

LICENSING PANEL
Regulatory Committee
Agenda

Date Tuesday 22 January 2019

Time 9.30 am

Venue Lees Suite, Civic Centre, Oldham, West Street, Oldham, OL1 1NL

Notes 1. DECLARATIONS OF INTEREST- If a Member requires any advice on any item involving a possible declaration of interest which could affect his/her ability to speak and/or vote he/she is advised to contact Paul Entwistle or Kaidy McCann in advance of the meeting.

2. CONTACT OFFICER for this Agenda is Kaidy McCann Tel. 0161 770 5151 or email Kaidy.McCann@oldham.gov.uk

3. PUBLIC QUESTIONS – Any member of the public wishing to ask a question at the above meeting can do so only if a written copy of the question is submitted to the Contact officer by 12 Noon on Thursday, 17 January 2019.

4. FILMING - The Council, members of the public and the press may record / film / photograph or broadcast this meeting when the public and the press are not lawfully excluded. Any member of the public who attends a meeting and objects to being filmed should advise the Constitutional Services Officer who will instruct that they are not included in the filming.

Please note that anyone using recording equipment both audio and visual will not be permitted to leave the equipment in the room where a private meeting is held.

Recording and reporting the Council's meetings is subject to the law including the law of defamation, the Human Rights Act, the Data Protection Act and the law on public order offences.

MEMBERSHIP OF THE LICENSING PANEL IS AS FOLLOWS:
Councillors Briggs, C. Gloster and Malik

Item No

1 Election of Chair

The Panel is asked to elect a Chair for the duration of the meeting.

2 Apologies For Absence

3 Urgent Business

Urgent business, if any, introduced by the Chair

4 Declarations of Interest

To Receive Declarations of Interest in any Contract or matter to be discussed at the meeting.

5 Public Question Time

To receive Questions from the Public, in accordance with the Council's Constitution.

6 Order of Proceedings (Pages 1 - 4)

7 Licensing Act 2003 - Premises Licence Review - Chadderton Bar and Grill, 422-424 Middleton Road, Chadderton, Oldham, OL9 6PY (Pages 5 - 36)

The purpose of this report is to inform Members of an application, by Home Office Immigration Enforcement, to review the premises licence for the Chadderton Bar and Grill, 422-424 Middleton Road, Chadderton, Oldham, OL9 6PY, which has been referred to the Panel for consideration.

OLDHAM BOROUGH COUNCIL

LICENSING PANEL - ORDER OF PROCEEDINGS

The procedure outlined below, which was enclosed with the notice of hearing sent to each party, and a copy of which is before you today, will be followed.

Documentary evidence may be relied upon and considered by the Panel if it has been served on the Licensing Authority prior to the hearing, or if all parties consent it can be produced on the day of the hearing.

Any person wishing to call a witness to speak at the hearing must have applied in writing for permission from the Licensing Authority at least 2 working days before the hearing and must also have provided the name of the witness and a brief description of the points on which that person may be able to assist the authority in relation to their application, representations or notice. Any application to call a witness where the party has not given 2 working days' notice will be considered by the Panel at the beginning of the hearing and permission will not be unreasonably withheld.

Each party will have the same amount of time in which to address the Panel, each party will have up to 60 minutes to address the authority and give any further information (which must be relevant to that party's or another party's application or representation). Where any party considers this time to be insufficient then, a request in writing may be made to the Constitutional Services Officer for an extension of time at least two working days before the hearing; however this will not automatically be granted, and will be at the discretion of the Panel.

Any person behaving in a disruptive manner will be asked to leave the hearing, however, if this occurs that person will be entitled to submit in writing any information they would have been entitled to give orally.

The Authority will provide a record of the hearing in a permanent and intelligible form and keep it for 6 years from the date of determination or disposal of any Appeal.

Members are advised that they are making decisions in a quasi-judicial manner. As such, they have a duty to view all evidence presented before them impartially. Members must disregard any information given by a party which is not relevant to the promotion of the licensing objectives. The Panel is not bound by the formal rules of evidence. Nevertheless, Members must carry out their duty placing what weight they feel is appropriate given the nature of the evidence and the manner in which it was obtained, and communicated.

ORDER OF PROCEEDINGS

INTRODUCTION

The Constitutional Services Officer (“the Clerk”) will welcome those present and outline the procedure to be followed (as set out below) and record those present. The Clerk will remind everyone that each party will have up to 60 minutes to address the Panel and give any further information.

APPLICATION

The Licensing Officer will outline the nature of the application.

The applicant and/or their representative to address the Panel, present additional information in support of the application (where consent to do so has been granted) and call any witnesses (subject to having given the required prior notice or having received permission at the beginning of the hearing). The Applicant and any witnesses may be questioned by Members of the Panel.

