show that the premises of "The Raj" at 21 Kings Road, Brentwood was

Signature: .....  
2004/05(1)Signature Witnessed by: .....  
Page 59



**RESTRICTED (when complete)**

Continuation of Statement of: [REDACTED] DAVIS.....

Page 4

subject of an enforcement operation on 23.04.2014 when three Bangladeshi nationals were found among the five staff and were found to be immigration offenders. The manager at that time was recorded as "Badha MIAH" a British national born [REDACTED]. Records in relation to the operation conducted on 20.11.2018 record the manager as "Badsha MIAH" a British national born [REDACTED].

I make this statement of my own free will from records that I have seen and accessed today, 26 November 2018. I am willing to attend court or any other judicial or review hearing if necessary.

Signature: ..... Signature Witnessed by: .....  
2004/05(1)





# Official copy of register of title

Title number EX733506

Edition date 16.02.2006

This official copy shows the entries on the register of title on 08 MAY 2019 at 15:22:06.

This date must be quoted as the "search from date" in any official search application based on this copy.

The date at the beginning of an entry is the date on which the entry was made in the register.

Issued on 08 May 2019.

Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.

This title is dealt with by HM Land Registry, Peterborough Office.

## A: Property Register

This register describes the land and estate comprised in the title. Except as mentioned below, the title includes any legal easements granted by the registered lease but is subject to any rights that it reserves, so far as those easements and rights exist and benefit or affect the registered land.

ESSEX : BRENTWOOD

- 1 (07.09.2004) The Leasehold land shown edged with red on the plan of the above Title filed at the Registry and being 21 Kings Road, Brentwood (CM14 4DJ).
- 2 (07.09.2004) Short particulars of the lease(s) (or under-lease(s)) under which the land is held:  
Date : 19 January 1999  
Term : 20 years from 1 March 1998  
Parties : (1) [REDACTED] and [REDACTED]  
(2) Abab Uddin and Mouhammed Sawkat
- 3 (07.09.2004) There are excepted from the effect of registration all estates, rights, interests, powers and remedies arising upon, or by reason of, any dealing made in breach of the prohibition or restriction against dealings therewith inter vivos contained in the Lease.
- 4 (07.09.2004) The Conveyance dated 30 December 1932 referred to in the Charges Register contains the following provision:-  
  
PROVISO that Purchasers should not be entitled to any right of light or air or other easement or right which would in any manner diminish or interfere with the free and unrestricted user of any adjoining property either for building or any other purposes and the assurance thereinbefore contained should not be deemed or constructed to imply the grant of any such right.
- 5 (07.09.2004) The land has the benefit of the following rights granted by a Conveyance of the freehold estate in the land in this title dated 9 March 1948 made between (1) [REDACTED] and [REDACTED] (Vendor) and (2) [REDACTED] (Purchaser):-

"Together with a right of way for the Purchaser and those deriving title under him and his tenants of the said shop and premises to pass and repass at all times on foot over and along the passage way coloured blue marked Right of Way on the said plan"

## A: Property Register continued

NOTE: The land coloured blue on the Conveyance plan is tinted brown on the title plan.

- 6 (07.09.2004) The lessor's title is registered.
- 7 Unless otherwise mentioned the title includes any legal easements granted by the registered lease(s) but is subject to any rights that it reserves, so far as those easements and rights exist and benefit or affect the registered land.

## B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

### Title absolute

- 1 (07.09.2004) PROPRIETOR: BADSHA MIAH and KALAM ULLAH of 21 Kings Road, Brentwood, Essex CM14 4DJ.
- 2 (07.09.2004) RESTRICTION: No disposition by a sole proprietor of the registered estate (except a trust corporation) under which capital money arises is to be registered unless authorised by an order of the court.
- 3 (07.09.2004) RESTRICTION: No disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any future registered charge, is to be registered without a written consent signed by the proprietor for the time being of the Charge dated 2 August 2004 in favour of National Westminster Bank PLC referred to in the Charges Register.

## C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (07.09.2004) A Conveyance of the freehold estate in the land in this title and other land dated 18 December 1906 made between (1) [REDACTED] and others (Mortgagees) (2) [REDACTED] (Vendor) and (3) [REDACTED] (Purchaser) contains the following covenants:-
- COVENANT by Purchaser with Vendor etc to the intent to bind all persons in whom the piece of land thirdly described in the First Schedule hereto or any part thereof should for the time being vested both so as not to be personally liable except during the period of ownership of the respective portions of the said land affected by this abstracting covenant.
- THAT no house or building should be used otherwise than for the purpose of a private or professional residence.
- 2 (07.09.2004) A Conveyance of the freehold estate in the land in this title and other land dated 30 December 1932 made between (1) [REDACTED] (Vendor) and (2) [REDACTED] and [REDACTED] (Purchasers) contains the following covenants:-
- COVENANT by Purchasers not to be personally liable except during actual ownership to perform and observe the covenants stipulations and restrictions contained in the first and second parts of said Second Schedule thereto

THE SECOND SCHEDULE above referred to

No such house or building shall be used otherwise than for the purpose of a private professional residence

SECOND PART

2. No house shall be erected of less value than Five hundred pounds.

## C: Charges Register continued

The value of a house is the amount of its net first cost in materials and labour of construction only estimated at the lowest current prices

3. The trade of an innkeeper victualler or seller of wines spirits or beer to be consumed either on or off the premises or a club where such liquors are consumed shall not be carried on upon the said property hereby conveyed except with the consent of the Vendor. No hut shed caravan or house on wheels for the purpose of or intended for human habitation shall be erected made placed or used or be allowed to remain upon the said property nor shall any booths shows swings contrivance for public amusement or hoarding board (except for building purpose) advertising board or advertisement be erected made placed or used or be allowed to remain on the said property without the written consent of the Vendor nor shall the said property be used for the storage of building materials or rubbish

4. No gravel sand clay or earth shall be removed from the property hereby conveyed except as such may be necessary to be excavated for the purpose of building thereon and drainage therefore and no part of the property shall at any time be formed or used as a way of portion of a way of any description nor shall any right of way be granted or permitted thereover except for the enjoyment of the said property as a building site without the written consent of the Vendor.

3 (07.09.2004) The land is subject to the following rights reserved by the Conveyance dated 30 December 1932 referred to above:-

EXCEPTING AND RESERVING out of this Conveyance unto the Vendor his heirs and assigns and the owners of any property adjoining the property intended to be hereby conveyed and the right at any time or times hereafter to lay pipes mains sewers or drains in or under the said property and to run water and soil through the same or through any existing sewers or drains and to make connections therewith respectively and to enter upon the said property for the purposes aforesaid of any of them or for the purpose of repairing any such pipes mains sewers or drains the person so doing making good all damage thereby occasioned and to use and deal with any adjoining or neighbouring property now or hereafter to become the property of the Vendor and to enjoy all easements belonging or to belong to any such property in the same manner and to the same extent as if such property were the property of a separate and independent owner.

4 (07.09.2004) REGISTERED CHARGE dated 2 August 2004.

5 (07.09.2004) Proprietor: NATIONAL WESTMINSTER BANK PLC (Co. Regn. No. 929027) of 46 High Street, Brentwood, Essex CM14 4AL.

End of register

FILE COPY



**CERTIFICATE OF INCORPORATION  
OF A  
PRIVATE LIMITED COMPANY**

Company Number 11597174

The Registrar of Companies for England and Wales, hereby certifies that

**THE RAJ BRENTWOOD LTD**

is this day incorporated under the Companies Act 2006 as a private company, that the company is limited by shares, and the situation of its registered office is in England and Wales

Given at Companies House, Cardiff, on 1st October 2018



\* N11597174M \*



Companies House



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

Page 64



**Application to register a company**



Received for filing in Electronic Format on the: **28/09/2018**

**X7FEP1Y1**

---

**Company Name in full:** **THE RAJ BRENTWOOD LTD**

**Company Type:** **Private company limited by shares**

**Situation of Registered Office:** **England and Wales**

**Proposed Registered Office Address:** **21 KINGS ROAD  
BRENTWOOD  
ESSEX  
UNITED KINGDOM CM14 4DJ**

**Sic Codes:** **56101**

## *Proposed Officers*

---

### *Company Director 1*

**Type:** Person

**Full Forename(s):** MR BADSHA

**Surname:** MIAH

**Service Address:** 21 KINGS ROAD  
BRENTWOOD  
ESSEX  
UNITED KINGDOM CM14 4DJ

**Country/State Usually Resident:** UNITED KINGDOM

**Date of Birth:** [REDACTED]      **Nationality:** BRITISH

**Occupation:** DIRECTOR

*The subscribers confirm that the person named has consented to act as a director.*

## *Statement of Capital (Share Capital)*

---

<i>Class of Shares:</i>	<b>ORDINARY</b>	<i>Number allotted</i>	<b>100</b>
<i>Currency:</i>	<b>GBP</b>	<i>Aggregate nominal value:</i>	<b>10000</b>
<i>Prescribed particulars</i>			

**FULL RIGHTS TO RECEIVE NOTICE OF, ATTEND AND VOTE AT GENERAL MEETINGS.  
ONE SHARE CARRIES ONE VOTE, AND FULL RIGHTS TO DIVIDENDS AND CAPITAL  
DISTRIBUTIONS (INCLUDING UPON WINDING UP).**

---

### **Statement of Capital (Totals)**

---

<i>Currency:</i>	<b>GBP</b>	<i>Total number of shares:</i>	<b>100</b>
		<i>Total aggregate nominal value:</i>	<b>10000</b>
		<i>Total aggregate unpaid:</i>	<b>10000</b>

## Initial Shareholdings

---

*Name:* **BADSHA MIAH**

*Address* **21 KINGS ROAD  
BRENTWOOD  
ESSEX  
UNITED KINGDOM  
CM14 4DJ**

*Class of Shares:* **ORDINARY**

*Number of shares:* **100**

*Currency:* **GBP**

*Nominal value of each share:* **100**

*Amount unpaid:* **100**

*Amount paid:* **0**



FILE COPY



**CERTIFICATE OF INCORPORATION  
OF A  
PRIVATE LIMITED COMPANY**

Company Number 11699214

The Registrar of Companies for England and Wales, hereby certifies that

**THE RAJ CM14 LTD**

is this day incorporated under the Companies Act 2006 as a private company, that the company is limited by shares, and the situation of its registered office is in England and Wales

Given at Companies House, Cardiff, on 27th November 2018



\* N11699214K \*



Companies House



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES



**Application to register a company**



Received for filing in Electronic Format on the: **26/11/2018**

X7JJOS9T

*Company Name in full:*

**THE RAJ CM14 LTD**

*Company Type:*

**Private company limited by shares**

*Situation of Registered Office:*

**England and Wales**

*Proposed Registered Office Address:*

**53 HANBURY STREET  
LONDON  
ENGLAND E1 5JP**

*Sic Codes:*

**56101**

*I wish to entirely adopt the following model articles:*

**Private (Ltd by Shares)**

## ***Proposed Officers***

---

### ***Company Director 1***

**Type:** **Person**

**Full Forename(s):** **MR JETU**

**Surname:** **MIAH**

**Service Address:** **53 HANBURY STREET  
LONDON  
UNITED KINGDOM E1 5JP**

**Country/State Usually Resident:** **UNITED KINGDOM**

**Date of Birth:** [REDACTED] **Nationality:** **BRITISH**

**Occupation:** **PROPRIETOR**

***The subscribers confirm that the person named has consented to act as a director.***

## ***Statement of Capital (Share Capital)***

---

<i>Class of Shares:</i>	<b>ORDINARY</b>	<i>Number allotted</i>	<b>100</b>
<i>Currency:</i>	<b>GBP</b>	<i>Aggregate nominal value:</i>	<b>100</b>
<i>Prescribed particulars</i>			

**ORDINARY SHARES HAVE FULL RIGHTS IN THE COMPANY WITH RESPECT TO VOTING, DIVIDENDS AND DISTRIBUTIONS.**

---

### **Statement of Capital (Totals)**

---

<i>Currency:</i>	<b>GBP</b>	<i>Total number of shares:</i>	<b>100</b>
		<i>Total aggregate nominal value:</i>	<b>100</b>
		<i>Total aggregate unpaid:</i>	<b>0</b>

# Initial Shareholdings

---

*Name:* **JETU MIAH**

*Address* **44 MASEFIELD COURT  
VICTORIA ROAD  
BRENTWOOD  
ESSEX  
UNITED KINGDOM  
CM14 5EF**

*Class of Shares:* **ORDINARY**

*Number of shares:* **100**

*Currency:* **GBP**

*Nominal value of each  
share:* **1**

*Amount unpaid:* **0**

*Amount paid:* **1**

**Vicky Powell 42072551**

---

**From:** Dave Leonard <dave.leonard@brentwood.gov.uk>  
**Sent:** 08 January 2019 15:18  
**To:** Vicky Powell 42072551  
**Subject:** RAJ TRANSFER - VISIT TO 174 WARLEY HILL on FRIDAY 04JAN19 at 2.50PM  
**Attachments:** RAJ - LSCH (ULLAH) pocket bk entry 04JAN19 - p3.jpg; RAJ - LSCH (ULLAH) pocket bk entry 04JAN19 - p4.jpg

Dear Vix,

As requested. Sorry it's a scribble but I understand it if you need to call on me to explain it! Hope it's still self explanatory.

Visit was made on FRIDAY 04JAN19 at 2.50PM.

Hope this helps.

If I can be of any further assistance please do not hesitate to contact me in the Licensing Office at Brentwood Town Hall on **01277 312523**.

