

AGENDA ITEM NO.

TRAFFORD COUNCIL

THE LICENSING SUB-COMMITTEE – 24TH AUGUST 2017

REPORT OF THE HEAD OF PUBLIC PROTECTION

REPORT REF. NO.

APPLICATION FOR REVIEW OF AN EXISTING PREMISES LICENCE – SWADESH RESTAURANT, 3 RICHMOND ROAD, BOWDON, WA14 2TT

PURPOSE

To hear and consider the application and any relevant representations

RECOMMENDATIONS

The sub-committee must, having regard to the application and any relevant representations, take such of the steps mentioned in Section 52(4) of the Licensing Act (if any) as it considers necessary for the promotion of the licensing objectives.

The steps stated in Section 52(4) are:

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;

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.

The Sub-Committee has the power in relation to steps (a) and (b) to provide that the modification and exclusion only has effect for a limited period not exceeding three months.

The Sub-Committee also have the option to take no further action or issue an informal warning to the licence holder and/or recommend improvement within a particular period of time.

Iain Veitch
Head of Public Protection

Further Information From:

Name: Joanne Boyle
Extension: 4129

Proper Officer for the purposes of L.G.A. 1972, s.100D
(background papers):
Licensing Act 2003
Guidance issued under section 182 of the Licensing Act 2003
Trafford Council's Licensing Policy

1. BACKGROUND

- 1.1 At any stage, following the grant of a premises licence, a responsible authority, such as the police or the fire authority, or an interested party, such as a resident, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 1.2 In every case, the representation must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of the licensing objectives.
- 1.3 The licensing objectives are:
 - The prevention of crime and disorder
 - The prevention of public nuisance
 - Public safety
 - The protection of children from harm
- 1.4 With effect from the 6th April 2017 the Immigration Act 2016 made the Secretary of State a responsible authority in respect of premises licensed to sell alcohol or late night refreshment. In effect this conveys the role of responsible authority to Home Office Immigration Enforcement who exercises its 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.

2. APPLICATION

- 2.1 On the 30th June 2017 the Licensing Authority received an application from the Chief Immigration Officer for a review of the Premises Licence PL0330 – held by Mr Mohammed Salim for premises known as Swadesh Restaurant, 3 Richmond Road, Bowdon, WA14 2TT. A copy of the current Premises Licence is attached at Appendix A.
- 2.2 The application stated that in accordance with the regulations, notice was also given to the premises licence holder and responsible authorities on the same date.
- 2.3 The ground for review relates to crime and disorder and the application is attached at Appendix B. The applicant may expand on the written representation but may not add further grounds.
- 2.4 Following receipt of the application the Authority advertised the review by notice outside the premises and at the Council's Offices for 28 consecutive days.
- 2.5 In response to the application the Authority received a letter from TM Fortis acting on behalf of Mr Salim, a copy of which is attached at Appendix C.
- 2.6 The Authority has received no comments from any other responsible authority or interested party.

3. KEY ISSUES

- 3.1 The grounds for review and any representations must relate to one or more of the licensing objectives and must be relevant. Representations from interested parties may not be frivolous, vexatious or a repetition.
- 3.2 The Council will consider requests for a review of an existing premises licence if representations are made from the following:
- A Responsible Authority such as the Police and Fire Authority; or
 - Any other person
- 3.3 The Council will expect anybody requesting a review to produce evidence to support allegations that one or more of these objectives are not being met.
- 3.4 The Sub-Committee should consider the relevance of the ground or grounds for review and any representations.
- 3.5 The Sub-Committee should consider whether or not any appropriate pre-review warnings have been given and/or any mediation taken place.

4. RECOMMENDATION

- 4.1 The Sub-Committee must, having regard to the application and any relevant representations, take such of the steps mentioned in Section 52(4) of the Licensing Act (if any) as it considers necessary for the promotion of the licensing objectives.
- 4.2 The steps stated in Section 52(4) are:
- to modify the conditions of the licence;
 - to exclude a licensable activity from the scope of the licence;
 - to remove the designated premises supervisor;
 - to suspend the licence for a period not exceeding three months;
 - to revoke the licence;

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.

- 4.3 The Sub-Committee has the power in relation to steps (a) and (b) to provide that the modification and exclusion only has effect for a limited period not exceeding three months.
- 4.4 The Sub-Committee also have the option to leave the licence in its existing state and/or issue an informal warning to the licence holder and/or recommend improvement within a particular period of time.

