

28th 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 1st May 2019

Report Author Contact Details:

Name: Dave Leonard

Telephone: 01277 312523

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

THE RAJ, 21 KINGS ROAD, BRENTWOOD CM14 4DJ

APPENDIX 1

APPLICATION FORM

Application to Vary the Designated Premises Supervisor

& Consent Form

(Kalam Ullah)

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

**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**

Post town	Brentwood	Post code	CM14 4DJ
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Telephone number	01277 212755
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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 21st 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.

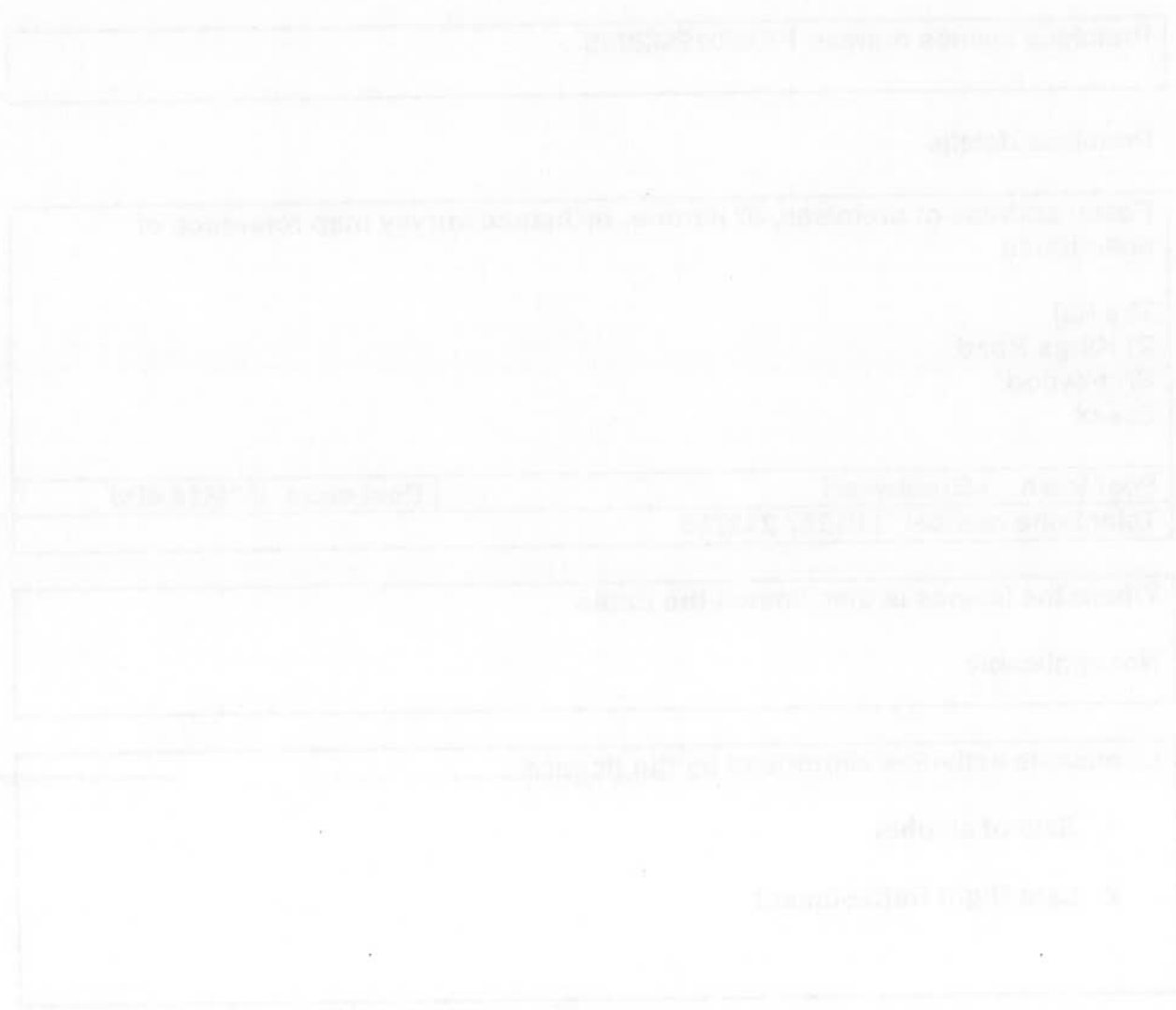
Annex 3 - Conditions attached after a hearing by the licensing authority

