

Statutory Licensing Sub-Committee

14th August 2023

Application for the Review of a Premises Licence



Ordinary Decision

Report of Alan Patrickson Corporate Director of Neighbourhoods and Climate Change

Councillor John Shuttleworth, Cabinet Portfolio Holder for Rural Communities and Highways

Electoral division(s) affected:

Trimdon and Thornley

Purpose of the Report

- 1 The Sub-Committee is asked to consider and determine an application to review the premises licence in respect of Turkish Delight, 11-12 Front Street, Wheatley Hill, Durham DH6 3NJ
- 2 A plan showing the location of the premises is attached at Appendix 2.

Executive summary

- 3 On 19th June 2023, an application was received from the Home Office Immigration Enforcement (Responsible Authority) asking for a review of the premises licence (licence number DOEP325) for Turkish Delight, 11-12 Front Street, Wheatley Hill, Durham DH6 3NJ.
- 4 During the consultation period the Licensing Authority received a representation in response to the review from the premises licence holder Mr Mustafa Bilgin. Additional information was also provided by Mr Bilgin on 3rd August 2023.
- 5 Durham Constabulary, the Fire Safety Authority and the Planning Authority all responded to the consultation with no representations.

Recommendation(s)

- 6 The Sub-Committee is asked to determine the review application with a view to promoting the licensing objectives.
- 7 The Sub-Committee is recommended to give appropriate weight to:

- (a) The steps that are appropriate to promote the licensing objectives;
- (b) The representations (including supporting information) presented by all parties;
- (c) Durham County Council’s Statement of Licensing Policy - the relevant parts of the policy are attached at Appendix 7;
- (d) The Guidance issued to local authorities under Section 182 of the Licensing Act 2003 (as amended December 2022). The relevant parts of the guidance are attached at Appendix 8.

Background

8 Background information

Applicant	Home Office Immigration Enforcement	
Type of Application: Review of a Premises Licence	Date received: 19th June 2023	Consultation ended: 17th July 2023
Current Premises Licence Holder	Mr Mustafa Bilgin	
Current Designated Premises Supervisor	Not applicable	

- 9 The premises licence in respect of Turkish Delight, 11-12 Front Street, Wheatley Hill, Durham currently permits the following licensable activity:

Licensable Activity	Days & Hours
The Provision of Late Night Refreshment (indoors)	Monday to Thursday: 23:00 – 00:00 hrs Friday to Sunday: 23:00 – 01:00 hrs
Opening Hours	Monday to Thursday: 07:00 – 00:00 hrs Friday and Saturday: 07:00 – 01:00 hrs Sunday: 17:00 – 01:00 hrs

10 A copy of the premises licence is attached at Appendix 3.

Details of the application

- 11 The review application submitted by the Home Office Immigration Enforcement was received on 19th June 2023.
- 12 The application is deemed by the Licensing Authority to be relevant, and the application was advertised in accordance with the regulations.
- 13 The application for review relates to the following licensing objective:
- The Prevention of Crime and Disorder
- 14 A copy of the review application is attached at Appendix 4.

The Representations

- 15 During the consultation period, the Licensing Authority received a representation in response to the review from the premises licence holder Mr Mustafa Bilgin. Additional information was also provided by Mr Bilgin on 3rd August 2023.
- A copy of Mr Bilgin's representation and additional information provided is attached at Appendix 5.
- 16 Durham Constabulary, the Fire Safety Authority and the Planning Authority all responded to the consultation with no representations.
- Copies of these responses are attached at Appendix 6, for information only.

The Parties

- 17 The Parties to the hearing will be:
- Officer Joanna Henderson, Home Office Immigration Enforcement (On behalf of the Applicants)
 - Mr Mustafa Bilgin (Premises Licence holder)

Options

- 18 The options open to the Sub-Committee are:
- (a) To take no further action;
 - (b) To modify or add conditions to the licence;
 - (c) Exclude a licensable activity from the licence;

- (d) Remove the Designated Premises Supervisor (if there is one);
- (e) Suspend the licence for a period (not exceeding three months);
- (f) Revoke the licence.

Main implications

Legal Implications

- 19 The Committee should be aware of several stated cases which have appeared before the Administrative Court and are binding on the Licensing Authority.

See Appendix 1.

Consultation

- 20 The review application was subject to a 28 day consultation.

See Appendix 1

Conclusion

- 21 The Sub-Committee is asked to determine the application for the review of the premises licence for Turkish Delight, 11-12 Front Street, Wheatley Hill, Durham DH6 3NJ

Background papers

- Durham County Council's Statement of Licensing Policy
- Guidance issued under Section 182 of the Licensing Act 2003 (as amended December 2022)

Other useful documents

- None

Contact: Helen Johnson

Tel: 03000 265101

Appendix 1: Implications

Legal Implications

The case of Daniel Thwaites Plc v Wirral Borough Magistrates' Court (Case No: CO/5533/2006) at the High Court of Justice Queen's Bench Division Administrative Court on 6 May 2008, [2008] EWHC 838 (Admin), 2008 WL 1968943, Before the Honourable Mrs Justice Black.

In this case it was summed up that:

A licensing authority must have regard to guidance issued by the Secretary of State under section 182. Licensing authorities may depart from it if they have reason to do so but will need to give full reasons for their actions.

Furthermore the Thwaites case established that only conditions should be attached to a licence with a view to promoting the Licensing objectives and that 'real evidence' must be presented to support the reason for imposing these conditions.

This judgement is further supported in the case of The Queen on the Application of Bristol Council v Bristol Magistrates' Court, CO/6920/2008 High Court of Justice Queen's Bench Division The Administrative Court, 24 February 2009, [2009] EWHC 625 (Admin) 2009 WL648859 in which it was said:

'Licensing authorities should only impose conditions which are necessary and proportionate for the promotion for licensing objectives'.

In addition to this, it was stated that any condition attached to the licence should be an enforceable condition.

Consultation

The premises licence review application was subject to a 28 day consultation in accordance with the Licensing Act 2003 and its regulations.

The Responsible Authorities were consulted on the application.