Kind regards,



**Dave Leonard | Licensing Officer**  
**T: 01277 312523 | [www.brentwood.gov.uk](http://www.brentwood.gov.uk) | [dave.leonard@brentwood.gov.uk](mailto:dave.leonard@brentwood.gov.uk)**

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---

[REDACTED]  
2:40pm TO 174 WARLEY HILL CM14 5HF  
TO SERVE LSCF Transfer & Review  
Invites by hand to BADSHA MIYAH

2:50pm VISIT 174 WARLEY HILL  
Not served to father of JEM  
( [REDACTED] No. provided )

KALAM ULLAH  
(father of JEM and older  
brother of BADSHA MIYAH)

\* Kalam Ullah

4/1/2019. 4/1/19 Jan  
[Signature]

4

MR ULLAH contacted his brother  
BADSHA MIYAH on his mobile and  
handed it to me. Mr MIYAH confd.  
his email address as Badshas985@  
gmail.com and confd. receipt of  
LSCF invites. Advised re serving of  
papers to his brother (father of JEM)



# ABOUT US

Welcome to The Raj, a jewel in Brentwood's curry crown! We're an Indian restaurant that prides ourself on impeccable service and a menu boasting all your favourite South Asian delicacies. We have a number of signature house specials that are sure to please the most avid Indian cuisine connoisseur. Our chefs are trained experts, taking special care to grind, blend and delicately balance the spices that go into each and every regional Indian dish. That means unforgettable flavour.

Our spacious, stylish restaurant is located on the Kings Road in central Brentwood, Essex, making us easy to reach and a popular venue for a casual meal or a big celebration. We are capable of hosting large parties with bespoke catering - we welcome your online bookings and enquiries, and we look forward to serving you soon!



# CONTACT US

**Address**  
 21 Kings Road  
 Brentwood  
 CM14 4DJ

**Phone + Email**  
 01277212755  
 badsha8989@gmail.com

**Reservation**  
[Book a table at our restaurant](#)

**Opening hours**  
 Monday - Sunday  
 18.00 - 00.00



**THE RAJ, 21 KINGS ROAD, BRENTWOOD CM14 4DJ**

# **APPENDIX 4**

## **PREVIOUS APPLICATION DECISION NOTICES**

*Application to Transfer Premises Licence dated 12<sup>th</sup> February 2019  
(Kalam Ullah)*

*Licensing Sub-Committee Hearing Decision Notice 22<sup>nd</sup> March 2019*

*And*

*Application to Transfer Premises Licence & Vary the DPS  
dated 22<sup>nd</sup> March 2019  
(Kalam Ullah)*

*Licensing Sub-Committee Hearing Decision Notice 1<sup>st</sup> May 2019*

THESE NOTES ARE TO BE USED ONLY FOR THE PURPOSES OF THE COURSE.

# APPENDIX A

## EXERCISES AND PROBLEMS

1. Let  $f(x) = x^2 + 3x - 4$ . Find  $f(2)$ .

2. Let  $f(x) = x^2 + 3x - 4$ . Find  $f(-1)$ .

3.

4. Let  $f(x) = x^2 + 3x - 4$ . Find  $f(0)$ .

5. Let  $f(x) = x^2 + 3x - 4$ . Find  $f(1)$ .

**THE RAJ, 21 KINGS ROAD, BRENTWOOD CM14 4DJ**

**PREVIOUS APPLICATION DECISION NOTICES**

*Application to Transfer Premises Licence dated 12<sup>th</sup> February 2019  
(Kalam Ullah)*

*Licensing Sub-Committee Hearing Decision Notice 22<sup>nd</sup> March 2019*

THE FIRST PART OF THE BOOK IS A HISTORY OF THE

THEORY OF THE CONSTITUTION

THE SECOND PART OF THE BOOK IS A HISTORY OF THE

THEORY OF THE CONSTITUTION

We write further to your application for the transfer of premises licence for The Raj, 21 Kings Rd., Brentwood CM14 4DJ made to Brentwood Borough Council.

The application was brought before the licensing sub-committee for determination on 17<sup>th</sup> January 2018 following representations from a Responsible Authority (the Police,)

The sub-committee first heard from the licensing officer Dave Leonard who outlined his report.

This premise was currently a restaurant specialising in Indian cuisine situated in Kings Street, Brentwood High Street, and it was currently licensed for the Sale by Retail of Alcohol & Late-Night Refreshment.

On 12<sup>th</sup> February 2019 the Applicant Kalam Ullah submitted an online application with the intention to transfer the existing premises license to Kalam Ullah from Badsha Miah. On 13<sup>th</sup> February 2019 there was an application to vary the existing Designated Premises Supervisor who is Badsha Miah to Jetu Miah.

The Committee heard from Mr. Leonard of the Council's Licensing Department who explained the background to the application and stated to the Committee that the application was under the provisions of section 42 Licensing Act 2003.

The Committee then heard from the Police. Mr. Jones for the Police stated that the relevant premises had been raided by the Immigration Services in November 2018 and 5 illegal workers were found to be working at the Restaurant. Serious immigration offences relating to unauthorised employment of illegal immigrants had been committed by the Restaurant owner. It was shortly after this that the transfer procedure had been commenced. It was the view of the Police that this was a cynical attempt to give the impression that because there had been a transfer that the new regime would be less likely to commit further offences.

Mr. Jones explained that Kalam Ullah was Badsha Miah's brother and that the transfer was an attempt to avoid the consequences of the Immigration offences since Badsha Miah and Kalam Ullah were joint leaseholders of the premises and therefore had effective control of the business. In answer to questions from the Committee the Police confirmed that the Applicant had a clean record and did not have previous convictions.

The Committee then heard from Mr Dadds representing the Applicant who stated that despite the revocation of the premises license that the Committee should keep an open mind on the transfer application. He further stated that it was for the objecting authority to show that the licensing objectives may have been undermined. An objection should only be raised in exceptional circumstances. The Applicant was innocent until proven guilty. The immigration offences were not to be attributed to him. The Applicant was of good character and had no licensing convictions. It was a slur on his character to suggest otherwise. All that had been adduced to link him with any wrong-doing was that he was joint leaseholder and that he worked as a chef on the premises. Effectively the Police were saying that a family member could never succeed on a transfer application. It was tantamount to suggesting that if a family member lost his/her driving license that no other member of the family could drive.

Mr. Dadds stated that the Applicant was employed on PAYE by his brother as a chef and had no control over the business. If the Applicant was implicated in any offence the Home Office would have lodged an objection and it had not. In addition, the family owned a number of properties and the fact that the application to transfer came from an address that Badsha Miah lived at did not mean the Applicant too lived there as the Police seemed to be maintaining.

Mr. Dadds explained that the Applicant was on the lease only to reinforce the covenants on the lease. The business was run by Badsha Miah since 2004 and the Applicant had no involvement in it. The Police were making an assumption that the Applicant received profit from the business when there was no evidence to support this. The choice faced by the business in the light of revocation of the premises license was to transfer to his brother or to a stranger in the street. Obviously the brother was preferable. If the transfer application was successful the Applicant would offer a condition/ undertaking on the premises license appeal that his brother would have no involvement in the business in the future.

The Committee then asked questions of Mr. Dadd. Councillor Trump questioned why the premises revocation was being appealed when it was accepted that illegal employment had taken place at the premises. Mr. Dadds responded that if the transfer application was granted Badsha would drop off and the Applicant would take over strengthening any appeal. Councillor Morrissey questioned why a transfer to family and friends was necessitated at all. Mr. Dadds explained that when the premises license is revoked the goodwill value of a business declines so any third-party purchasers would offer low purchase prices hence the need for family.

The parties then summarised their respective positions.

The Committee then retired to consider its decision.

The Committee considered carefully all the information that had been presented to it both in the report and verbally at this hearing

The Committee felt that there was a real nexus between the Applicant and his brother and that by allowing the transfer the licensing objectives would be engaged. There was reason to accept given the Police objections that the close association between both brothers was such that Badsha Miah would continue to run the business and that the transfer would not satisfy the crime and disorder concerns. On a balance of probabilities it was felt that the Applicant would not have sufficient autonomy from his brother.

The Legal Adviser then announced the decision of the Committee that the application to transfer would be refused and that section 44 (5) (b) (i) Licensing Act 2003 applied.

The Committee would remind all parties that they have a right to appeal against this decision to the Magistrates' Court.

**THE RAJ, 21 KINGS ROAD, BRENTWOOD CM14 4DJ**

**PREVIOUS APPLICATION DECISION NOTICES**

*Application to Transfer Premises Licence  
& Vary the Designated Premises Supervisor*

*dated 22<sup>nd</sup> March 2019  
(Kalam Ullah)*

*Licensing Sub-Committee Hearing Decision Notice 1<sup>st</sup> May 2019*

THE UNIVERSITY OF MICHIGAN LIBRARIES

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THE UNIVERSITY OF MICHIGAN LIBRARIES

THE UNIVERSITY OF MICHIGAN LIBRARIES



We write further to your application for the transfer of premises licence and vary the designated premises supervisor for The Raj, 21 Kings Road, Brentwood CM14 4DJ made to Brentwood Borough Council.

The application was brought before the Licensing Sub-Committee for determination on 1st May 2019 following representations from two Responsible Authorities, the Police and the Home Office (Immigration Enforcement). The latter submitted a written representation and did not attend the hearing.

The Sub-Committee first heard from the licensing officer Dave Leonard who outlined his report.

This premise is currently a restaurant specialising in Indian cuisine situated in Kings Road, Brentwood and it had been licensed for the Sale by Retail of Alcohol & Late Night Refreshment. The premises license had been revoked by the Committee previously.

On 22nd March 2019 the Applicant Kalam Ullah submitted an online application with the intention to transfer the existing premises license to Kalam Ullah from Badsha Miah. There was also an application to vary the existing Designated Premises Supervisor who is Badsha Miah to Kalam Ullah. On 1st April 2019 Essex Police submitted an objection to the application on the grounds of prevention of crime and disorder. On 28th March 2019 the Home Office (Immigration Enforcement) objected to the application on crime prevention grounds including the prevention of illegal working and immigration crime.

Mr. Dadds who represented the Applicant made an application to re-constitute the Committee on the grounds that 2 of its members had ruled in a decision for transfer in reference to the premises previously and therefore could not present an appearance of impartiality. The Legal Advisor Surinder Atkar advised the Committee that unless there was evidence of bias by the Committee given the numbers of Members qualified to sit on Licensing Committee that it was appropriate to continue with the presently constituted Committee. The Committee retired to consider the application and then returned to rule that the preliminary application was declined and that the matter would proceed.

The Committee then heard from Mr. Leonard of the Council's Licensing Department who explained the background to the application and stated to the Committee that the application was under the provisions of section 42 Licensing Act 2003.

The Committee then heard from the Police. Mr. Jones for the Police stated that the relevant premises had been raided by the Immigration Services in 2014 and November 2018 and on the latter occasion 5 illegal workers were found to be working at the Restaurant. Serious immigration offences relating to unauthorised employment of illegal immigrants had been committed by the Restaurant owner. It was shortly after this that the first transfer application had been commenced and refused by the Committee on 22nd March 2019. The present application was identical to the one refused. It was the view of the Police that this was a cynical attempt to give the impression that because there had been a transfer that the new regime would be less likely to commit further offences.

Mr. Jones explained that Kalam Ullah was Badsha Miah's brother and that the transfer was an attempt to avoid the consequences of the Immigration offences since Badsha Miah and Kalam Ullah were joint leaseholders of the premises and therefore had effective control of the business. In answer to questions from the Committee, the Police confirmed that the Applicant had a clean record and did not have previous convictions. In answer to a specific question from Councillor Slade, Mr. Jones confirmed that the Applicant had been employed as a chef at the premises.

The Committee then heard from Mr Dadds representing the Applicant who stated that the Committee had to have an open mind to the application and exclude from its mind any the previous refused application. The previous refusal had been appealed. Also despite the revocation of the premises license that the Committee should keep an open mind on the transfer application. He further stated that it was for the objecting authority to show that the licensing objectives may have been undermined. An objection should only be raised in exceptional circumstances. The Applicant was innocent until proven guilty. The immigration offences were not to be attributed to him. The Applicant was of good character and had no licensing convictions. It was a slur on his character to suggest otherwise. All that had been adduced to link him with any wrongdoing was that he was joint leaseholder and that he worked as a chef on the premises. Effectively the Police were saying that a family member could never succeed on a transfer application. It should be remembered that active steps were being taken to remove Mr. Miah from the lease.

Mr. Dadds stated that the family owned a number of properties and the fact that the application to transfer came from an address that Badsha Miah lived at did not mean the Applicant too lived there as the Police seemed to be maintaining.

Mr. Dadds emphasised that the Applicant was on the lease only to reinforce the covenants on the lease. He had run the business for the past 3 months with no problems.

On the question of the Designated Premises Supervisor application the Police would have to show that the appointment would undermine the licensing objectives and they had not done so. The Applicant was of good character and should be treated on his merits.

The Committee then asked questions of Mr. Dadds. Mr Jones then summarised the Police case and Mr. Dadds followed with a summation of the Applicant's case.

The Committee then retired to consider its decision.

The Committee considered carefully all the information that had been presented to it both in the report and verbally at this hearing

The Committee felt that there was a real nexus between the Applicant and his brother and that by allowing the transfer the licensing objectives would be engaged. Both applications would therefore be refused. It had not been established to the Committee's satisfaction that Mr. Miah would be excluded entirely from the premises operations and that the transfer would not satisfy the prevention of crime and disorder concerns. The immigration offences that had taken place at the premises were a real

concern and looking to the future it was not established that further offences would not take place. On a balance of probabilities it was felt that the Applicant would not have sufficient autonomy from his brother.

The Legal Adviser then announced the decision of the Committee that the application to transfer would be refused and that section 44 (5) (b) (i) Licensing Act 2003 applied.

The Committee would remind all parties that they have a right to appeal against this decision to the Magistrates' Court.