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**

Post town | **Brentwood**

Post code | **CM14 4DJ**

Telephone number | **01277 212755**

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)**

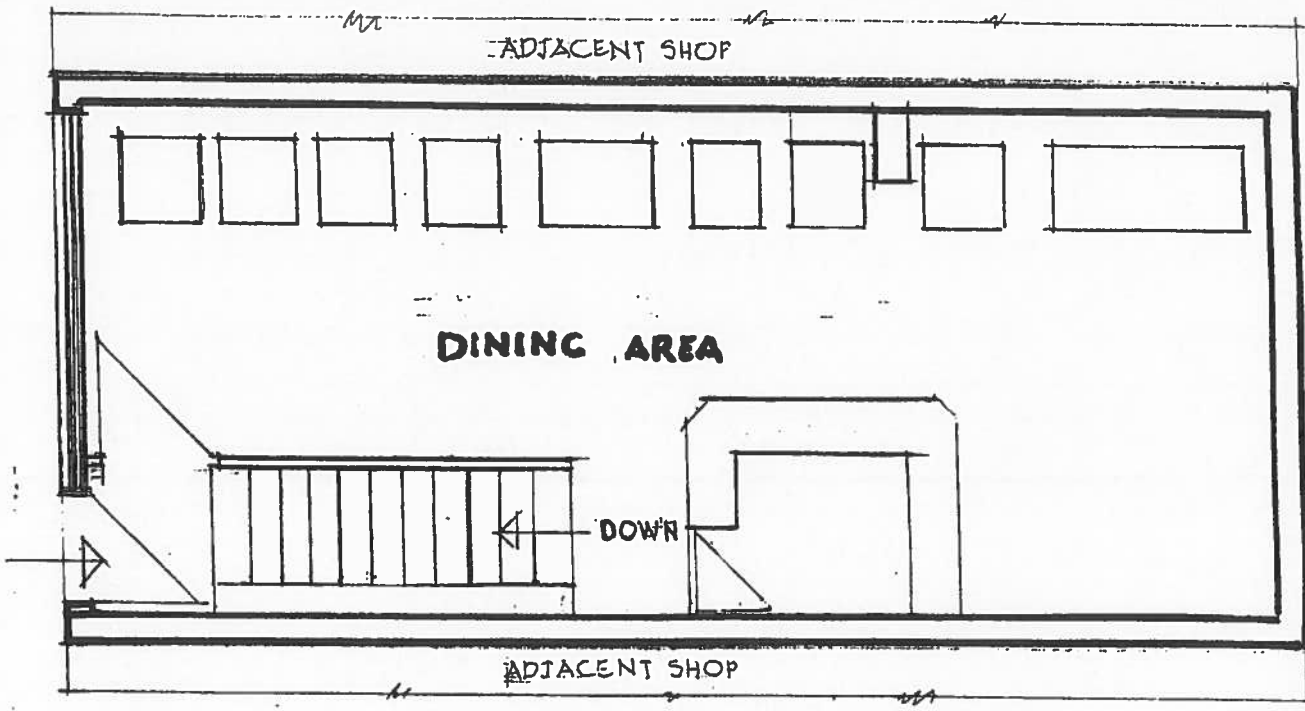
Not applicable

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