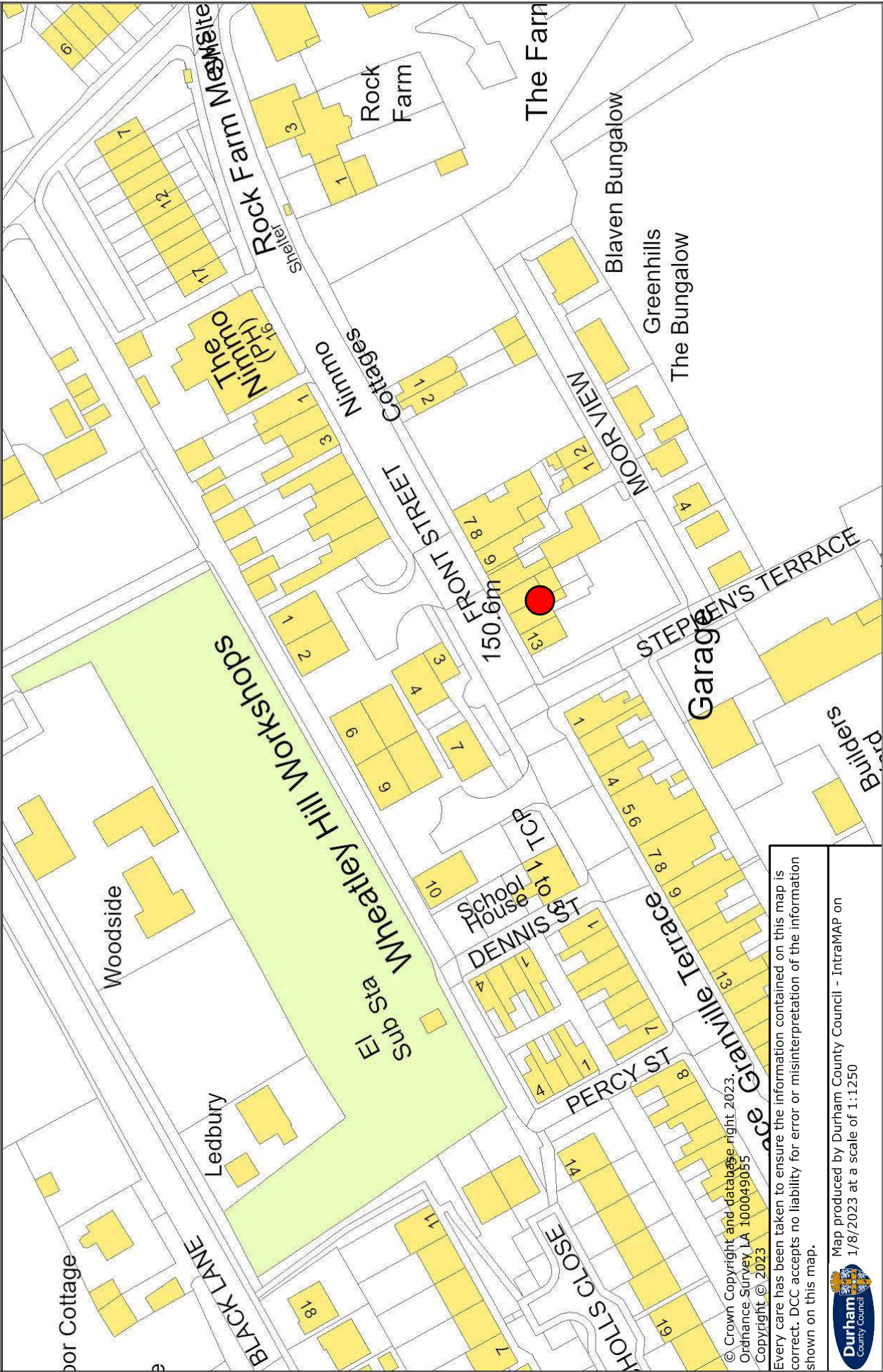
The notice of application was displayed on the premises for a period of 28 days.

Notice of the application was displayed at the Council's Head Office at County Hall, Durham.

In addition, details of the application were available to view on the Council's website throughout the 28 day consultation period.

Appendix 2: Location Plan

Durham County Council - IntraMAP



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Ordnance Survey LA 100049095
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Every care has been taken to ensure the information contained on this map is correct. DCC accepts no liability for error or misinterpretation of the information shown on this map.

 Map produced by Durham County Council - IntraMAP on 1/8/2023 at a scale of 1:1250

Appendix 3: Premises Licence



LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number
Granted
Issued

DOEP325
13 May 2009
13 May 2009

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
<p>TURKISH DELIGHT FRONT STREET WHEATLEY HILL DURHAM DH6 3NJ</p>	<p>DURHAM COUNTY COUNCIL EHCP LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ</p>

Telephone number:

Where the licence is time limited the dates
N/A

Licensable activities authorised by this licence
Late Night Refreshment

The opening hours of the premises (all times in 24hr format)

Monday	07:00 - 00:00	Non standard/seasonal timings: N/A
Tuesday	07:00 - 00:00	
Wednesday	07:00 - 00:00	
Thursday	07:00 - 00:00	
Friday	07:00 - 01:00	
Saturday	07:00 - 01:00	
Sunday	17:00 - 01:00	

Where the licence authorises the sale by retail of alcohol whether these are on and/or off sales
NO ALCOHOL SALES

The times the licence authorises the carrying out of licensable activities (all in 24hr format)

Late night refreshment		
Indoors only		
Monday	23:00 - 00:00	Further details
Tuesday	23:00 - 00:00	N/A
Wednesday	23:00 - 00:00	
Thursday	23:00 - 00:00	Non standard/seasonal timings:
Friday	23:00 - 01:00	N/A
Saturday	23:00 - 01:00	
Sunday	23:00 - 01:00	

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence	
MR MUSTAFA BILGIN TURKISH DELIGHT FRONT STREET WHEATLEY HILL DURHAM DH6 3NJ	

Registered number of holder, for example company number, charity number (where applicable)	
Company no:	N/A
Charity no:	N/A

Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol
N/A

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the sale by retail of alcohol
N/A

Annex 1 – Mandatory conditions

N/A

Annex 2 – Conditions consistent with the premises Operating Schedule

General

None.

The Prevention of Crime and Disorder

No alcohol sold on premises.
CCTV installed inside and outside premises. Available for police prevention.

Public Safety

Comply with all Health & Safety regulations.
Comply with Fire regulations.

The Prevention of Public Nuisance

No alcohol sold on premises.

The Protection of Children from Harm

Children must be accompanied by adult and only allowed in waiting area.

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

N/A

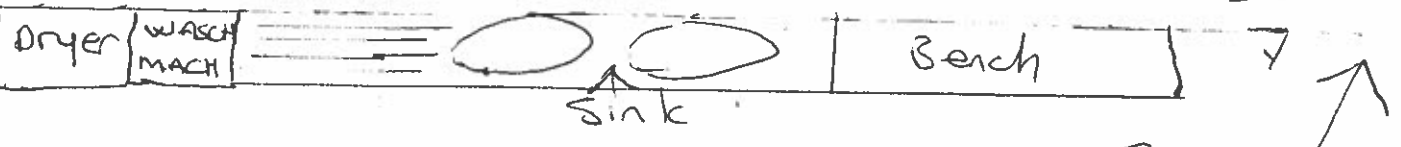
Annex 4 – Plans attached

Attached

✓

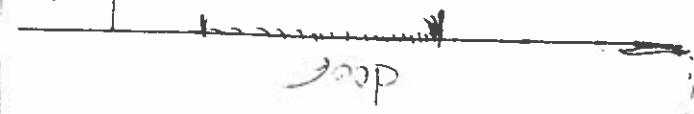
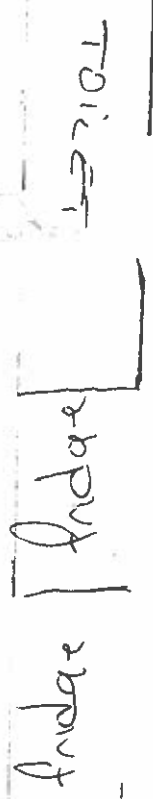
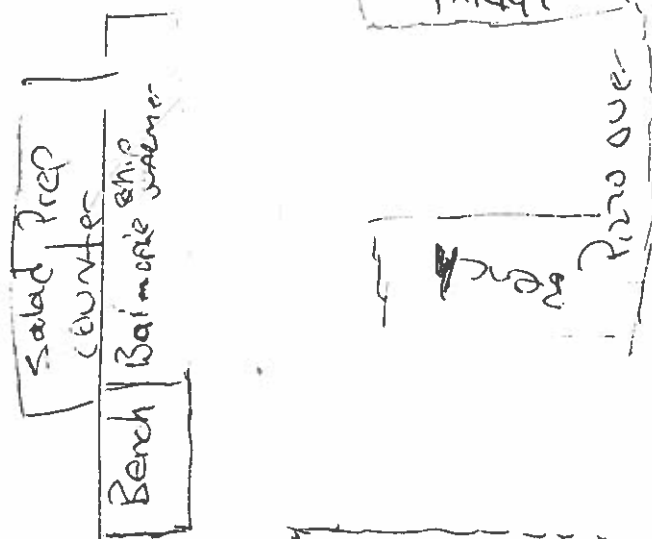
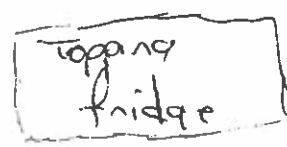
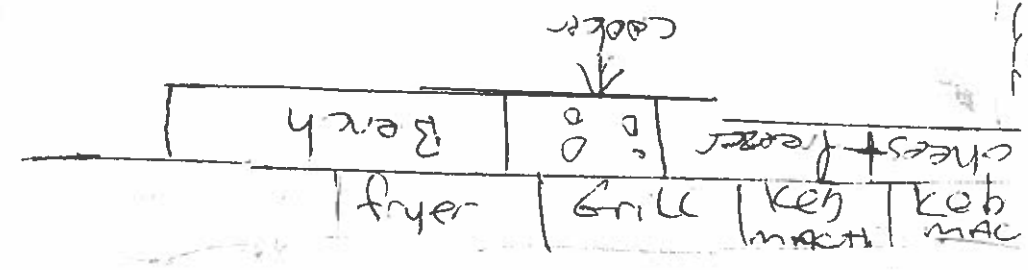
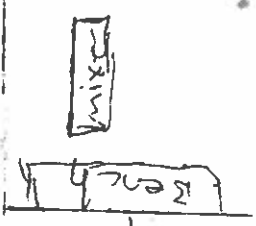
Signature of Authorised Officer
Head of Environment, Health and Consumer Protection