Faint, illegible text at the top of the page, possibly bleed-through from the reverse side. It appears to contain several lines of text and a heading, but the content is completely unreadable.

6 June 2019

Licensing and Appeals Committee

**Licensing Sub-Committee Hearing in respect of an  
Application to Vary a Designated Premises Supervisor  
Licensing Act 2003**

**THE RAJ, 21 KINGS ROAD, BRENTWOOD CM14 4DJ**

**Report of:** Dave Leonard – Licensing Officer

**Wards Affected:** Brentwood West

**This report is:** Public

**1. Executive Summary**

- 1.1 An application has been received from Mr Kalam Ullah to vary a premises licence to specify an individual as a designated premises supervisor to Mr Kalam Ullah at **The Raj, 21 Kings Road, Brentwood CM14 4DJ**. Essex Police have objected to the variation on the grounds of the Prevention of Crime & Disorder.

**2. Recommendation(s)**

- 2.1 That the Sub Committee:

Considers this report and appendices together with any oral submissions at the hearing and determines the application to vary a premises licence to specify an individual as designated premises supervisor (DPS) in line with either of the following options:

- **allow the application to vary the premises licence to specify a DPS;**
- **reject the application to vary the premises licence to specify a DPS.**

### 3. Introduction and Background

- 3.1 Every premises licence that authorises the sale of alcohol must specify a DPS. This will normally be the person who has been given day to day responsibility for running the premises by the premises licence holder.
- 3.2 The police may object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective.
- 3.3 S.37 Licensing Act 2003, allows any person entitled to apply for a Premises Licence under 16(1) Licensing Act 2003, to make an application to vary a premises licence to specify an individual as designated premises supervisor.
- 3.4 The premises licence at *The Raj, 21 Kings Road, Brentwood CM14 4DJ* was previously held by Badsha Miah.
- 3.5 This application to transfer has interim effect until this objection is determined. This means that the transfer is allowed to take place temporarily until this objection is determined by this committee.
- 3.6 The current premises licence authorises the sale of alcohol for consumption by such a person as an ancillary to his meal on the premises. A copy of the premises licence, together with a plan of the premises & location map, is attached as **Appendix 2**.
- 3.7 On 5 December 2018, Essex Police applied to Review the premises licence under the statutory crime prevention objective that includes the prevention of immigration crime and the prevention of illegal working in licensed premises. The decision of the subsequently convened Licensing Sub-Committee hearing on 24 January 2019 was to revoke the premises licence. An appeal against this decision was received on 13 February 2019 and a hearing date awaits.
- 3.8 On 12 February 2019, Kalam Ullah submitted an online application with the intention to take transfer of the premises licence from Badsha Miah, which had immediate interim effect, and was subject of a separate hearing. On 25 February 2019, Essex Police submitted an objection to the premises licence being transferred to Kalam Ullah on the grounds of the prevention of crime & disorder. A Licensing Sub-Committee hearing was convened on 22 March 2019 and the application was refused.

3.9 On 22 March 2019, Kalam Ullah again submitted an online application with the intention to take transfer of the premises licence and to vary the DPS from Badsha Miah. On 29 March 2019 the Home Office (Immigration Enforcement) submitted a representation and on 1 April 2019, Essex Police submitted an objection to the premises licence being transferred to Kalam Ullah. Both Authorities cited the prevention of crime objective. A Licensing Sub-Committee Hearing was convened on 1 May 2019 and both applications were refused. Copies of both Licensing Sub-Committee Hearing Decision Notices are attached as **Appendix 4**.

3.10 On 21 May 2019, Mr Ullah submitted an online application seeking a minor variation to the premises licence to add the following conditions to the licence;

- 1) Mr Badsha Miah is to be excluded from the premises
- 2) The premises will maintain and operate a CCTV system. The recordings will be kept for a minimum period of 30 days before over recording and made available upon request to the Police or authorised officer of the Local Authority, and the management will be trained to download footage from the system.
- 3) Before any person is employed at the premises sufficient checks will be made to ensure that they are legally entitled to employment in the UK. All documents will be retained for a period of 12 months post termination of employment and will be made available to the police, immigration and/or Licensing officers upon reasonable request. Such checks will include:-
  - Proof of identity (such as a copy of their passport);
  - Nationality;
  - Current immigration status;
  - Details of their full name and address;
  - Date of birth.

This application is still under consultation and the outcome pending at the time of preparing this report. The Licensing Sub-Committee will be appraised of any updates at the hearing.

#### **4. The Application**

- 4.1 On 2 May 2019, an application with a consent, was received from Kalam Ullah to vary the Designated Premises Supervisor, currently Badsha Miah, to Kalam Ullah. Copies of both documents are attached as **Appendix 1**.
- 4.2 On 13 May 2019, Essex Police submitted an objection to the variation of DPS to Kalam Ullah on the grounds of the prevention of crime and disorder. The representation and associated documents are attached as **Appendix 3**.

#### **5. Reasons For Recommendation**

- 5.1 These are the options available to the Sub-Committee as provided in the Licensing Act 2003.

#### **6. Consultation**

- 6.1 This application has been consulted on in accordance with the requirements of Licensing Act 2003.

#### **7. Statement of Licensing Policy**

- 7.1 There are no specific issues arising from this application in relation to the Council's Statement of Licensing Policy.

#### **8. Relevant Sections of the Secretary of State's Guidance**

- 8.1 The following Section 182 Guidance relates to applications to change the designated premises supervisor;
- (4.39) The police may object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective. The police can object where, for example, a DPS is first specified in relation to particular premises and the specification of that DPS in relation to the particular premises gives rise to exceptional concerns. For example, where a personal licence holder has been allowed by the courts to retain their licence despite convictions for selling alcohol to children (a relevant offence) and then transfers into premises known for underage drinking.
- (4.40) The 2003 Act provides that the applicant may apply for the individual to take up post as DPS immediately and, in such cases, the issue would be whether the individual should be removed from this post. The licensing authority considering the matter must restrict its consideration to the issue of crime and disorder and give comprehensive reasons for its decision. Either party would be entitled to appeal if their argument is rejected.



(4.41) The portability of personal licences between premises is an important concept under the 2003 Act. It is expected that police objections would arise in only genuinely exceptional circumstances. If a licensing authority believes that the police are routinely objecting to the designation of new premises supervisors on grounds which are not exceptional, they should raise the matter with the chief officer of police as a matter of urgency.

## **9. Legal Considerations**

- 9.1 The decision made by the committee will take immediate effect; the chief officer of police may appeal against a decision to grant the application. The applicant may appeal the decision to refuse the application.
- 9.3 In determining this application to vary the designated premises supervisor, the Sub-Committee should have regard to the Council's Statement of Licensing Policy and to the guidance issued by the Secretary of State under s182 of the Licensing Act 2003.
- 9.4 The Sub-Committee are advised that the hearing is of a quasi-judicial nature and representations from all parties both written and verbal will form part of matters that are to be considered. Findings on issues of fact should be on the balance of probability.
- 9.5 The Sub-Committee are advised that the final decision should be based on the individual merits of the application & findings of fact made at the hearing.

## **APPENDICES TO THIS REPORT:**

- Appendix 1 - Application to Vary the Designated Premises Supervisor
- Appendix 2 - Copy of the Premises Licence, Premises Plan & OS Map
- Appendix 3 - Copy of Peter Jones' (Essex Police) Representation
- Appendix 4 - Copy of Licensing Sub-Committee Hearing Decision Notices  
22nd March 2019 and 1<sup>st</sup> May 2019

## **Report Author Contact Details:**

**Name:** Dave Leonard  
**Telephone:** 01277 312523  
**E-mail:** dave.leonard@brentwood.gov.uk

1. The probability of a person being a member of a certain group is 0.3. If a group of 10 people is selected at random, what is the probability that exactly 3 of them are members of the group?

- 2. A box contains 10 balls, 3 of which are red and 7 are blue. Two balls are drawn at random without replacement. What is the probability that both balls are red?
- 3. A fair six-sided die is rolled. What is the probability that the number of dots on the top face is an even number?
- 4. A bag contains 5 red balls and 5 blue balls. Two balls are drawn at random without replacement. What is the probability that the two balls are of the same color?
- 5. A card is drawn from a standard 52-card deck. What is the probability that the card is either a heart or a spade?

### ANSWERS TO THE QUESTIONS

- 1.  $\binom{10}{3} (0.3)^3 (0.7)^7$
- 2.  $\frac{3}{10} \times \frac{2}{9}$
- 3.  $\frac{3}{6}$
- 4.  $\frac{\binom{5}{2} + \binom{5}{2}}{\binom{10}{2}}$
- 5.  $\frac{13}{52}$

### Chapter 10: Probability

1. A fair six-sided die is rolled. What is the probability that the number of dots on the top face is a prime number?

**THE RAJ, 21 KINGS ROAD, BRENTWOOD CM14 4DJ**

# **APPENDIX 1**

## **APPLICATION FORM**

*Application to Vary the Designated Premises Supervisor*

*& Consent Form*

*(Kalam Ullah)*

APPLICANT INFORMATION SHEET

# APPENDIX 1

## APPLICATION FORM

A copy of this form is available on the Department's website at:

[www.dhs.gov](#)

(1-800-451-4243)

## Application to vary a premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003

**Please note: You must provide online payment for this licence after completing the form. After clicking the submit button at the end of the form you will be taken to our secure online payment website. You can then make the required payment using either a credit or debit card.**

### Cost of Application

Cost of application: £23.00

Before completing this form please read the guidance notes:

[Vary DPS Guidance Notes](#)

**I/We, (Please enter the full name(s) of any premises licence holders):**

K alam ULLAH

**being the premises licence holder, apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003.**

Premises Licence number: PRM/0196/2005

### Part 1 - Premises Details

Does the premises have a postal address, or would you like to enter ordnance survey map references, or a description of its location?: Yes, it has a postal address

Premises name (if any): The Raj

Ordnance survey map reference or description:

#### Premises Address

Flat number (if any)	The Raj
House number/name	21
Road name	Kings Road
Town	Brentwood
County	Essex
Post code	CM14 4DJ

Telephone number at the premises (if any): 01277631811

Description of premises (please read guidance note 1):

Indian Restaurant

## Part 2

Full name of proposed designated premises supervisor: Kalam ULLAH

Nationality: British

Place of birth: Sylhet

Date of birth: 15/09/1960

Personal licence number of proposed designated premises supervisor and issuing authority of that licence (if any): PSL1019

Full name of existing designated premises supervisor (if any): Badsha Miah

I would like this application to have immediate effect under section 38 of the Licensing Act 2003 (please see guidance note 2): Yes

If not, when would you like the change to take effect?:

**The person designated as proposed Premises Supervisor must complete [Designated Premises Supervisor Consent form](#).**

---

Are you able to comply with the requirement to supply the premises licence or the relevant part of the premises licence?: Yes

Reasons why you cannot return the premises licence or relevant part of premises licence:

**To complete the application you must supply the following original document(s):**

**The consent form completed by the individual you wish to be premises supervisor.**

**The premises licence or the relevant part of the premises licence.**

**This should be sent by post to:**

**Licensing, Brentwood Borough Council, Town Hall, Ingrave Road, Brentwood, Essex CM15 8AY**

**Please include the reference number for this form, which will be produced when you submit it.**

I will give a copy of this application to the chief officer of police (please see guidance note 3): I agree

I will give a copy of this form to the existing premises supervisor (if any): I agree

I will notify the existing premises supervisor (if any) of this application (please read guidance note 4): I agree

I understand that if I do not comply with the above requirements my application will be rejected: I agree

**It is an offence, under Section 158 of the Licensing Act 2003, to knowingly or recklessly make a false statement in or in connection with this application. Those who make a false statement may be liable on summary conviction to a fine of any amount.**

**It is an offence under section 24B of the Immigration Act 1971 for a person to work when they know, or have reasonable cause to believe, that they are disqualified from doing so by reason of their immigration status.**

**Those who employ an adult without a valid leave to enter or remain in the UK or an adult who is subject to conditions which would prevent that person from taking up employment will be liable to a civil penalty under Section 15 of the Immigration, Asylum and Nationality Act 2006 and, pursuant to section 21 of the same Act, will be committing an offence where**

they do so in the knowledge, or with reasonable cause to believe, that the employee is disqualified by virtue of their immigration status.

### **Part 3 - Signature**

**(please read guidance note 5)**

**Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 6). If signing on behalf of the applicant please state in what capacity.**

Signature (name): David Dadds

Date: 02/05/2019

Capacity: Applicant's Solicitor

**For joint applications signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent (please read guidance note 7). If signing on behalf of the applicant please state in what capacity.**

Signature (name): David Dadds

Date: 02/05/2019

Capacity: Applicant's Solicitor

**Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 8):**

Title: Mr.