Any party, if given permission by the panel, may question the applicant and his witnesses, but this shall not take the form of cross examination.

REPRESENTATIONS

The Party making the representation and/or their representative to address the members of the Panel, providing any additional information in support of their representation (where consent to do so has been granted) and call any witnesses (subject to having given the required prior notice or having received permission at the beginning of the hearing). The party and any witnesses may be questioned by Members of the Panel.

In the event that a number of members of the public are present at the meeting who intend to make a representation in relation to the application as interested parties then the Chair has discretion to ask that they appoint a nominated spokesperson to present their representations.

Any party, if given permission by the panel, may question the party making representations and his witnesses, but this shall not take the form of cross examination.

These representations will be taken in the following order: -

- Police Representation (unless they are the applicant)
- Licensing Authority
- Environmental Health Representation
- Other Responsible Authorities Representation
- Public Representation (Interested Parties)

CLOSING STATEMENTS

The party making the representation may summarise their representation and make a closing statement.

The holder of the premises licence may summarise their representation and make a closing statement.

The Applicant may summarise the application and make a closing statement.

SUMMARY The Chair to summarise who has made representations.

DETERMINATION

The Panel Members will leave the hearing to consider their decision in private. The panels may request the services of a legal representative and Constitutional Services Officer.

The Chair of the Panel will announce the determination of the application and the reasons for that determination, and it will then be confirmed in writing within 5 working days of the hearing.

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Licensing Act 2003 - Premises Licence Review Chadderton Bar and Grill, 422-424 Middleton Road, Chadderton, Oldham, OL9 6PY

Report of: Executive Member - Neighbourhoods

Officer contact: David Smith
Ext. 3472

22nd January 2019

Reason for Decision

The purpose of this report is to inform Members of an application, by Home Office Immigration Enforcement, to review the premises licence for the Chadderton Bar and Grill, 422-424 Middleton Road, Chadderton, Oldham, OL9 6PY, which has been referred to the Panel for consideration.

Recommendations

Members are recommended to consider the review.

Licensing Act 2003 – Premises Licence Review
Chadderton Bar and Grill, 422-424 Middleton Road, Chadderton

1 Purpose of Report

- 1.1 The purpose of this report is to inform Members of an application, by Home Office Immigration Enforcement, to review the premises licence for the Chadderton Bar and Grill, 422-424 Middleton Road, Chadderton, Oldham, OL9 6PY, which has been referred to the Panel for consideration.

The Premises

- 1.2 The Chadderton Bar and Grill is located at 422-424 Middleton Road, Chadderton, Oldham, OL9 6PY. The Premises Licence Holder and Designated Premises Supervisor is Mr Mustafa Kemal Serbest.
- 1.3 A map of the location is attached at **Appendix 1**.
- 1.4 A copy of the existing premises licence is attached at **Appendix 2**

2 The Application

- 2.1 On the 22nd November 2018 the applicant, Home Office Immigration Enforcement, have applied for a review of the premises licence for the Chadderton Bar and Grill, a copy of the application is at **Appendix 3**. The last day for representations in relation to this application was the 20th December 2018.
- 2.2 The review was lodged on the following grounds:-

Prevention of Crime & Disorder

After receiving intelligence that the premises were employing illegal workers, an Immigration Enforcement visit was conducted on the 15th April 2016 at the Chadderton Bar and Grill.

During this visit, two persons were found working illegally.

One of the persons found working illegally was a director and co-owner of the business. He had no permission to be in the UK as his visa had expired. As such he had no permission to work. A civil penalty of £10,000 was served on the business for employing illegal workers, which remains outstanding.

Following receiving further intelligence of illegal working taking place at the premises, another visit was conducted on the 31st August 2018.

On this occasion two persons were again encountered working illegally, one of which was the director and co-owner of the business that had been encountered on the previous visit. He still did not have permission to work in the UK.

During the visit, a Closure Notice was served on the premises and the business was shut down until the following day when Immigration Enforcement attended court and obtained a compliance order putting in place conditions for carrying out staff checks.

In light of the two persons found working illegally during both visits to the premises, and in particular to the fact that one of the illegal workers encountered during both visits was the co-owner and director of the business, and was in the UK illegally, it is the view of the Home

Office Immigration Enforcement that the operation of this Premises Licence is failing to meet the licensing objective of the Prevention of Crime and Disorder.

- 2.3 As part of the review Home Office Immigration Enforcement are seeking revocation of the premises licence.

3 Representations

- 3.1 No representations have been received in respect of the application.