Back yard



Back kitchen

Fire Exit



door

DURHAM COUNTY COUNCIL
 RECEIVED
 14 MAY 2009
 NEIGHBOURHOOD SERVICES
 FILE REF DOEP325
 PASSED TO

Customer Area

office

Entrance

Entrance

Appendix 4: Review application

[Insert name and address of relevant licensing authority and its reference number (optional)]
Licensing Authority: Durham County 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 Home Office Immigration Enforcement

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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
Turkish Delight 11-12 Front Street Wheatley Hill	
Post town Durham	Post code (if known) DH6 3NJ

Name of premises licence holder or club holding club premises certificate (if known)
Mr Mustafa Bilgin

Number of premises licence or club premises certificate (if known)
DOEP325

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)

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

Home Office Immigration Enforcement Alcohol Licensing Team Lunar House 40 Wellesley Road Croydon CR9 2BY
Telephone number (if any)
E-mail address (optional)

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

- Please tick one or more boxes ✓
- 1) the prevention of crime and disorder
 - 2) public safety
 - 3) the prevention of public nuisance
 - 4) the protection of children from harm

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

Grounds for review:

We have grounds to believe the license holder has failed to meet the licensing objectives of prevention of crime and disorder, as illegal working has been identified at this premises.

Section 36 and Schedule 4 of the Immigration Act 2016 (the 2016 Act) amended the Licensing Act 2003 (the 2003 Act) to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017. The intention is to prevent illegal working in premises licensed for the sale of alcohol or late-night refreshment.

The Home Secretary (in practice Home Office (Immigration Enforcement)) was added to the list of Responsible Authorities (RA) in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences and applications to vary a Designated Premises Supervisor (DPS)), and in some limited circumstances personal licence applications. In carrying out the role of responsible authority, Home Office (Immigration Enforcement) is permitted to make relevant representations and objections to the grant of a licence or request a review of an existing licence as a responsible authority where there is concern that a licence and related licensable activity is prejudicial to the prevention of immigration crime including illegal working.

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

Please refer to accompanied review pack for detailed information

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
<input type="text"/>	<input type="text"/>	<input type="text"/>

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

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

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

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 19/06/2023

.....

Capacity **Responsible Authority**.....

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

**Alcohol Licensing Team
Lunar House
40 Wellesley Road**

**Post town
Croydon**

**Post Code
CR9 2BY**

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.



Home Office

Premises Licence Review

Turkish Delight
11-12 Front Street
Wheatley Hill
Durham
DH6 3NJ

Contents

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Case Summary

On 26 April 2023, the North East & Cumbria ICE Team visited Turkish Delight, 11-12 Front Street, Wheatley Hill, Durham DH6 3NJ. Intelligence was received stating [REDACTED], [REDACTED], male, [REDACTED] years was working illegally at the premises. Entry to the premises was gained to the premises at 22:08 under Schedule 10 Paragraph 10(3) of the Immigration Act 2016.

Officers encountered 1 person on the premises, identified as the person named on the intelligence from his photograph, as an immigration offender.

A referral has been made to the Civil Penalty Compliance Team in relation to the illegal working.

Licensed Premises History

The premises license number is DOEP325 and is held by Turkish Delight, Front Street, Wheatley Hill, Durham, DH6 3NJ, with the current licence holder being Mr Mustafa Bilgin from 13 May 2009.

Companies House shows no trace of the company. Following checks made in relation to business rates, it was identified Mr M M to be responsible for these.

The license permits the provision for late night refreshment during the following hours:

23:00 – 00:00 hrs Monday to Thursday inclusive

23:00-01:00 hrs Friday to Sunday inclusive

The premises licence was identified as being suspended from 24 October 2022 due to non-payment of annual fees. Colleagues from Durham Licensing were also in attendance, they noted that the CCTV in the premises was not in working order. This was in contravention of their license conditions.

Enforcement Visit: 14 October 2022

A previous visit to the premises was conducted on 14 October 2022 following intelligence received stating there are illegal workers at the premises, with further intelligence received naming the aforementioned male, stating he resides in the flat above the premises and owns/manages/works at the target premises Tuesday to Sunday from 16:00 – 00:00 hrs, and has no papers to work in the UK nor proof of lease for the business.

██████████ was encountered and subsequently arrested in the premises under Paragraph 17(1) Schedule 2 of the Immigration Act 1971. He admitted during interview to his visa expiring in January 2014 and he had made no subsequent applications to remain in the UK legally, and therefore an overstayer in the UK.

During this visit, █████ stated he was the manager of the premises and had been since he started working there in March 2019, stating he was business partners with the owner M █████ M █████. He further stated his duties were cooking, cleaning, ordering food from suppliers, and paying the staff wages of £9 per hour.

A referral was made to the Civil Penalty Compliance Team in relation to the illegal working and a fine of £10,000 was imposed on the business and this remains outstanding.

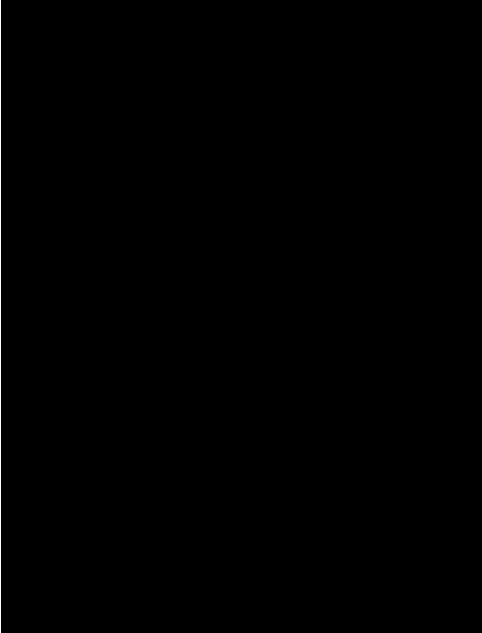
Enforcement Visit: 26 April 2023

Entry was gained to the premises at 22:08. Upon entering, Immigration Officers encountered the following individual:

████████████████████

██████████ was encountered coming from the rear of the premises in the staff area, he was identified from a photograph as the target of the visit and was the only member of staff on the premises at the time.

