

DUSK, ONGAR ROAD, PILGRIMS HATCH CM15 9SS

APPENDIX C

REPRESENTATIONS

Responsible Authorities

Brentwood Borough Council

Mr. David Carter – Environmental Health Manager

Mr. Dave Leonard – Licensing Officer



Our ref: 21/000542/LICON

Your ref:

Date: 22 April 2021

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

cc
Cassadys Solicitors
5 Chancery Lane
London EC4A 1BL

Dear Sirs

Application to vary a Premises Licence - Licensing Act 2003
Dusk, Ongar Road Pilgrims Hatch Brentwood CM15 9SS

I refer to the above application for a premises licence at Dusk Ongar Road, Pilgrims Hatch, received on 29 March 2021 by the Pollution Team of Brentwood Borough Council, and to previous comments made relating to this premises at the review hearing and previous applications.

I wish to make representation to the Licensing Authority in respect of this application, as in my opinion the application contains insufficient information to demonstrate that the licensing objective of prevention of public nuisance will be achieved.

Dusk operates as a restaurant with late night refreshment, and public entertainment within the premises mostly from recorded music provided by a DJ and music videos. The premises also provides an external area as a shisha and cigar lounge for customers to drink, smoke and use shisha pipes.

This area is described as a black pergola with a retractable canopy on the plan attached to the application.

It appears that this area is separately bookable to the restaurant facility, so it can operate additionally to, but not necessarily in combination, with the dining facilities provided inside the premises restaurant area.

The operation of Dusk has caused a substantial increase in the number of complaints received, largely as a result of the use of the shisha lounge area particularly late at night.

The shisha and cigar lounge was designed to comply with the smoking legislation, and it is therefore required to be at least 50% open, which effectively negates any noise attenuation from the structure such that it is an outside area, where customers seem to be encouraged to gather after a meal, (or separately to), such that the associated noise from the customers and any amplified music played in the area impacts on nearby residents. At later hours it would seem that the majority of the customers migrate to this area because of the entertainment provided.

On observation by officers the operation of this area was found to be causing noise breakout from the building into the car park area of the premises and has been the subject of alleged nuisance resulting in several complaints from neighbours to the Council and the operators of the premises.

The concern of the Pollution Team is that the requested application could result in continued noise and disturbance to residents from the hours of operation and regulated entertainment proposed.

The application seeks the following variations,

1. To remove the licensable activity of allowing the sale of alcohol.
2. To remove Condition 9 of Annex 3 of the license: Customers must not be permitted to consume any alcohol other than alcohol sold or supplied under the authorisation of this license.
3. To remove Condition 5 of Annex 3 of the license: That no live or recorded music shall be played in the outside (lounge) area after 22.30.

In my opinion, the proposed variations will have an effect on the ability of the premises to promote the licensing objective of prevention of public nuisance.

1. Removing the licensable activity of the sale of alcohol means that the premises would revert to the former operation of a BYO (Bring Your Own) restaurant whereby the customers are permitted to bring various types of alcohol to the premises for consumption, which may be either with a meal, or not in the case of persons who may choose to book the shisha/cigar lounge area only.

Agreeing this variation can result in the premises having less control over the type and quantity of alcohol consumed either on, before or after leaving the premises. The customers can arrive, having consumed alcohol elsewhere (as is the case at other premises), however where the sale of alcohol is part of the licence an offence is committed when alcohol is sold where the customer is already drunk.

In the case of a BYO venue there is no sale of alcohol, and the supply and consumption of alcohol is not supervised and controlled by the licence holder or designated premises supervisor, but by the customer themselves.

It is evident from visits to the premises that persons are leaving in an intoxicated state, and it has also been seen that they will often take unconsumed alcohol with them when leaving which has led to further drinking in the car park while awaiting taxis or other transport. This consumption is again less controllable than in a licensed premises where the alcohol must be consumed before leaving.

2. To remove Condition 9 of Annex 3 of the license: Customers must not be permitted to consume any alcohol other than alcohol sold or supplied under the authorisation of this license.

The removal of this condition also leads to the issues outlined above and allows the consumption of any type and strength of alcohol brought to the premises.

3. To remove Condition 5 of Annex 3 of the license: That no live or recorded music shall be played in the outside (lounge) area after 22.30.

In my view the removal of this condition will have the effect of increased noise disturbance of the type previously identified by Council officers, residents, and Council members.

The current premises licence also includes a condition preventing the performance of live or recorded music between 12 noon and 2230 hours as below:

There shall be no live or recorded music shall be played in the outside (lounge) area between 12noon and 2230hrs until a noise limiting device has been installed and a noise limit agreed with Brentwood Borough Councils Environmental Health Team and such noise limit must not to be exceeded at any time.

At the time of writing, largely as a result of the current COVID restrictions preventing the operation of the premises as a whole, a suitable noise limiting device has not been installed to my knowledge and we have not agreed a noise limit, other than a very approximate level set using the system amplifier when the outside area was empty. The position of the microphone controlling the noise level, type and location of speakers in the outside area and possible additional insulation had been discussed at our last meeting on site but was to be implemented and further visits made; this is awaited at present.

