

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Chief Executive

Julie Beilby BSc (Hons) MBA

Gibson Building
Gibson Drive
Kings Hill, West Malling
Kent ME19 4LZ
West Malling (01732) 844522

NB - This agenda contains proposals, recommendations and options. These do not represent Council policy or decisions until they have received proper consideration through the full decision making process.

Contact: Committee Services
committee.services@tmbc.gov.uk

4 July 2019

To: MEMBERS OF THE LICENSING AND APPEALS PANEL
(Copies to all Members of the Council)

**NB ONLY MEMBERS
OF THE PANEL MAY
PARTICIPATE**

Dear Sir/Madam

Your attendance is requested at a meeting of the Licensing and Appeals Panel to be held in the Civic Suite, Gibson Building, Kings Hill, West Malling on Friday, 12th July, 2019 commencing at **10.00 am**

Yours faithfully

JULIE BEILBY

Chief Executive

A G E N D A

PART 1 - PUBLIC

1. Apologies for absence
2. Declarations of Interest

Decisions to be taken under Delegated Powers in accordance with Part 3 of the Constitution (Responsibility for Council Functions)

3. Application for the Variation of a Premises Licence at DESH, 5 - 38
68-70 High Street, West Malling

The report provides details of an application for the variation of a premises licence under section 34 of the Licensing Act 2003 which seeks to remove a condition preventing the sale of alcohol to people who are not eating in the restaurant.

4. Urgent Items

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive

5. Exclusion of Press and Public 39 - 40

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information

PART 2 - PRIVATE

6. Urgent Items - Part 2

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

MEMBERSHIP

Cllr D Keers (Chairman)

Cllr Mrs P A Bates

Cllr D W King

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TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

12 July 2019

Report of the Director of Central Services and Monitoring Officer

Part 1- Public

Delegated

1 APPLICATION FOR THE VARIATION OF A PREMISES LICENCE AT DESH, 68 – 70 HIGH STREET, WEST MALLING, KENT ME196LU

1.1 Executive Summary

1.1.1 The Licensing & Appeals Committee sitting as a Panel is asked to consider an application for the variation of a premises licence under section 34 of the Licensing Act 2003 for the premises called DESH, 68-70 High Street, West Malling, Kent ME19 6LU. The application seeks to remove a restaurant condition preventing the sale of alcohol to people who are not eating in the restaurant.

1.2 Background and Introduction

1.2.1 The application was validated on the 19 May 2019, with the 28 day consultation period running from the 20 May 2019 until 17 June 2019, however the applicant then asked for these dates to be amended to allow sufficient time for the newspaper advertising to be sourced. The 28 day consultation then ran from 26 May 2019 until 22 June 2019.

1.2.2 A map showing the location of the DESH is shown at **Annex 1**.

1.2.3 At any stage, during the 28 day public consultation period, a responsible authority, or other person, may make representations in connection with any of the four licensing objectives namely:-

- Prevention of crime and disorder
- Prevention of public nuisance
- Public safety
- Protection of children from harm

Provided that the grounds for the request are relevant to the promotion of one or more of the four licensing objectives and, in the case of requests by other persons, are not vexatious, frivolous or repetitive, a hearing must be held to consider the application.

1.2.4 The Licensing Act 2003 requires the Council to publish a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the

licensing objectives when making decisions on applications made under the Act. The Council's current Statement of Licensing Policy was published in 2019 and will remain in force until 2024. The Policy will be available at the hearing, for reference purposes.

- 1.2.5 Under the 2003 Act, it is the duty of all licensing authorities that, in carrying out their functions, they must have regard to Guidance issued by the Secretary of State under section 182. The Guidance cannot anticipate every possible scenario or set of circumstances that may arise. Provided that the licensing authority has properly understood and considered the guidance, it may depart from it when it has reason to do so. However, as the licensing authority is under a duty to have regard to the Guidance, it will need to give full reasons for its departure from it. The Guidance will also be made available at the hearing for reference purposes.

1.3 The Application

- 1.3.1 The applicant is Mr Sheikh Alam, 4 Teston Road, Teston, Maidstone, Kent ME18 5AL. A copy of the application can be seen at **ANNEX 2**.