Badsha Miah

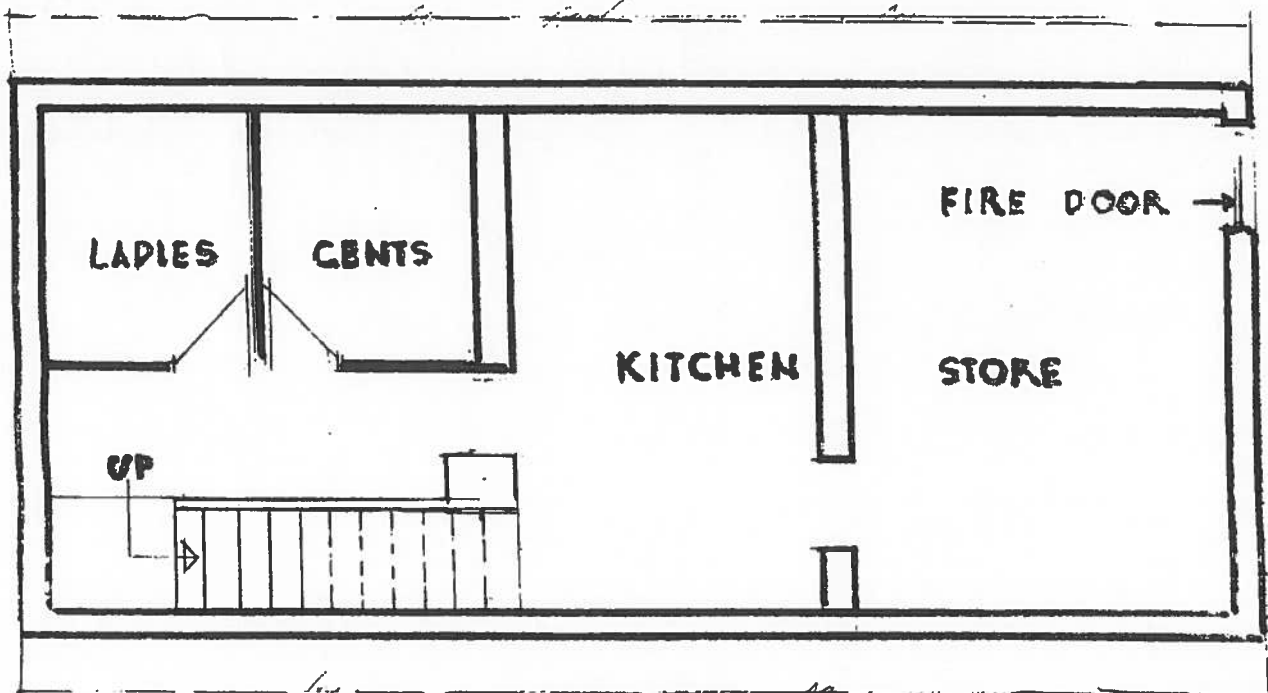
State whether access to the premises by children is restricted or prohibited

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 John Aldous MBent (MIAS) Date 22 JULY 2005	Dwng. No. 5717
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FD1898