4 Licensing Policy

- 4.1 Members considering this application should take note of the Authority's Licensing Policy Statement when determining an application. However, the current policy, which commenced in 2015 and does not require updating until 2019 does not take into account specific matters of illegal working.

5 Secretary of State's Guidance

- 5.1 The revised guidance issued under section 182 of the Licensing Act 2003 – issued in April 2018 makes note of Home Office Immigration Enforcement acting as a responsible authority for the purpose of the Licensing Act 2003. Paragraph 9.25 of the guidance provides:-

The Immigration Act 2016 made the Secretary of State a responsible authority in respect of premises licensed to sell alcohol or late night refreshment with effect from 6 April 2017. In effect this conveys the role of responsible authority to Home Office Immigration Enforcement who exercises the powers on the Secretary of State's behalf. When Immigration Enforcement exercises its powers as a responsible authority it will do so in respect of the prevention of crime and disorder licensing objective because it is concerned with the prevention of illegal working or immigration offences more broadly.

- 5.2 Chapter 11 of the guidance deals with reviews. Members attention is drawn to paragraphs 11.17 to 11.20 which provide:-

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:

- (i) 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;

- (ii) 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;
- (iii) remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- (iv) suspend the licence for a period not exceeding three months;
- (v) 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.

11.23 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.

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.

5.3 A full copy of the guidance will be available at the hearing.

6 Options

6.1 When determining the application Members, having had regard to the representations, may take such steps, as they consider appropriate for the promotion of the licensing objectives. The steps available to Members are:-

- a) To modify the conditions of the licence;
- b) To exclude a licensable activity;
- c) To remove the designated premises supervisor;
- d) To suspend the premises licence for a period not exceeding 3 months; or
- e) To revoke the licence

6.2 Any steps appropriate to promote the licensing objectives should be specified. If none of the steps are appropriate and proportionate, no action should be taken.

6.3 In arriving at a decision Members must have regard to the relevant provisions of national guidance and the licensing policy statement and reasons must be given for any departure. The decision should be based on the individual merits of the application.

7 Consultation

7.1 Consultation in accordance with the Act has taken place with all Responsible Bodies and notice has been given to allow for any representations from Interested Parties.

8 Legal Services Comments

8.1 In determining the application Members should have regard to the Authority's licensing policy statement and the Secretary of State's Guidance. The applicant for the review, the holder of the premises licence or any other person who made relevant representations in relation to the application have a right of appeal to the Magistrates' court. (A Evans)

9 Environmental and Health & Safety Implications

9.1 There are no environmental implications.

10 Equality, community cohesion and crime implications

10.1 The Council's 'Statement of Licensing Policy' takes into account these matters. All decision made by the Licensing Panel, must have regard to this policy and National Guidance.

