

5 April 2019

Licensing and Appeals Committee

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

JEHAN CURRY HUT, 19 SOUTH ST, BRENTWOOD CM14 4BJ

Report of: Dave Leonard – Licensing Officer

Wards Affected: Brentwood South

This report is: Public

1. Executive Summary

- 1.1 An application has been received from MD Abdul Latif to transfer the premises licence at **Jehan Curry Hut, 19 South Street Brentwood CM14 4BJ**. 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

- 3.6 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.
- 3.7 The premises licence at ***Jehan Curry Hut, 19 South Street, Brentwood CM14 4BJ*** was previously held by Mare Blu Restaurant.
- 3.8 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.
- 3.9 The current premises licence authorises the sale of alcohol for consumption on the premises:
Monday-Saturday 11.00 to 00.00 and Sunday 12.00 to 23.30

And the provision of late-night refreshment
Monday-Saturday 23.00 to 00.30 and Sunday 23.00 to 00.00

A copy of the premises licence, together with a plan of the premises & location map, is attached as **Appendix 2**.

4. The Application

- 4.1 On 1 March 2019, Abdul Latif submitted an online application with the intention to take transfer of the premises licence from Mare Blu Restaurant. A copy of the application to transfer the premises licence is attached as **Appendix 1**.
- 4.3 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.
- 4.4 On 6 March 2019, Essex Police submitted an objection to the premises licence being transferred to Abdul Latif on the grounds of the prevention of crime and disorder. The representation by Mrs Jackie Cooper 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 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 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.
- 9.4 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 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 Jackie Cooper's (Essex Police) Representation

Report Author Contact Details:

Name: Dave Leonard

Telephone: 01277 312523

E-mail: dave.leonard@brentwood.gov.uk

JEHAN CURRY HUT, 19 SOUTH STREET, BRENTWOOD CM14 4BJ

APPENDIX 1

APPLICATION FORM

Application to Transfer the Premises Licence & Consent Form

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, MD Abdul Latif

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_0219_002

Part 1 - Premises Details

Premises Address

Flat number (if any)

House number / name 19

Road name South Street

Town Brentwood

County Essex

Post Code CM14 4BJ

Daytime contact telephone number (if any):

Premises email address (optional): jehancurryhut@gmail.com

Please give a brief description of the premises:

Indian Restaurant

Name of the current Premises Licence holder: Mare blu restaurant

In what capacity are you applying to transfer the premises licence to you?: (b) a person other than an individual: as a limited company; as a partnership; as an incorporated association; or other (for example, a statutory corporation)

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

Individual Applicants

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):

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.

Name: Jehan curry hut

Flat number (if any)

House number / name 19

Road name South Street

Town Brentwood

County Essex

Post Code CM14 4BJ

Registered number: 11832268

Description of Applicant: Company Director of Brentwood curry hut

Telephone: 01277525590

Email: jehancurryhut@gmail.co.com

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 am unable to submit the consent form

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

I don't have it

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)

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: MD Abdul latif

Date: 01/03/2019

Capacity:

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: 01/03/2019

Capacity: Lonodon

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

associated with this application (please read guidance note 6)

Correspondence name: MD Abdul Istif

Correspondence Address

Flat number (if any)

House number / name

Road name

Town

County

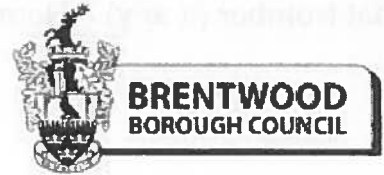
Post Code

Telephone number:

Mobile telephone number:

Correspondence email address:

Consent of Individual to Being Specified as a Premises Supervisor



I (full name of prospective premises supervisor): Giovanna Georgiou

Supervisor Address:

Flat Number (if any)	House Number / Name	Road Name	Town	County	Post Code

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): Giovanna Georgiou

relating to a premises at (premises licence number, if any):

for (name of premises):

(Address of premises):

Flat Number (if any)	House Number / Name	Road Name	Town	County	Post Code

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

concerning the supply of alcohol at (name of premises supplying alcohol): 99 Hutton Road

(address of premises supplying alcohol):

Flat Number (if any)	House Number / Name	Road Name	Town	County	Post Code

Flat Number (if any)	House Number / Name	Road Name	Town	County	Post Code

I also confirm that I am applying for, intend to apply or currently hold a personal licence, details of which are set out below: Yes

Personal licence number (if any):

Personal licence issuing authority (if any): Basildon

Personal licence issuing authority address (if any):