The noise limiter device will only control the level of amplified sound from the premises audio equipment, and will not provide a control over any live, non-amplified music e.g. drums, brass instruments etc. or over the noise created by the customer audience.

In my view the noise from the customers themselves would be significant in this area late at night. The performance of live or recorded music after 2230 is likely to encourage the customers to remain on the premises, (particularly if they have still got a supply of alcohol brought with them) as an attraction and entertainment after their meal; it is also evident that the customers will become louder with additional drinks as the evening progresses.

I would therefore wish to retain the condition preventing the performance of live or recorded music after 2230 and also consider that the provision of music as a form of entertainment is likely to cause public nuisance to nearby residents after this time given the quiet nature of the location.

It could be possible to provide background music which would be at a lower level and less likely to encourage the participation of the customers in singing or dancing, which in recent times has been actively discouraged to reduce the risk of COVID transmission, however it is also possible that even at a low 'background' level there could be disturbance to neighbouring properties.

The following comments have been made previously with regard to this premises and in my opinion remain valid and necessary in order to enable the operation of this establishment while ensuring that public nuisance is prevented:

1. The operation of the premises late at night as a restaurant has been considered as a noise issue in this location; the hours requested are later than many licensed premises in the town centre, including bars, pubs and busier locations with more activity and background noise.
2. The previous operation of this premises has given justifiable cause for complaint from residents to the Council.
3. The controls proposed do not address the concerns over use of the premises; in addition to noise breakout from entertainment noise the activity of the car park and vehicles leaving the premises late at night has also been found to cause concern.
4. The performance of live, recorded music or 'other entertainment falling within the Act' within the external lounge area should be prohibited, such that there is no noise in this area apart from customers talking.
5. If regulated entertainment in the lounge/garden area is permitted, a suitable method of setting and permanently controlling the level of sound in this area shall be provided, installed and set to operate at an appropriate level to be agreed with an officer from the Pollution Team present, (i.e. a 'noise limiter' device)
6. All doors and windows of the premises shall be kept closed during the provision of any regulated entertainment.

On behalf of the Pollution Team, I would therefore wish to recommend that the application to vary the premises licence is refused unless appropriate conditions and control over the future operation of the premises are in place.

Yours faithfully

David Carter
Environmental Health Manager

Environmental Health & Licensing
Tel: 01277 312509
email: david.carter@brentwood.gov.uk

LICENSING OFFICER'S REPRESENTATION

SUPPORTING DOCUMENTATION

1. *Copy of Warning Letters sent to Mr Shakil Islam & Mr Sharif Uddin dated:
28 February 2020,
22 July 2020,
29 July 2020,
15 December 2020.*
2. *Copy of Application to Vary the Premises Licence dated 3 July 2020 and
supporting statement from Mr Shakil Islam dated 9 July 2020.*
3. *Copy of email clarifying points on Application to Vary the Premises
Licence dated 3 July 2020 sent by the solicitor representing Dusk,
Mr Kaizad Cassady, dated 9 July 2020*



Paul Adams
Licensing Manager,
Brentwood Borough Council Depot
The Drive
Warley CM13 3BH

Date: 20 April 2021

Contact: Dave Leonard
01277 312523

Licensing Act 2003 – Application to Vary a Premises Licence
Dusk, Ongar Road, Pilgrims Hatch CM15 9SS

Representation by a Responsible Authority (Licensing)

I wish to make a representation against the application to vary the premises licence to remove attached conditions at ***Dusk, Ongar Road, Pilgrims Hatch CM15 9SS***

I make this representation as a Responsible Authority (Licensing) in my capacity as the Brentwood Borough Council Licensing Officer as permitted by virtue of the Licensing Act 2003 (as amended).

Since opening in 2019, I have been aware of complaints of public noise nuisance relating to ***Dusk*** raised by local residents and supported by their ward councillors.

Many of these complaints have related to claims of excessive noise nuisance caused by customers using the outside shisha smoking area whilst entertainment was being provided by DJs or by the noise nuisance and anti-social behaviour being caused by customers when they leave the restaurant in the early hours at weekends. This kind of complaint is generally the remit of the Environmental Health Noise Pollution Officer and the matter, in the first instance, was referred to the Environmental Health Team and its manager, Mr David Carter, for his initial assessment.

It is natural to assume that the later the terminal hour of a licensed premises offering regulated entertainment goes, the more the likelihood of public noise nuisance and disturbance increases. Whilst this might be perfectly acceptable in a High Street with a thriving night-time economy, it is never going to be so favourably received in the quieter, more residential locations. Persons can suffer from temporary hearing loss caused by being subjected to the loud music in an enclosed area and this causes them to believe that they need to talk louder to be heard.

Based on what I have heard during a summer of evening monitoring visits, even with the installation of a correctly fitted and set noise limiter, I am not convinced that the playing of any music in the outside area will prevent the noise level of some patrons, e.g. hen parties, singing, raising their voices or shouting to be heard above the level of the music, will be acceptable to those living in the vicinity.