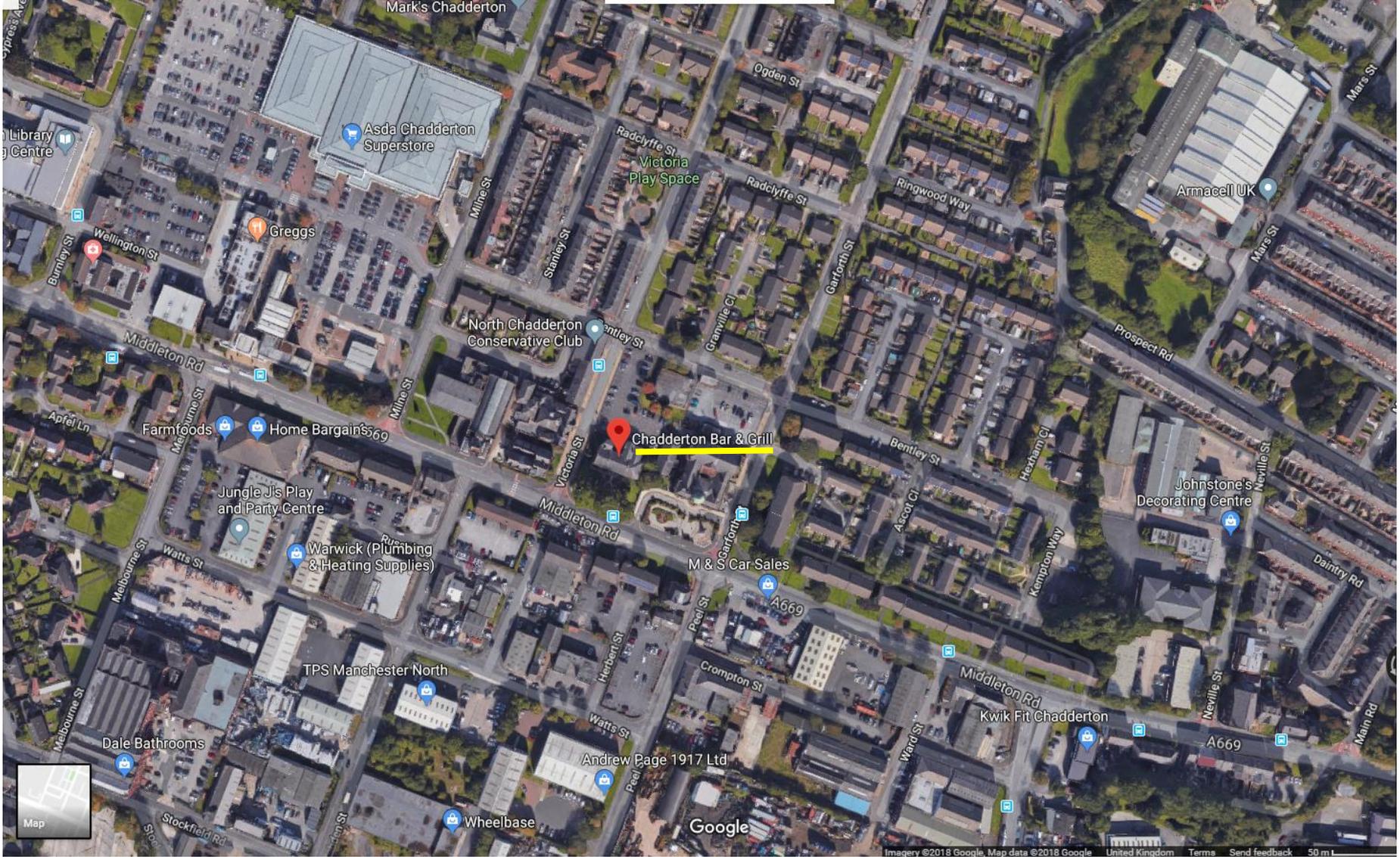
11 Background Papers

11.1 The following is a list of background papers on which this report is based in accordance with the requirements of Section 100(1) of the Local Government Act 1972. It does not include documents which would disclose exempt or confidential information as defined by the Act :

File Ref: Records held in Directorate
Officer Name: David Smith
Contact No: 0161 770 3472

12 Appendices

Appendix 1 - Location Map
Appendix 2 - Existing Premises Licence
Appendix 3 - Review Application



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LOCAL AUTHORITY



Oldham Council
 Sir Robert Peacock House
 Vulcan Street
 Oldham
 Greater Manchester
 OL1 4LA

tel: 0161 770 4730
 web: www.oldham.gov.uk

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Chadderton Bar & Grill

422-424 Middleton Road, 422-424 Middleton Road, Chadderton, Oldham, OL9 6PY.

Telephone 0161 652 4666

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

Licence Issued 30/11/2018

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- a performance of live music
- any playing of recorded music
- a performance of dance
- provision of late night refreshment
- the supply of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
E. Performance of live music (Indoors)	Monday to Saturday	Noon	11:00pm
F. Playing of recorded music (Indoors)	Monday to Sunday	Midnight	11:59pm
G. Performance of dance (Indoors)	Monday to Saturday	Noon	11:00pm
I. Late night refreshment (Indoors)	Monday to Thursday	11:00pm	3:00am
	Friday and Saturday	11:00pm	4:00am
	Sunday	11:00pm	Midnight
J. Supply of alcohol for consumption ON and OFF the premises	Monday to Thursday	11:00am	3:00am
	Friday and Saturday	11:00am	4:00am
	Sunday	11:00am	Midnight

Premises Licence

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Thursday	11:00am	3:30am
Friday and Saturday	11:00am	4:30am
Sunday	11:00am	12:30am

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption ON and OFF the premises

Part 2

NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

Mustafa Kemal Serbest

2 Shillingford Road, Chadderton, Oldham, OL9 8BD.
Telephone 0161 652 4666**REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)****NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORIZES THE SUPPLY OF ALCOHOL**

Mustafa Kemal SERBEST

2 Shillingford Road, Chadderton, Oldham, OL9 8BD.
Telephone 0161 652 4666**PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORIZES FOR THE SUPPLY OF ALCOHOL**

Licence No. 115205

Issued by Bolton

ANNEXES

LICENSING ACT 2003**Annex 1 - Mandatory conditions**

Mandatory conditions where licence authorises supply of alcohol

(1) Where a premise licence authorises the supply of alcohol, the licence must include the following conditions.