ATTACHED

Appendix A – Premises Licence PL0330

Appendix B – Application for Review from the Chief Immigration Officer

Appendix C – Representation from the Licence Holder

Appendix D – S182 Guidance on the review process

APPENDIX A

Licensing Act 2003

Premises Licence

PL000330

Part 1 - Premises Details

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

Swadesh

3 Richmond Road, Bowdon, Cheshire, WA14 2TT.

Telephone 0161 941 5253

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- a performance of live music
- any playing of recorded music
- entertainment facilities for dancing
- provision of late night refreshment
- the sale by retail 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)	Thursday to Saturday The licensed premises shall not be kept or used for Public Music and Dancing except on the last Friday in every month during January to November inclusive and every Thursday, Friday and Saturday during December between the hours of: 11:00am and 12:30am.	11:00am	12:30am
F. Playing of recorded music (Indoors)	Thursday to Saturday The licensed premises shall not be kept or used for Public Music and Dancing except on the last Friday in every month during January to November inclusive and every Thursday, Friday and Saturday during December between the hours of: 11:00am and 12:30am.	11:00am	12:30am
J. Provision of facilities for dancing (Indoors)	Thursday to Saturday The licensed premises shall not be kept or used for Public Music and Dancing except on the last Friday in every month during January to November inclusive and every Thursday, Friday and Saturday during December between the hours of: 11:00am and 12:30am.	11:00am	12:30am
L. Late night refreshment (Indoors)	Thursday to Saturday	11:00pm	Midnight



Licensing Act 2003

Premises Licence

PL000330

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

Activity (and Area if applicable)	Description	Time From	Time To
M. The sale by retail of alcohol for consumption ON the premises only	Monday to Wednesday	10:00am	Midnight
	Thursday to Saturday	10:00am	Midnight
	Sunday	Noon	11:30pm
	Good Friday	Noon	11:30pm
	Christmas Day	Noon	3:00pm
	Christmas Day	7:09pm	11:30pm

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Saturday	10:00am	Midnight
Sunday	Noon	11:30pm
Good Friday	Noon	11:30pm
Christmas Day	Noon	3:00pm
	7:00pm	11:30pm

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

- M. The sale by retail of alcohol for consumption ON the premises only

Part 2

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

Mohammed Salim 14 Winchester Park, Dene Road, West Didsbury, Manchester, M20 2TN.
Telephone 0161 445 1487

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 THE SUPPLY OF ALCOHOL

Mohammed SALIM 14 Winchester Park, Dene Road, West Didsbury, Manchester, M20 2TN.
Telephone 0161 445 1487

PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL

Licence No. 049108 Issued by



Licensing Act 2003

Premises Licence

PL000330

ANNEXES

ANNEX 1 - MANDATORY CONDITIONS

1. Alcohol shall not be sold or supplied except during the following hours.

On Weekdays Monday, Tuesday, Wednesday, Thursday, Friday and Saturday 10.00am until midnight.

On Sundays, other than Christmas Day or New Year's Eve, 12.00noon to 11.30pm

On Good Friday, 12.00noon to 11.30pm

On Christmas Day, 12.00noon to 3.00pm and 7.00pm to 11.30pm

On New Year's Eve, except on a Sunday, 11.00am to Midnight.

On New Year's Eve on a Sunday, 12 noon to 11.30pm

On New Year's Eve from the end of licensing hours on New Year's Eve to the start of licensing hours on the following day (or, if there are no licensing hours on the following day, midnight on 31st December)

2. The above restrictions do not prohibit:

(a) during the first twenty minutes after the above hours the consumption of the alcohol on the premises;

(b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;

(c) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking meals there if the alcohol was supplied for consumption as ancillary to meals;

(d) consumption of alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;

(e) the ordering of alcohol to be consumed off the premises, or the dispatch by the vendor of the alcohol so ordered;

(f) the sale of alcohol to a trader or club for the purposes of the trade or club;

(g) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;

(h) the taking of alcohol from the premises by a person residing there; or

(i) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of the alcohol by persons so supplied; or

(j) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

3. No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:

(a) He is the child of the holder of the premises licence.

(b) He resides in the premises, but is not employed there.

(c) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.

(d) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona



Licensing Act 2003

Premises Licence

PL000330

ANNEXES continued ...

vide for any purpose to which the holding of the licence is ancillary

4. In this condition "bar" includes any place exclusively or mainly used for the consumption of alcohol. But an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.