Dusk's predecessors, Joy Fook, also operated as a restaurant a late hour and offered entertainment into the early morning. However, the one significant difference between the two business's is that Joy Fook conducted its entertainment **inside** the premises whereas the whole concept of Dusk's entertainment experience involves the use of shisha pipes in an **outside** area and, therein, lies the cause of the noise nuisance issues. Whilst it had the occasional complaint, it is my understanding that, overall, the local residents had a good relationship with Joy Fook and a polite call asking for the music to be turned down often did the trick. It is clearly apparent by the number of grievances being received by my office that the same scenario does not apply to Dusk.

It is exactly for this very reason why the conditions and hours of licensable activity for this premises licence were called to review by the local residents in November 2020. I made a representation in support of the review application & advised that appropriate and proportionate conditions were necessary to support the proprietor to succeed in his business but also to safeguard the residents who are, after all, expected to live 24/7 with these terms and conditions. Any conditions attached to a premises licence need to be practical and capable of being regulated and, where necessary, enforced by the responsible authorities entrusted to do so. It is clearly apparent there is a different interpretation on what can be considered to be background music (and non-licensable) between the proprietors and everybody else. Brentwood borough has many licensed premises situated in residential locations with many benefitting from having an outside garden and a designated smoking area. However, I am not aware of any that do not also have a condition attached that prevents music or entertainment being played outside after 2200hrs. Usually accompanying such a condition is a strict limit placed on the number of smokers being permitted outside at any one time and extends to a no drinks being permitted outside policy too. This sensible operating solution is designed to reduce the likelihood of noise nuisance being caused by patrons and disturbing the neighbours.

The outcome of the licensing review hearing saw the Licensing Sub-Committee attach nine conditions to Annex 3 of the premises licence designed to allow the management at Dusk to promote the licensing objectives whilst, hopefully, appeasing the local population. All parties appeared satisfied with this outcome and no appeal challenging the decision was forthcoming. Two of those nine attached conditions, and arguably the most important conditions in allaying the concerns of the local residents, were;

(5) No live or recorded music shall be played in the outside (lounge) area after 2230hrs

(9) Customers must not be permitted to consume any alcohol on the premises other than alcohol sold or supplied under the authorisation of this licence.

The applicant does not only appear to undermine the outcome of the Sub-Committee hearing by seeking to remove these conditions but, it is my contention that they have also failed to satisfactorily address the additional measures that they intend to introduce in order to promote the licensing objectives that would merit their removal.

In July 2020, Sisu Enterprises Ltd. applied to vary the Dusk premises licence to include the supply of alcohol as a licensable activity together with an accompanying statement from the director, Mr Shakil Islam, explaining how ***“we would be in a better position to ensure that patrons do not consume excessive amounts of alcohol as we would be controlling how much alcohol is supplied thereby addressing the concerns of Councillor McCheyne. This would allow us to discontinue the policy whereby patrons bring their own alcohol.”*** Their solicitor also wrote confirming that ***“No regulated entertainment would be conducted outside the premises.”***

Once again, an application submitted by the Dusk management apparently designed to promote the licensing objectives and allay the growing concerns of local residents, councillors and the Responsible Authorities alike, is now another undertaking they wish to withdraw from their licence without offering a satisfactory compromise to address the noise nuisance complaints that we continue to receive.

From the outset, my experience when dealing with the management at Dusk has been that they are very affable gentlemen who, whilst competent restaurateurs, are not so conversant with the requirements of the licensing legislation. This can be evidenced with incomplete application forms, frequently amended submissions and poorly advertised notices. However, despite the many representations received and concerns raised, no complainant has asked for the restaurant to be closed. Indeed, many of the local residents speak favourably of the venue and even choose to dine there. The recurring complaints relate to the noise nuisance issues arising from the use of the outside smoking area, whether it be the volume level of the music being played or the sound of the patrons raising their voices when conversing or just by those leaving Dusk in the early hours.

To date I have issued four warning letters to the Dusk management in relation to minor infringements that, in isolation, have not merited further enforcement action.

I support the concerns raised by many local residents over an extended period and I make representation against this application to vary the premises licence on the grounds that the management team at Dusk have so far been unable, or unwilling, to adequately promote the licensing objectives relating to the prevention of public nuisance.

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

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Dave Leonard', with a stylized flourish at the end.

Dave Leonard
Licensing Officer

Statement of Shakil Islam

1. I, Shakil Islam of [REDACTED], am a director of Sisu Enterprises Limited ("Company") and make the following statement in support of the Company's application to Brentwood Council for a full variation of the license held by the Company for its premises Dusk to remove the two conditions to which its license has been subject, ostensibly to control noise and to apply for an alcohol license.
2. As set out below, we meet the objective of the prevention of public nuisance under the Licensing Act 2003. We invite you to remove two conditions imposed under Annex 3 upon us as follows:
 - a) There should be a second interior door installed at the front entrance.
 - b) Noise Limiters shall be installed in the outside space in discussion and agreement of the Licensing Department of the Council.
3. The requirement for a second interior door at the front entrance is incompatible with the aesthetics of the building. There is already in place an additional double glass door which together with the other doors are fitted with glass of industrial grade thickness. The installation of thick curtains and thick pergola glass will ensure the significant limitation of any noise beyond our premises and obviate the need for the second interior door at the front entrance.
4. Thus, there is in place a glass shield to absorb first noise, then hits the wood pallets around the perimeter. Any sounds from within would be absorbed by thick glass following which stands a wooden structure.
5. The music played at Dusk is solely for ambience for the benefit of our discerning, patrons expecting a fine dining experience. This is in keeping with the general candlelit dining atmosphere expected in a refined establishment. In contrast, the

property was formerly occupied by a Chinese restaurant named 'JoyFooks' which contained a dance floor which was far noisier than the refined atmosphere of Dusk.