First name(s): David

Surname: Dadds

#### **Correspondence Address**

Flat number (if any)	Dadds LLP
House number/name	Crescent House
Road name	51 High Street
Town	Billericay
County	Essex
Post code	CM12 9AX

Correspondence telephone number:

Daytime telephone number: 01277631811

Type of telephone: Work

Correspondence email address: office@dadds.co.uk



# Consent of Individual to Being Specified as a Premises Supervisor



**I (full name of prospective premises supervisor):** Kalam ULLAH

**Supervisor Address:**

Postcode	address	Flat Number (if any)	House Number / Name	Road Name	Town	County	Postcode
CM14 5HF	174 Warley Hill, Warley		174	Warley Hill	Warley	Essex	CM14 5HF

hereby confirm that I give my consent to be specified as a designated premises supervisor in relation to an application to (type of application): Vary a premises licence to specify an individual as a designated supervisor under the Licensing Act 2003

**by (name of applicant):** Kalam Ullah

**relating to a premises at (premises licence number, if any):** PRM/0196/2005

**for (name of premises):** The Raj

**(Address of premises):**

Postcode	address	Flat Number (if any)	House Number / Name	Road Name	Town	County	Postcode
CM14 4DJ	21 Kings Road, Brentwood	The Raj	21	Kings Road	Brentwood	Essex	CM14 4DJ

and any premises licence to be granted or varied in respect of this application concerning the sale of alcohol made by (name of applicant): Kalam Ullah

concerning the supply of alcohol at (name of premises supplying alcohol): The Raj

**(address of premises supplying alcohol):**

Postcode	address	Flat Number (if any)	House Number / Name	Road Name	Town	County	Postcode
CM14 4DJ	21 Kings Road, Brentwood	The Raj	21	Kings Road	Brentwood	Essex	CM14 4DJ

I also confirm that I am entitled to work in the United Kingdom and am applying for, intend to apply for or currently hold a personal licence, details of which I set out below: Yes

**Personal licence number (if any):** PSL1019

**Personal licence issuing authority (if any):**Brentwood Borough Council

**Personal licence issuing authority address (if any):**

Postcode	address	Flat Number (if any)	House Number / Name	Road Name	Town	County	Postcode
CM15 8AY	Town Hall Ingrave Road, Brentwood		Town Hall	Ingrave Road	Brentwood	Essex	CM15 8AY

**Personal licence issuing authority telephone number (if any):**01277312523

**Signed (print name):** David Dadds - Applicant's Solicitor

**Date:** 02/05/2019

**Correspondence email address:**

Email Address	Re-enter email address
office@dadds.co.uk	office@dadds.co.uk

**THE RAJ, 21 KINGS ROAD, BRENTWOOD CM14 4DJ**

# **APPENDIX 2**

## **PREMISES LICENCE**

*Premises Licence, Premises Plan, OS Maps & Images*

APPENDIX 2: STATE WOUND BURDEN REPORT 2014-2015

# APPENDIX 2

## PRELIMINARY FINDINGS

Prevalence of pressure ulcers in the community is low.

**Licensing Act 2003  
Premises Licence**

**Premises licence number PRM/0196/2005**

**Part 1 – Premises details**

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

**The Raj  
21 Kings Road  
Brentwood  
Essex**

<b>Post town</b>	<b>Brentwood</b>	<b>Post code</b>	<b>CM14 4DJ</b>
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<b>Telephone number</b>	<b>01277 212755</b>
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**Where the licence is time limited the dates**

**Not applicable**

**Licensable activities authorised by the licence**

- 1. Sale of alcohol**
- 2. Late Night Refreshment**

**The times the licence authorises the carrying out of licensable activities**

**Supply of Alcohol:-**

- 1) Monday to Saturday, other than Christmas Day, Good Friday or New Year's Eve 11.00 to 00.00
- 2) Sundays, Good Friday & Christmas Day, 12.00 to 23.30
- 3) New Year's Eve, except on a Sunday 11.00 to 00.00
- 4) New Year's Eve, on a Sunday, 12.00 to 23.30pm
- 5) New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day

**Late Night Refreshment:-**

- 1) Monday to Saturday, other than Christmas Day, Good Friday or New Year's Eve 23.00 to 00.30 the following day.
- 2) Sundays, Good Friday & Christmas Day, 23.00 to 00.00
- 3) New Year's Eve, except on a Sunday 23.00 to 00.30 the following day
- 4) New Year's Eve, on a Sunday, 23.00 to 00.00 the following day
- 5) New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day

**The opening hours of the premises**

- 1) Monday to Saturday, other than Christmas Day, Good Friday or New Year's Eve 11.00 to 00.30 the following day.
- 2) Sundays, Good Friday & Christmas Day, 12.00 to 00.00
- 3) New Year's Eve, except on a Sunday 23.00 to 00.30 the following day
- 4) New Year's Eve, on a Sunday, 23.00 to 00.00 the following day
- 5) New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day

**Where the licence authorises supplies of alcohol whether these are on and/or off supplies**

**On supplies**

**Part 2**

**Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence**

**Badsha Miah  
174 Warley Hill  
Brentwood  
Essex  
CM14 5HF**

**07903 931012**

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

Badsha Miah  
174 Warley Hill  
Brentwood  
Essex  
CM14 5HF

07903 931012

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

PRM/0183/2005 Issued by Brentwood Borough Council.

Dated 21<sup>st</sup> September 2005



for Licensing Authority

INFORMATIVE

THIS LICENCE NOT CONFER ANY APPROVAL UNDER THE PLANNING ACTS OR  
BUILDING CONTROL REGULATIONS.

## Annex 1 - Mandatory conditions

### SUPPLY OF ALCOHOL

- a)
  - i. No supply of alcohol may be made under this Licence at a time when there is no Designated Premises Supervisor as defined in The Licensing Act 2003 in respect of this Licence,
  - ii. or at a time when the Designated Premises Supervisor does not hold a personal licence or his personal licence is suspended.
- b) Every supply of alcohol under this licence must be made or authorised by a person who holds a Personal Licence as defined in The Licensing Act 2003.



## **Annex 2 - Conditions consistent with the Operating Schedule**

### **EMBEDDED CONDITIONS**

#### **1. PERMITTED HOURS**

Alcohol shall not be sold or supplied except during the permitted hours.

The above restrictions do not prohibit:

- (a) during the first twenty minutes after the above hours the consumption of the alcohol on the premises;
- (b) during the first twenty minutes after the above hours the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- (c) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by person taking meals there if the alcohol was supplied for consumption as ancillary to the meals;
- (d) consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;

#### **B. SUPPLY OF NON-ALCOHOLIC BEVERAGES**

Suitable non-alcoholic beverages, including drinking water, shall be equally available for consumption with or otherwise as an ancillary to meals served in the licensed premises.

#### **C. USE OF PREMISES**

The premises must be bona fide used for the purpose of habitually providing the customary main meal at midday or in the evening, or both, for the accommodation of persons frequenting the premises.

#### **4. SUPPLY OF ALCOHOL ONLY TO PERSON TAKING TABLE MEALS.**

Intoxicating liquor shall not be sold or supplied on the premises otherwise than to person taking table meals, and for consumption by such a person as an ancillary to his meal.

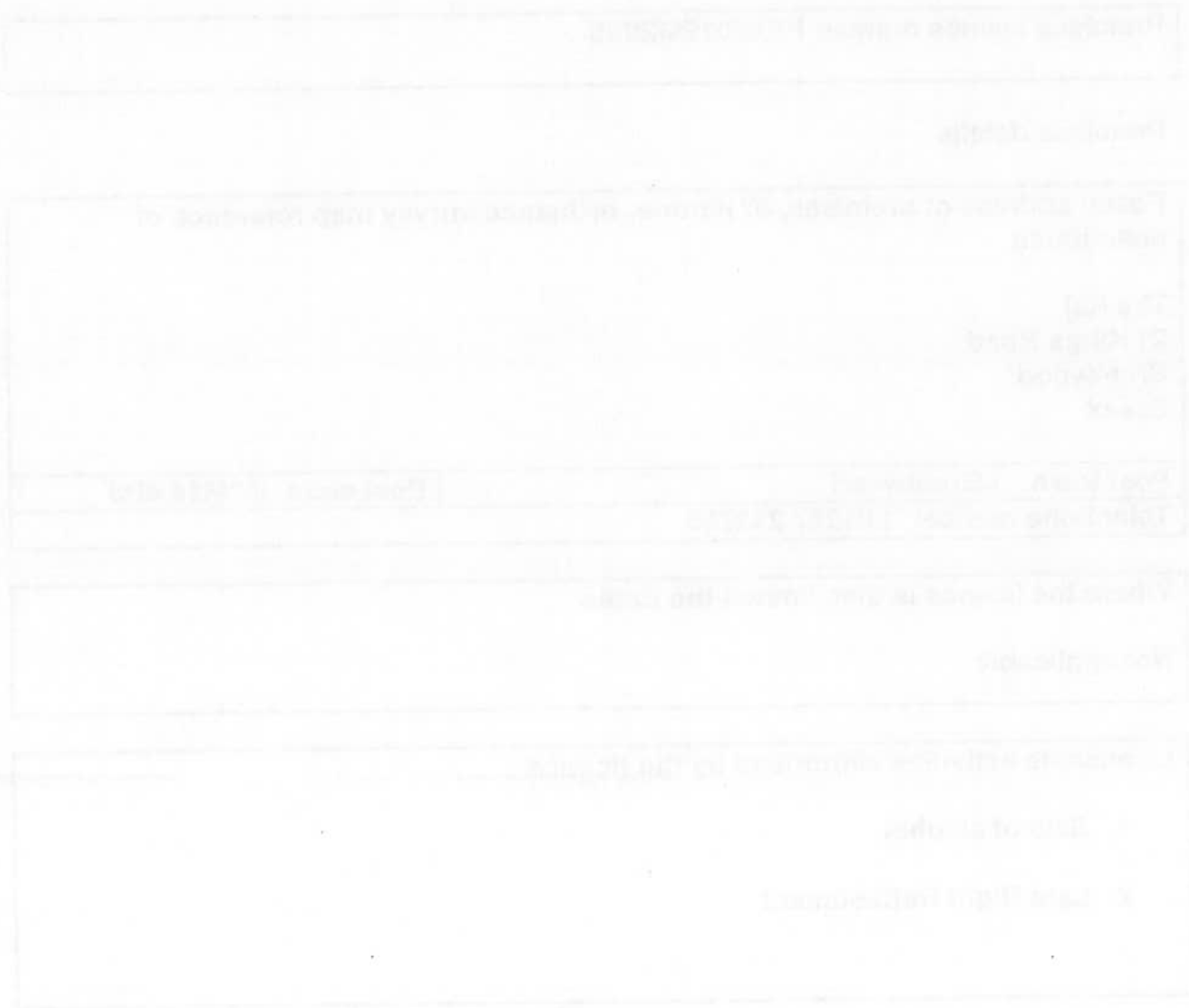
**Annex 3 - Conditions attached after a hearing by the licensing authority**

None

**Annex 4 – Plans**

This licence is issued subject to the following attached plans:

Drawing no. 5717 title The Raj Restaurant.



**Licensing Act 2003  
Premises Licence Summary**

**Premises licence number PRM/0196/2005**

**Premises details**

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

**The Raj  
21 Kings Road  
Brentwood  
Essex**

<b>Post town</b>	<b>Brentwood</b>	<b>Post code</b>	<b>CM14 4DJ</b>
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<b>Telephone number</b>	<b>01277 212755</b>
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**Where the licence is time limited the dates**

**Not applicable**

**Licensable activities authorised by the licence**

- 1. Sale of alcohol**
- 2. Late Night Refreshment**

**The times the licence authorises the carrying out of licensable activities**

**Supply of Alcohol:-**

- 1) Monday to Saturday, other than Christmas Day, Good Friday or New Year's Eve 11.00 to 00.00
- 2) Sundays, Good Friday & Christmas Day, 12.00 to 23.30
- 3) New Year's Eve, except on a Sunday 11.00 to 00.00
- 4) New Year's Eve, on a Sunday, 12.00 to 23.30pm
- 5) New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day

**Late Night Refreshment:-**

- 1) Monday to Saturday, other than Christmas Day, Good Friday or New Year's Eve 23.00 to 00.30 the following day.
- 2) Sundays, Good Friday & Christmas Day, 23.00 to 00.00
- 3) New Year's Eve, except on a Sunday 23.00 to 00.30 the following day
- 4) New Year's Eve, on a Sunday, 23.00 to 00.00 the following day
- 5) New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day

**The opening hours of the premises**

- 1) Monday to Saturday, other than Christmas Day, Good Friday or New Year's Eve 11.00 to 00.30 the following day.
- 2) Sundays, Good Friday & Christmas Day, 12.00 to 00.00
- 3) New Year's Eve, except on a Sunday 23.00 to 00.30 the following day
- 4) New Year's Eve, on a Sunday, 23.00 to 00.00 the following day
- 5) New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day