Alcohol shall not be sold or supplied unless it is paid for before or at the time when it is sold or supplied, except alcohol sold or supplied:

- a) with and for consumption at a meal supplied at the same time, consumed with the meal and paid for together with the meal;
- b) for consumption by a person residing in the premises or his guest and paid for together with his accommodation;
- c) to a canteen or mess.

5. No Off Sales

6. 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,
- or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

7. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

8. Where the 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 be licensed by the Security Industry Authority.

9. This Licence shall also be subject to the standard and additional conditions relating to the Public Entertainment Licence hereto attached.

10. The occupancy shall not exceed 100 on the ground floor.

11. The licensed premises shall not be kept or used for Public Music and Dancing except on the last Friday in every month during January to November inclusive and every Thursday, Friday and Saturday during December between the hours of: 11:00am and 12:30am

12. The Licensee shall liaise with the Renewal and Environmental Protection Section should any complaints of noise nuisance be received.

ADDITIONAL CONDITIONS IMPOSED BY THE LICENSING COMMITTEE AT ITS MEETING ON TUESDAY 26TH SEPTEMBER 2000



Licensing Act 2003

Premises Licence

PL000330

ANNEXES continued ...

13. The hours of operation shall be limited to 12:30am on the days Thursday, Friday and Saturday.
14. Any performances by live musicians will be restricted to three performers at any one time.
15. When production of music (live or recorded) is taking place, the management shall ensure that doors and windows are kept closed.
16. The licence shall be restricted to the ground floor of the premises and any dancing shall be restricted to the present extent of the dance floor.
17. The management shall control all the power outlets in the vicinity of the band/musicians/performers.
18. The management shall ensure that the noise limiter is regularly maintained and serviced in accordance with the manufacturers specifications and is set to the levels suggested by the Council's Environmental Health Officer.
19. No off Sales.
20. No occasional licences.
21. Hot and cold food to be available at all times the premises open to trade.

ADDITIONAL MANDATORY CONDITIONS (6th April 2010)

22. The responsible person shall ensure that no alcohol is dispensed 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).
23. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
24. Certain "irresponsible" drinks promotions are banned. 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 in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children -
 - (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 (other than any promotion or discount available to an



Licensing Act 2003

Premises Licence

PL000330

ANNEXES continued ...

individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(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;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on -

- (i) the outcome of a race, competition or other event or process,
- or
- (ii) the likelihood of anything occurring or not occurring;

(e) 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.

ADDITIONAL MANDATORY CONDITIONS (1st October 2010)

25. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) 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 a holographic mark.

26. 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) customers are made aware of the availability of these measures.

ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

None

ANNEX 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

None



Licensing Act 2003

Premises Licence

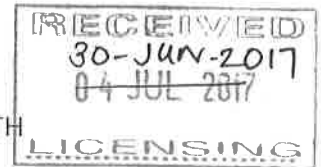
PL000330

ANNEXES continued ...

Signature of Authorised Officer



APPENDIX B

APPENDIX B

Trafford Council, Trafford Town Hall, Talbot Rd, Stretford, Manchester M32 0TH

**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 ALAN BUSHNELL

(Insert name of applicant)

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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
Swadesh, 3 Richmond Road	
Post town Bowdon	Post code (if known) WA14 2TT

Name of premises licence holder or club holding club premises certificate (if known)
Mohammed SALIM

Number of premises licence or club premises certificate (if known)
NOT 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)

APPENDIX B

(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)

APPENDIX B

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address ALAN BUSNELL CHIEF IMMIGRATION OFFICER 9457 Unit 1-2, Dallas Court, South Langworthy Road, Salford, M50 2GF
Telephone number (if any) 0161 888 4157 & 07500225877
E-mail address (optional) ALAN.BUSHNELL1@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 ✓

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

APPENDIX B

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

Manchester ICE obtained a compliance order at Greater Manchester Magistrates on 06/02/2017 for a period of 12 months. This was following a Closure Notice which was issued in relation to Sangam 2, 762 Wilmslow Road, Didsbury. This business was visited by Manchester ICE on 04/02/2017 following allegations that the owner, Mohammad SALIM, born 10/08/1960, a GBR national employed illegal workers across his chain of 4 restaurants which include Sangam, 762-766 Wilmslow Road, Manchester, Sangam 3, 202 Wilmslow Road, Heald Green, Cheadle, Swadesh, 98 Portland Street, Manchester, Swadesh, 3 Richmond Road, Bowdon.