6. Dusk has a sophisticated atmosphere which is quite evident, given the fact that that it hosts business and professional networking events held in the lounge. The premises is hired for television shows such as 'The Only Way is Essex'. Lime picture/ Video shoots by musicians and wedding fayres (the latter is put on hold at the moment due to crowd restrictions imposed by Covid-19 Regulations).
7. The need for noise limiters in the outside space will be obviated because we will only play light ambient music within the restaurant and lounge section of the premises. No regulated entertainment would be conducted outside the premises. Music will be played only within the premises. As an added precautionary measure, we have a noise limiter station in the sound system for recorded music whereby noise levels can be individually controlled within the premises.
8. It should be recalled that the Council has never responded to our request for the maximum decibel that it wanted Dusk to comply with so we could set our sound system accordingly.
9. In accordance with the applicable Covid-19 Regulations, the maximum number of patrons are 40 for the dining area and 60 for the lounge/outdoor grass area. The limited number of patrons will significantly contribute to reducing noise.
10. It is planned that in the weeks following the reopening of Dusk on 4 July 2020, testing will be done by an acoustic engineer to monitor the noise and to ascertain if it is audible to those living a few hundred metres away from Dusk.
11. No special temporary events are to be held for the foreseeable future due to gathering limitations and our wedding bookings are being postponed until further notice.
12. We have two permanent members of staff whose role is to supervise the doors and accompany patrons to their cars and to remind them of the need to leave the premises quietly, all of which contributes to the reduction of noise. In the Licensing Sub-

Committee hearing dated 1 October 2019, it was stated that having staff to escort patrons to their cars would be of "minimal use" as there would be 300 customers. As stated in paragraph 9 above, the number of patrons is limited to 100 (one third of the number cited by the Sub-Committee) and therefore, it is submitted that the role played by staff in escorting patrons to their cars will be extremely effective in controlling noise.

13. Currently, patrons are able to bring their own alcohol that they wish to consume in the restaurant. In the Licensing Sub-Committee hearing dated 1 October 2019, in relation to the issue of noise, Councillor McCheyne asked how would one regulate alcohol if Dusk did not sell it. If an alcohol license is granted, we will be in a better position to ensure that patrons do not consume excessive amounts of alcohol as we would be controlling how much alcohol is supplied thereby addressing the concerns of Councillor McCheyne. This would allow us to discontinue the policy whereby patrons bring their own alcohol.
14. Finally, I would like to draw the Council's attention to the fact that when council members and inspectors came to view Dusk, they were ambushed by people living in the vicinity of Dusk. Some of these individuals have made baseless and unfounded objections to the operation of Dusk as a dining venue on that day strongly influenced the council members and inspectors and significantly contributed to the impositions of the conditions which we seek to remove in this full application for the variation of the license.

Signed on 9 July 2020



Shakil Islam

Application to Vary a Premises Licence under the Licensing Act 2003

Reference: VPrL223574628

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 a debit card.

Before completing this form, please read the guidance notes:

[Application to Vary a Premises Licence Guidance Notes](#)

You should keep a copy of the completed application for your records, this will be attached (PDF format) to your acknowledgement email which you will receive upon completion of this application. By completing this application online, you will automatically be notifying the Responsible Authorities.

Cost of Licence

The fee you pay for your licence is based on the rateable value of the premises and if the premises is used exclusively or primarily for the supply of alcohol for consumption on the premises. If you do not know what the rateable value of your premises is, you can find this on the [Valuation Office Agency](#) website.

What is the Non-domestic rateable value of the premises?: 33001-87000

Cost of licence: £315.00

I/We, Sisu Enterprises Limited Sisu Enterprises Limited, being the premises licence holder, apply for to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below.

Part 1 - Premises Details

Premises Address

Flat number (if any)

House number/name Dusk

Road name Ongar Road

Town Pilgrims Hatch

County Essex

Post code CM15 9SS

Daytime contact telephone number (if any):

Premises email address (optional):

Applicant Address

Flat number (if any)

House number/name 5
Road name Chancery Lane
Town London
County
Post code EC4A 1BL
Daytime contact telephone number: 02037725439
Applicant email address: kaizad@cassadys.co.uk

Part 2 - Variation

Do you want the proposed variation to have effect as soon as possible?: Yes

If not, from what date do you want the variation to take effect?:

Please describe briefly the nature of the proposed variation (please see guidance note 1):

1. It is proposed that the license dated 1 October 2019 no longer be subject to the following two conditions:

1.1 There should be a second interior door at the front entrance; and

1.2 Noise limiters shall be installed in the outside space in discussion and agreement of the Licensing Department of the Council.

2. An alcohol license should be granted for the premises.

3. That the license no longer cover the following activities: performance of dance and exhibition of a film

If the club's proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend:

Part 3 - Operating Schedule

Please state those parts of the Operating Schedule which would be subject to change if this application to vary is successful.