- 1.3.2 The current licensable activities are as follows:

Sale of Alcohol	Monday to Saturday	10:00 – 00:00 (Midnight)
	Sunday	12:00 – 23:30
	Christmas Day	12:00 – 22:30
Recorded Music	Monday to Saturday	10:00 – 00:00 (Midnight)
	Sunday	12:00 – 23:30
	Christmas Day	12:00 – 22:30

- 1.3.3 A copy of the current Premises Licence can be seen at **ANNEX 3**

1.4 Reasons for referral

- 1.4.1 The Licensing Authority must under the Act refer any application for hearing to the Licensing & Appeals Committee, if relevant representations are made by a responsible authority or other person.
- 1.4.2 The Licensing Authority has, during the representation period, received one representation from West Malling Parish Council which is attached to this report as **ANNEX 4**.

1.4.3 Responses received from statutory consultees:

Fire Safety	No objections
Trading Standards	No comments received
Social Service	No comments received
Police	Conditions Received and agreed by Applicant – See Annex 5
Environmental Health	No comments received
Health & Safety	No comments received
Public Health	No comments received
Planning	No objections

1.4.4 The applicant and other persons that have made representations have been invited to attend the hearing.

1.5 Policy Considerations

1.5.1 The following paragraphs of the Councils' Statement of Licensing Policy apply to this application:

Section 3 – Licensing Authority general policy considerations

Section 4 – Responsible Authorities and other persons

Sections 8 – In making decisions in respect to new premises licences.

Sections 17 – Licence conditions - appropriate and proportionate in order to promote the licensing objectives at that premises

1.6 Legal Implications - Determining the application

1.6.1 Section 4 of the Licensing Act 2003 requires the Licensing Authority to carry out its functions with a view to promoting the Licensing Objectives -

- a) The prevention of crime and disorder
- b) Public safety
- c) The prevention of public nuisance
- d) The protection of children from harm

Having regard to the relevant representations, the Panel must take such of the steps set out at paragraph 1.7.1 below, as it considers appropriate, for the promotion of the licensing objectives.

- 1.6.2 Section 4(3) of the Licensing Act also requires the Licensing Authority to have regard to the published statement of Licensing Policy and any guidance issued by the Secretary of State under section 182.
- 1.6.3 The Licensing Act 2003 section 181 and Schedule 5 makes provision for appeals to be made by the applicant and those making representations, against decisions of the Licensing Authority to the Magistrates Court

1.7 Options Open to the Panel

1.7.1 The steps an authority may take are –

- 1.7.2 (a) to modify the conditions of the licence;
- (b) to reject the whole or part of the application;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

1.8 Financial and Value for Money Considerations

1.8.1 None unless there is a successful appeal against the Panel's decision to the Magistrates' Court. This could result in costs being awarded against the Council.

1.9 Risk Assessment

1.9.1 Departure from the Guidance and Policy could lead to an increased risk on an appeal. Similar risks arise if any decision made is not evidence based and proportionate.

1.10 Equality Impact Assessment

1.11 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.12 Recommendations

1.12.1 That members determine the application carefully, considering the application along with any representations made and take such steps as the Panel considers appropriate for the promotion of the Licensing Objectives.

Background papers:

Licensing Act 2003
Live Music Act 2012
Deregulation Act 2015
Licensing Act Guidance
Statement of Licensing Policy

contact: Katie Shipman
6027
Anthony Garnett
6151

Adrian Stanfield
Director of Central Services and Monitoring Officer

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ARCGIS WEB MAP

Web AppBuilder for ArcGIS



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Ordnance Survey data © Crown copyright and database right 2019. OS 100030004 (Geocode Nuris)

56800000000



Scale 1:1,250

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Map Dated: 24 Jun 2019

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Tonbridge and Malling
Application to vary a premises licence
Licensing Act 2003

For help contact
licensing.services@tmbc.gov.uk
 Telephone: 01732 876368

* required information

Section 1 of 18

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference This is the unique reference for this application generated by the system.

Your reference You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

- Yes No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

Applicant Details

* First name

* Family name

* E-mail

Main telephone number Include country code.

Other telephone number

Indicate here if you would prefer not to be contacted by telephone

Are you:

- Applying as a business or organisation, including as a sole trader
- Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means you are applying so you can be employed, or for some other personal reason, such as following a hobby.

Applicant Business

Is your business registered in the UK with Companies House? Yes No

Note: completing the Applicant Business section is optional in this form.

Registration number

Business name If your business is registered, use its registered name.

VAT number Put "none" if you are not registered for VAT.

Legal status

Continued from previous page...

Your position in the business

Home country

The country where the headquarters of your business is located.

Registered Address

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Section 2 of 18

APPLICATION DETAILS

This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.

I/we, as named in section 1, being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in section 2 below.