Whilst being questioned he was actively turning off the till and Just Eat machine, rejecting orders for food coming through on the online orders as there would be no staff now present in order to cook the food. He tidied away food that was left over from the evening and upon conclusion of the interview he locked the premises, ensuring it was secure via the door and shutters and retained the keys to the premises.



Photograph showing [REDACTED] in work clothing in the premises, it was observed that he had food stains on his shirt and shoes.

[REDACTED] had made an application seeking leave to remain in the UK outstanding and was advised when being released from detention (November 2022) that he has no permission to work in the UK.

[REDACTED] stated he had returned to work 24 April 2023, claiming his friend who owned the business was on holiday for 2 weeks and had asked him to look after it whilst he was away. [REDACTED] claimed to be responsible for paying the bills, paying for supplies from the cash and carry and supervise and manage the staff working, however it was noted by officers that he was the only person on the premises. [REDACTED] stated he understood that he has no right to work in the UK. He stated the manager of the shop was named M M .

Reasons for Review

Section 36 and Schedule 4 of the Immigration Act 2016 amended the Licensing Act 2003 to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 06 April 2017. The intention is to prevent illegal working in premises licensed for the sale of alcohol or late-night refreshment.

There was one illegal worker encountered at the premises, who it should also be noted was the target and encountered in the same premises before being arrested during a previous visit conducted on 14 October 2022. The business was subsequently issued a Civil Penalty fine of £10,000 for the employment of this worker which remains outstanding.

This was the second infringement in just over six months. It is therefore deemed the business owner to have an awareness and understanding of the processes and responsibilities to conduct checks on the people they employ. Furthermore, due to a previous fine being issued, the business owner is aware of the consequences in employing staff at the establishment who have no permission to work. It is considered that in this case, Mr M | M has deliberately overlooked the rules and laws in place to prevent crime and disorder.

It is an offence to work when a person is disqualified to do so, and such an offence can only be committed with the co-operation of a premises licence holder or its agents. In this case, the illegal worker had an outstanding claim. Claimants are issued Application Registration Cards (ARC), these cards clearly state the holder's employment restrictions. It is noted that [REDACTED] was also advised that he could not work when being released from detention.



Example of an ARC card. In this case, it clearly states "No Work." It is incumbent on all employers to conduct pre-employment checks on all prospective members of staff.

Whether by negligence or wilful blindness, illegal workers were engaged in activity on the premises, yet it is a simple process for an employer to ascertain what documents they should check before a person can work. All employers are dutybound by law to conduct these checks, and guidance can be found on the .Gov website or by using a search engine. Additional information on how to conduct these checks is available online, this includes the Home Office's official YouTube page. The information is readily available; however, the license holder has deliberately overlooked the rules and laws in place to prevent crime and disorder.

Section 182 guidance at point 11.27 states that certain activity should be treated particularly seriously, and this includes employing someone who is disqualified from that work by reason of their immigration status in the UK. 11.28 of the guidance

states that it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Immigration Enforcement submits that for commercial reasons those engaged in the management of the premises employed an illegal worker and a warning or other activity falling short of a review is inappropriate. The premises was found to be in breach of the law twice in just over six months, therefore Immigration Enforcement has proceeded to apply for a review.

Outcome Sought

The objective of the Licensing Act 2003 (the Act) is to provide a clear, transparent framework for making decisions about applications by individuals or businesses wishing to sell or supply alcohol or provide certain types of regulated entertainment and late-night refreshment.

There are four licensing objectives which underpin the Act, and which need to be taken into account and promoted throughout the licensing process.

The licensing objectives are:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance and
- the protection of children from harm

In this case, the license holder has demonstrated a blatant disregard for the Licensing Act and the licensing objectives. The license holder had every opportunity to rectify his mistakes after the first visit in October 2022 yet willingly chose to repeat the offences which were discovered in April 2023.

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 their revocation/suspension of their premises licence.

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.

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".

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.

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 Home Office (Immigration Enforcement) highlights this as relevant irrespective of whether a civil penalty is imposed, or a prosecution launched for employing an illegal worker.

Immigration Enforcement has submitted that the license holder chose to accept the assurances of the employees on face value, rather than complete the necessary right to work checks that is incumbent of all employers. Conducting these checks is a simple task and should be part of their business-as-usual practices. Guidance is available online and the Home Office have published "[Right to work checks: an employer's guide](#)" which can be found on the .Gov website. Additional information on how to conduct these checks is readily available online, this includes the Home Office's official YouTube page which gives a step-by-step video on how to conduct the checks. The information is readily available; however, the license holder has deliberately overlooked the rules and laws in place to prevent crime and disorder.

The use of illegal labour provides an unfair competitive edge and deprives the UK economy of tax revenue. Illegal workers are often paid below the minimum wage (itself an offence) and National Insurance payments are not paid. The main draw for illegal immigration is work and low-skilled migrants are increasingly vulnerable to exploitation by criminal enterprises, finding themselves in appalling accommodation and toiling in poor working conditions for long hours for little remuneration.

A firm response to this criminal behaviour is required to ensure that the licence holder and/or its agents are not allowed to repeat the exercise and in particular, in the interests of the wider community to support responsible businesses and the jobs of both UK citizens and lawful migrants. It is also required to act as a deterrent to others who would otherwise seek to seek an unfair competitive advantage, exploit workers, and deny work to the local community, evade the payment of income tax and (unlawfully) inflate their profits to the expense of others.

The licence holder has engaged in criminal activity by employing an illegal worker. Merely remedying the existing situation (for instance by the imposition of additional conditions or a suspension) is insufficient to act as a deterrent to the licence holder in this case. Immigration Enforcement asks that the premises licence is revoked.

This submission and appended documents provide the licensing subcommittee with background arguments and information pertinent to that contention. These provide the sub-committee with a sound and defensible rationale as to why it should revoke the licence.

Appendix A – Officer records

Illegal Working Interview - [REDACTED]

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Illegal Working - Employee

Details

Type of work	Visit
Visit reference	[REDACTED]
Created by	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
Subject name	[REDACTED]
Subject DOB	[REDACTED]
Subject nationality	
Subject gender	Male
Time	22:17
Created at geolocation	Easting 437814 Northing 539202
Creation date	26-04-2023 22:17:50

Language of Interview

What language is the interview carried out in?	English
Interpreter used?	No

Obligation

How long have you been working here?	It was the date when I was arrested October 14th. I worked here until 14th October. Then I was arrested. They believed I was working illegally.
--------------------------------------	---

since your release from Immigration detention in November 2022 when did you start working here again?	I haven't come back. I came to work two days ago. Monday night 24.04.23. My friend who owns the business is on hiday for two nights and he s back on Friday. He told me to look after the business while he s away. To buy supplies. To back stuff from the cash and carry. To pay bills on his behalf. To pay for stuff from cash and carry. I understand I don t have any right to work. I'm awaiting my second interview for my case. I'm not intending to break any law.
What days/ hours do you work each week?	I came Monday night time around 9-10 pm and came today Tuesday and Wednesday 5pm until 9pm. To stand infront at the shop and to watch and manage the staff working.
What is your job role/ what are your duties?	Managing staff. Paying for deliveries.
do you take payment for food	No. I don't.
when else were you going to work here this week?	I can get food when I am here. I can make food and eat something for free. I'm off tomorrow and he is back on Friday.
is the cctv working?	No it's not been working for 7 months.
how do you know that if you are not working here?	Because I was working here before in October.
Control	
Who gave you this job (name and role in business)?	M M . He is the manager of the shop. The business is in his name. (Owner on licencing is Mustafa Bilgin) I don't no Mustafa Bilgin. I have never seen him here before.
Who tells you what days/ hours to work?	The owner.
Who tells you what tasks/ duties to do each day?	The owner.
Remuneration	
How are you paid (money, accommodation, food)?	No money. Just food. The staff can make me some food and my girlfriend.
Pre-employment Checks	
What name does the employer know you as?	[REDACTED]
Did you show documents before being offered the job? If so, what?	No.
Does your employer know you're not allowed to work in the UK?	Yes.