Provision of regulated entertainment for:

(b) films, (g) performances of dance

Provision of late night refreshment:

Supply of alcohol: Yes

a) Plays

Will the performance of a play take place indoors or outdoors or both? (please read guidance note 2):

Standard Days and Timings (please read guidance note 6)

<u>Day</u>	<u>Start</u>	<u>Finish</u>
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Please give further details here (please read guidance note 3):

State any seasonal variations for performing plays (please read guidance note 4):

Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed above, please list (please read guidance note 5):

b) Films

Will the exhibition of films take place indoors or outdoors or both? (please read guidance note 2):

Indoors

Standard Days and Timings (please read guidance note 6)

<u>Day</u>	<u>Start</u>	<u>Finish</u>
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Monday		
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Tuesday		
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Wednesday		
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Thursday		
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Friday		
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Saturday		
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Sunday		
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Please give further details here (please read guidance note 3):

No films will be shown at the premises

State any seasonal variations for the exhibition of films (please read guidance note 4):

Nt applicable

Non-standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed above, please list (please read guidance note 5):

Not applicable

c) Indoor Sporting Events

Standard Days and Timings (please read guidance note 6)

<u>Day</u>	<u>Start</u>	<u>Finish</u>
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Please give further details here (please read guidance note 3):

State any seasonal variations for indoor sporting events (please read guidance note 4):

Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed above, please list (please read guidance note 5):

d) Box or Wrestling

Will the boxing or wrestling entertainment take place indoors or outdoors or both? (Please read guidance note 2):

Standard Days and Timings (please read guidance note 6)

<u>Day</u>	<u>Start</u>	<u>Finish</u>
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Please give further details here (please read guidance note 3):

State any seasonal variations for boxing or wrestling entertainment (please read guidance note 4):

Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed above, please list (please read guidance note 5):

e) Live Music

Will the performance of live music take place indoors or outdoors or both? (please read guidance note 2):

Standard Days and Timings (please read guidance note 6)

<u>Day</u>	<u>Start</u>	<u>Finish</u>
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Please give further details here (please read guidance note 3):

State any seasonal variations for the performance of live music (please read guidance note 4):

Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed above, please list (please read guidance note 5):

f) Recorded Music

Will the playing of recorded music take place indoors or outdoors or both? (please read guidance note 2):

Standard Days and Timings (please read guidance note 6)

<u>Day</u>	<u>Start</u>	<u>Finish</u>
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Please give further details here (please read guidance note 3):

State any seasonal variations for playing recorded music (please read guidance note 4):

Non standard timings. Where you intend to use the premises for the playing of recorded music entertainment at different times to those listed above, please list (please read guidance note 5):

g) Performance of Dance

Will the performance of dance take place indoors or outdoors or both? (Please read guidance note 2): Indoors

Standard Days and Timings (please read guidance note 6)

<u>Day</u>	<u>Start</u>	<u>Finish</u>
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Monday

Tuesday

Wednesday

Thursday

Friday

Saturday

Sunday

Please give further details here (please read guidance note 3):

No dance will be performed at the premises

State any seasonal variations for the performance of dance (please read guidance note 4):

Not applicable

Non standard timings. Where you intend to use the premises for the performance of dance entertainment at different times to those listed above, please list (please read guidance note 5):

Not applicable

**(h) Anything of a similar description to that falling within (e)
Live music, (f) Recorded music or (g) Performance of dance**

Please give a description of the type of entertainment you will be providing):
Will this entertainment take place indoors or outdoors or both? (please read guidance note 2):
Standard Days and Timings (please read guidance note 6)

<u>Day</u>	<u>Start</u>	<u>Finish</u>
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Please give further details here (please read guidance note 3):

State any seasonal variations for entertainment of similar description to that falling within (e), (f) or (g) (please read guidance note 4):

Non-standard timings. Where you intend to use the premises for the entertainment of similar description to that falling within (e), (f) or (g) at different times to those listed above, please list (please read guidance note 5):

i) Late Night Refreshment

Will the provision of late night refreshment take place indoors or outdoors or both? (please read guidance note 2):

Standard Days and Timings (please read guidance note 6)

<u>Day</u>	<u>Start</u>	<u>Finish</u>
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Please give further details here (please read guidance note 3):

State any seasonal variations for the provision of late night refreshment (please read guidance note 4):

Non standard timings. Where you intend to use the premises for provision of late night refreshment at different times to those listed above, please list (please read guidance note 5):

(j) Supply of Alcohol

Will the supply of alcohol be for consumption on the premises or off the premises or both? (please read guidance note 7): On the premises

Standard Days and Timings (please read guidance note 6)

<u>Day</u>	<u>Start</u>	<u>Finish</u>
Monday	18:00	23:00
Tuesday	18:00	23:00
Wednesday	18:00	23:00
Thursday	18:00	23:00
Friday	18:00	23:00
Saturday	18:00	18:00
Sunday	18:00	18:00

Please give further details here (please read guidance note 3):

Not applicable

State any seasonal variations for the supply of alcohol (please read guidance note 4):

Not applicable

Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed above, please list (please read guidance note 5):