* Premises Licence Number

Are you able to provide a postal address, OS map reference or description of the premises?

Address OS map reference Description

Postal Address Of Premises

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Premises Contact Details

Telephone number

Continued from previous page...

Non-domestic rateable
value of premises (£)

29,500

Section 3 of 18

VARIATION

Do you want the proposed
variation to have effect as
soon as possible? Yes No

Do you want the proposed variation to have effect in relation to the
introduction of the late night levy?

Yes No

You do not have to pay a fee if the only
purpose of the variation for which you are
applying is to avoid becoming liable to the
late night levy.

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

Describe Briefly The Nature Of The Proposed Variation

Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.

We would like to change our current license to allow alcohol to be sold at the bar when guests are not dining.

Section 4 of 18

PROVISION OF PLAYS

See guidance on regulated entertainment

Will the schedule to provide plays be subject to change if this application to
vary is successful?

Yes No

Section 5 of 18

PROVISION OF FILMS

See guidance on regulated entertainment

Will the schedule to provide films be subject to change if this application to
vary is successful?

Yes No

Section 6 of 18

PROVISION OF INDOOR SPORTING EVENTS

Continued from previous page...

See guidance on regulated entertainment

Will the schedule to provide indoor sporting events be subject to change if this application to vary is successful?

Yes No

Section 7 of 18

PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

See guidance on regulated entertainment

Will the schedule to provide boxing or wrestling entertainments be subject to change if this application to vary is successful?

Yes No

Section 8 of 18

PROVISION OF LIVE MUSIC

See guidance on regulated entertainment

Will the schedule to provide live music be subject to change if this application to vary is successful?

Yes No

Section 9 of 18

PROVISION OF RECORDED MUSIC

See guidance on regulated entertainment

Will the schedule to provide recorded music be subject to change if this application to vary is successful?

Yes No

Section 10 of 18

PROVISION OF PERFORMANCES OF DANCE

See guidance on regulated entertainment

Will the schedule to provide performances of dance be subject to change if this application to vary is successful?

Yes No

Section 11 of 18

PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE

See guidance on regulated entertainment

Will the schedule to provide anything similar to live music, recorded music or performances of dance be subject to change if this application to vary is successful?

Yes No

Section 12 of 18

PROVISION OF LATE NIGHT REFRESHMENT

Continued from previous page...

Will the schedule to provide late night refreshment be subject to change if this application to vary is successful?

Yes No

Section 13 of 18

SUPPLY OF ALCOHOL

Will the schedule to supply alcohol be subject to change if this application to vary is successful?

Yes No

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ADULT ENTERTAINMENT

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

Provide information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

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HOURS PREMISES ARE OPEN TO THE PUBLIC

Standard Days And Timings

MONDAY

Start

End

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

Continued from previous page...

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

Identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

CONDITION OF RESTAURANT LICENCE

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

Reasons why I have failed to enclose the premises licence or relevant part of premises licence.

Section 16 of 18

LICENSING OBJECTIVES

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

Continued from previous page...

Control the number of people in the bar area
Close at earlier times in the evening to prevent nuisance
Fully Trained Bar Staff
License Holder around at all times

b) The prevention of crime and disorder

We will not breach licensing conditions, will not partake in unauthorised activities or serve out of authorised hours.

c) Public safety

Ensure not to overcrowd at any point.
Complying with all statutory fire safety controls.
Accident book kept and used to log any accidents.

d) The prevention of public nuisance

Not serving alcohol outside of licensed hours.
Any anti-social behavior will be addressed and stopped

e) The protection of children from harm

Identification to be asked for when serving alcohol
Refusal book to be held and kept up to date with anyone that is refused serving

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NOTES ON REGULATED ENTERTAINMENT

Continued from previous page...

In terms of specific **regulated entertainments** please note that:

- Plays: no licence is required for performances between 08:00 and 23.00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- Live music: no licence permission is required for:
 - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
 - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

Continued from previous page...

- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - o any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - o any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - o any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - o any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

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PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

Rateable value of £0 - £4300 Band A: £100

Rateable value of £4301 - £33000 Band B: £190

Rateable value of £33001 - £87000 Band C: £315

Rateable value of £87001 - £125000 Band D: £450

Rateable value of £125000 and above Band E: £635

* Fee amount (£)

190.00

ATTACHMENTS

AUTHORITY POSTAL ADDRESS

Address

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

United Kingdom

DECLARATION

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

* Full name

* Capacity

Continued from previous page...

Date (dd/mm/yyyy)

Add another signatory

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...