**Where the licence authorises supplies of alcohol whether these are on and/or off supplies**

On supplies

**Name, (registered) address of holder of premises licence**

Badsha Miah  
174 Warley Hill  
Brentwood  
Essex  
CM14 5HF

**Registered number of holder, for example company number, charity number (where applicable)**

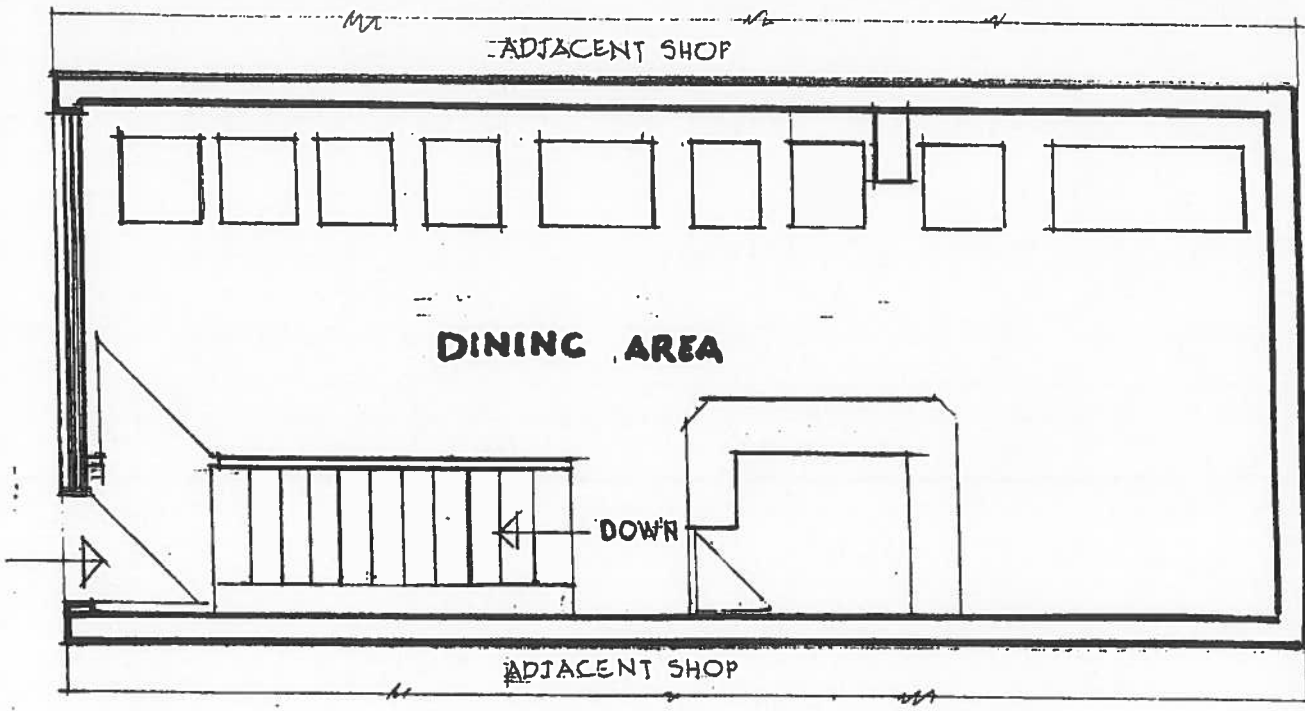
Not applicable

**Name of designated premises supervisor where the premises licence authorises the supply of alcohol**

Badsha Miah

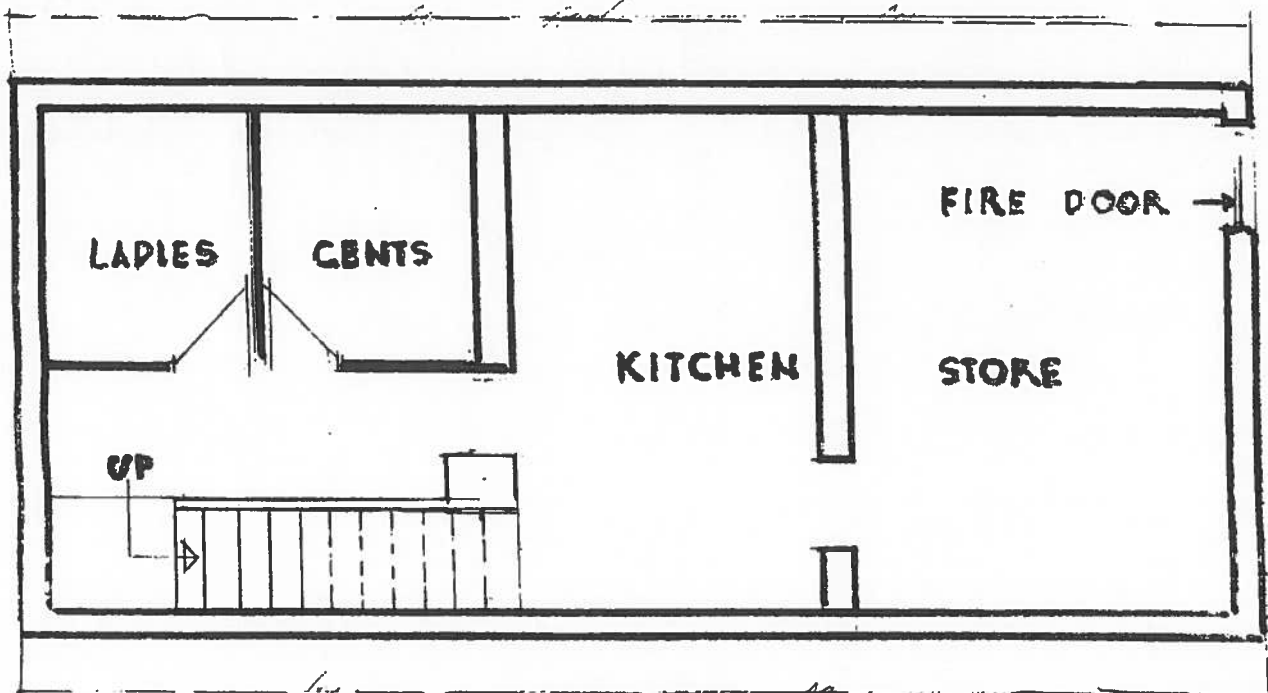
**State whether access to the premises by children is restricted or prohibited**

Not restricted or prohibited



**GROUND FLOOR PLAN**

**TWO FIRE EXTINGUISHERS - GROUND FLOOR  
ONE EXTINGUISHER TO BASEMENT AND ONE BLANKET**



**BASEMENT**

**THE RAJ RESTAURANT**

**DO NOT SCALE FOR DETAILS  
ALL DIMENSIONS TO BE CHECKED ON SITE  
FOR DRINK LICENCE**

<b>Client:</b> MR MIAH 174 WARLEY HILL BRENTWOOD	<b>Title</b> GROUND + BASEMENT PLANS THE RAJ RESTAURANT 21 KINGS ROAD BRENTWOOD SX	<b>Scale</b> 1:100	<b>Dwn. By</b> John Aldous MBent (MIAS) <b>Date</b> 22 JULY 2005	<b>Dwng. No.</b> 5717
-----------------------------------------------------------	------------------------------------------------------------------------------------------------	-----------------------	------------------------------------------------------------------------	--------------------------

FID 1898



GROUPING FROM FLOOR

TWO FIRE EXTINGUISHERS - GROUPING FLOOR  
 ONE EXTINGUISHER TO BASEMENT AND ONE BLANKET



THE BASEMENT

THE HOT SPOTS FOR THE  
 FIRE WERE IN THE KITCHEN  
 AND IN THE ROOM WITH THE  
 TABLE AND CHAIRS

Area	Fire Extinguisher	Blanket	Other
Kitchen	1	1	
Room with table and chairs	1	1	
Basement	1	1	



# THE RAJ

01277 210003

01277 210003









01277 210003

THE RAD

01277 210003

INDIAN RESTAURANT

INDIAN RESTAURANT







# THE RAJ, 21 KINGS ROAD, BRENTWOOD CM14 4DJ



**BRENTWOOD  
BOROUGH COUNCIL**

Drawing No. :  
 Scale at A4 : 1:1250  
 Drawn by : OSJ  
 Service : ICT  
 Date : 21st December 2018

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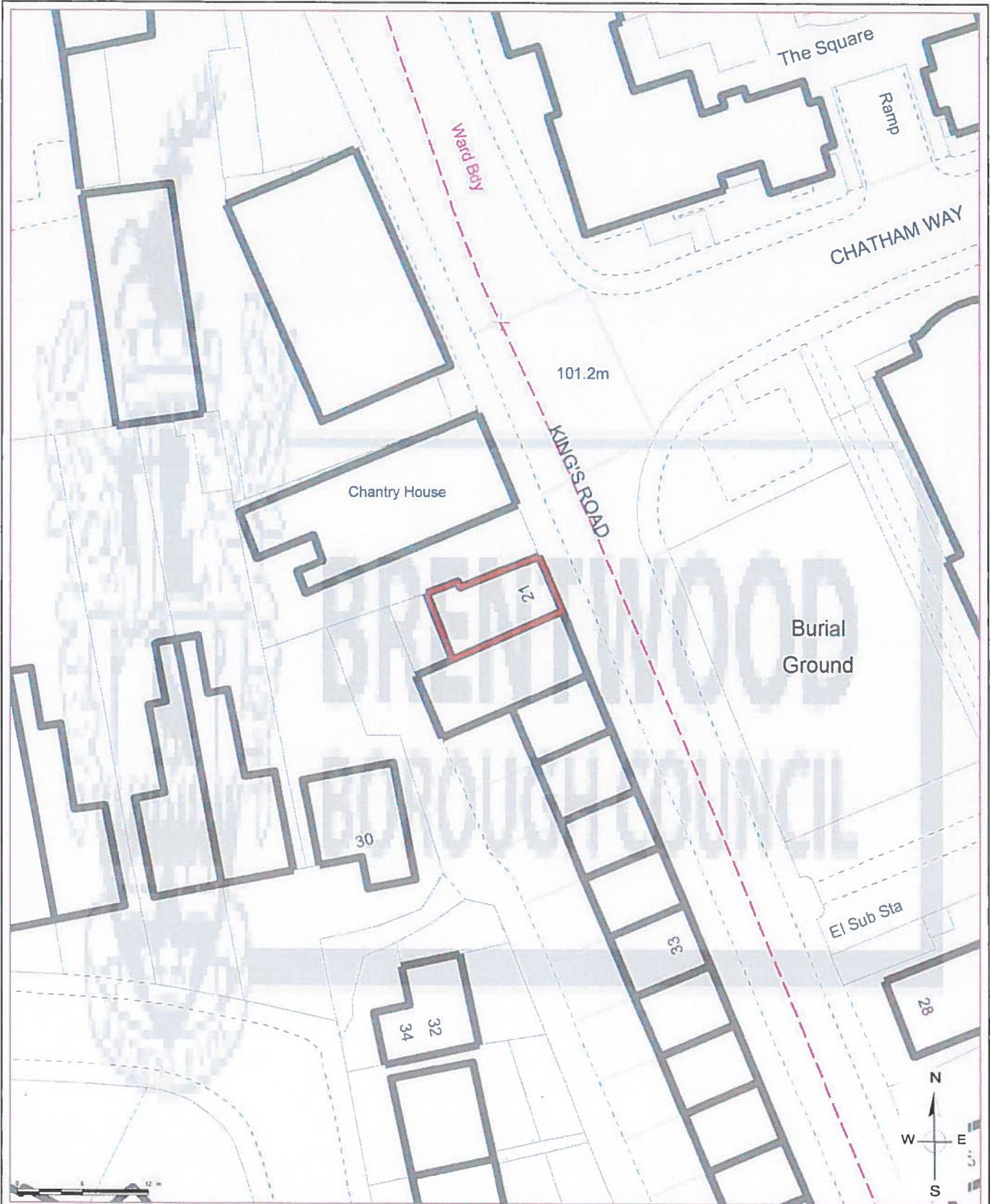
Philip Ruck  
 Chief Executive  
 Brentwood Borough Council  
 Town Hall, Ingrave Road  
 Brentwood, CM15 8AY  
 Tel.: (01277) 312500



THE HALL 21 KINGS ROAD, BLENHEIM  
CMT 4/ND3







**THE RAJ, 21 KINGS ROAD, BRENTWOOD  
CM14 4DJ**



Drawing No. :  
 Scale at A4 : 1:500  
 Drawn by : OSJ  
 Service : ICT  
 Date : 21st December 2018

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Philip Ruck  
 Chief Executive  
 Brentwood Borough Council  
 Town Hall, Ingrave Road  
 Brentwood, CM15 8AY  
 Tel.: (01277) 312500





**THE RAJ, 21 KINGS ROAD, BRENTWOOD CM14 4DJ**

# **APPENDIX 3**

## **REPRESENTATION**

**&**

***Supplementary Supporting Evidence***

*Mr. Peter Jones - Essex Police Licensing*

THE STATE OF TEXAS, COUNTY OF DALLAS


# APPENDIX 3

## REPRESENTATION

5

Supplementing the following exhibits:

Mc Donnell & Co. - Texas - Houston



Mr P Adams  
Licensing Department  
Brentwood Borough Council  
Town Hall  
Ingrave Road  
Brentwood  
CM15 8AY



Essex Police  
Licensing Department  
Braintree Police Station  
Blyths Meadow  
Braintree  
CM7 3DJ

13<sup>th</sup> May 2019

Dear Mr Adams,

### **APPLICATION TO VARY DESIGNATED PREMISES SUPERVISOR (S37 LICENSING ACT 2003)**

The Raj, 21 Kings Road, Brentwood, CM14 4DJ is a family run business whose existing licence was issued in 2005. Those involved in running and profiting from the restaurant remain the same today as they have been for several years – despite this application to vary the premises licence to specify Kalam ULLAH as the designated premises supervisor (DPS).

This application has been made alongside an application to transfer the premises licence and seeks to place the brother of the outgoing premises licence holder and designated premises supervisor Badsha MIAH as the DPS.

Essex Police objects to the variation under the crime and disorder objective, which includes the prevention of illegal working.

Case law details that the Licensing Act 2003 is a 'prospective' looking piece of legislation whose intent is to prevent criminality from occurring when that is a likelihood.

On 20<sup>th</sup> November 2018 The Raj was subject of an intelligence led operation conducted by Immigration Enforcement and Compliance officers. On that occasion 5 illegal workers were discovered at the premises, one of whom had been detained at the same premises in 2014 for illegally working and who had subsequently absconded whilst an application for leave to remain was under consideration.

As in 2014, on the date of the latest enforcement operation the premises licence holder and designated premises supervisor was Badsha MIAH.

It is the contention of Essex Police that this application is another attempt to allow the family to continue to run the premises and that Badsha MIAH remains the primary mind in how the premises will be run. It is Essex Police's view that the employment of illegal workers (an undermining of the crime and disorder objective) will continue should this variation take place.

The Chief Officer of Police hereby objects to the proposed variation and proposes to adduce further documentary and other material ahead of the hearing date in accordance with the statutory guidance and the relevant Hearing Regulations.

Please advise me of when the Licensing Panel will be meeting to hear this so representatives of the Chief Officer of Police can be in attendance.