Additional Questions

No details provided.

Photographs

food stains on the shirt a day shoes. male was the only person present when the team entered. he was located in thr kitchen. he was fully able to operate the just eat machine and till. he has the keys to the office.

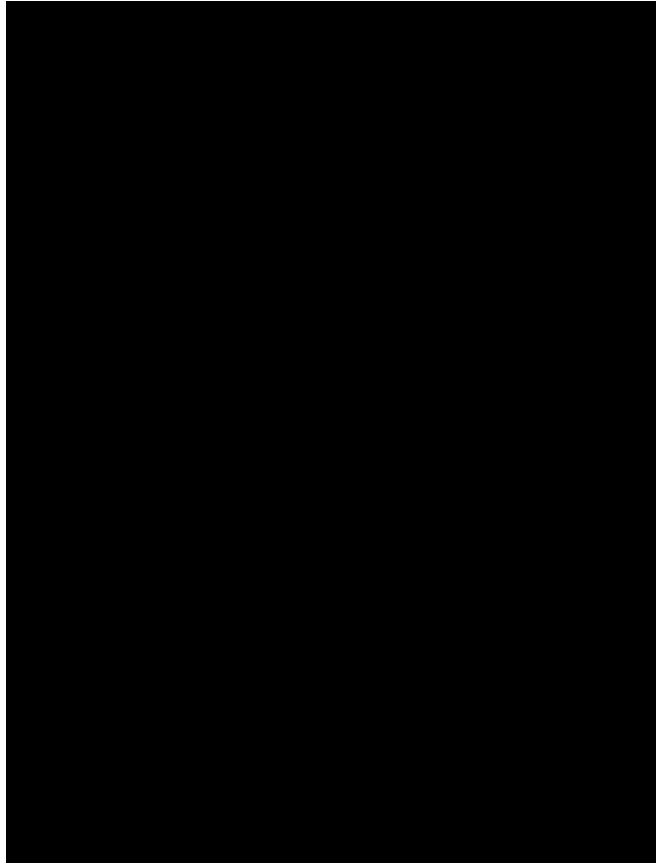
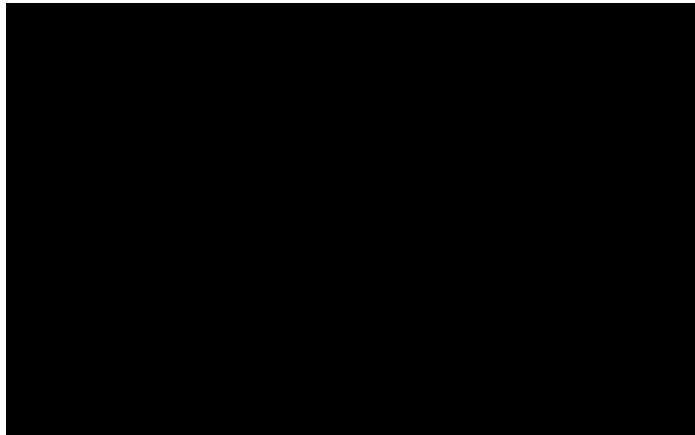


Exhibit Ref JC/1

Declaration

I confirm that I have understood all the questions and that the details are true and correct.

Interviewee signature [REDACTED]



26-04-2023 22:40:20

Observations	
Observations	food stains on the shirt a day shoes. male was the only person present when the team entered. he was located in thr kitchen. he was fully able to operate the just eat machine and till. he has the keys to the office.
Do you suspect this person of illegal working?	Yes

Freetext	
Details	
Type of work	Visit
Visit reference	[REDACTED]
Created by	[REDACTED]
Address	Turkish Delight , 11 A Front street, Wheatley Hill, Durham, DH6 3NJ (Visit Address)
[REDACTED]	[REDACTED]
Subject name	[REDACTED]
Subject DOB	[REDACTED]
Subject nationality	
Subject gender	Male
Time	22:56
Created at geolocation	Easting 437812 Northing 539197
Creation date	26-04-2023 22:56:26
Is this entry related to a Critical Incident?	No

Entry	
Title	Securing of premises
Text	[REDACTED] packed up the shop. He put all the food in the fridges. He turned off all the equipment and cookers. He put the shutter down on the back door and kebab meat in a freezer. He operated the till and took all the notes out and handed them to the delivery driver. He new where all the light switches were. He held a set of keys and locked the front door and knew how to operate and close the front door and shutter. He retained the keys to the business.

Appendix 5: Representation from Mr Bilgin, Premises Licence Holder

From: Mustafa Bilgin

Sent: 03 July 2023 18:31

To: Yvonne Raine

Subject: [EXTERNAL]:Re: IMPORTANT: Licensing Act 2003 - Licence Review application received - Turkish Delight, Wheatley Hill

Dear Yvonne,

Thank you very much for your email and I can confirm someone from your office came and put posters inside and outside my premises regarding this issue.

With regards to the application from the Home Office Immigration Enforcement (Responsible Authority) for the review of the premises licence for Turkish Delight, 11-12 Front Street, Wheatley Hill. County Durham. DH6 3NJ I wish to represent myself and wish my licence to remain as is.

I am a well respected local businessman and have nearly thirty years working and living in County Durham. During this time I have no issues with anti social behaviour, noise and nuisance, at my premises and disagree with the Home Office request to amend my late licence.

Due to illness I rented the premises, Turkish Delight, directly to Mr M M . It appears he has employed a person who worked illegally, which is completely irresponsible behaviour. Mr M was solely responsible for the shop and who he employed, as per GDPR rules he is responsible for his staffs personal data and was under no obligation to share any personal information with me other than what was required when he took the lease.

Therefore I implore you to understand my position in that I cannot be held responsible for the actions of a third party in relation to who he has employed. I believe it is unfair, unjust and inappropriate to damage my reputation due to the actions of a third party.

I am assuming you are aware all correspondence from the Home Office is addressed to M M in relation to him employing A A and not to me, the licence holder Mr Mustafa Bilgin.

Mr M has left me with a nightmare in loss of rent, trying to sort out unpaid utility bills, disconnection of services, unpaid food suppliers, environmental health agency and looking into possible fraud. His dishonesty has ongoing consequences.

With reference to the Prevention of Crime and Disorder objective (Licensing Act 2003) in relation to the four licensing objectives:

The prevention of crime and disorder

Public safety

The prevention of public nuisance

The protection of public from harm.

I have always upheld the four licencing objectives and will continue to do so. I can only apologise that my tenant acted inappropriately and has been fined accordingly for his actions.

I wish my late licence to be maintained and believe the grounds for the review are unjust as highlighted above.

If you can please reply to say you have received my email as my representation as reasons why to not to amend my late licence. If you can email me regarding the review process and if I need to do anything else regarding this matter.

Yours sincerely
Mustafa Bilgin

From: Mustafa Bilgin

Sent: 02 August 2023 18:07

To: Yvonne Raine

Subject: [EXTERNAL]:Re: Notice of Licence Review Hearing - Turkish Delight, 11-12 Front Street, Wheatley Hill, Durham

Dear Ms Raine,

Thank you for your update regarding the upcoming licencing review meeting on the 14th August, I will be attending on my own and attached the signed document. I have attached documents that have been sent to the premises recently for Mr M to substantiate, as the leaseholder, he was responsible for running his business from the premises and employing his own staff at the time of this incident.

As English is not my first language I ask if the review panel and all present be made aware, I do not feel I need an interpreter however the use of plain English would be appreciated. If I do not understand technical words or jargon I may ask information to be explained to me. I hope this is ok?