2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/tonbridge-and-malling/change-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

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.



www.tmbc.gov.uk

Schedule 12 Part A

Premises Licence Tonbridge & Malling Borough Council

Regulation 33,34

Premises Licence Number

18/01283/PREM issued 8th October 2018

Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

Gandhi Tandoori
68 - 70 High Street
West Malling
Kent
ME19 6LU

Telephone number 01732 845600

Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence

Sale of Alcohol
Recorded Music

Times the licence authorises the carrying out of licensable activities

Sale of Alcohol

Sunday	12:00 - 23:30
Monday to Saturday	10:00 - 00:00
Christmas Day	12:00 - 22:30

Recorded Music

Sunday	12:00 - 23:30
Monday to Saturday	10:00 - 00:00
Christmas Day	12:00 - 22:30

The opening hours of the premises

Not applicable

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

Alcohol is supplied for consumption on the Premises

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Mr Sheikh Alam
4 Woodlands Close
Teston
Maidstone
Kent
ME18 5AL

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 authorises for the supply of alcohol



Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol



Annex 1 – Mandatory conditions

Sale of Alcohol

1. 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.
2. Every supply of alcohol under the Premises Licence must be made, or authorised by a person who holds a Personal Licence.
3. (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).
4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

5. (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 licences 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.
6. The responsible person shall 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; and
 - (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.

Minimum Drinks Pricing

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;

(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.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from the paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Exhibition of Films

1. Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation by that body.
3. Where
 - (a) The film classification body is not specified in the licence, or
 - (b) The relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,admission of children must be restricted in accordance with any recommendation made by that licensing authority.
4. In this section “children” means any person aged under 18; and “film classification body” means the person or persons designated as the authority under Section 4 of the Video Recordings Act 1984(c39) (authority to determine suitability of video works for classification).

Door supervision (except theatres, cinemas, bingo halls and casinos)

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must:
 - (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
 - (b) be entitled to carry out that activity by virtue of section 4 of the Act.
2. But nothing in subsection (1) requires such a condition to be imposed:
 - (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c12) (premises with premises licences authorising plays or films); or
 - (b) in respect of premises in relation to:
 - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
 - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
3. For the purposes of this section:
 - (a) “security activity” means an activity to which paragraph 2(1)(a) of that Schedule applies, and, which is licensable conduct for the purposes of that Act, (see Section 3(2) of that Act) and
 - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.
 - a. ph 8 of that Schedule.