Yours sincerely,



Mr Peter Jones MIOL, MBII  
Essex Police Licensing Officer  
Epping Forest | Brentwood | Harlow



**Objection to Variation of Premises Licence to Specify Designated Premises Supervisor**

**The Raj**

**21 Kings Road, Brentwood, CM14 4DJ**

**Supplementary documentary information in support of objection.**

## CONTENTS

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3.0	Statutory Guidance (s182 LA 2003)	page 5
4.0	Case Law	page 7
	Document 1. Statement of Chief Immigration Officer	page 9
	Document 2. Pocket Notebook Extract of David LEONARD	page 13
	Document 3. Companies House Extract (The Raj CM14 Ltd)	page 15

## 1.0 Outline of circumstances leading to the objection.

- 1.1 The grounds for objection are that the crime and disorder objective of the Licensing Act has been undermined in that Immigration Compliance and Enforcement officers of the Home Office discovered disqualified persons working illegally on the premises. Paragraph 11.26 Guidance for Licensing Authorities to Prevent Illegal Working in Licensed Premises in England & Wales (6 April 2017, Home Office).
- 1.2 The statutory crime prevention objective in the 2003 Act includes the prevention of immigration crime and the prevention of illegal working in licensed premises. In particular, employing a person who is disqualified from work by reason of their immigration status is a criminal activity which, according to the Home Office Guidance to the Licensing Act 2003, should be treated "particularly seriously".
- 1.3 On Tuesday 20<sup>th</sup> November 2018 Immigration Compliance & Enforcement (ICE) officers attended The Raj, 21 Kings Road, Brentwood, Essex, CM14 4DJ. They entered using their powers under section 179 Licensing Act 2003.
- 1.4 Immigration Officers conducted checks of those present and found a total of five persons listed as immigration offenders with no permission to remain or work in the United Kingdom. **Document 1** is a statement from the Chief Immigration Officer summarising the offenders.
- 1.5 With the evidence obtained a Notice of Potential Liability (NOPL) to a civil penalty of up to £20,000 per illegal worker was served in respect of these illegal workers.
- 1.6 The premises has previously been found to be employing illegal workers and was subject to an immigration enforcement operation on 23<sup>rd</sup> April 2014 when 3 of the 5 workers present at that time were found to be immigration offenders. Contemporary records pertaining to that operation show the manager at that time to be the same Badsha (Bad ha) MIAH, still in post at the most recent immigration enforcement operation. (**Document 1**).
- 1.7 Essex Police subsequently applied for a review of the premises licence and at a sub-committee hearing on 24<sup>th</sup> January 2019 the premise licence was revoked.
- 1.8 A mere 13 working days after this latest immigration enforcement and 2 days after applying for the review; an application was made to transfer the Premises Licence to Jetu MIAH. Essex Police objected to this and at a sub-committee hearing on 17<sup>th</sup> January 2019 the application was rejected.
- 1.9 Then on 12<sup>th</sup> February 2019 a further application was received to transfer the Premises Licence to Kalam ULLAH. Essex Police objected to the transfer and on 22<sup>nd</sup> March 2019 the application was rejected by the Licensing Sub-Committee. This application is a repeat attempt from the same applicant

- 1.10 Essex Police object to variation of the premises licence to specify Kalam ULLAH as Designated Premises Supervisor as he is a relation of the outgoing Premises Licence Holder and Designated Premises Supervisor Badsha MIAH; who is his younger brother. **Document 2** is an extract of a Pocket notebook entry of Mr David LEONARD, Licensing Officer for Brentwood Borough Council. In it he records serving the aforementioned review application upon Mr ULLAH in the absence of Mr Badsha MIAH; recording the relations between Mr Badsha MIAH, Mr Kalam ULLAH and Mr Jetu MIAH.
- 1.11 Given the information to hand and provided within, it is no stretch to conclude that the controlling party remains Mr Badsha MIAH and that the variation of DPS to Kalam ULLAH is a front to attempt to deceive the Licensing Committee and avoid business limiting action.
- 1.12 It is worth noting there are multiple companies active on Companies House connected to the premises address. One in particular being The Raj Restaurant Essex Ltd was incorporated on 14<sup>th</sup> March 2019. **Document 3** shows the sole director and majority shareholder is Mr Kalam ULLAH, with shares to the value of £1,000.
- 1.13 This company was set up following immigration activity which led to the review of the premises licence and it's subsequent revocation; and the attempt to transfer the premises licence to Kalam ULLAH which was rejected as per 1.9 above.
- 1.14 It was at that hearing on 22<sup>nd</sup> March 2019 where Kalam ULLAH declared he was a full time head chef at the premises for a number of years and was so at the time of the most recent immigration activity; given that some of the offenders were carrying out roles in the kitchen Essex Police suggest Mr ULLAH was aware of their immigration status
- 1.15 This variation of DPS is not a change of operational management and the total disregard for the framework of regulatory legislation is liable to continue if the variation were to be granted. The Licensing Act 2003 is prospective (what is likely to happen) (see East Lindsey District Council v Abu Hanif (t/a Zara's restaurant and take away) [2016] EWHC 1265 Admin. (Appendix 8.11)).
- 1.16 One only has to look at what has happened in the past to glimpse what is likely to happen in the future. On two occasions illegal workers were found at the premises. The pre-existing licence holder and DPS is the joint leaseholder and brother of the applicant for this variation; and the proposed DPS. This was and remains a family business venture and the controlling mind will remain as Badsha MIAH – the person responsible for employing a number of illegal workers.
- 1.17 The Licensing Authority is required to take steps to promote the prevention of crime and disorder (which includes illegal working) and Essex Police would ask that the sub-committee rejects the variation of the premises licence to specify a designated premises supervisor.



## 2.0 Immigration Offences

- 2.1 Illegal workers are those subject to immigration control who either do not have leave to enter or remain in the UK, or who are in breach of a condition preventing them taking up the work in question. It is an employer's responsibility to be aware of their obligations and ensure they understand the immigration landscape to avoid the risk of prosecution, the imposition of a civil penalty or the revocation/suspension of their premises licence.
- 2.2 Since 1996 it has been unlawful to employ a person who is disqualified from employment because of their immigration status. A statutory excuse exists where the employer can demonstrate they correctly carried out document checks, i.e. that they were duped by fake or forged documents.
- 2.3 The Immigration Act 2016 came into force in July 2016 and its explanatory notes state that *"these offences were broadened to capture, in particular, employers who deliberately did not undertake right to work checks in order that they could not have the specific intent required to 'knowingly' employ an illegal worker"*.
- 2.4 Since 2016 an employer may be prosecuted not only if they knew their employee was disqualified from working but also if they had reasonable cause to believe that an employee did not have the right to work: what might be described as **wilful ignorance**, where either no documents are requested or none are presented despite a request. This means an offence is committed when an employer 'ought to have known' the person did not have the right to work.
- 2.5 Since 2016 it has also been an offence to work when disqualified from doing so. It is obvious that without a negligent or wilfully ignorant employer, an illegal worker cannot work. Such an employer facilitates a criminal offence and Essex Police highlights this as relevant irrespective of whether a civil penalty is imposed or a prosecution launched for employing an illegal worker.
- 2.6 In this context, under section 3(1)(C)(i) Immigration Act 1971 (as amended by the 2016 Act) restrictions are not limited simply to employment (i.e. paid work) but now includes all work.
- 2.7 Thus an individual with no right to work in the UK commits offences if they undertake paid or unpaid work, paid or unpaid work placements undertaken as part of a course etc. are self-employed or engage in business or professional activity. For instance, undertaking an unpaid work trial or working in exchange for a non-monetary reward (such as board and lodging) is working illegally and is a criminal offence committed by the worker and facilitated by the 'employer'.

## 3.0 Statutory Guidance (s182 LA 2003) and the Authority's Licensing Policy

- 3.1 Whilst this is an objection to a variation the premises licence to specify a designated premises supervisor, Essex Police believes that part of the guidance relating to reviews is appropriate in considering whether allowing this variation would undermine the licensing objective of preventing crime and disorder, which includes illegal working. In particular; Essex Police submits that paragraphs 11.24 – 11.29 of the Guidance is relevant.

### 3.2 Paragraph 11.26

*Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. (...). The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.*

- 3.3 Thus the financial hardship occasioned by the existing revocation of the premises licence should not sway the sub-committee but instead it should look at what is appropriate to promote the objective within the wider business and local community given *"illegal labour exploits workers, denies work to UK citizens and legal migrants and drives down wages"* (Rt. Hon James Brokenshine, Immigration Minister on the introduction of the 2016 Act).

- 3.4 Paragraph 11.27 of the Guidance states:

*There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises (...) for employing a person who is disqualified from that work by reason of their immigration status in the UK.*

Essex Police would draw the sub-committee's attention to the change in wording of this paragraph following the April 2017 revision of the guidance, where the previous reference to 'knowingly employing' was removed.

- 3.5 Paragraph 11.28 of the Guidance states:

*It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that 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.*

Essex Police considers this paragraph self-explanatory; where an enterprise employs illegal workers it is the duty of Essex Police to work with Immigration Enforcement to bring forward reviews and for the authority to consider revocation in the first instance.

- 3.6 In support of this statement; Essex Police would draw the sub-committee's attention to the *"Guidance for Licensing Authorities to Prevent Illegal Working in Licensed Premises in England and Wales"* (Home Office)[April 2017] where at section 4.1 it states;  
*"It is envisaged that licensing authorities, the police, Home Office (Immigration Enforcement) and other law enforcement agencies will use the review procedures effectively to deter illegal working".*

- 3.7 Since the main draw for illegal migration is work, and since low-skilled migrants are increasingly vulnerable to exploitation at the hand of criminal enterprises, the government has strengthened enforcement measures and the statutory Guidance to deter illegal workers and those that employ them.
- 3.8 Deterrence is a key element of the UK government's strategy to reduce illegal working and is supported by both the Guidance and Case Law.
- 4.0 **Case Law**
- 4.1 Deterrence as a legitimate consideration by a licensing sub-committee has been considered before the High Court where remedial measures (such as the imposition of additional conditions) were distinguished from legitimate deterrent (punitive) measures such as revocation.
- 4.2 *R (Bassetlaw District Council) v Worksop Magistrates' Court; [2008] WLR (D) 350.* Issues relevant to the case before today's sub-committee which were considered in the *Bassetlaw* judgement included whether a licensing authority was restricted to remedial action (as opposed to punitive action such as revocation); and **the precedence of wider considerations than those relating to an individual holder of a premises licence** when certain criminal activities (as specified in the Guidance) took place.
- 4.3 It specifically examined (and set aside in the case of 'certain activities') those parts of the Guidance now contained within paragraph 11.20 and 11.23, viz.

*In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.*

*However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the **promotion of the licensing objectives and for the prevention of illegal working in licensed premises.***

- 4.4 In her judgement, Mrs Justice Slade stated (at 32.1 & 33.1 of the citation):

*"Where criminal activity is applicable, as here, wider considerations come into play and the furtherance of the licensing objective engaged includes the prevention of crime. In those circumstances, deterrence, in my judgment, is an appropriate objective and one contemplated by the guidance issued by the Secretary of State. (...) However, in my judgment deterrence is an appropriate consideration when the paragraphs specifically directed to dealing with reviews where there has been activity in connection with crime are applicable."*

4.5 *East Lindsey District Council v Abu Hanif (Trading as Zara's Restaurant and Takeaway), [2016] EWHC 1265 (Admin)*

This is a recent High Court decision (published April 2016) which has established that in considering whether the licensing objectives may be undermined one should look at what is likely to happen in the future.

4.6 The case reaffirms the principle that responsible authorities need not wait for the licensing objectives to actually be undermined; that crucially in considering whether the crime prevention objective has been engaged or likely to be engaged a prospective consideration (i.e. what is likely to happen in the future) of what is warranted is a key factor. It also reaffirmed the case of *Bassetlaw* in concluding that deterrence is a legitimate consideration of a sub-committee.

Mr Justice Jay stated: *"The question was not whether the respondent had been found guilty of criminal offences before a relevant tribunal, but whether revocation of his licence was appropriate and proportionate in the light of the salient licensing objectives, namely the prevention of crime and disorder. This requires a much broader approach to the issue than the mere identification of criminal convictions. It is in part retrospective, in as much as antecedent facts will usually impact on the statutory question, but importantly the prevention of crime and disorder requires a prospective consideration of what is warranted in the public interest, having regard to the twin considerations of prevention and deterrence. In any event, I agree with Mr Kolvin that criminal convictions are not required."* (Paragraph 18)

Mr Justice Jay added: *"Having regard in particular to the twin requirements of prevention and deterrence, there was in my judgment only one answer to this case. The respondent exploited a vulnerable individual from his community by acting in plain, albeit covert, breach of the criminal law. In my view his licence should be revoked."* (Paragraph 23)

**RESTRICTED (when complete)**

**WITNESS STATEMENT**

(CJ Act 1967, s.9 MC Act 1980, ss.5A(3) (a) and 5B; MC Rules 1981, r.70)

URN 

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Statement of: **DAVIS**.....

Age if under 18: **OVER 18** (If over 18 insert "over 18") Occupation: **CHIEF IMMIGRATION OFFICER**

This statement (consisting of 4 pages signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything which I know to be false or do not believe to be true.

Signature ..... Date: 26 November 2018

Tick if witness evidence is visually recorded  (supply witness details on rear)

I am a Chief Immigration Officer of the Home Office Immigration Enforcement Immigration Compliance & Engagement Team East of England, based at Custom House, Viewpoint Road, Felixstowe, Suffolk IP11 3RF. I have been an Immigration Officer since April 1991 and have worked at a number of ports of entry to the UK, although my main work has been in the areas of enforcement and crime investigation. My current role is as the senior officer of the Immigration Enforcement arrest team, operating in the counties of Norfolk, Suffolk and Essex, responding to intelligence relating to alleged immigration offences in this area, liaising with local police and other law enforcement agencies and supporting other government departments, local authorities and relevant other organisations in enquiries or investigations relating to non-British nationals. As part of my duties I have responsibility for the compilation and custody of Home Office records in both written and electronic form. These records are compiled by officers and members of staff during their duties, from information which they have particular and specific knowledge of at the time of compiling, in light of the volume of records compiled and the length of time that has elapsed, they cannot reasonably be expected to have any recollection of the matters dealt with in relation to a specific record.