Flat Number (if any)	House Number / Name	Road Name	Town	County	Post Code

Personal licence issuing authority telephone number (if any):

Signed (print name): Giovanna Georgiou

Date: 2019-02-20

Correspondence email address:

Email Address	Re-enter email address

JEHAN CURRY HUT, 19 SOUTH STREET, BRENTWOOD CM14 4BJ

APPENDIX 2

PREMISES LICENCE

Premises Licence, Premises Plan, OS Maps & Images



BRENTWOOD
BOROUGH COUNCIL

Premises Licence

Premises Licence Number

PRM_0219

Application Number

19/00060/LAVDPS

Date of Issue

11 March 2019

Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

**Jehan Curry Hut
19 South Street
Brentwood
Essex
CM14 4BJ**

Telephone number

01277 525590

Where the licence is time limited the dates

Licensable activities authorised by the licence

**Provision of Late Night Refreshments
Sale by Retail of Alcohol**

Times the licence authorises the carrying out of licensable activities

Provision of Late Night Refreshments

Monday	23:00 - 00:30
Tuesday	23:00 - 00:30
Wednesday	23:00 - 00:30
Thursday	23:00 - 00:30
Friday	23:00 - 00:30
Saturday	23:00 - 00:30
Sunday	23:00 - 00:00
Good Friday & Christmas Day	12:00 - 00:00
New Year's Eve	23:00 - 05:00 on the following day

Sale by Retail of Alcohol

Monday	11:00 - 00:00
Tuesday	11:00 - 00:00
Wednesday	11:00 - 00:00
Thursday	11:00 - 00:00
Friday	11:00 - 00:00
Saturday	11:00 - 00:00
Sunday	12:00 - 23:30

Good Friday & Christmas Day 12:00 - 23:30
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

Monday	11:00 - 00:30
Tuesday	11:00 - 00:30
Wednesday	11:00 - 00:30
Thursday	11:00 - 00:30
Friday	11:00 - 00:30
Saturday	11:00 - 00:30
Sunday	12:00 - 00:00

Good Friday & Christmas Day 12:00 - 00:00
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

Alcohol is supplied for consumption on the Premise

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Brentwood Curry Hut Ltd.
19 South Street
Brentwood
Essex
CM14 4BJ

Email Address **jehancurryhut@gmail.com**

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

Company Number **11832268**

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

No DPS nominated

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

NO SALE OF ALCOHOL MAY BE MADE UNTIL A DPS HAS BEEN ASSIGNED

Annex 1 – Mandatory conditions

- 1 No supply of alcohol may be made under this licence**
 - a) At a time when there is no designated supervisor in respect of it or,**
 - b) At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended**
- 2 every supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.**
- 3 (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.**

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or .**
 - (b) an ultraviolet feature.**
- 4 (A). A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.**

(B).For the purposes of the condition set out in paragraph 1 -
 - (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;**
 - (b) "permitted price" is the price found by applying the formula where-**

$$P = D + (D \times V)$$

- (i) P is the permitted price,**
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and**
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;**
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence-**
 - (i) the holder of the premises licence,**
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or**
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;**

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "valued added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

- 5 (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.**

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to— .

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or .

(ii) drink as much alcohol as possible (whether within a time limit or otherwise); .

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective; .

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective; .

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner; .

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

- 6 The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available**

7 The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and,

(ii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and .

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available."

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;**

2. 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.

3. 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.

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

1. SCOPE OF THE ORDER

1.1. SCOPE OF THE ORDER

The Order shall be subject to the following conditions:

The Order shall be subject to the following conditions:

(a) The Order shall be subject to the following conditions:

(b) The Order shall be subject to the following conditions:

(c) The Order shall be subject to the following conditions:

(d) The Order shall be subject to the following conditions:

(e) The Order shall be subject to the following conditions:

(f) The Order shall be subject to the following conditions:

(g) The Order shall be subject to the following conditions:

(h) The Order shall be subject to the following conditions:

(i) The Order shall be subject to the following conditions:

(j) The Order shall be subject to the following conditions:

1.2. SCOPE OF THE ORDER

The Order shall be subject to the following conditions:

(a) The Order shall be subject to the following conditions:

(b) The Order shall be subject to the following conditions:

1.3. SCOPE OF THE ORDER

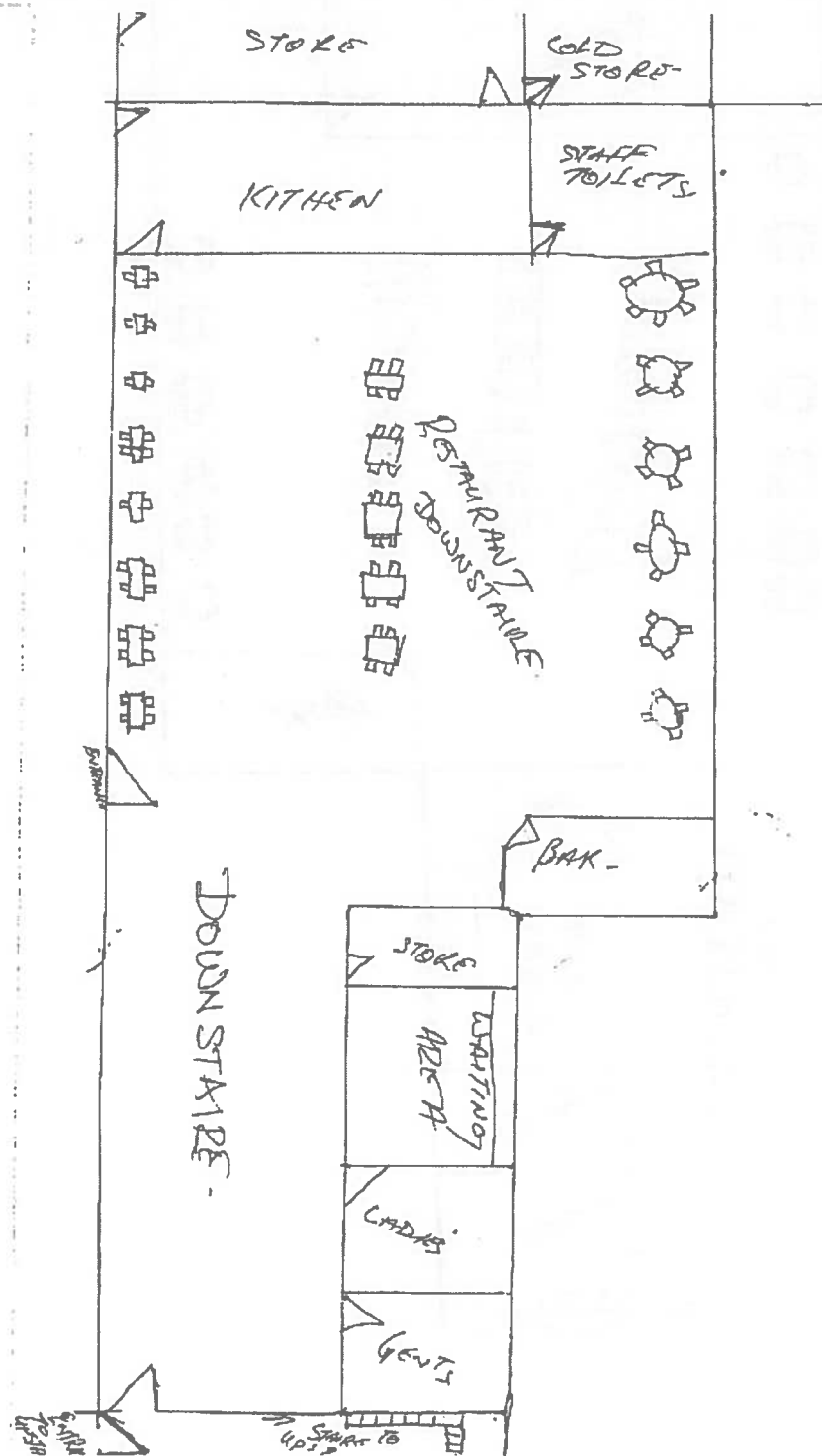
The Order shall be subject to the following conditions:

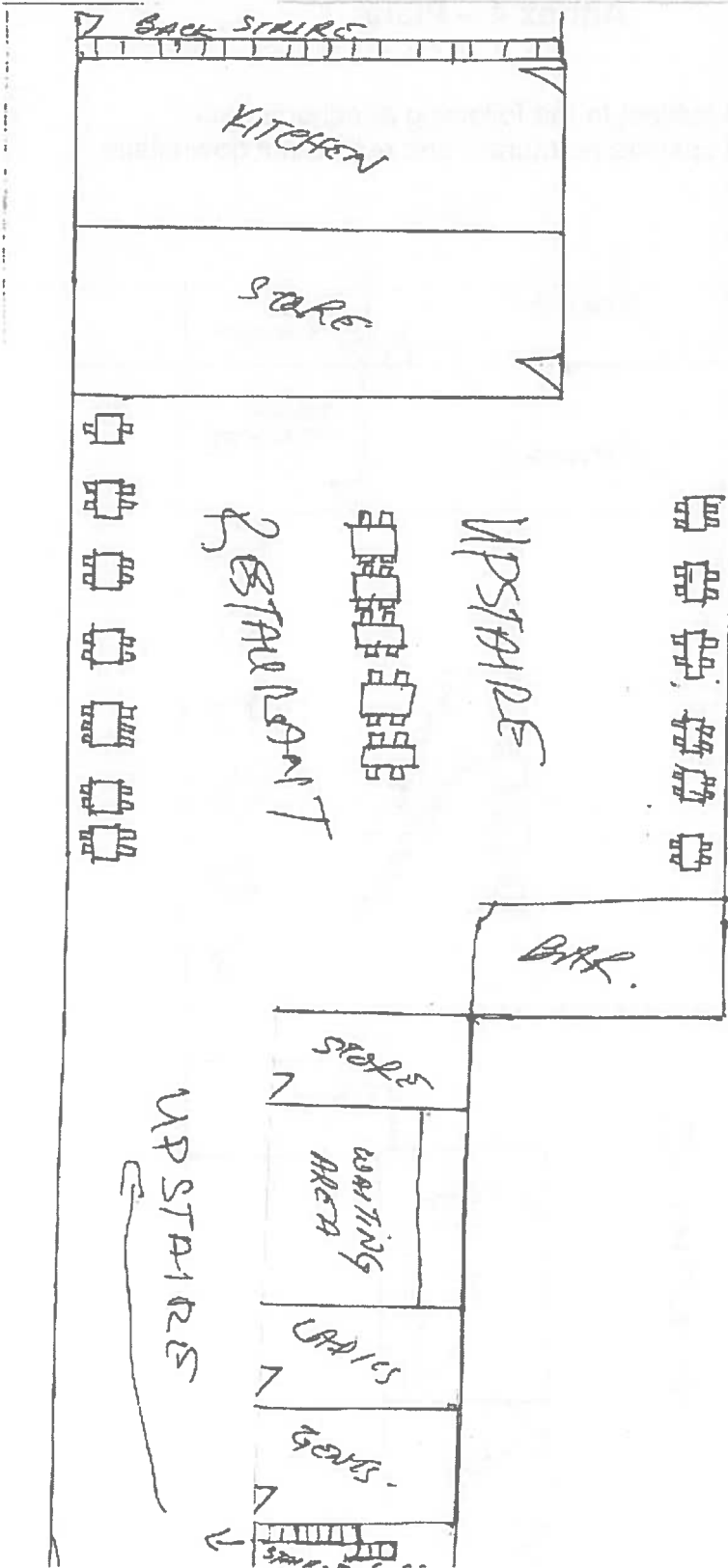
(a) The Order shall be subject to the following conditions:

(b) The Order shall be subject to the following conditions:

Annex 4 – Plans

This licence is issued subject to the following attached plans:
Sketch plans marked upstairs restaurant and restaurant downstairs.







**BRENTWOOD
BOROUGH COUNCIL**

Premises Licence Summary

Premises Licence Number	PRM_0219
Application Number	19/00060/LAVDPS
Date of Issue	4th March 2019

Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

**Jehan Curry Hut
19 South Street
Brentwood
Essex
CM14 4BJ**

Telephone number
01277 525590

Where the licence is time limited the dates

Licensable activities authorised by the licence

**Provision of Late Night Refreshments
Sale by Retail of Alcohol**

Times the licence authorises the carrying out of licensable activities

Provision of Late Night Refreshments

Monday	23:00 - 00:30
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Saturday	23:00 - 00:30
Sunday	23:00 - 00:00

Good Friday & Christmas Day 12:00 - 00:00
New Year's Eve from 23:00-05:00 on the following day

Sale by Retail of Alcohol

Monday	11:00 - 00:00
Tuesday	11:00 - 00:00
Wednesday	11:00 - 00:00
Thursday	11:00 - 00:00
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Good Friday & Christmas Day 12:00 - 23:30
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

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Good Friday & Christmas Day 12:00 - 00:00
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

