



CHEL TENHAM

BOROUGH COUNCIL

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I Stephen Kiernan (Constable Gloucestershire Police)

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

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

Chelsea Bar & Brasserie
60 St Georges Place

Post town Cheltenham

Post code (if known) GL50 3PN

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

Number of premises licence or club premises certificate (if known)
13/01940/PRMVPS

Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible

authority (please read guidance note 1, and complete (A) or (B) below)

2) a responsible authority (please complete (C) below) **x**

3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr Mrs Miss Ms Other title (for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Gloucestershire Police Force Headquarters No1 Waterwells Waterwells Drive Quedgeley Gloucester GL2 2AN
Telephone number (if any) 101
E-mail address (optional) Licensing@Gloucestershire.pnn.police.uk

This application to review relates to the following licensing objective(s)

- | | |
|---|-------------------------------------|
| | Please tick one or more boxes ✓ |
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input checked="" type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | |

Please state the ground(s) for review (please read guidance note 2)

The premise has been granted a premises licence by Cheltenham Borough Council authorising sale/supply of alcohol, late night refreshment and performance of recorded music.

The premises operate as an ala carte restaurant providing traditional/contemporary cuisine. The venue is operated and the Premises Licence held by Mr Abdul MANNAN, the DPS is also listed as Mr Abdul MANNAN. The premises are part of the Brasserie Group of restaurants portfolio.

The premises were visited on 25th February 2016 by officers from Home Office Immigration with regard to a warrant to enter and search the premises for illegal workers namely Miss Kitsara NEAMSUVAN (Thai). On this occasion 2 Asian males Kowsar AHMAD (Bangladeshi) and Momin DAWLATZAI (Afghani) were found to be present checks were conducted on these males and both were found to be working illegally, they were subsequently detained for relevant offence under the Immigration Act 1971.

On the 7th March 2016 Miss Sumaiyah BADAT without a legal advisor was interviewed by DC Sarah Stewart from Home Office Immigration at Cheltenham Police Station, during which she confirmed that her name, date of birth and that she had been employed as a manager at the premises for just over a year. She admitted that she is responsible for the employment of staff and confirmed that right to work checks should be carried out on new employees. BADAT stated that AHMAD was at the premises for unpaid work experience, she had assumed that he had "leave to remain" in the UK. BADAT stated that DAWLATZAI had approached her for work as a kitchen porter, providing a copy of Italian identification which she had assumed gave him an entitlement to work in the UK as an EU citizen. She stated that she had given him 2 days unpaid work and that the enforcement visit had taken place on the second day of his trial period.

The current position with action to be taken against the premises is that the case has been forwarded to the Home Office Civil Penalty Compliance Team for consideration of proceedings.

From the findings of the visit to Chelsea Bar & Brasserie on 25th February 2016, it is apparent that BADAT has displayed a total disregard and lack of responsibility for ensuring that her employees are legitimately available for employment. This review application is submitted as relevant to 2 of the licensing objectives, namely the prevention of crime and disorder and public safety.

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

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

Section 11.26 states that it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premise and affecting the promotion of the licensing objectives.

Section 11.27 states that there is certain criminal activity which should be treated particularly seriously, one of these being knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that persons leave to enter. (It is pertinent to note that the previous guidance issued under section 182 in October 2011 did not include this offence in paragraph 11.29. This indicates the offence has now become a particular concern.)

Section 11.28 states that "where the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence, even in the first

instance, should be seriously considered.”

Home office Immigration is concerned with the apprehension, detention and management of persons illegally or unlawfully in the UK and as such their procedures and protocols are not directed towards supporting or promoting the Licensing Act and the licensing objectives, nor are they considered a responsible authority for the purpose of the legislation.

The Immigration, Asylum and Nationality Act 2006 amends immigration, asylum and nationality acts in relation to appeals; deportation and removal of persons. It also introduces legislation on employment of adults subject of immigration control; issue of employment penalty notices; associated employment offences; proving passenger; crew and freight information; a duty to share information; provide disclosure to other agencies and additional powers for searching, fingerprinting, examining and seizure of documents together with connected offences.

This particular legislation is ineffective in dealing with the specific issue of this review application and the consideration of this matter at a licensing hearing is therefore wholly inappropriate.

Where an employer pays wages to illegal workers off record with no tax or national insurance deductions which are then deliberately omitted from an employers End of Tax Year P35 returns to HMRC, the employer may be dealt with by means of the Fraud Act 2006.

Similarly, the HMRC may take action as a civil proceedings case and raise a tax debt against the business.

It should be quite apparent that there are potentially numerous criminal offences which may apply to the employment of illegal workers at this establishment.

Responsible and caring employers do not employ illegal workers and take measures to ensure this.

Large and well known branded restaurants’ and takeaway operators (McDonalds and KFC for example) are not renowned for being identified as employing illegal workers for this very reason.

It is not credible that employers do not know or suspect that the persons they are employing are not entitled to work. These are not merely cases of mistakes or lack of knowledge but deliberate ignorance or actual knowledge of the fact.

At the very least, the employers should demonstrate responsibility and due diligence in determining that persons they employ are entitled to work under the auspices of a licence granted by the Licensing Authority.

There can be no doubt that the premises licence granted by the authority, offers the provision of licensable activities to be conducted at this venue and that the premises user employs illegal workers to facilitate this activity to their financial benefit and to the detriment to law abiding competitors.

It is also obvious that illegal workers are prone to exploitation by their employers in that;

Illegal workers are unable to declare themselves to the authorities to claim any sort of financial support or benefits as this would render them liable to detention.