At the request of Essex Police Licensing Team, I have examined Home Office records relating to immigration offenders encountered during an enforcement visit conducted to the premises of "The Raj" located at 21 Kings Road, Brentwood, Essex CM14 4DJ.

Home Office records show that on 20 November 2018 Immigration Officers from this team conducted an enforcement visit to these premises to locate and arrest persons subject to immigration control who

Signature: ..... Page 137 Witnessed by: .....



**RESTRICTED (when complete)**Continuation of Statement of: [REDACTED] DAVIS.....

Page 2

were suspected of working illegally in the United Kingdom.

Home Office records show that a total of five immigration offenders were recorded as being encountered by the officers during the execution of the search warrant. They are recorded as:

[REDACTED] a Bangladeshi national born [REDACTED] who was first encountered by Immigration Officers following his arrest in Wiltshire on 04.11.2011. He stated that he'd entered the United Kingdom with a false visa valid in January 2010. He was served notification that he was an illegal entrant to the UK and was released pending documentation to remove him. He subsequently absconded from his reporting conditions and was not encountered until he was arrested on 20.11.2018 at "The Raj" when on being seen by officers, he attempted to escape. Following his arrest he stated that he was not working, merely helping out in exchange for food and accommodation. He was detained and transferred into Immigration detention facilities on the same night. He has never been granted any permission to remain or to work in the United Kingdom.

[REDACTED] a Bangladeshi national born [REDACTED] originally entered the United Kingdom on 08.04.2010 when he held a visa to study, valid until 31.12.2012. In February 2016, he sought asylum in the United Kingdom and as an overstayer was notified of his liability to removal and placed on reporting restrictions., he last reported in October 2017, shortly before his application for asylum, which had been refused, was finally determined at an appeal hearing. Having lost his appeal, nothing more was heard from him until 20.11.2018 when he was seen by officers at "The Raj" and attempted to escape, having been arrested and detained, he told officers that he'd only been at the premises working for a week, although he was found to have in his possession the front door key to the property. He was detained and transferred to immigration detention facilities the same night.

[REDACTED] a Bangladeshi national born [REDACTED] arrived in the United Kingdom in 2008 with a visa valid until 04.05.2009 after which he made no contact whatsoever with the Home Office. On 20.11.2018 he was arrested at "The Raj" in Brentwood when immigration officers entered the premises and he was one of several staff seen to attempt to escape out of the back door through the kitchen. When interviewed, he admitted to working at the Raj for approx one month as a kitchen porter, working Monday, Tuesday, Friday, Saturday, Sunday between the hours of 1700 until 2300. He stated that he was paid £100 per week by Badsha MIAH, whom he described as the restaurant manager and that his accommodation is also included as he lives above the restaurant in a room with another two individuals. He provided no documentary evidence before being given the job by

Signature: .....  
2004/05(1)

Page 138

Signature Witnessed by: .....

Page 10 of 19

**RESTRICTED (when complete)**Continuation of Statement of: [REDACTED] DAVIS.....

Page 3

Badsha MIAH and has been given no contract. He stated his work clothes were provided by the boss and he then signed the officer's notebook to confirm the accuracy of his statements. He was detained and transferred to immigration detention facilities the same night.

[REDACTED] a Bangladeshi national born [REDACTED] arrived in the United Kingdom with a visa valid as a student until 30.04.2012; he subsequently gained an extension of student leave until 15.05.2014. This was later curtailed until 01.09.2013 due to issues with his college and he made no further applications or contact with the Home Office until he was arrested at "The Raj" on 23.04.2014 when he claimed to be on a "work placement" however his employer stated that he was working 20 hours per week and when he produced identification, his residence permit clearly showed that he was prohibited from employment. He was detained and had a removal flight booked for early May 2014 but subsequent representation by a solicitor led to an application for him to remain and he was released pending this being concluded. On 03.06.2014 during an Employer Liaison Visit to "The Raj of India" Restaurant, 17 The Street, Rayne Essex CM77 6RW he was encountered at the premises, folding serviettes and preparing tables but denied working and stated that he was just visiting a friend; however the manager on duty stated that subject was working there as a waiter and had done so for a couple of weeks. Due to his pending application he could not be detained at that point. Following refusal of his application, he was subsequently listed as an absconder after he failed to report in line with his bail conditions. On 20.11.2018 he was again encountered by Immigration Officers, this time having returned to work at "The Raj" in Brentwood, where on seeing officers he immediately sought to remove his tie and jacket. He was detained and transferred to immigration detention facilities the same night.

[REDACTED] a Bangladeshi national who gave his date of birth initially as [REDACTED] and subsequently was recorded as [REDACTED]. He had been encountered by enforcement officer in Tyneside on 08.10.2009 when there was a dispute over his age and stats and he was subsequently found to have been issued a visa to visit the United Kingdom in 2007, this expiring on 18.04.2007. He was served with notice that he was liable to removal and released pending documentation; he was not heard from again until 20.11.2018 when he was encountered in an upstairs room at "The Raj" in Brentwood and was arrested and detained whilst in bed. He admitted that he'd been working at the restaurant for six month, washing up; and signed an officer's notebook to confirm this. He was detained and transferred to immigration detention facilities the same night. Further Home Office records show that the premises of "The Raj" at 21 Kings Road, Brentwood was

Signature: ..... Signature Witnessed by: .....

2004/05(1)

**RESTRICTED (when complete)**

Continuation of Statement of: [REDACTED] DAVIS.....

Page 4

subject of an enforcement operation on 23.04.2014 when three Bangladeshi nationals were found among the five staff and were found to be immigration offenders. The manager at that time was recorded as "Badha MIAH" a British national born [REDACTED]. Records in relation to the operation conducted on 20.11.2018 record the manager as "Badsha MIAH" a British national born [REDACTED].

I make this statement of my own free will from records that I have seen and accessed today, 26 November 2018. I am willing to attend court or any other judicial or review hearing if necessary.

Signature: .....  
2004/05(1)

Page 140

Signature Witnessed by: .....



**Vicky Powell 42072551**

---

**From:** Dave Leonard <dave.leonard@brentwood.gov.uk>  
**Sent:** 08 January 2019 15:18  
**To:** Vicky Powell 42072551  
**Subject:** RAJ TRANSFER - VISIT TO 174 WARLEY HILL on FRIDAY 04JAN19 at 2.50PM  
**Attachments:** RAJ - LSCH (ULLAH) pocket bk entry 04JAN19 - p3.jpg; RAJ - LSCH (ULLAH) pocket bk entry 04JAN19 - p4.jpg

Dear Vix,

As requested. Sorry it's a scribble but I understand it if you need to call on me to explain it! Hope it's still self explanatory.

Visit was made on FRIDAY 04JAN19 at 2.50PM.

Hope this helps.

If I can be of any further assistance please do not hesitate to contact me in the Licensing Office at Brentwood Town Hall on **01277 312523**.

Kind regards,



**Dave Leonard | Licensing Officer**  
**T: 01277 312523 | [www.brentwood.gov.uk](http://www.brentwood.gov.uk) | [dave.leonard@brentwood.gov.uk](mailto:dave.leonard@brentwood.gov.uk)**

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[REDACTED]  
24pm TO 174 WAREBY HILL (M14 SHF  
TO SERVE LSCF Transfer & Review  
invites by hand to BADSHA MIAN

25pm VISIT 174 WAREBY HILL  
Not served to father of JEM  
( [REDACTED] No. provided )

KALAM ULLAH  
(father of JEM and older  
brother of BADSHA MIAN)

\* Kalam Ullah

4/1/2019. P. 3/1/07  
D/M 4/1/19 Jan

4

MR ULLAH contacted his brother  
BADSHA MIAN on his mobile and  
handed it to me. Mr MIAN confd.  
his email address as Badshas985@  
gmail.com and confd. receipt of  
LSCF invites. Advised re serving of  
papers to his brother (father of JEM)



**CERTIFICATE OF INCORPORATION  
OF A  
PRIVATE LIMITED COMPANY**

Company Number **11881589**

The Registrar of Companies for England and Wales, hereby certifies that

**THE RAJ RESTAURANT ESSEX LTD**

is this day incorporated under the Companies Act 2006 as a private company, that the company is limited by shares, and the situation of its registered office is in England and Wales

Given at Companies House, Cardiff, on **14th March 2019**



\* N11881589S \*



Companies House



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES



**Application to register a company**



Received for filing in Electronic Format on the: **13/03/2019**

X816N0V5

**Company Name in full:** **THE RAJ RESTAURANT ESSEX LTD**

**Company Type:** **Private company limited by shares**

**Situation of Registered Office:** **England and Wales**

**Proposed Registered Office Address:** **53 HANBURY STREET  
LONDON  
ENGLAND E1 5JP**

**Sic Codes:** **56101**

**I wish to entirely adopt the following model articles:** **Private (Ltd by Shares)**

## ***Proposed Officers***

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### ***Company Director 1***

**Type:** Person

**Full Forename(s):** MR KALAM

**Surname:** ULLAH

**Service Address:** 53 HANBURY STREET  
LONDON  
UNITED KINGDOM E1 5JP

**Country/State Usually Resident:** UNITED KINGDOM

**Date of Birth:** [REDACTED] **Nationality:** BRITISH

**Occupation:** DIRECTOR

***The subscribers confirm that the person named has consented to act as a director.***

## ***Statement of Capital (Share Capital)***

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<i>Class of Shares:</i>	<b>ORDINARY</b>	<i>Number allotted</i>	<b>1000</b>
<i>Currency:</i>	<b>GBP</b>	<i>Aggregate nominal value:</i>	<b>1000</b>
<i>Prescribed particulars</i>			

**ORDINARY SHARES HAVE FULL RIGHTS IN THE COMPANY WITH RESPECT TO VOTING, DIVIDENDS AND DISTRIBUTIONS.**

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### **Statement of Capital (Totals)**

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<i>Currency:</i>	<b>GBP</b>	<i>Total number of shares:</i>	<b>1000</b>
		<i>Total aggregate nominal value:</i>	<b>1000</b>
		<i>Total aggregate unpaid:</i>	<b>0</b>

## *Initial Shareholdings*

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*Name:* **KALAM ULLAH**

*Address* **174 WARLEY HILL  
BRENTWOOD  
ESSEX  
UNITED KINGDOM  
CM14 5HF**

*Class of Shares:* **ORDINARY**

*Number of shares:* **1000**

*Currency:* **GBP**

*Nominal value of each  
share:* **1**

*Amount unpaid:* **0**

*Amount paid:* **1**

Year	Value	Year	Value
1991	1000000	1992	1000000
1993	1000000	1994	1000000
1995	1000000	1996	1000000
1997	1000000	1998	1000000
1999	1000000	2000	1000000
2001	1000000	2002	1000000
2003	1000000	2004	1000000
2005	1000000	2006	1000000
2007	1000000	2008	1000000
2009	1000000	2010	1000000
2011	1000000	2012	1000000
2013	1000000	2014	1000000
2015	1000000	2016	1000000
2017	1000000	2018	1000000
2019	1000000	2020	1000000



**THE RAJ, 21 KINGS ROAD, BRENTWOOD CM14 4DJ**

# **APPENDIX 4**

## **PREVIOUS APPLICATION DECISION NOTICES**

*Application to Transfer Premises Licence dated 12<sup>th</sup> February 2019  
(Kalam Ullah)*

*Licensing Sub-Committee Hearing Decision Notice 22<sup>nd</sup> March 2019*

*And*

*Application to Transfer Premises Licence & Vary the DPS  
dated 22<sup>nd</sup> March 2019  
(Kalam Ullah)*

*Licensing Sub-Committee Hearing Decision Notice 1<sup>st</sup> May 2019*

THE FUTURE OF A SEPARATION

## APPENDIX 4

### PROVISIONS APPLICABLE TO THE PROVISIONS

Application to Energy Transfer (Energy Transfer 2011)  
(Energy Transfer)

Energy Transfer (Energy Transfer 2011)

and

Energy Transfer (Energy Transfer 2011)  
(Energy Transfer)

Energy Transfer (Energy Transfer 2011)

**THE RAJ, 21 KINGS ROAD, BRENTWOOD CM14 4DJ**

**PREVIOUS APPLICATION DECISION NOTICES**

*Application to Transfer Premises Licence dated 12<sup>th</sup> February 2019  
(Kalam Ullah)*

*Licensing Sub-Committee Hearing Decision Notice 22<sup>nd</sup> March 2019*

THE JOE LEE ROAD RELOCATION PROJECT

PREVIOUS APPLICATION DECISION NOTICES

Application re Transit Permit for Road Relocation, February 2010.  
(Action: Denial)

Application for Transit Permit for Road Relocation, March 2010.  
(Action: Denial)

We write further to your application for the transfer of premises licence for The Raj, 21 Kings Rd., Brentwood CM14 4DJ made to Brentwood Borough Council.

The application was brought before the licensing sub-committee for determination on 17<sup>th</sup> January 2018 following representations from a Responsible Authority (the Police,)

The sub-committee first heard from the licensing officer Dave Leonard who outlined his report.

This premise was currently a restaurant specialising in Indian cuisine situated in Kings Street, Brentwood High Street, and it was currently licensed for the Sale by Retail of Alcohol & Late-Night Refreshment.

On 12<sup>th</sup> February 2019 the Applicant Kalam Ullah submitted an online application with the intention to transfer the existing premises license to Kalam Ullah from Badsha Miah. On 13<sup>th</sup> February 2019 there was an application to vary the existing Designated Premises Supervisor who is Badsha Miah to Jetu Miah.