Alcohol is supplied for consumption on the Premise

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

**Brentwood Curry Hut Ltd.
19 South Street
Brentwood
Essex
CM14 4BJ**

Email Address jehancurryhut@gmail.com

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

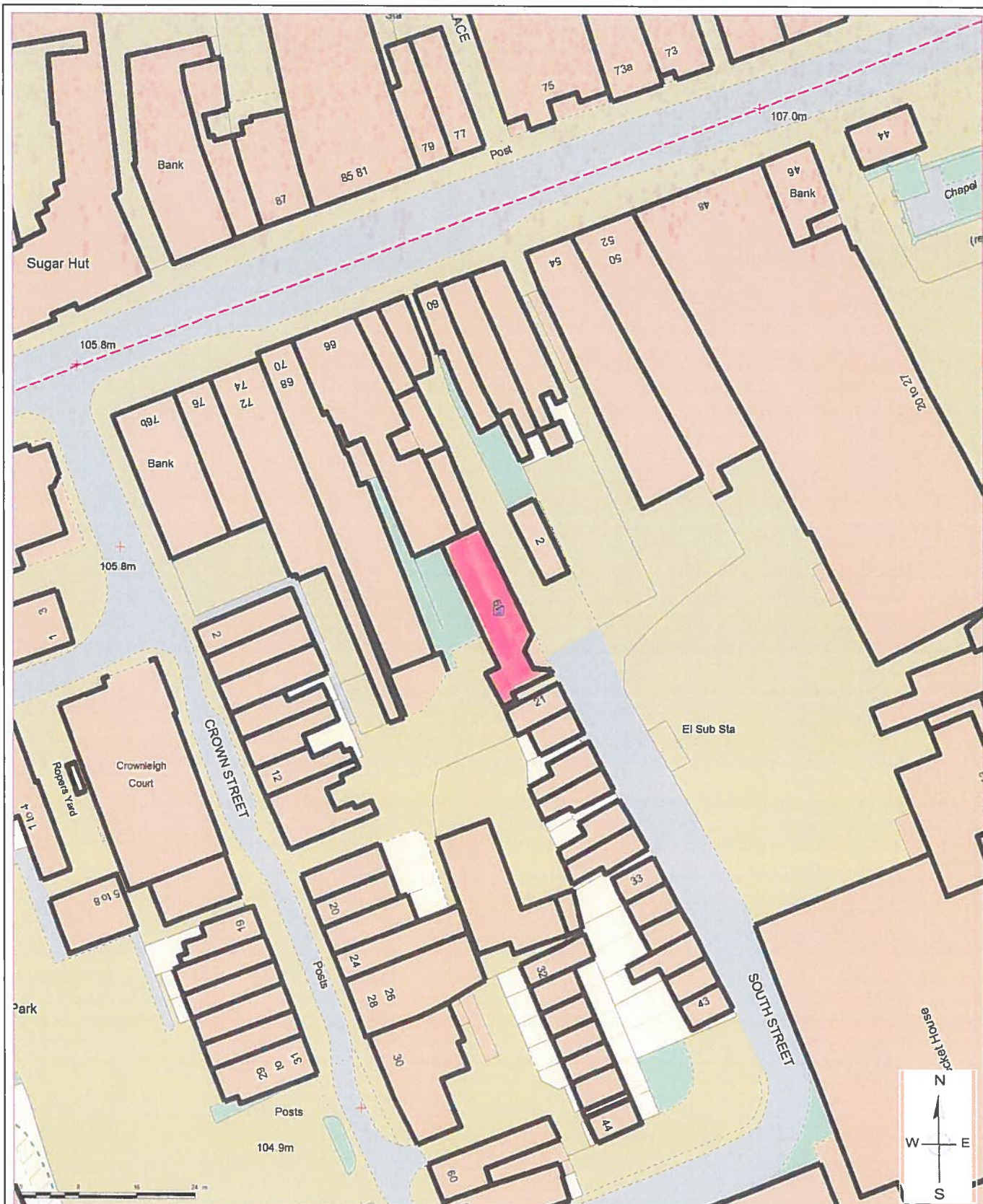
Company Number 11832268

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

No DPS nominated

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

NO SALE OF ALCOHOL MAY BE MADE UNTIL A DPS HAS BEEN ASSIGNED



Drawing No. :

Scale at A4 : 1:750

Drawn by :

Service :