THE RAJ

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THE RAD

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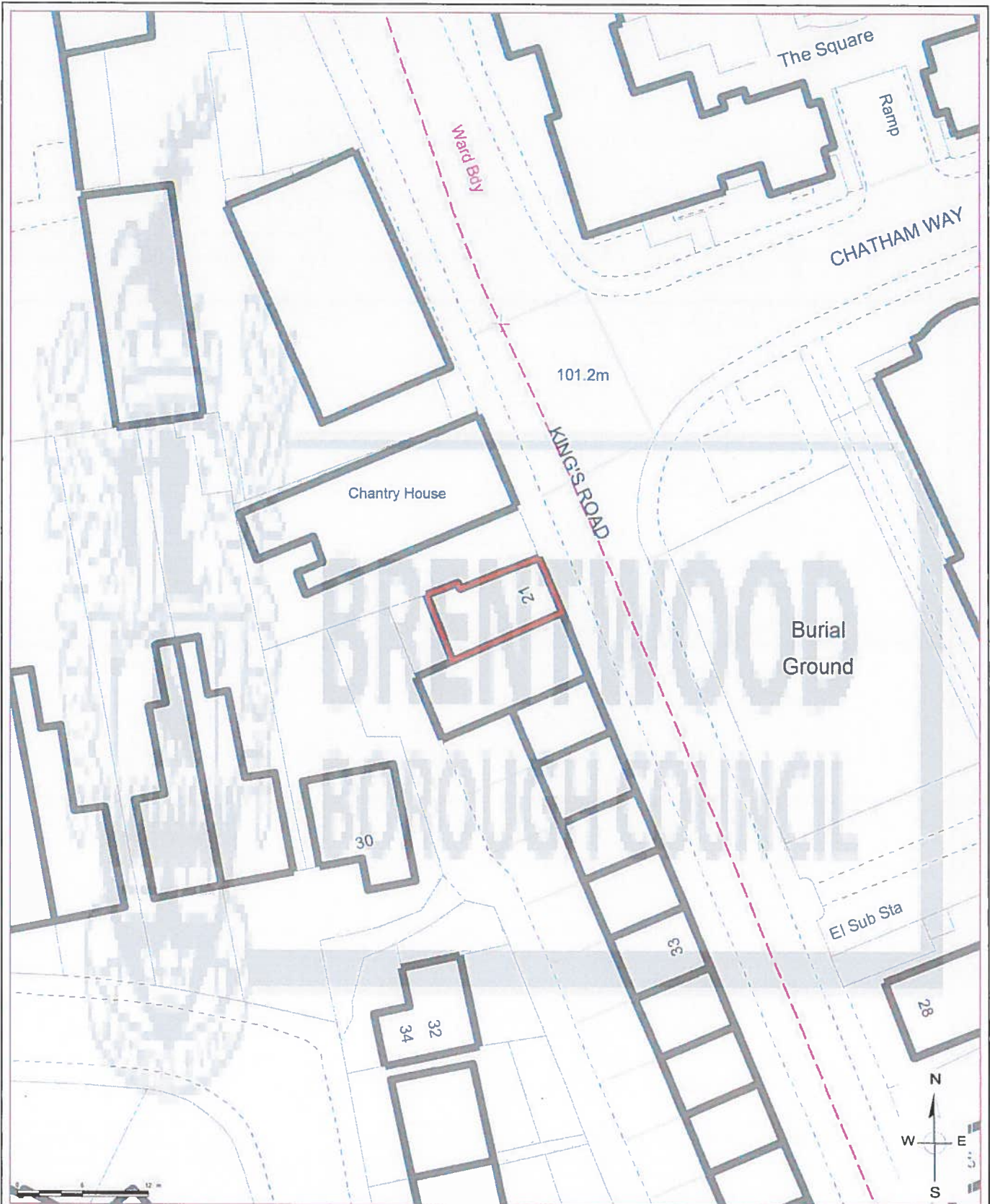
THE RAJ, 21 KINGS ROAD, BRENTWOOD CM14 4DJ



**BRENTWOOD
BOROUGH COUNCIL**

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

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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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



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

13th 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 20th 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.

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	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 20th 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 23rd 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 24th 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 17th January 2019 the application was rejected.
- 1.9** Then on 12th February 2019 a further application was received to transfer the Premises Licence to Kalam ULLAH. Essex Police objected to the transfer and on 22nd 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 14th 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 22nd 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: [REDACTED] **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:..... Signature Witnessed by:

RESTRICTED (when complete)

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

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: Signature Witnessed by:
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RESTRICTED (when complete)

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

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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)

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 | dave.leonard@brentwood.gov.uk

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[REDACTED]
24 Apr To 174 WARREY HILL (M14 SHF)
TO SERVE LSCF Transfer & Review
invites by hand to BADSHA MIAN

25 Apr Visit 174 WARREY 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

[Signature] 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



X816N0V5

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

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

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)

<i>Class of Shares:</i>	ORDINARY	<i>Number allotted</i>	1000
<i>Currency:</i>	GBP	<i>Aggregate nominal value:</i>	1000
<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>	GBP	<i>Total number of shares:</i>	1000
		<i>Total aggregate nominal value:</i>	1000
		<i>Total aggregate unpaid:</i>	0

Initial Shareholdings

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**

THE RAJ, 21 KINGS ROAD, BRENTWOOD CM14 4DJ

APPENDIX 4

PREVIOUS APPLICATION DECISION NOTICES

*Application to Transfer Premises Licence dated 12th February 2019
(Kalam Ullah)*

Licensing Sub-Committee Hearing Decision Notice 22nd March 2019

And

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

Licensing Sub-Committee Hearing Decision Notice 1st May 2019

THE RAJ, 21 KINGS ROAD, BRENTWOOD CM14 4DJ

PREVIOUS APPLICATION DECISION NOTICES

*Application to Transfer Premises Licence dated 12th February 2019
(Kalam Ullah)*

Licensing Sub-Committee Hearing Decision Notice 22nd March 2019

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 17th 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 12th 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 13th 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 22nd March 2019
(Kalam Ullah)*

Licensing Sub-Committee Hearing Decision Notice 1st May 2019

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.