(2) The first condition is that no supply of alcohol may be made under the premises licence -

- (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

(3) The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Mandatory Licensing Conditions from 1st October 2014

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

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

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

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

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

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

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

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

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

Premises Licence

ANNEXES continued ...

2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

3.-(1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

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

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either-

- (a) a holographic mark, or
- (b) an ultraviolet feature.

4. The responsible person must ensure that-

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

(i) beer or cider: ½ pint;

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

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

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

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

The following conditions came into force on 28th May 2014

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1-

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979

(b) "permitted price" is the price found by applying the formula-

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

where-

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

Premises Licence

ANNEXES continued ...

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence-

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

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

(e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994

Premises Licence

ANNEXES continued ...

Annex 2 - Conditions consistent with the Operating Schedule

General

Beverages only to be sold to customers purchasing food in the restaurant or as a take away meal.

The Prevention of Public Nuisance

There shall be no emission from the premises of any offensive smells, which are likely to cause a nuisance.

Where there are any offensive smells created on the premises, provision shall be made for such smells to be vented from the premises so that they do not cause a nuisance to nearby premises.

There shall be provided at the premises containers for the storage and disposal of waste food and other refuse from the premises. Those containers shall be constructed, maintained and located/secured so that access to them by vermin and unauthorized persons is prevented and arrangements made for the regular disposal of their contents in accordance with the duty of care provisions (Section 34) of the Environmental Protection Act 1990.

Annex 4 - Embedded Conditions

Public Entertainment Conditions

Conditions

The licensed premises shall be closed for the public entertainments herein permitted on Sundays and Christmas Day unless the Council issues a written consent to vary this condition.

The licensed premises shall not be kept or used for the purpose of public entertainments except between the hours of 12 noon to 11pm Monday to Saturday without the written consent of the Council.

Any authorised Officer of the Council, the Fire Authority or any Police Constable may, on production if so required of his authority, at the times permitted under the Local Government (Miscellaneous Provisions) Act 1982 enter the premises and inspect them with a view to seeing whether the terms, conditions or restrictions of this licence are being complied with.

The Licensee shall be fully responsible for the carrying, out of each and every one of these terms and conditions and for the safety of the public and employees in the event of fire or panic, and shall ensure that he complies with all relevant legislation relating to the use of the premises.

For every breach of the terms of the licence or those Regulations, the Licensee is liable on summary conviction to a fine not exceeding level five and the licence may be revoked.

The Licensee or some other responsible person nominated by the Licensee in writing shall be in charge of and upon the licensed premises during the whole of the time that they are being used for the purpose aforesaid and there shall also be during that time sufficient staff of competent attendants on duty on the premises. The person in charge shall not be engaged in any duties which will prevent him from

ANNEXES continued ...

exercising general supervision.

On the licensed premises whilst the said premises are being used for the public entertainment there shall be installed a telephone to which the person in charge of the licensed premises shall have access at all times and a notice must be prominently displayed above the telephone stating "FIRE - DIAL 999"

The total number of persons to be accommodated in the premises whilst the premises are used for public entertainment shall not exceed 195 and a notice shall be prominently displayed in the entrance to the premises which clearly indicates the maximum number of persons allowed on the premises at any one time.

The Licensee shall ensure that all persons entering and leaving the premises are counted by his employees or agents using counting machines or other methods approved by the Licensing Authority. The total recorded on each counting machine shall at all times be available for inspection by an Officer of the Licensing Authority, the Fire Authority, or the Greater Manchester Police.

The Licensee shall employ an employee or agent as an attendant at each exit door in normal use from the licensed premises from 11.00pm until all persons have left the premises.

Any exhibition, demonstration or performance (hereafter referred to as a "performance") of hypnotism (as defined in the Hypnotism Act 1952) on any person will require the express written consent of the licensing authority and must comply with the following conditions. The Authority may consent either under the terms of a public entertainments licence or under the provisions of the Hypnotism Act 1952.

Publicity

(a) no poster, advertisement or programme for the performance which is likely to cause public offence shall be displayed, sold or supplied, by or on behalf of the licensee either at the premises or elsewhere;

(b) every poster, advertisement or programme for the performance which is displayed, sold or supplied shall include, clearly and legibly, the following statement:

"Volunteers, who must be aged 18 or over, can refuse at any point to continue taking part in the performance".

(c) the performance shall be covered to a reasonable level by public liability insurance. The hypnotist must provide evidence of this to the local authority if requested; and it must be available for inspection at the performance;

Physical arrangements

(d) the means of access between the auditorium and the stage for participants shall be properly lit and free from obstruction;

(e) a continuous white or yellow line shall be provided on the floor or any raised stage at a safe distance from the edge. This line shall run parallel with the edge of the stage for its whole width. The hypnotist shall inform all subjects that they must not cross the line while under hypnosis, unless specifically told to do so as part of the performance;

ANNEXES continued ...