Not applicable

State the name and details of the individual whom you wish to specify on the licence as the designated premises supervisor

Name: Abul Fazal Mohammed Sharif Uddin

Address

Flat number (if any)

House number/name County Service Station

Road name Essex Gardens

Town Hornchurch

County Essex

Post code

Personal Licence Number (if known):

Issuing Licence Authority (if known):

(I) Hours premises are open to public

Standard Days and Timings (please read guidance note 6)

<u>Day</u>	<u>Start</u>	<u>Finish</u>
Monday	12:00	00:00
Tuesday	12:00	00:00
Wednesday	12:00	00:00
Thursday	12:00	00:00
Friday	12:00	00:00
Saturday	12:00	00:00
Sunday	12:00	00:00

State any seasonal variations (please read guidance note 4):

Not applicable

Non-standard timings. Where you intend to use the premises to be open to the public at different times to those listed above, please list (please read guidance note 5):

Not applicable

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation that you are seeking:

1. There should be a second interior door at the front entrance; and
2. Noise limiters shall be installed in the outside space in discussion and agreement of the Licensing Department of the Council.

Alternatively, 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.

If you are not able to provide the premises licence or relevant part of the premises licence, please state the reason why:

(n) Adult Entertainment and Services

Please highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8):

Not applicable

(o) Promoting Licensing Objectives

Describe any additional steps that you intend to take to promote the four licensing objectives as a result of the proposed variation

a) General – all four licensing objectives (b, c, d, e) (please read guidance note 9):

See the statement of Shakil Islam the director of the license holder dated 3 July 2020 to be sent separately by email

b) The prevention of crime and disorder:

See the statement of Shakil Islam the director of the license holder dated 3 July 2020 to be sent separately by email

c) Public safety:

See the statement of Shakil Islam the director of the license holder dated 3 July 2020 to be sent separately by email

d) The prevention of public nuisance:

See the statement of Shakil Islam the director of the license holder dated 3 July 2020 to be sent separately by email

e) The protection of children from harm:

See the statement of Shakil Islam the director of the license holder dated 3 July 2020 to be sent separately by email

Declaration

I understand that I must now advertise my application: I agree

A copy of the Prescribed Form of Notice is available here:

[Public Notice of Application to Vary](#)

I have attached the premises licence or relevant part of it or an explanation: 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, liable on summary conviction to a fine not exceeding level 5 on the standard scale, under section 158 of the Licensing Act 2003 to make a false statement in or in connection with this application

Part 4 - Signatures (please read guidance note 10)

Signature of applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent (see guidance note 11). If signing on behalf of the applicant, please state in what capacity.

Signature: Kaizad Cassad

Date: 03/07/2020

Capacity: Solicitor

Where the premises licence is jointly held, signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent (please read guidance note 12). If signing on behalf of the applicant, please state in what capacity

Signature: Kaizad Cassad

Date: 03/07/2020

Capacity: Solicitor

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13)

Correspondence Name: Cassadys Solicitors

Correspondence Address

Flat number (if any)

House number/name 5

Road name Chancery Lane

Town London

County

Post code EC4A1BL

Telephone number: 0203 772 5439

Mobile telephone number:

Email address: kaizad@cassadys.co.uk

From: Kaizad Cassad <kaizad@cassadys.co.uk>
Sent: 09 July 2020 16:49
To: Dave Leonard; Licensing
Cc: Dusk Brentwood
Subject: Dusk Brentwood Licence to Vary Clarification

Dear Mr Leonard,

Further to our earlier conversation over the phone, I write to clarify that our client will serve alcohol on the premises daily between the hours of 12.00 and 23.00 hours in the restaurant and lounge area.

No regulated entertainment would be conducted outside the premises.

Should you require further information, please do not hesitate to contact me.

Yours sincerely,

-

Kaizad Cassad
Director

Cassadys
5 Chancery Lane
London EC4A 1BL

71-75 Uxbridge Road
Ealing
London W5 5SL

Tel - 020 3772 5439
Web: www.cassadys.co.uk

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Mr Sharif Uddin
Mr Shakil Islam

Date: 29 July 2020

Contact: Dave Leonard
01277 312523

Dear Mr Uddin,

FINAL WARNING

**Licensing Act 2003 – Premises Licence
Dusk, Ongar Road, Pilgrims Hatch CM15 9SS**

This letter is sent in confirmation of our conversation on Wednesday, 29th July 2020 regarding a number of complaints the Licensing Office continues to receive relating to ***Dusk, Ongar Road, Pilgrims Hatch CM15 9SS.***

As previously discussed when you applied for a minor variation to your premises licence in March this year, in order for you to provide any licensable activities you are required to operate in strict compliance with all of the conditions attached to the licence

As you are aware, your venue is not currently adapted to be compliant with the following Conditions 1 and 7 in Annex 3 of the premises licence;

(1) There should be a second interior door installed at the front entrance

(7) Noise limiters shall be installed in the outside space in discussion and agreement of the Licensing Department of the Council.

For the avoidance of doubt this means that you are not authorised to conduct licensable activity at Dusk until you are compliant with the premises licence you were granted. With immediate effect, should any licensable activity, namely the Performance of Dance, Exhibition of a film, Performance of Live music, Playing of Recorded music, Other Entertainment falling within Act or the Provision of Late Night Refreshments take place, or be provided on or at the premises, this will constitute an unauthorised activity for which you may be liable to prosecution.