My statement:

I fully appreciate why there is an application for a review of the Premises Licence for Turkish Delight, 11-12 Front Street, Wheatley Hill, Durham. I understand this is the duty of the Home Office Immigration Team as they are a Responsible Authority and I have read their grounds for review. I note no other responsible authorities have made a representation for this review, which I take as a positive outcome for me.

Firstly I must state at the time of the incidence I was not running the business, I had leased the premises years earlier to Mr M

The Home Office review document points out after doing their checks that Mr M M name is on the business rates, as were all the utility bills, waste removal contacts, and online services contracts etc. As he premises was leased to him, like any other lease holder, he ran his business as he wishes from the premises and employed his own staff. I appreciate the leaseholders name has been redacted on the review document.

My mistake has been that I did not transfer the premises license number DOEP325 which is held by Turkish Delight, Front Street, Wheatley Hill, Durham, DH6 3NJ, from my name Mr Mustafa Bilgin to Mr M . Unfortunately my ignorance of the licencing processes and poor professional advice sadly this was not carried out, I only found out this was actually possible very recently.

In my response to the request for this review I have fully complied with your process, it has been rather embarrassing having to explain to the local residents about the incident relating to the licence review, as of course many have read the statement in the shop window. I have had businesses in Wheatley Hill for nearly 25 years and never had any issues and I don't want this situation to effect my own reputation.

I utterly disagree with the behaviour of Mr M and appreciate the efforts undertaken by the Home Office to uphold Section 36 and Schedule 4 of the Immigration Act 2016 (the 2016 Act) to introduce immigration safeguards in respect of licencing applications made in England and Wales on or after 6 April 2017 to prevent illegal working in premises licensed for the sale of alcohol or late-night refreshment.

I appreciate the grounds to believe the licence holder (myself) has failed to meet the licensing objectives of prevention of crime and disorder, as illegal working has been identified at the premises.

In my defence all I can say is unfortunately due to not knowing I could/should have changed the licence holder to Mr M when I leased the shop to him I am attending the hearing and answering for his misdemeanour.

In my defence I can state I have now taken back the premises and I can give my assurance that I will fulfil all the obligations, as I did do when previously running my own business from the premises for ten years, in relation to upholding all four of the licencing objectives:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance and
- the protection of children from harm

Yours sincerely
Mustafa Bilgin

Sent from my iPhone

COMMERCIAL LEASE AGREEMENT

THIS LEASE (this "Lease") dated this 3rd day of July, 2020

BETWEEN:

Mustafa Bilgin of

Telephone: _____ Fax: _____
(the "Landlord")

OF THE FIRST PART

- AND -

M M of

Telephone: _____
(the "Tenant")

OF THE SECOND PART

- AND -

A A of

Telephone: _____ Fax: _____
(the "Guarantor")

OF THE THIRD PART

IN CONSIDERATION OF the Landlord leasing certain premises to the Tenant, the Tenant leasing those premises from the Landlord and the mutual benefits and obligations set forth in this Lease, the receipt and sufficiency of which consideration is hereby acknowledged, the Parties to this Lease (the "Parties") agree as follows:

Definitions

1. When used in this Lease, the following expressions will have the meanings indicated:
 - a. "Additional Rent" means all amounts payable by the Tenant under this Lease except Base Rent, whether or not specifically designated as Additional Rent elsewhere in this Lease;
 - b. "Building" means all buildings, improvements, equipment, fixtures, property and facilities from time to time located at 11/12 Front Street Wheatley Hill Co Durham, as

M

Your Details

Business Name:	Turkish Delight
Food Business Operator:	Mr A A / Mr M M
Address:	Front Street, Wheatley Hill, DH6 3NJ
Telephone:	
Email:	
SR Ref:	212846
UPRN:	10093042990

Contact Details

Name of Officer:	Mr David Jarvis
Email:	
Telephone:	
Address:	Neighbourhoods and Climate Change, Durham County Council, P.O. Box 617, Durham, DH1 9HZ

This health check has been prepared for:

Turkish Delight
Front Street,
Wheatley Hill,
DH6 3NJ

By: Mr David Jarvis -
Senior Environmental Health Officer

On: **15th August 2020**



09005_1679211030<5473>_S2735-PK1302/I

Mr M
Turkish Delight
11-11A Front Street
Wheatley Hill
Durham
DH6 3NJ



Contact us

t: 01604 673 100
8.30am - 5pm Monday - Friday
e: contactus@opusenergy.com

Your account number

Power cut call 105

Your distributor is Northern Electricity
www.northernpowergrid.com



Invoice number
Invoice date 04/05/2023

Your final business electricity bill

For: Turkish Delight 11-12 Front Street Wheatley Hill Durham DH6 3JJ
Invoice period: 11 March 2023 to 27 March 2023

Total to pay

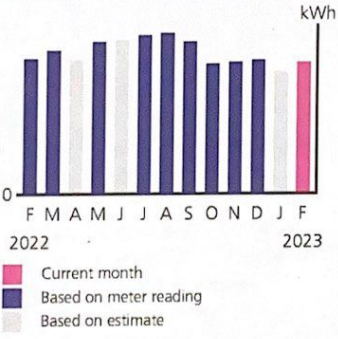
£158.81

will be applied to your account on 14/05/2023

Balance before this bill	£0.00
Charges on this bill	
exc. VAT	£132.34
VAT at 20% on £132.34	£26.47
Total Charges on this bill inc VAT	£158.81
Total to pay	£158.81

Your average usage 36kWh per day

Your average daily usage per calendar month over the last year



This bill is based on an estimated read.

To give us a reading:
Online: www.opusenergy.com
Text: 07781 482 755

- Please include:
- Site number
 - Meter serial number
 - The reading date
 - The new reading

Government's support package for businesses

The Energy Bill Relief Scheme (EBRS) and the Energy Bills Discount Scheme (EBDS) provide businesses that meet the Government's criteria with financial support for their energy costs.

Only those customers eligible for support will see discounts automatically applied to their energy usage under the "Government support package" section on this invoice.

Visit our dedicated support page about changes to the energy market that may affect your business at www.opusenergy.com/energy-crisis-support.



09005_1689888020<7067>_S3532-PK1562/I

B

Mr N
Turkish Delight
11-11A Front Street
Wheatley Hill
Durham
DH6 3NJ



Contact us

t: 01604 673 100
8.30am - 5pm Monday - Friday
e: contactus@opusenergy.com

Your account number

Power cut call 105

Your distributor is Northern Electricity
www.northernpowergrid.com



Invoice number
Invoice date 06/06/2023

Your final business electricity bill

For: Turkish Delight 11-12 Front Street Wheatley Hill Durham DH6 3JJ
Invoice period: 11 March 2023 to 09 May 2023

Total to pay

£539.36

Please pay this by 16/06/2023

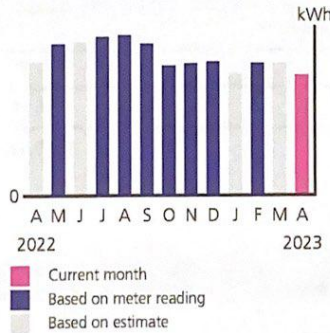
Balance before this bill	£-158.81
Charges on this bill	£581.81
exc. VAT	
VAT at 20% on £581.81	£116.36
Total Charges on this bill inc VAT	£698.17
Total to pay	£539.36

Your average usage

46kWh per day

This is above your previous average of 27kWh per day

Your average daily usage per calendar month over the last year



Government's support package for businesses

The Energy Bill Relief Scheme (EBRS) and the Energy Bills Discount Scheme (EBDS) provide businesses that meet the Government's criteria with financial support for their energy costs.