Treatment of audience and subjects

- (f) before starting the performance the hypnotist shall make a statement to the audience, in a serious manner, identifying those groups of people who should not volunteer to participate in it; explaining what volunteers might be asked to perform; informing the audience of the possible risks from embarrassment or anxiety; and emphasising that subjects may cease to participate at any time they wish. The following is a suggested statement, which might be amended as necessary to suit individual styles so long as the overall message remains the same:

"I shall be looking for volunteers aged over 18 who are willing to be hypnotised and participate in the show. Anyone who comes forward should be prepared to take part in a range of entertaining hypnotic suggestions but can be assured that they will not be asked to do anything which is indecent, offensive or harmful. Volunteers need to be in normal physical and mental health and must ask that no-one volunteers if they have a history of mental illness, are under the influence of alcohol or other drugs or are pregnant".

- (g) no form of coercion shall be used to persuade members of the audience to participate in the performance. In particular, hypnotists shall not use selection techniques which seek to identify and coerce onto the stage the most suggestible members of the audience without their prior knowledge of what is intended. Any such of such selection techniques (e.g. asking members of the audience to clasp their hands together and asking those who cannot free them again to come onto the stage) should only be used when the audience is fully aware of what is intended and that participation is entirely voluntary at every stage,
- (h) if volunteers are to remain hypnotised during an interval in the performance, a reasonable number of attendants as agreed with the licensing authority shall be in attendance throughout to ensure their safety;

Prohibited Actions

- (i) the performance shall be so conducted as not to be likely to cause offence to any person in the audience or any hypnotised subject;
- (j) the performance shall be so conducted as not to be likely to cause harm, anxiety or distress to any person in the audience or any hypnotised subject. In particular, the performance shall not include:
- (ii) any suggestion that the subject has lost something (e.g. a body part) which, if it really occurred, could cause considerable distress;
- (iii) any demonstration in which the subject is suspended between supports (so-called "catalepsy),
- (iv) the consumption of any harmful or noxious substance;
- (v) any demonstration of the power of hypnosis to block pain (e. g. pushing a needle through the skin);

any suggestion involving the age regression of a subject (i.e., asking the subject to revert to an earlier age in their life; this does not prohibit the hypnotist from asking subjects to act as if they

Premises Licence

ANNEXES continued ...

were a child etc);

- (k) the performance shall not include giving hypnotherapy or any other form of treatment,

Completion

- (l) all hypnotised subjects shall remain in the presence of the hypnotist and in the room where the performance takes place until all hypnotic suggestions have been removed;
- (m) all hypnotic or post-hypnotic suggestions shall be completely removed from the minds of the subjects and the audience before the performance ends. All hypnotised subjects shall have the suggestions removed both individually and collectively and the hypnotist shall confirm with each of them that they feel well and relaxed (the restriction on post-hypnotic suggestions does not prevent the hypnotist telling subjects that they will feel well and relaxed after the suggestions are removed);
- (n) the hypnotist shall remain available for at least 30 minutes after the show to help deal with any problems which might arise. (Such help might take the form of reassurance in the event of headaches or giddiness but this condition does not imply that the hypnotist is an appropriate person to treat anyone who is otherwise unwell).

Authorised Access

- (o) where:
- (i) a constable; or
 - (ii) an authorised officer of the licensing authority; or
 - (iii) an authorised officer of the fire authority

has reason to believe that a performance is being, or is about to be, given he may enter the venue with a view to seeing whether the conditions on which approval for the performance was granted are being complied with.

19. No public entertainment which is obscene, offensive to public decency or calculated to excite any breach of the peace shall be allowed.
20. Whilst the premises are being used for the public entertainment drunkenness or other disorderly conduct shall not be [permitted in](#) case any disorderly conduct should occur the licensee shall assist in the capture, expulsion and conviction of the offenders.
21. i) No person engaged in vetting customers, maintaining public order, or engaged in the care and control of customers, (hereinafter referred to as security staff), whether it be permanently or occasionally, can be engaged as security staff until they have been registered by the Security Industry Authority (SIA).*
- *As amended by The Private Security Industry Act 2001 (Modifications of Local Enactments Order 2004)
- ii) The licensee must ensure that all security staff shall, whilst so employed, wear an identification badge issued in accordance with the SIA Scheme.

Premises Licence

ANNEXES continued ...