Annex 2 – Conditions consistent with the Operating Schedule

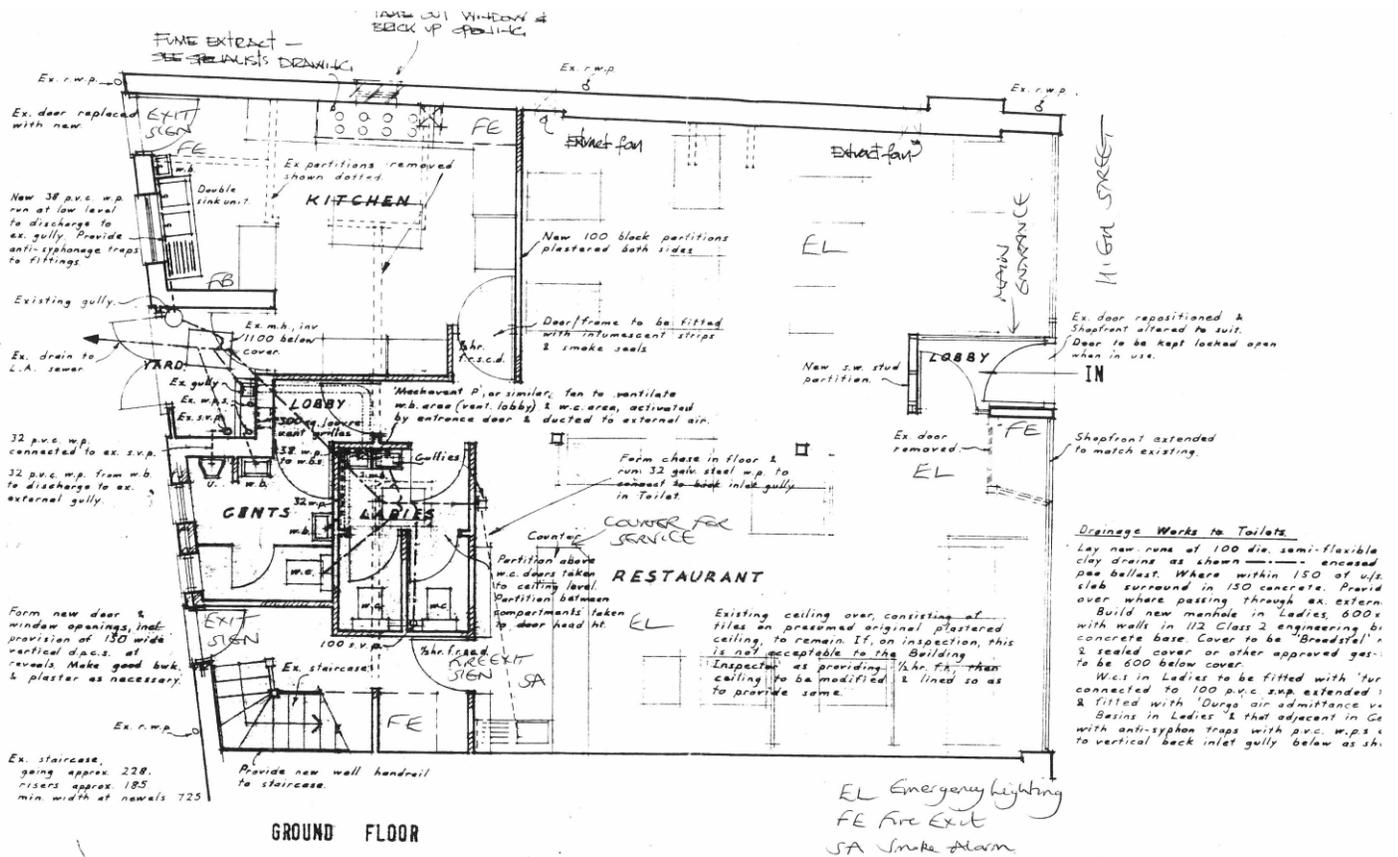
1 CONDITION OF RESTAURANT LICENCE

Intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such a person as an ancillary thereto.

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

None

Annex 4 – Plans



RESTAURANT
 68-70 #10A STREET WEST WAILING KEHT.

PROOPER ASSOCIATES
 SCALE 1:50

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WEST MALLING PARISH COUNCIL

9 High Street, West Malling, Kent ME19 6QH

Telephone: 01732 870872

email: clerk@westmallingspc.org

website: www.westmallingspc.org

Clerk to the Parish Council: Claire Christmas

Licensing Services
Gibson Drive
Kings Hill
West Malling
Kent
ME19 4LZ

14th June 2019

Dear Sirs,

Re: Premises License Application in respect of Dosh, 68 - 70 High Street, West Malling, ME19 6LU

We write to submit representations in respect of the above application. Members have been approached by a number of local residents wishing them to make representations on their behalf.

We would first wish to highlight the following facts:

- The premises are situated in the centre of West Malling, in close proximity to a large number of residential properties, as well as a number of other licensed premises; and
- A number of interested bodies, including the Chamber of Commerce and the Parish Council are very keen to promote the town as a destination for all of the family.

In accordance with the licensing objectives set out in Part 2, section 4(2) of the Licensing Act 2003 we would wish to make the following observations in respect of the application and the facts above:

The prevention of crime and disorder

The prevention of public nuisance

- Residents are concerned that allowing the premises to serve alcohol without the restriction of needing to be served food would set a dangerous precedent in an area where there is already a significant concentration of licensed premises. It would also encourage other restaurants to seek similar licenses and lead to an increased risk of crime, disorder and public nuisance.
- The premises' existing licence allows them to serve alcohol up until midnight. The proposed change is likely to lead to a concentration of drinkers arriving at the end of the night as other premises close, increasing the risks of crime, disorder and public nuisance.

Yours faithfully

Claire Christmas
Clerk to West Malling Parish Council



**Kent
Police**

Chief Officer of Police Representation in relation to an application for **variation** of premises licence made under Part 3 **Section 34** Licensing Act 2003 (S35 Licensing Act 2003)

Details of person or body making representation	
Name of Chief Officer of Police	Chief Inspector Steenhuis
Postal Address: (Area Headquarters)	Police Station Pembury Road Tonbridge Kent TN9 2HS
E-mail address	west.division.licensing@kent.pnn.police.uk
Telephone Number:	01732 379255

Details of premises representation is about	
Name of Premises:	Desh
Address of premises:	68-70 High Street West Malling Kent ME19 6LU
Date application received by police	22/05/2019
Date representation sent to Licensing Authority	13/06/2019 <i>Must be within 28 days of receipt – The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, Part 4 Reg. 22.</i>