The intelligence graded at 1CP also alleged that a named offender, Gulfam ANAYAT worked at Sangam 2, Didsbury. He was encountered working there on 04/02/17.

As a result of this encounter the closure of the business was authorised by HMI Harrison for a period of 48 hours pending the application of the compliance order. This was deemed proportionate due to previous non compliance.

The business was successfully closed for 48 hours pending a compliance order which was successfully obtained on the Monday at Greater Manchester Magistrates. Mr SALIM attended with his solicitor Ashfaq Chowdhury (Highgate Solicitors). The compliance order was fully explained to him prior to the hearing and they accepted the points on there and despite initially contesting ownership for Sangam Didsbury they accepted the compliance order. The compliance order covers all 4 of the restaurants in the chain and was applied for on the basis that this employer is seriously non compliant as he has a history of employing illegal workers and moving them across all 4 businesses as described in the Compliance order application:

“Mohammad SALIM has a record of employing illegal workers across his chain which includes Sangam Didsbury, Sangam 3 Heald Green, Swadesh Manchester and Swadesh Bowdon. He was served with a civil penalty notice of £75000 following an enforcement visit to Sangam, Didsbury on 20/05/2016 resulting in the arrest of 5 illegal workers. This was cancelled at the further evidence stage. Also on the 20/05/2016 an enforcement visit was conducted to Swadesh, 98 Portland St, Manchester in which 4 immigration offenders were encountered. A civil penalty of £15000 was issued. The fast payment option of £10500 was paid. Also on the 20/05/2016 an enforcement visit was conducted to Sangam, Heald Green in which 4 immigration offenders were encountered. A civil penalty of £45000 was issued which was later reduced to £30000. The penalty balance remains outstanding at £30000.

On 08/12/2016 following recent intelligence, enforcement visits were conducted by warrant to Swadesh Bowdon and Sangam Heald Green. Two illegal workers were encountered at Swadesh Bowdon. A civil penalty of £30000 for the offence of employing illegal workers remains outstanding.

One immigration offender was encountered at Sangam Heald Green however there was not enough evidence to prove he was working at the premises”.

It is believed that the male mentioned in the last paragraph at Sangam 3, Heald Green was MD Reajul ISLAM aka ‘Rooney’ who has consistently been named in the allegations as working at Sangam 3, Heald Green. Due to this it was requested on the application under point 11 that:

“The following named individuals have no permission to work in the UK and must not be allowed on any of the aforementioned premises:

APPENDIX B

Mohammed Reajul ISLAM, 05/02/1988 (aka "Rooney");
Gulfam ANAYAT, 22/05/1977;
Md Monjur E Rashad CHY, 01/12/1981"

Since obtaining the Compliance Order, Mohammad SALIM sent Manchester ICE copies of ID for all his staff for each premises. Compliance visits have taken place at Swadesh Bowdon, Swadesh Portland Street and Sangam Didsbury on 10/03/2017. Checks were completed with all staff on these visits and all subjects were cleared. A compliance visit was also conducted to Sangam 3 Heald Green on 10/03/2017 however this was cancelled before the visit took place as there was a funeral wake taking place at the premises. During this visit however, the owner of the adjoining premises approached Immigration Officers to notify them that he thought someone was running around on his roof and he noticed this happened after the Immigration van pulled up. His staff went on the roof and no one was encountered. Compliance visits have not taken place for the businesses in April/May. Further compliance visits are due to take place in June.

Intel was later received in relation to Sangam 3 graded at 2DP on 05/05/17 stating that "Rooney" (Md Reajul ISLAM,) has returned to work as a cleaner at Sangam 3, 202 Wilmslow Road Heald Green SK8 3BH. The intel also states he works between 12:00 – 14:00 as a cleaner when the restaurant is closed to avoid detection.

Due to this intelligence a compliance visit was conducted on 15/06/2017 under paragraph 5 of schedule 6 of the Immigration Act 2016. During this visit, two immigration offenders were encountered working illegally – Md Reajul ISLAM (aka Rooney) and Zain UL ABIDEEN, a Pakistani national born 13/12/1981. Due to this, the owner has breached the compliance order.