- iii) Where the licensee or his employer engages any person(s) at any premises licensed by Oldham Metropolitan Borough Council for Public Entertainment in the capacity of security staff, the licensee shall maintain a log in a form approved by the Council, showing in respect of each period of duty of that person:
- (a) the name, date of birth and residential address of that person and registration number.
 - (b) the time at which he/she commenced that period of duty with a signed acknowledgement by that person;
 - (c) the time at which he/she finished the period of duty with a signed acknowledgement by that person;
 - (d) any times during the period of duty when he/she was not on duty;
 - (e) if that person is not an employee of the licensee or his/her employer, the name of the person by whom that security person is employed or through whom the services of that person were engaged.

The log shall be so kept that it can be readily inspected at any time during which the premises are licensed for Public Entertainment or at any other reasonable time, by an authorised officer of the Council or a Police Officer and once a log has been completed, it must be retained on the premises for at least twelve months.

- iv) The Licensee, shall, as soon as is reasonably practicable, notify the Oldham Metropolitan Borough Council of any security staff dismissed or warned by the licensee for serious misconduct which might reasonably affect the continuation of, or renewal of such security staffs' registration e.g. serious misconduct will include, but is not limited to, unprovoked attack on any customer or abusive or aggressive behaviour, drinking on duty and/or being unfit through drink or drugs, repeated failure to comply with the conditions off the Doorsafe Registration

A licensee, when requested, shall identify by name those persons employed by him to a police Officer or Authorised Officer of the Council.

- v) The licensee shall ensure that all security staff are given adequate oral and written instruction in respect of their duties under the Doorsafe Registration Scheme.
- vi) No licensee shall employ security staff in circumstances where their Doorsafe Registration, whether provisional or full, has been suspended or revoked or where any licence has expired.

22. The Licensee shall take reasonable precautions to ensure that noise does not emanate from the licensed premises such as to cause persons in the neighbourhood to be unreasonably disturbed.
23. The Licensee shall take reasonable steps to ensure that persons leaving the licensed premises conduct themselves in an orderly manner and do not cause annoyance to local residents and/or passers-by.
24. Whilst the premises are being used for the public entertainment, electrical installations must comply with any applicable Rules and Regulations affecting the use of electricity for the time

Premises Licence

ANNEXES continued ...

being in force and every two years the Licensee must obtain a certificate of safety provided by a registered electrical contractor or competent electrical engineer on behalf of the Licensee indicating that the installation is maintained in a safe and satisfactory condition. This certificate shall be submitted to the Council on request. Applications for FIRST grant of a licence shall be accompanied by the Electrical Certificate.

25. All parts of the licensed premises whilst being used for the public entertainment shall be properly and sufficiently heated and ventilated.
26. The ceilings of premises used for the public entertainment must be inspected and examined at least every five years, by a competent architect or surveyor on behalf of the licensee and his report shall be submitted to the Executive Director, Environmental Services within seven days of such examination.
27. The noise from the premises whilst being used for the public entertainment shall not exceed the level that may be prescribed by the Council.
28. The premises shall be provided with such means of escape in case of fire for all persons resorting thereto as may be reasonably required by the Council and shall be maintained in an efficient manner at all times. The means of ingress and egress and the passages and gangways shall during the whole time that the licensed premises are used for the public entertainment be kept free and unobstructed.
29. The general fire precaution arrangements shall be approved by the Council and shall at all times be maintained to a standard satisfactory to the Council and all persons employed in the premises shall be given instructions and training in the procedure to adopt in case of fire.
30. Such portable fire extinguishers as may be considered by the Council to be required shall be provided at approved positions in the premises and shall be maintained in an efficient state in food working order and repair.
31. The whole of the premises to which the public have access (including toilet areas) shall be provided with an emergency (battery) supply of illumination, arranged to come into operation automatically on the failure of the main supply. Such system shall be capable of maintaining the necessary level of illumination for a period of three hours from the time of failure or disconnection of the normal supply and may be either self-contained battery powered lighting units incorporating their own charger, or powered from a central source within the premises. In the latter case, all wiring to be in M.I.C.C. or P.V.C. insulated copper cable in screwed metal conduit. The whole installation to be in accordance with B.S. 5266 : Part 1: 1988.
32. The premises shall be provided with adequate sanitary accommodation which shall be effectively maintained, cleansed, ventilated, disinfected and supplied with all proper requisites.
33. The Licensee, before installing any laser equipment or pyrotechnic device in the premises shall notify the Executive Director, Environmental Services of his intention to do so. Thereafter, such equipment shall be installed, maintained and operated in accordance with a Code of Practice to be specified by the Executive Director, Environmental Services.
34. Reasonable provision be made to cater for the needs of the disabled by way of access and egress to and from the premises, internal circulation, and the provision of appropriate toilet facilities.
35. All doors which are normally used as emergency exits only should be fitted with an alarm or other such device as shall be approved by the Council, which is activated whenever the doors are opened. The alarm must be clearly distinguishable from any fire alarm within the building

ANNEXES continued ...

and should sound in an area permanently manned by management/staff whilst the premises are occupied.