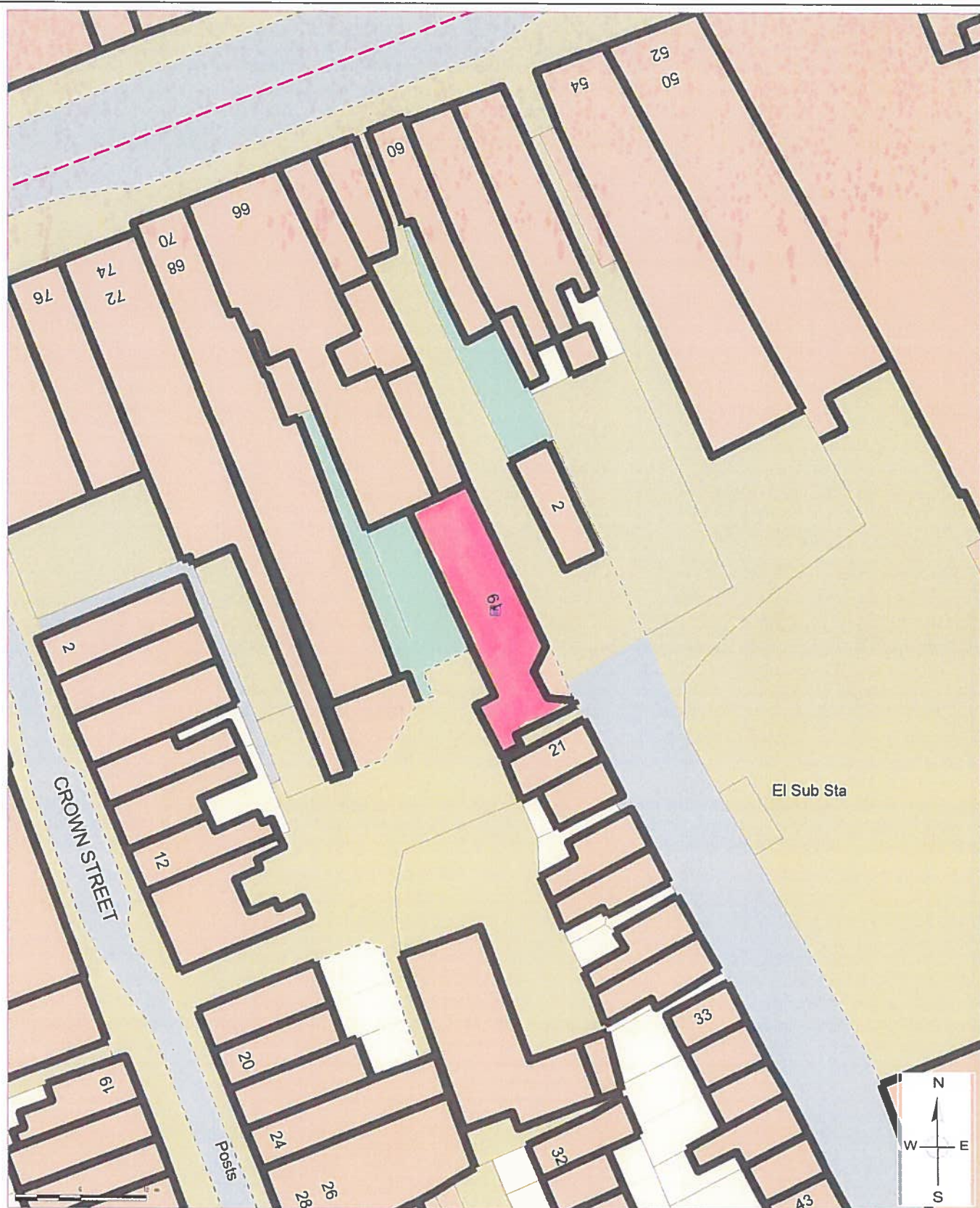
Date : 12th March 2019

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





Drawing No. :

Scale at A4 : 1:500

Drawn by :

Service :

Date : 12th March 2019

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**BRENTWOOD
BOROUGH COUNCIL**