The Chief Officer of Police has received an application for the variation of a premises licence made under the provisions of Section 34 Licensing Act 2003, and under Section 35 of that Act asks the Licensing Authority to consider these representations in respect of: -

Please tick one or more of the licensing objectives that the representation relates to:

Prevention of crime and disorder	X
Public Safety	X
Prevention of public nuisance	
Protection of children from harm	X

The relevant representations within the meaning of S.35(5) of the Licensing Act satisfy the requirements of S.35 (6) of that Act and are as follows:

Please give the reason for the representation and detail the evidence supporting it:

Desh is a restaurant located in the centre of West Malling High Street, previously trading as Gandhi Tandoori, this variation now seeks to remove the restriction for alcohol to be sold to those customers attending the restaurant to have a sit down meal. This effectively will allow the premises to trade as a bar/pub allowing customers to attend the venue to solely drink until midnight Monday to Saturday and 23:30hrs on a Sunday. It should be noted that the sale of alcohol is permitted for consumption on the premises only and does not provide for it to be removed from the premises by patrons or staff undertaking deliveries in the event of takeaway service being provided.

West Malling has a large number of drinking establishments within the town and the addition of another may give rise to conflict between customers and an increase in the nuisance and disturbance to the local community. Failure to control people attending for the purpose of only drinking at the premises could result in increased levels of crime and disorder and cause a risk to the safety of the public, not only those attending the venue but others who may be within the vicinity. As with all premises selling alcohol there is a risk to children if sales of alcohol are not properly and effectively monitored and controlled.

The applicant should be mindful of the different level of control required in comparison to a purely restaurant environment and take measures commensurate to those requirements. West Malling has suffered from fluctuating levels of anti-social behaviour and crime, there is potential for this premises to become a focal point for this type of behaviour if staff are inadequately trained to deal with situations that may arise.

The operating schedule submitted with the application does not provide sufficient details as to how the applicant proposes to control the premises in view of the proposed expansion of use of the premises and therefore Kent Police do not believe that there will be sufficient control to ensure that the licensing objectives will be promoted at all times.

Suggested conditions that could be added to the licence to remedy the representation or other suggestions the Licensing Sub Committee may take into account:

Please use separate sheets where necessary

Kent Police strongly believes that the following conditions are necessary in order to promote the licensing objectives and would ask that they be attached to any premises licence granted under this variation application:

1. CCTV will be in operation and recording at the premises at all times that the premises are open to the public. All images will be retained for a period of not less than 30 days.

2. CCTV will cover the main trading area and entrance as a minimum.
3. A member of staff trained in the use of the CCTV system must be available at the premises at all times that the premises are open to the public.
4. Signage will be displayed advising customers that CCTV is in operation.
5. A log will be maintained of all incidents occurring at the premises, whether police were called or not.
6. Outside areas used by patrons for any purpose will be closely monitored by staff to ensure there is no disturbance or anti-social behaviour.
7. Customers will not be permitted to take drinks outside the premises, whether in open or sealed containers, at any time or for any purpose. Signage will be displayed to advise customers of this restriction.
8. All staff responsible for the sale of alcohol will receive training in all aspects of the requirements of the licensing act and safeguarding such training will be documented and available for inspection by responsible authorities upon a reasonable request being made.
9. "Challenge 25" will be in operation at the premises at all times, clear signage will be displayed to advise all customers of it.
10. A refusals log must be kept at the premises, and made immediately available on request to the police or an authorised person. The refusals log is to be inspected on a monthly basis by the DPS and noted in the log and a record made in the log of any actions that appear to be needed to protect young people from harm. The log must record all refused sales of alcohol, for any reason, and include the following:
 - a) the identity of the member of staff who refused the sale
 - b) the date and time of the refusal
 - c) the alcohol requested and reason for refusal
 - d) description of the person refused alcohol

Signed:

Print name: Lisa Whitehead

Pp Chief Officer of Police of Police for the Police Area in which the licensed premises are situated.

Date: 14th June 2019

Force Number: PC 12963

Representation may be made at any time during the 28 consecutive days starting on the day after the day on which the application to which it relates was given to the authority by the applicant.

Please return this form along with any additional sheets to the Licensing Authority.

This form must be returned within the Statutory Period.

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Agenda Item 5

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

**ANY REPORTS APPEARING AFTER THIS PAGE CONTAIN EXEMPT
INFORMATION**

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