The Committee heard from Mr. Leonard of the Council's Licensing Department who explained the background to the application and stated to the Committee that the application was under the provisions of section 42 Licensing Act 2003.

The Committee then heard from the Police. Mr. Jones for the Police stated that the relevant premises had been raided by the Immigration Services in November 2018 and 5 illegal workers were found to be working at the Restaurant. Serious immigration offences relating to unauthorised employment of illegal immigrants had been committed by the Restaurant owner. It was shortly after this that the transfer procedure had been commenced. It was the view of the Police that this was a cynical attempt to give the impression that because there had been a transfer that the new regime would be less likely to commit further offences.

Mr. Jones explained that Kalam Ullah was Badsha Miah's brother and that the transfer was an attempt to avoid the consequences of the Immigration offences since Badsha Miah and Kalam Ullah were joint leaseholders of the premises and therefore had effective control of the business. In answer to questions from the Committee the Police confirmed that the Applicant had a clean record and did not have previous convictions.

The Committee then heard from Mr Dadds representing the Applicant who stated that despite the revocation of the premises license that the Committee should keep an open mind on the transfer application. He further stated that it was for the objecting authority to show that the licensing objectives may have been undermined. An objection should only be raised in exceptional circumstances. The Applicant was innocent until proven guilty. The immigration offences were not to be attributed to him. The Applicant was of good character and had no licensing convictions. It was a slur on his character to suggest otherwise. All that had been adduced to link him with any wrong-doing was that he was joint leaseholder and that he worked as a chef on the premises. Effectively the Police were saying that a family member could never succeed on a transfer application. It was tantamount to suggesting that if a family member lost his/her driving license that no other member of the family could drive.

Mr. Dadds stated that the Applicant was employed on PAYE by his brother as a chef and had no control over the business. If the Applicant was implicated in any offence the Home Office would have lodged an objection and it had not. In addition, the family owned a number of properties and the fact that the application to transfer came from an address that Badsha Miah lived at did not mean the Applicant too lived there as the Police seemed to be maintaining.

Mr. Dadds explained that the Applicant was on the lease only to reinforce the covenants on the lease. The business was run by Badsha Miah since 2004 and the Applicant had no involvement in it. The Police were making an assumption that the Applicant received profit from the business when there was no evidence to support this. The choice faced by the business in the light of revocation of the premises license was to transfer to his brother or to a stranger in the street. Obviously the brother was preferable. If the transfer application was successful the Applicant would offer a condition/ undertaking on the premises license appeal that his brother would have no involvement in the business in the future.

The Committee then asked questions of Mr. Dadd. Councillor Trump questioned why the premises revocation was being appealed when it was accepted that illegal employment had taken place at the premises. Mr. Dadds responded that if the transfer application was granted Badsha would drop off and the Applicant would take over strengthening any appeal. Councillor Morrissey questioned why a transfer to family and friends was necessitated at all. Mr. Dadds explained that when the premises license is revoked the goodwill value of a business declines so any third-party purchasers would offer low purchase prices hence the need for family.

The parties then summarised their respective positions.

The Committee then retired to consider its decision.

The Committee considered carefully all the information that had been presented to it both in the report and verbally at this hearing

The Committee felt that there was a real nexus between the Applicant and his brother and that by allowing the transfer the licensing objectives would be engaged. There was reason to accept given the Police objections that the close association between both brothers was such that Badsha Miah would continue to run the business and that the transfer would not satisfy the crime and disorder concerns. On a balance of probabilities it was felt that the Applicant would not have sufficient autonomy from his brother.

The Legal Adviser then announced the decision of the Committee that the application to transfer would be refused and that section 44 (5) (b) (i) Licensing Act 2003 applied.

The Committee would remind all parties that they have a right to appeal against this decision to the Magistrates' Court.

**THE RAJ, 21 KINGS ROAD, BRENTWOOD CM14 4DJ**

**PREVIOUS APPLICATION DECISION NOTICES**

*Application to Transfer Premises Licence  
& Vary the Designated Premises Supervisor  
dated 22<sup>nd</sup> March 2019  
(Kalam Ullah)*

*Licensing Sub-Committee Hearing Decision Notice 1<sup>st</sup> May 2019*

THE BALANCE SHEET OF THE COMPANY

AS AT THE END OF THE FINANCIAL YEAR

ASSETS

Fixed Assets

Current Assets

Total Assets

EQUITY AND LIABILITIES

Share Capital

Reserves

Provisions

Current Liabilities

Total Equity and Liabilities



We write further to your application for the transfer of premises licence and vary the designated premises supervisor for The Raj, 21 Kings Road, Brentwood CM14 4DJ made to Brentwood Borough Council.

The application was brought before the Licensing Sub-Committee for determination on 1st May 2019 following representations from two Responsible Authorities, the Police and the Home Office (Immigration Enforcement). The latter submitted a written representation and did not attend the hearing.

The Sub-Committee first heard from the licensing officer Dave Leonard who outlined his report.

This premise is currently a restaurant specialising in Indian cuisine situated in Kings Road, Brentwood and it had been licensed for the Sale by Retail of Alcohol & Late Night Refreshment. The premises license had been revoked by the Committee previously.

On 22nd March 2019 the Applicant Kalam Ullah submitted an online application with the intention to transfer the existing premises license to Kalam Ullah from Badsha Miah. There was also an application to vary the existing Designated Premises Supervisor who is Badsha Miah to Kalam Ullah. On 1st April 2019 Essex Police submitted an objection to the application on the grounds of prevention of crime and disorder. On 28th March 2019 the Home Office (Immigration Enforcement) objected to the application on crime prevention grounds including the prevention of illegal working and immigration crime.

Mr. Dadds who represented the Applicant made an application to re-constitute the Committee on the grounds that 2 of its members had ruled in a decision for transfer in reference to the premises previously and therefore could not present an appearance of impartiality. The Legal Advisor Surinder Atkar advised the Committee that unless there was evidence of bias by the Committee given the numbers of Members qualified to sit on Licensing Committee that it was appropriate to continue with the presently constituted Committee. The Committee retired to consider the application and then returned to rule that the preliminary application was declined and that the matter would proceed.

The Committee then heard from Mr. Leonard of the Council's Licensing Department who explained the background to the application and stated to the Committee that the application was under the provisions of section 42 Licensing Act 2003.

The Committee then heard from the Police. Mr. Jones for the Police stated that the relevant premises had been raided by the Immigration Services in 2014 and November 2018 and on the latter occasion 5 illegal workers were found to be working at the Restaurant. Serious immigration offences relating to unauthorised employment of illegal immigrants had been committed by the Restaurant owner. It was shortly after this that the first transfer application had been commenced and refused by the Committee on 22nd March 2019. The present application was identical to the one refused. It was the view of the Police that this was a cynical attempt to give the impression that because there had been a transfer that the new regime would be less likely to commit further offences.

Mr. Jones explained that Kalam Ullah was Badsha Miah's brother and that the transfer was an attempt to avoid the consequences of the Immigration offences since Badsha Miah and Kalam Ullah were joint leaseholders of the premises and therefore had effective control of the business. In answer to questions from the Committee, the Police confirmed that the Applicant had a clean record and did not have previous convictions. In answer to a specific question from Councillor Slade, Mr. Jones confirmed that the Applicant had been employed as a chef at the premises.

The Committee then heard from Mr Dadds representing the Applicant who stated that the Committee had to have an open mind to the application and exclude from its mind any the previous refused application. The previous refusal had been appealed. Also despite the revocation of the premises license that the Committee should keep an open mind on the transfer application. He further stated that it was for the objecting authority to show that the licensing objectives may have been undermined. An objection should only be raised in exceptional circumstances. The Applicant was innocent until proven guilty. The immigration offences were not to be attributed to him. The Applicant was of good character and had no licensing convictions. It was a slur on his character to suggest otherwise. All that had been adduced to link him with any wrongdoing was that he was joint leaseholder and that he worked as a chef on the premises. Effectively the Police were saying that a family member could never succeed on a transfer application. It should be remembered that active steps were being taken to remove Mr. Miah from the lease.

Mr. Dadds stated that the family owned a number of properties and the fact that the application to transfer came from an address that Badsha Miah lived at did not mean the Applicant too lived there as the Police seemed to be maintaining.

Mr. Dadds emphasised that the Applicant was on the lease only to reinforce the covenants on the lease. He had run the business for the past 3 months with no problems.

On the question of the Designated Premises Supervisor application the Police would have to show that the appointment would undermine the licensing objectives and they had not done so. The Applicant was of good character and should be treated on his merits.

The Committee then asked questions of Mr. Dadds. Mr Jones then summarised the Police case and Mr. Dadds followed with a summation of the Applicant's case.

The Committee then retired to consider its decision.

The Committee considered carefully all the information that had been presented to it both in the report and verbally at this hearing

The Committee felt that there was a real nexus between the Applicant and his brother and that by allowing the transfer the licensing objectives would be engaged. Both applications would therefore be refused. It had not been established to the Committee's satisfaction that Mr. Miah would be excluded entirely from the premises operations and that the transfer would not satisfy the prevention of crime and disorder concerns. The immigration offences that had taken place at the premises were a real

concern and looking to the future it was not established that further offences would not take place. On a balance of probabilities it was felt that the Applicant would not have sufficient autonomy from his brother.

The Legal Adviser then announced the decision of the Committee that the application to transfer would be refused and that section 44 (5) (b) (i) Licensing Act 2003 applied.

The Committee would remind all parties that they have a right to appeal against this decision to the Magistrates' Court.

...the Commission has not yet received any information from the Commission regarding the progress of the investigation. The Commission is currently reviewing the information provided by the Commission and will report to the Commission as soon as possible.

The Commission is currently reviewing the information provided by the Commission and will report to the Commission as soon as possible.

The Commission is currently reviewing the information provided by the Commission and will report to the Commission as soon as possible.

## **Members Interests**

Members of the Council must declare any pecuniary or non-pecuniary interests and the nature of the interest at the beginning of an agenda item and that, on declaring a pecuniary interest, they are required to leave the Chamber.

- **What are pecuniary interests?**

A person's pecuniary interests are their business interests (for example their employment trade, profession, contracts, or any company with which they are associated) and wider financial interests they might have (for example trust funds, investments, and asset including land and property).

- **Do I have any disclosable pecuniary interests?**

You have a disclosable pecuniary interest if you, your spouse or civil partner, or a person you are living with as a spouse or civil partner have a disclosable pecuniary interest set out in the Council's Members' Code of Conduct.

- **What does having a disclosable pecuniary interest stop me doing?**

If you are present at a meeting of your council or authority, of its executive or any committee of the executive, or any committee, sub-committee, joint committee, or joint sub-committee of your authority, and you have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, you must not :

- participate in any discussion of the business at the meeting, of if you become aware of your disclosable pecuniary interest during the meeting participate further in any discussion of the business or,
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

- **Other Pecuniary Interests**

Other Pecuniary Interests are also set out in the Members' Code of Conduct and apply only to you as a Member.

If you have an Other Pecuniary Interest in an item of business on the agenda then you must disclose that interest and withdraw from the room while that business is being considered

- **Non-Pecuniary Interests**

Non –pecuniary interests are set out in the Council's Code of Conduct and apply to you as a Member and also to relevant persons where the decision might reasonably be regarded as affecting their wellbeing.

A 'relevant person' is your spouse or civil partner, or a person you are living with as a spouse or civil partner

If you have a non-pecuniary interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.

## **Licensing Sub-Committees**

To hear and determine applications that do not sit within the scope of delegation to officers, usually where representations have been received either by a third party against grant of a license, or from the applicant against intended refusal or revocation of a license/registration.

The Planning and Licensing Committee has delegated all functions other than relevant policies and fees setting to officers, with the exception of those other matters as indicated below, which are heard by licensing sub-committee unless otherwise indicated:

### **Licensing Act 2003 and Gambling Act 2005**

- (a) Determination of any application type where a representation has been received in accordance with the legislation.
- (b) Determination of applications for review or expedited review.

### **Hackney Carriage vehicles and drivers (including enforcement of ranks) and Private Hire vehicles, drivers and operators, with the exception of:**

- (a) Suspension or revocation of drivers' licenses (save for initial suspension under provision of Local Government (Miscellaneous Provisions) Act 1976 S61 (2B) if it appears that the interests of public safety require the suspension to have immediate effect).
- (b) Where representation has been submitted by the applicant/license holder against refusal of any application.
- (c) Where representation has been received from an applicant to vary a licensing or pre-licensing condition.

### **Scrap Metal Dealing**

- (a) Determination of applications where representations have been received against refusal in accordance with legislative requirements; and
- (b) Consideration of revocation of a license where representations have been received in accordance with legislative requirements

### **Street Collections and House to House Collections**

- (a) Appeals against refusal to grant or renew a license.

### **Licensing of sex establishments**

- (a) Determination of all applications, revocations and appeals.

### **Street Trading**

- (a) Determination of applications where representation(s) has been received.
- (b) Determination of applications that fall outside of current policy.
- (c) Determination of matters relating to revocation of a license.

### **Acupuncture, Tattooing, Skin and Ear Piercing and Electrolysis**

- (a) Appeals against refusal to grant or renew a registration.
- (b) Revocation of a registration.

### **Animal Welfare and Security, except for the following:**

- (a) Appeals against refusal to grant or renew a license.
- (b) Revocation of a license.

### **Exercise of Powers under Caravan Sites and Control of Development Act 1960, except for:**

- (a) Refusal and revocation of licenses, (other than urgent refusals which are delegated to officers)

### **Mobile Homes**

- (a) Appeals against revocation of a license and/or conditions attached to the grant of a license.