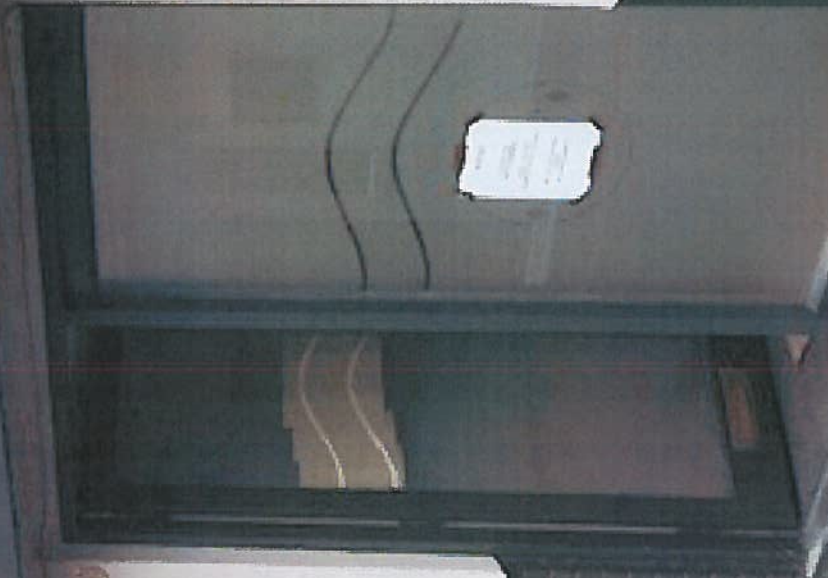
Philip Ruck
Chief Executive
Brentwood Borough Council
Town Hall, Ingrave Road
Brentwood, CM15 8AY
Tel.: (01277) 312500



JEHAN CURRY HUT

Indian & Nepalese Cuisine

Fully Lic
01277 525





JEHAN CURRY HUT, 19 SOUTH STREET, BRENTWOOD CM14 4BJ

APPENDIX 3

REPRESENTATION

&

Supplementary Supporting Evidence

Mrs. Jackie Cooper - Essex Police Licensing

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

5th March 2019

Dear Mr Adams,

APPLICATION TO TRANSFER PREMISES LICENCE (S42 LICENSING ACT 2003)

Essex Police received on the 1st March an application to Transfer the Premise Licence of the Jehan Curry Hut, 19 South Street, Brentwood CM14 4BJ.

The Premise Licence Holder Mr Abdul Latif was formally the Director of Chutney Joes, 117 High Street, Brentwood CM14 4RX and was subject to an Immigration Compliance and Enforcement visit on the 18th November 2018 which resulted in one male being detained for immigration offences. Mr Latif resigned as Director of Chutney Joes on the 26th November 2018.

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.

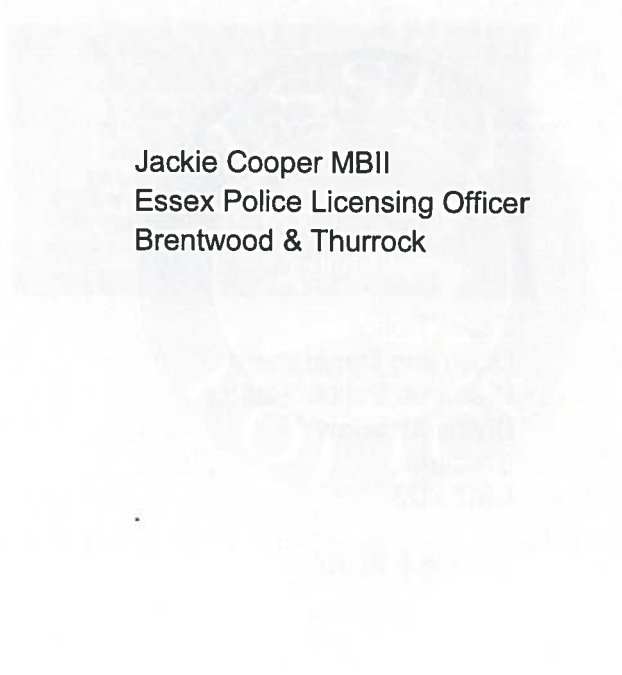
Mr Latif facilitated a criminal offence taking place at his previous premise and there is nothing to suggest the employment of illegal workers and the failure to conduct right to work check will not continue. The sub-committee is entitled to exercise common sense and its own judgement based on the life experiences of its members.

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 Sub-Committee will be meeting to hear this so representatives of the Chief Officer of Police can be in attendance.