Only those customers eligible for support will see discounts automatically applied to their energy usage under the "Government support package" section on this invoice.

Visit our dedicated support page about changes to the energy market that may affect your business at www.opusenergy.com/energy-crisis-support.



563/2
M M
11-12 SHOP
FRONT STREET
WHEATLEY HILL
DURHAM
DH6 3NJ

120.42
TOP up

Your water bill £244.14

Please pay £120.42 by 06 April. £123.72 is overdue and payable immediately.

Charges

From 17 Dec 2022 to 16 Mar 2023 for 11-12 SHOP, FRONT STREET, DH6 3NJ

Balance brought forward	£123.72
Water charges	£47.45
Sewerage charges	£63.47
Total charges (ex VAT)	£110.92
VAT (on £47.45)	£9.50
Total charges (inc VAT)	£120.42
Payments received	£0.00
Your New Account Balance	£244.14

Customer reference

Bill number
Invoice/Tax point 17 Mar 2023

Get in touch

Call 0333 207 9283
Email hello@wave-utilities.co.uk
Tweet @WaveUtilitiesUK
Visit and chat to us at www.wave-utilities.co.uk

In an emergency
find your wholesaler at
www.wave-utilities.co.uk/mywholesaler

How to reduce your usage

Visit www.wave-utilities.co.uk/lesswater for tips on how to use less water and reduce your next bill

How your charges are split



- Wholesale charges £94.32
- Retail charges £16.60

Save time and money

Pay by Direct Debit
Easy, convenient and secure payments. Sign up at: wave-utilities.co.uk/mydd

Get an online account
Your bills, payments and readings all in one place. 24/7: wave-utilities.co.uk/myaccount

Submit a meter reading
Meter readings make bills more accurate. You can submit a read in a few ways:

- Log in to My Account or go to wave-utilities.co.uk/myread
- Email submitmyread@wave-utilities.co.uk
- Text 07860 019830

We can help you control your costs – giving regular meter reads makes your bill more accurate. Submit a read today at wave-utilities.co.uk/myread.

Ways to pay

Direct Debit - the convenient way to pay
Call us on 0333 207 9283 to get set up or go to wave-utilities.co.uk/mydd

Credit/Debit Card
Pay online at wave-utilities.co.uk/pay
Or call 0333 207 9283
Please quote your customer reference

Cheque
Include customer reference on the back of your cheque & return with payment slip to:
Anglian Water Business (National) Ltd
PO Box 745
HUNTINGDON
PE29 9PW
Allow 5 work days for payment to reach us

BACS or bank transfer
Sort Code 62-31-92
Account Number 00000000
Account Name Anglian Water Business (National)
Please use your Customer reference as your payment reference
Send your payment slip to bacs@wave-utilities.co.uk with the payment value in the subject line. For advice visit wave-utilities.co.uk/bankpayments

Please pay on time as we share data with credit reference agencies and the positive experiences shared help to maintain credit scores and keep the supply chain flowing in these challenging economic times.



Account in credit/paying in advance? Visit wave-utilities.co.uk/advancepayments

Having trouble paying your bills? Visit wave-utilities.co.uk/financial-difficulties



Appendix 6: Responses from Responsible Authorities

From: Licensed Economy Team

Sent: 20 June 2023 08:03

To: P Thomas

; AHS Licensing <

Cc:

Subject: [EXTERNAL]:RE: Turkish Delight, Front Street, Wheatley Hill, Durham, DH6 3NJ

Hi

I have carried out the necessary checks in relation to the premises and the PLH and can confirm that Durham Constabulary have no representations with regards to this review.

Many thanks

A/Sgt Iain Robertson
Licensed Economy Team
Durham Constabulary



Fire and Rescue Service Headquarters
Belmont Business Park, Durham
DH1 1TW

Safest People, Safest Places

Chief Fire Officer: Steve Helps

This matter is being dealt with by: David Cuthbertson

Ext:

Date: 23 June 2023

Ext:

Our Ref: 2E51350063

Your Ref: Turkish Delight,
Front Street, Wheatley

Direct Dial Telephone:

E-mail:

Yvonne Raine
Principal Licensing Officer

Dear Yvonne,

Licensing Act 2003

Regulatory Reform (Fire Safety) Order 2005

Turkish Delight, Turkish Delight, 11 Front Street, Wheatley Hill, Durham, DH6 3NJ

I acknowledge your application dated 19 June 2023 for a review of the Premises Licence under The Licensing Act 2003 in respect of the above named premises.

No representations will be made to the Licensing Authority subject to the responsible person for the above premises ensuring compliance with the requirements of the Regulatory Reform (Fire Safety) Order 2005.

A suitable and sufficient fire safety risk assessment must be carried out in order to comply with the above Order.

For further guidance please refer to <https://www.gov.uk/workplace-fire-safety-your-responsibilities/fire-safety-advice-documents> which provides information about the Regulatory Reform (Fire Safety) Order 2005.

Should you require any further information please do not hesitate to contact me on the telephone number or e-mail address shown above or visit our website www.ddfire.gov.uk and follow the link to Fire safety at work.

Yours sincerely,

David Cuthbertson
Fire Safety Section

Contact: Jess White
Direct Tel:
email:
Your ref:
Our ref: CON28/23/01590



Yvonne Raine

6th July 2023

Dear Yvonne Raine

Town and Country Planning Act 1990 (as amended)

Proposed Review of premises licence
At 11 - 12 Front Street Wheatley Hill Durham DH6 3NJ
For Yvonne Raine

A consultation has been forwarded on to the Local Planning Authority regarding the Review of premises licence.

As requested and based upon the information provided, I can confirm the Local Planning Authority offers no objection.

Yours sincerely

Jess White
Assistant Planning Officer

Regeneration, Economy and Growth

Durham County Council, Planning Development (East North), County Hall, Durham, DH1 5UL
Main Telephone:

Appendix 7: Statement of Licensing Policy

3.10 Review of a premises licence or club premises certificate - At any stage during the life of an authorisation, any premises that has a premises licence or club premises certificate may have that licence reviewed by any of the named responsible authorities or by a person defined in the Act as 'any other person' e.g. residents, councilors, MPs etc. At any time following the grant of a licence or Club Premises Certificate, any person or responsible authority may apply for a review of it.

The Police may also submit a summary review if there is a premises associated with serious crime and disorder. When the council instigates a review, it will ensure that there is a clear separation of functions between the officer acting as the licensing authority and the officer acting as a responsible authority.

Applications for review must relate to one or more of the licensing objectives and must not (where the review is submitted by any person who is not a responsible authority) be considered as frivolous, vexatious or repetitious by the licensing authority. Where an application for a review is frivolous vexatious or repetitious, or where an application for a review is considered not relevant to the licensing objectives, the council will reject it.

The council expects responsible authorities and other parties to give early notice to licence holders of any concerns about issues identified at premises and of the need for improvement. It is expected that requests for a review of any licence will be sought only if such notice has failed to resolve the matter or problem. It is always worth considering other options before requesting a review of a licence, including:

- Talking to those who manage the premises to let them know about the problem and give them the opportunity to address the issues;
- Asking DCC Licensing Services to talk to those who manage the premises on your behalf; or
- Talking to the relevant "responsible authority" e.g. environmental health in relation to noise nuisance, or the police in relation to crime and disorder, about the problem.

A review application is also subject to a similar consultation period to that of a new licence or variation, during which relevant representations may be submitted. The Act provides strict guidelines, timescales and procedures for review applications and hearings and the council will deal with every review application in accordance with these rules. Further details on review applications can be found in Appendix IV of this policy.