36. One of the following protective measures shall be used for all socket outlets which may be used for the connection of lighting, video or sound amplification equipment and display models.

(a) **Each socket outlet circuit shall be protected by a residual current device having rated residual operating current not exceeding 30mA.**

(b) Each individual socket outlet shall be protected by an integral residual current device having a rated residual operating current not exceeding 30mA.

The correct operation of all residual current devices shall be checked regularly by pressing the test button. If the device does not switch off the supply, an electrical contractor should be consulted. At the same time, action should be taken to prohibit the use of socket outlets associated with a faulty residual current device.



John Garforth
Trading Standards & Licensing Manager

Premises Licence Summary

LOCAL AUTHORITY

**Oldham Council**

Sir Robert Peacock House
 Vulcan Street
 Oldham
 Greater Manchester
 OL1 4LA

tel: 0161 770 4730

web: www.oldham.gov.uk

Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Chadderton Bar & Grill

422-424 Middleton Road, 422-424 Middleton Road, Chadderton, Oldham, OL9 6PY.

Telephone 0161 652 4666

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

Licence Issued 30/11/2018

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- a performance of live music
- any playing of recorded music
- a performance of dance
- provision of late night refreshment
- the supply of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
E. Performance of live music (Indoors)	Monday to Saturday	Noon	11:00pm
F. Playing of recorded music (Indoors)	Monday to Sunday	Midnight	11:59pm
G. Performance of dance (Indoors)	Monday to Saturday	Noon	11:00pm
I. Late night refreshment (Indoors)	Monday to Thursday	11:00pm	3:00am
	Friday and Saturday	11:00pm	4:00am
	Sunday	11:00pm	Midnight
J. Supply of alcohol for consumption ON and OFF the premises	Monday to Thursday	11:00am	3:00am
	Friday and Saturday	11:00am	4:00am
	Sunday	11:00am	Midnight

Premises Licence Summary**THE OPENING HOURS OF THE PREMISES**

Description	Time From	Time To
Monday to Thursday	11:00am	3:30am
Friday and Saturday	11:00am	4:30am
Sunday	11:00am	12:30am

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption ON and OFF the premises

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Mustafa Kemal Serbest

2 Shillingford Road, Chadderton, Oldham, OL9 8BD.

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)**NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL**

Mustafa Kemal SERBEST

STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

Any Restrictions or Prohibitions imposed by the Licensing Act 2003



John Garforth

Trading Standards & Licensing Manager

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Licensing Authority: Oldham Metropolitan Borough Council

Reference: AL19719

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	
Chadderton Bar & Grill 422-424, Middleton Road	
Post town Oldham	Post code (if known) OL9 6PY

Name of premises licence holder or club holding club premises certificate (if known)
Mustafa Kemal Serbest 124, Ashley Brook Close, Bolton BL1 8SP

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

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) IE.Alcoholreviews@homeoffice.gsi.gov.uk

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

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

-
-
-
-

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

We have grounds to believe the license holder will fail 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)

Following intelligence that they were employing illegal workers, an Immigration Enforcement visit was conducted to the Chadderton Bar & Grill, 422-424, Middleton Road, Oldham, OL9 6PY on 15/4/2016.

During the visit two persons were found working illegally.

One of the persons found working illegally was a director and co-owner of the business. He had no permission to be in the UK as his visa had expired. As such he had no permission to work.

A civil penalty of £10,000 was served on the business for employing illegal workers. This remains outstanding.

Following further intelligence of illegal working, another Immigration Enforcement visit was conducted on 31/08/2018.

On this occasion two persons were again encountered working illegally, one of which was the director and co-owner of the business that had been encountered on the previous visit. He still had no permission to work in the UK.

During the enforcement visit, a Closure Notice was served on the premises and the business was shut down until the following day when Immigration Enforcement attended court and obtained a compliance order putting in place conditions for carrying out staff checks.

A further civil penalty is being considered by the Home Office for employing illegal workers.

In light of the 2 persons found working illegally during both visits to the premises and particularly the fact that one of the illegal workers encountered during both visits was the co-owner and director of the business, and was in the UK illegally, and therefore had no right to work at the time of both visits, Home Office Immigration Enforcement wish to seek revocation of the licence.

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

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 P. Thomas

Date 22/11/2018

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) IE.Alcoholreviews@homeoffice.gsi.gov.uk	

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.