Yours sincerely

J. Cooper



Jackie Cooper MBII
Essex Police Licensing Officer
Brentwood & Thurrock



Objection to Transfer of Premises Licence

Jehan Curry Hut

19 South Street, Brentwood CM14 4BJ

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** On the 1st March 2019, Essex Police received an application for the transfer of the premises licence of the premises situated at 19 South Street Brentwood CM14 4BJ (formally Mare Blu).
- 1.2** The applicant named on the application form was Jehan Curry Hut with the description of applicant stated as Company Director of Brentwood Curry Hut. The application was signed by MD Abdul Latif. The Brentwood Curry Hut Ltd is a private limited company first incorporated on 18th February 2019. Mr Latif is the sole director of this company.
- 1.3** Companies House records show that in January 2017 another private limited company had been incorporated in the name of Indian Dining Chutney Ltd. The registered address of this company was (and is) 117 High Street, Brentwood CM14 4RX. Until his resignation on 26th November 2018 Md Abdul Latif was the sole director of this other company.
- 1.4** Since before 2005 the premises at 117 High Street, Brentwood has (until recently) traded as Chutney Joes and until recently the authorities had the DPS identified as Harun Khan and the joint licence holders as Harun Khan and Faruk Miah; however police believe that Mr Latif as sole director of the company running the business was the directing mind and principal controller of day to day activity (see paragraph 1.11).
- 1.5** On the 2nd November 2018, Immigration Compliance & Enforcement (ICE) officers attended Chutney Joes, 117 High Street, Brentwood. They entered using a warrant under Schedule 2 Paragraph 17 (2) of the Immigration Act 1971 (amended). The warrant had been issued following intelligence received on 9th October 2018 that three illegal workers worked at the premises each Friday and Saturday.
- 1.6** Officers entered and a total of seven persons working who were placed in a 'sterile area' for questioning. One was later identified as an immigration offender with no right to work and no leave to remain in the UK. He had been seen by immigration officers working as a waiter, dressed in a uniform identical to other waiters at the premises.
- 1.7** This immigration offender admitted he knew he had no right to work in the UK. Subsequently the offender was allowed to retrieve his mobile phone which was on charge in the staff area behind the bar and to go upstairs to a small office marked 'Staff Only' so he could retrieve his jacket.
- 1.8** Whilst questioning those persons who had been working in the kitchen, one of those identified himself as Abdul Latif, stating he was the director of the company operating the premises and Head Chef. When asked about the individual illegal worker, Latif responded with "I work in the kitchen and I'm at home a lot. I don't know when he started working here. He must have come to work here when I was at home". He went on to explain that he lets his manager at the front look after the service area.
- 1.9** Md Abdul Latif resigned as the sole director of Indian Dining Chutney Ltd on 26th November 2018, just under 4 weeks after the discovery of this illegal worker at the business of which he was the sole shareholder.

- 1.10** Essex police applied for a review of the premises licence at Chutney Joes on the ground that the crime and disorder licensing objective had been engaged. This was later withdrawn; as a successful transfer of the premises licence was made to persons with no traceable link to the previous operators.
- 1.11** During the period immediately following the launch of the review above, correspondence was received from one of the recorded joint licence holders Harun KHAN. This correspondence set out that the whereabouts of the other joint licence holder Farul MIA was unknown and the business relationship severed. The correspondence made it clear that as the landlord of the premises he had relinquished control of the license and other business activity taking place in January 2018 and had permitted a new tenant (Rofik KHAN) to take over the business. The terms of this transfer were that Rofik KHAN was to transfer the licence to himself and become the DPS: this he however failed to do though the landlord was unaware of this. Following the resignation of Mr Latif as sole director of Indian Dining Chutney Ltd, the same day Rofik KHAN was appointed the new sole director. This shows the relationship between the lawful tenant and Mr Latif.
- 1.12** The grounds for objection are that it is highly likely that the crime and disorder objective of the Licensing Act will be undermined in the future in that Immigration Compliance and Enforcement officers of the Home Office discovered disqualified persons working illegally on a premises where this applicant was the sole director. Paragraph 11.26 Guidance for Licensing Authorities to Prevent Illegal Working in Licensed Premises in England & Wales (6 April 2017, Home Office).
- 1.13** 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".
- 1.14** One only has to look at what has happened in his previous business to glimpse what is likely to happen in the future. He may also claim to have 'learnt his lesson' by being caught.
- 1.15** Whether by negligence or wilful blindness Mr Latif allowed illegal working to be conducted on the premises, yet it is a simple process for an employer to ascertain what documents they should check before a persons is allowed to work. It is an offence to work when a person is disqualified to do so and such an offence can only be committed with the co-operation of the management. It is also an offence to employ an illegal worker where there is reason to believe this is the case.
- 1.16** The Licensing Act 2003 is prospective (what is likely to happen) (see *East Lindsey District Council v Abu Hanif (t/a Sara's restaurant and take away)* [2016] EWHC 1265 Admin. (Appendix 8.11)).
- 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 transfer of the premise 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 Brokenshire, 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)