At a review, the council may take the following steps (if any) where such steps are considered appropriate for the promotion of the licensing objectives:

- a) Modify the conditions of the licence
- b) Exclude a licensable activity from the scope of the licence
- c) Remove the designated premises supervisor
- d) Suspend the licence for a period not exceeding three months
- e) Revoke the licence.

In cases where there is evidence that the crime prevention objective is being undermined, revocation of the licence will be seriously considered by the authority, even in the first instance.

There is a right of appeal to the Magistrates' Court against the decision of the licensing sub-committee, and if an appeal is lodged by the licence-holder, the original decision of the licensing authority will not take effect until the appeal is determined or withdrawn. There is an exception to this in the case of a summary review brought only by the police.

7.1 The Prevention of Crime and Disorder - Licensed premises, especially those offering late night / early morning entertainment, alcohol and refreshment can, if not properly managed, become a source of public nuisance, generating crime and disorder problems. **The council expects** all licensed premises to be properly managed at all times to prevent this from happening and will focus attention on standards of management practice at licensed premises when carrying out its administrative and enforcement functions.

The council encourages, and will look positively on, the provision by licensees of comprehensive and documented staff training. Documented staff training conducted in respect of:

- Preventing underage sales
- Minimising drunkenness
- Managing and resolving conflict
- Emergency procedures
- Compliance with the licence conditions
- Relevant obligations and offences under the Licensing Act, particularly those associated with the sale of alcohol
- Identification and refusal of underage sales
- Use of accredited training courses and recognised industry qualifications (e.g. BII)

The council expects every holder of a premises licence, club premises certificate or temporary event notice to be responsible for minimising the impact of crime, disorder and anti-social behaviour by their patrons both on and within the immediate vicinity of their premises, including for example on the pavement, in a beer garden, a marquee, in a smoking shelter etc.

The **council expects** all applicants to demonstrate, in their operating schedules, that suitable and sufficient measures, ranging from the design and layout of the premises through to the daily operation of the business, have been identified and will be implemented and maintained with the intention of preventing crime and disorder.

The council recommends that procedures to deal with drunken customers, violence and anti-social behaviour, in and outside premises, and the provision of closed-circuit television in certain premises should be considered by applicants, licencees and event organisers when addressing this issue.

The council encourages personal licence holders to actively participate in established "Pubwatch" schemes, where issues relating to crime and disorder can be addressed. **The council encourages** involvement in the "Best Bar None" initiative which enables premises to demonstrate good safe operating procedures. Such schemes have been very successful in reducing the negative impact of alcohol across a range of circumstances.

The council recognises and promotes effective and responsible management of all licensed and authorised premises through competent, efficient and regular instruction, recorded training, supervision of staff and the adoption of good practice,

such as 'Challenge 25'. These are amongst the most important control measures for the achievement of all Licensing Objectives.

The council will take a positive view of anyone who invests in appropriate training, and nationally accredited qualifications tailored to the licensing sector. Training records should be kept available for inspection by relevant enforcement agencies as a matter of good practice.

It is important that qualified and competent people are present who can discuss any problems or matters of concern arising from the licensable activities at or near to the premises with officers from DCC Licensing Services and Police.

The council also considers it to be good practice if the DPS or premises licence holder is present in the licensed area of the premises:

- Between 22:00 hours and closing time, when the premises is one that regularly opens after midnight for both regulated entertainment and the sale or supply of alcohol for consumption on the premises
- At all times when the premises are a "vertical drinking establishment" where little or no seating is provided
- At times where there is a substantial increase in customers i.e. for televised major sporting events etc.

Maximum occupancy: When its discretion is invoked, the council will only impose a maximum number of people that can attend premises or an event where there is a clear and justifiable need in respect of that premises or event. Any such decision will be based on the nature and style of the operation.

The council will consider information provided by the applicant and any other body (the Council's Building Control Section, Environmental Health Section and the Durham and Darlington Fire and Rescue Service) before setting a maximum number. Applicants will be expected to detail the arrangements that would be put in place e.g. provision of door staff to ensure that the permitted number of people attending the premises or event will not be exceeded.

Security: Whenever security operatives/door supervisors are employed at licensed premises to carry out security functions they must be licensed by the Security Industry Authority (SIA). If a licensee directly employs security operatives, they will need to be licensed by the SIA as a supervisor/manager. The numbers of licensed door supervisors, both male and female, required at any premises will be dependent upon the nature of the activities licensed and the characteristics and capacity of the establishment as well as the hours of trading.

Toughened/Safety Glass: Licensed venues that provide the sale or supply of alcohol for consumption on the premises should consider the introduction of toughened/safety glass. This policy expectation applies especially to any premises associated with a higher risk for potential crime and disorder. This will be particularly

relevant for high-volume vertical drinking establishments and those premises open beyond midnight in areas where there is a high concentration of venues.

The council and several of its partners have signed a collective new pledge as part of an ongoing campaign to eradicate single use plastics. The agreement commits all signatories to significantly reduce, and work towards ultimately removing, the use of unnecessary single use plastics from their operations. If alternatives to normal glass are used, the use of suitable alternatives, including non-single use plastics, is encouraged.

Drugs/Knives/Weapons: The council will expect licensees to take all reasonable steps to prevent the presence of drugs on licensed premises and to take appropriate steps to prevent drugs changing hands or consumed within the premises to prevent tragedies and harm because of drug misuse.

The council will expect licensees to be familiar with the Home Office Drug Strategy booklet entitled Safer Clubbing (ISBN 1840827807) or other subsequent editions. The council also expects that licence holders will also take steps to prevent the presence of knives and other weapons on their premises and that a log be kept of all drug, knife and weapon incidents. Licence holders should also consider arranging training for their staff on drugs, knives and weapons and to have policies for dealing with the possession of drugs, knives and weapons and the supply of drugs.

In addition to the information provided above, **Table 1 in Appendix VI** provides recommendations, suggestions and examples for how to prevent the specific crime/disorder outlined. This table is not exhaustive, and every applicant must consider the specific situation, location and circumstances associated with their premises, activities, clientele and workforce when identifying hazards, assessing risks and identifying controls.

Appendix 8: Section 182 Guidance

Section 182 Guidance - The review process

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.
- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be

positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.

- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 14 of this Guidance.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

Repetitious grounds of review

- 11.12 A repetitious ground is one that is identical or substantially similar to:
- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
 - representations considered by the licensing authority when the premises licence or certificate was granted; or
 - representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.
- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more

than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.

- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

Powers of a licensing authority on the determination of a review

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
 - exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)¹⁰;
 - remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - suspend the licence for a period not exceeding three months;
 - revoke the licence.
- 11.20 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.

- 11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.
- 11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. 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. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient to revoke the licence.

Reviews arising in connection with crime

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

- 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. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. 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.
- 11.27 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 the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
 - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
 - for prostitution or the sale of unlawful pornography;
 - by organised groups of paedophiles to groom children;
 - as the base for the organisation of criminal activity, particularly by gangs;
 - for the organisation of racist activity or the promotion of racist attacks;
 - for employing a person who is disqualified from that work by reason of their immigration status in the UK;
 - for unlawful gambling; and
 - for the sale or storage of smuggled tobacco and alcohol.
- 11.28 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.

Review of a premises licence following closure order or illegal working compliance order

- 11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or an illegal working compliance order under section 38 of and Schedule 6 to the Immigration Act 2016. The relevant time periods run concurrently and are as follows:
- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;

- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

Review of a premises licence following persistent sales of alcohol to children

11.29 The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.

Crime and disorder

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority (“SIA”) as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.
- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

2.6 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that evidence of a right to work check, either physical or digital (e.g. a copy of any document checked as part of a right to work check or a clear copy of the online right to work check) are retained at the licensed premises.

Approvals trail: to be removed before Cabinet/Committee

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