To conduct any activity in breach of the premises licence is an offence and may result upon conviction in an unlimited fine and/or 6 Months Imprisonment.

Both the Environmental Health Team and I will continue to monitor this situation. Please ensure that you take note of the above information and act upon it immediately. Further action may follow without further warning should the terms and conditions of your premises licence continue to be breached.

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

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Dave Leonard', with a stylized flourish at the end.

Dave Leonard
Licensing Officer



Mr Sharif Uddin
Mr Shakil Islam

Date: 15 December 2020

Contact: Dave Leonard
01277 312523

Dear Mr Uddin & Mr Islam,

WARNING LETTER

**Licensing Act 2003 – Premises Licence
Dusk, Ongar Road, Pilgrims Hatch CM15 9SS**

This letter is sent in confirmation of our conversation following a premises inspection conducted by Licensing Manager Paul Adams and myself on Friday, 4 December 2020 at 8.10pm in response to a number of complaints that the Licensing Office continues to receive relating to ***Dusk, Ongar Road, Pilgrims Hatch CM15 9SS***.

As discussed previously when you have applied for variations to your premises licence in March, July, September and November of this year, in order for you to provide any licensable activities on the premises, you are required to operate in strict compliance with **every** condition attached to the licence.

During our visit it became apparent, and you were made aware of the fact, that you are not currently compliant with Conditions 7, 9 and 10 in Annex 3 of the premises licence;

- (7) There shall be no live or recorded music shall be played in the outside (lounge) area between 12noon and 2230hrs until a noise limiting device has been installed and a noise limit agreed with Brentwood Borough Councils Environmental Health Team, such noise limit must not to be exceeded at any time.***
- (9) Customers must not be permitted to consume any alcohol on the premises other than alcohol sold or supplied under the authorisation of this licence.***
- (10) A written noise management policy which is acceptable to Brentwood Borough Council Environmental Health Team shall be put in place and adhered to.***

Furthermore, subsequent site visits to the car parking area outside Dusk on 5th, 11th & 12th December 2020, conducted in response to repeated noise nuisance complaints being received, has identified that you are not managing the dispersal of your patrons during the course of the evening effectively breaching Condition 11 in Annex 2;

**Brentwood Borough Council, Town Hall, Ingrave Road, Brentwood, Essex, CM15 8AY
Tel: 01277 312 500 Fax: 01277 312 743 Minicom: 01277 312 809 www.brentwood.gov.uk**

(11) On leaving patrons will be chaperoned to their vehicles to minimise disruption and noise outside.

For the avoidance of doubt this means that you are not authorised to conduct licensable activity at Dusk until you are compliant with the premises licence you were granted. With immediate effect, should any licensable activity, namely the Performance of Dance, Exhibition of a film, Performance of Live music, Playing of Recorded music, Other Entertainment falling within Act, the Sale by Retail of Alcohol (at a time when there is no designated supervisor in respect of it) or the Provision of Late-Night Refreshments take place, or be provided on or at the premises, this will constitute an unauthorised activity for which you may be liable to prosecution.

To conduct any activity in breach of the premises licence is an offence and may result upon conviction in an unlimited fine and/or 6 Months Imprisonment, and or a further review of your licence, which may include a request for revocation.

Both the Environmental Health Team and I will continue to monitor this situation. Please ensure that you take note of the above information and act upon it immediately. Further action may follow without further warning should the terms and conditions of your premises licence continue to be breached.

As you are aware, Brentwood is part of Essex and, at the time of our visit to your premises on Friday, 4 December 2020 we were governed by [The Health Protection \(Coronavirus, Local COVID-19 Alert Level\) \(High\) \(England\) Regulations 2020](#) commonly known as High or Tier 2 restrictions. In relation to the compliance with COVID Regulations and Guidance, I bring the following matters to your attention:

1. Observations of your customer base that were in areas deemed to be inside spaces under the regulations, raised questions if all the groups were in fact from the same household. In one instance a table seating four males was checked and details obtained by the police confirmed that all came from separate households. Under [The Health Protection \(Coronavirus, Restrictions\) \(Obligations of Undertakings\) \(England\) Regulations 2020](#) you are required to **take all reasonable measures** to ensure that no bookings are accepted for a group of two or more persons, where the group is to be located indoors, unless one of the exceptions applies. You are also required to **take all reasonable measures** to ensure that no persons are admitted to the premises in a group of two or more persons, where the group is to be located indoors, unless one of the exceptions applies. We would recommend that the reasonable steps to ensure compliance with the regulations may include;
 - Asking customers on booking and entry to confirm that all persons attending in their group live in the same household / from a support bubble.