Consequently they are more than likely poorly paid for the hours they are required to work and are not subject to the benefit of a minimum wage or restricted hours as prescribed in law, nor are they provided in most cases with anything other than the most basic of living accommodation. The illegal workers are not afforded the benefit of the protections offered by UK employment legislation.

Licence holders have a responsibility to ensure the safety of those using their premises. (Guidance to licensing Act 2003 section 2.8.)

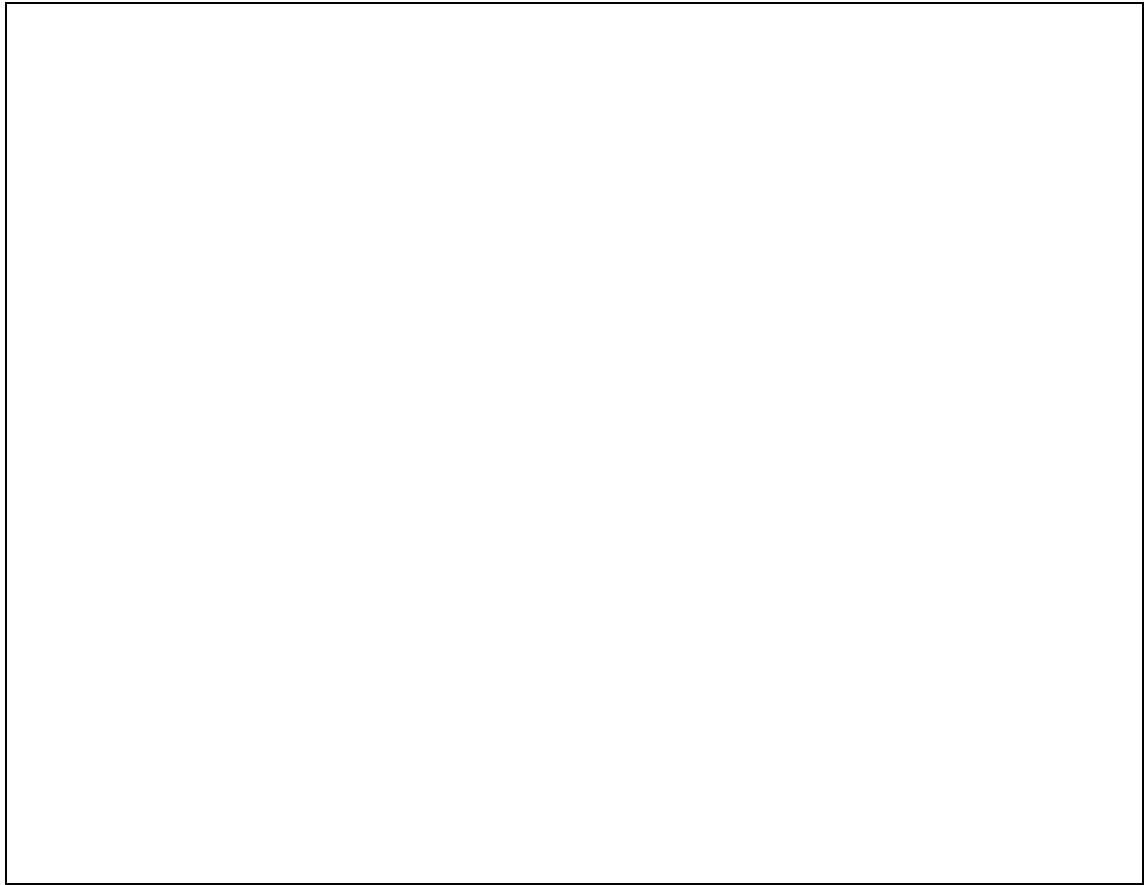
There are clear concerns in relation to public safety as to the competency and training of these

staff with respect to matters of food preparation and levels of personal hygiene even though this may be covered in other legislation.

Illegal entrants will not have been subjected to the appropriate Immigration Authority checks which would ordinarily have been conducted upon illegal entry to the UK, and it is reasonable to suggest that there is every possibility that the Licence Holder may well unwittingly be employing persons who could pose a serious risk to the UK in terms of terrorism/extreme beliefs, etc., or to UK individuals by means of historic criminal activity (i.e. serious assault/serious sexual assault, etc.) which potentially would have been a bar to their lawful entry.

Allowing this premise to continue to operate with the benefits of a premises licence will merely serve to perpetuate the criminal activity and human exploitation.

It is my respectful submission that it is an appropriate step to revoke the premises licence in order to promote the licensing objectives.



Please provide as much information as possible to support the application (please read guidance note 3)

Home Office Immigration officer statement is attached as well as pocket note book entries pertaining to the visit to the restaurant.

Interview notes conducted by DC Sarah Stewart at Cheltenham Police Station on 7th March 2016 with the manager of the premises Miss Sumaiyah BADAT are also attached.

A copy of the warrant used to obtain entry is attached.

Please tick ✓ yes

Have you made an application for review relating to the premises before

If yes please state the date of that application

Day Month Year

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If you have made representations before relating to the premises please state what they were and when you made them

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Please tick ✓

yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate **X**
- I understand that if I do not comply with the above requirements my application will be rejected **X**

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant’s solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature



Date **27/06/16**

Capacity **Licensing officer**

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

PC708 Stephen Kiernan
Holland House
Lansdown Road

Post town
Cheltenham

Post Code
GL51 6QH

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