As a responsible authority, I suggest that you consider revoking the alcohol and food licences for this individual and all of his businesses mentioned above.

APPENDIX B

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

As above.

APPENDIX B

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

A. Bushnell

Date

30/6/2017

Capacity **CHIEF IMMIGRATION OFFICER, MANCHESTER ICE**

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

Post town

Post Code

Telephone number (if any)

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

Notes for Guidance

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

APPENDIX C

Doyle, Chelsea

From: Farrukh Tufail <ftufail@tmfortis.co.uk>
Sent: 28 July 2017 14:17
To: premises.licensing@manchester.gov.uk; r.page@manchester.gov.uk; licensing2003@stockport.gov.uk; Licensing
Cc: alan.bushnell1@homeoffice.gsi.gov.uk
Subject: RE: SANGAM & SWADESH RESTAURANTS
Attachments: REPS.pdf

Importance: High

Dear Sirs,

Please see attached a copy of our representations.

Kindly note that whilst the letter is addressed to Manchester City Council, our client relies upon the same representations to Stockport Council and Trafford Council.

We look forward to hearing from you in due course.

Yours faithfully

Farrukh Tufail



DD: 0161 220 6043
Tel: 0161 220 6040
Fax: 0161 220 6041
www.tmfortis.co.uk

131 Wilbraham Road
Fallowfield
Manchester
M14 7DS



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A list of directors is available at the registered office : 131 Wilbraham Road, Fallowfield, Manchester, M14 7DS.

Authorised and regulated by the Solicitors Regulation Authority 561473.

Manchester City Council
Licensing Unit
PO Box 532
Manchester
M60 2LA

Our Ref: FT/05957/1/Salim
Your Ref:
Date: 28 July 2017
Email: ftufail@tmfortis.co.uk
Direct Dial: 0161 220 6043

Dear Sirs

Our Client: Mr Mohammad Salim

- (1) Sangam, 202 Wilmslow Road, Heald Green**
- (2) Sangam, 762-766 Wilmslow Road (premises licence number: 053002)**
- (3) Swadesh, 3 Richmond Road**
- (4) Swadesh, 98 Portland Street (premises licence number: 127110)**

We have been instructed by Mr Mohammad Salim, the proprietor of the above four restaurants.

A signed form of authority is enclosed.

We note that a complaint has been made by the Chief Immigration Officer that there has been a breach of a compliance order which was made by Manchester Magistrates Court on 06/02/17 (covering all four restaurants) in that our client employed illegal workers at his Sangam restaurant, 202 Wilmslow Road, Heald Green.

Specifically, it is alleged that on 15/06/17 (following intel received on 05/05/17) two immigration offenders were encountered working illegally at Sangam, namely Md Reajul ISLAM (aka Rooney) and Zain UL ABIDEEN, a Pakistani national born on 13/12/81.

As a result of this alleged breach, the Chief Immigration Officer has requested that the alcohol and food licences for all four restaurants are revoked. We note that the premises licenses are now subject to review. Our client has been granted an opportunity to make representations in writing.

We wish to make it clear from the outset that our client denies that the individuals named were employed by him as alleged or at all.

At the time of the visit on 15/06/17 the restaurant was undergoing renovation (we refer you to the enclosed letters from POS Catering Solutions and Rourke Environmental Services Limited as evidence). The builders engaged by our client were under instructions to leave the premises by 3.00pm so that the restaurant could open for business at 4.00pm.

Our client understands that Zain UL ABIDEEN was working for the builders and we enclose a letter from Md Ayoob Nasir dated 06/07/17 confirming the same. Therefore, our client had no control over or knowledge of this individual and cannot be held responsible.

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As for Md Reajul ISLAM (aka Rooney), our client instructs that this individual friends with one of his employees. The employee has informed our client that he provided Rooney with the key to the premises and asked him to lock up as the builders left (as he was unable to do so himself due to other commitments). Therefore, Rooney attended the premises simply to let the builders out and lock up after them. It is denied that he was working whether as a cleaner (which is alleged) or at all.

Kindly note that following the compliance order (and the civil penalties for previously employing illegal workers) our client has taken steps to ensure that all persons employed at his restaurants have the necessary permission to work.

Following the latest incident, our client has formally disciplined his employee and made it clear to all of his staff that they must not allow anyone who has not specifically been authorised by him to undertake any work at any of the restaurants even if just to help out.