- Advising customers on booking that you may ask for proof of address on entry, and to ask them to have documentation to demonstrate their address available if requested.
 - Where you have reason to think that the group may not be from the same household/support bubble, to ask to see some proof of address.
2. There is an exception under [The Health Protection \(Coronavirus, Local COVID-19 Alert Level\) \(High\) \(England\) Regulations 2020](#) to the requirement that “no persons are admitted to the premises in a group of two or more persons, where the group is to be located indoors”, where the gathering is reasonably necessary for work purposes. This exemption **does not** allow customers to use your premises for “work lunches” or “work meetings”. For this exemption to apply it **must be necessary** that the meeting has to take place on your premises, i.e. cannot be held anywhere else or in another way such as on a Zoom/Teams call. This exemption is intended to be for your staff to be able to have a team meeting at the start of a shift or for you to meet contractors etc. as part of your work. Any meeting that takes place under this exemption should follow the 2m social distancing between all participants, so it’s unlikely that they will all be sat at the same table and must be subject to a workplace risk assessment. While our visit to your premises did not assess every aspect of the Regulations, you do have a responsibility to ensure that you are fully compliant at all times with all aspects of them. For the latest information and guidance please visit <https://www.gov.uk/coronavirus>

The regulations do provide powers for an Enforcing Authority to take action against the responsible person for offences of non-compliance, which can be dealt with by way of a Fixed Penalty Notice, which starts at £1000 per offence and can rise to £10,000 for further offences. Essex County Council’s Director of Public Health also has powers to close premises or give other directions to premises that pose a risk to the Public Health around COVID where necessary.

I am mindful that Brentwood is about to go to Tier 3 (Very High Alert) restrictions at midnight tonight and this will have a far greater impact on your business but I hope that the advice and guidance that is provided in this letter will be taken onboard and that your premises does all it can to ensure that it is COVID secure. Any future non-compliance may attract further formal action. If you do require any further information or advice please contact us via email at licensing@brentwood.gov.uk .

Yours Sincerely,



Dave Leonard
Licensing Officer



Mr Sharif Uddin
Mr Shakil Islam

Date: 22 July 2020

Contact: Dave Leonard
01277 312523

Dear Mr Uddin,

**Licensing Act 2003 – Premises Licence
Dusk, Ongar Road, Pilgrims Hatch CM15 9SS**

This letter is sent in confirmation of our conversation on Wednesday, 22nd July 2020 regarding a number of noise nuisance complaints the Licensing Office received on 18th July 2020 relating to ***Dusk, Ongar Road, Pilgrims Hatch CM15 9SS***.

As previously discussed when you applied for a minor variation to your premises licence in March this year, in order for you to provide any licensable activities you are required to operate in strict compliance with all of the conditions attached to the licence

As you are aware, your venue is not currently adapted to be compliant with the following Conditions 1 and 7 in Annex 3 of the premises licence;

- (1) There should be a second interior door installed at the front entrance***
- (7) Noise limiters shall be installed in the outside space in discussion and agreement of the Licensing Department of the Council.***

For the avoidance of doubt this means that you are not authorised to conduct licensable activity at Dusk until you are compliant with the premises licence you were granted. With immediate effect, should any licensable activity, namely the Performance of Dance, Exhibition of a film, Performance of Live music, Playing of Recorded music, Other Entertainment falling within Act or the Provision of Late Night Refreshments take place, or be provided on or at the premises, this will constitute an unauthorised activity for which you may be liable to prosecution.

To conduct any activity in breach of the premises licence is an offence and may result upon conviction in an unlimited fine and/or 6 Months Imprisonment.

Both the Environmental Health Team and I will continue to monitor this situation. Please ensure that you take note of the above information and act upon it immediately. Further action may follow without further warning should the terms and conditions of your premises licence continue to be breached.

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

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Dave Leonard', with a stylized flourish at the end.

Dave Leonard
Licensing Officer



Mr Sharif Uddin
Mr Shakil Islam

Date: 28th February 2020

Contact: Dave Leonard
01277 312523

Dear Sirs,

**Licensing Act 2003 – Premises Licence
Dusk, Ongar Road, Pilgrims Hatch CM15 9SS**

This letter is sent in confirmation of my visit on Thursday, 27th February 2020 at 4pm, to **Dusk, Ongar Road, Pilgrims Hatch CM15 9SS** to discuss an alleged noise nuisance complaint received relating to the management of the premises.

We discussed in detail the operating schedule of the premises and the conditions attached to Annex 2 and Annex 3 on the licence.

As a result of this inspection, it was determined that you do not appear to be compliant with the following Conditions 1 and 7 in Annex 3;

- (1) There should be a second interior door installed at the front entrance***
- (7) Noise limiters shall be installed in the outside space in discussion and agreement of the Licensing Department of the Council.***

These breaches of the premises licence conditions must be remedied and you readily undertook to resolve these issues as a matter of priority.

I am mindful that you did provide evidence showing a willingness to communicate with the Environmental Health officer regarding the installation of a noise limiter, or the use of a sound limiting device, and I have also been advised that you did appeal to the magistrates' court following the decision of the Licensing Sub-Committee hearing determining your application for a new premises licence last year. However, the onus is now on you to provide evidence that you have correctly registered your appeal and that a subsequent court hearing to determine your appeal will be convened.

Both the Environmental Health Team and I will continue to monitor this situation. Please ensure that you take note of the above information and act upon it immediately. Further action may follow without further warning should the terms and conditions of your premises licence continue to be breached.

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**.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Dave Leonard', with a stylized flourish at the end.

Dave Leonard
Licensing Officer