Accordingly, we request that you allow our client to retain his premises licences so that he may continue to operate his chain of successful restaurants which provide employment to several people. We are sure you will recognise that revocation of the licences will have hugely disproportionate consequences and cause the inevitable closure of the restaurants leading to huge financial losses and redundancies.

We look forward to hearing from you.

Yours faithfully



TM Fortis

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FORM OF AUTHORITY


TO: MANCHESTER CITY COUNCIL
LICENSING UNIT + STOCKPORT LICENSING UNIT
TRAFFORD LICENSING UNIT
HOME OFFICE / CHIEF IMMIGRATION
OFFICER

FULL NAME: MOHAMMAD SALIM

ADDRESS: 14 WINCHESTER PARK
DIDSBURY
M20 - 2TN

RE: SWADESH RESTAURANTS
SANGAM RESTAURANTS

I have instructed TM Fortis Solicitors of 131 Wilbraham Road, Fallowfield, Manchester, M14 7DS to act on my behalf and I AUTHORISE you to communicate with my solicitors and provide them with any information and/or documents that they should require.

Signed 

Dated 26/7/17

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06.07.2017

To Whom So Ever It May Concern

This is to inform that I Mohammad Ayoob Nasir, No 8, Wilpshir Avenue, Manchester M12 5TL undertook a part work of decorating toilets and of the main door repair work during soft renovation of Hearld green. The work was started from June 12th 2017 onwards. Mr Zain-ul-abdin was one of the staff who worked with me, he was taken and questioned by the immigration officials on June 15th 2017. I take the entire responsibility for any queries/information you wish to require about Mr Abdin. The entire work was carried out during non-operational time (between 10 am to 3 pm) of the restaurant. If you require any further assistance please do not hesitate to contact me.

Regards,
Md Ayoob Nasir
Ph 07448060781

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44 Washway Road
Sale
Manchester
M33 7QZ

To whom it may concern,

As a company we have been working with Sangam group of restaurants for about 8 years.

We service and supply Epos systems and kitchen equipment for the restaurants. During May and June this year we were involved with maintenance work and deliveries at Sangam 3 in Heald Green.

Due to the restaurant not opening until 4 o'clock if we needed access to the restaurant it would be arranged for someone to let us in or a key would be left for access.

If you require any further clarification please do not hesitate in contacting me.

Yours sincerely

M.S.Wadsworth

Director

Tel. no 0161 969 5545

Fax no. 0161 969 5996

POS & Catering Solutions Ltd

Specialist EPOS & Catering equipment

POS & Catering Solutions is a limited company registered in England & Wales.
Registered number: 7163762. Registered office: 44 Washway Road Sale Manchester M33 7QZ

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**ROURKE ENVIRONMENTAL
SERVICES LIMITED**

Air Conditioning and Refrigeration Specialists

30 Wakeling Road, Denton, Manchester, M134 6LS

Tel: 0161 337 9795 Email: admin@resaircon.co.uk

"Positive Climate Solutions" Web: www.resaircon.co.uk Company Reg No. 5499187

To whom it may concern.

7th July, 2017

Throughout the months of May and June, 2017 we were contracted to carry out Air Conditioning Installation and maintenance works at Sangam Restaurant, Wilmslow Road, Heald Green.

We also arranged for a Roofing Contractor to attend site to carry out repairs to the leaking roof, to enable the works to be completed regular access to the premises was required during normal working hours.

Mr S A Rourke

Director

Mobile: 07917 618720

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11. Reviews

The review process

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

- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 14 of this Guidance.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitive. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

Repetitious grounds of review

- 11.12 A repetitious ground is one that is identical or substantially similar to:
- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
 - representations considered by the licensing authority when the premises licence or certificate was granted; or
 - representations which would have been made when the application for the premises

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licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

Powers of a licensing authority on the determination of a review

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

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- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)¹⁰;
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

¹⁰ See chapter 15 in relation to the licensing of live and recorded music.

Reviews arising in connection with crime

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.
- 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
 - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
 - for prostitution or the sale of unlawful pornography;
 - by organised groups of paedophiles to groom children;
 - as the base for the organisation of criminal activity, particularly by gangs;

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- for the organisation of racist activity or the promotion of racist attacks;
- for employing a person who is disqualified from that work by reason of their immigration status in the UK;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Review of a premises licence following closure order

11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or section 38 of and Schedule 6 to the Immigration Act 2016. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

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

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