



# Uttlesford District Council

Chief Executive: Dawn French

## **Licensing and Environmental Health**

**Date:** Monday, 31 July 2017  
**Time:** 10:00  
**Venue:** Committee Room  
**Address:** Council Offices, London Road, Saffron Walden, CB11 4ER

**Members:** Councillors R Chambers (Chairman), A Anjum, G Barker, J Davey, A Gerard, T Goddard, J Gordon, E Hicks, S Morris, G Sell

**Substitutes:** H Asker, J Freeman, R Freeman, D Jones, J Loughlin

## **AGENDA PART 1**

### **Open to Public and Press**

- 1 Apologies for absence and declarations of interest
- 2 Application to Vary a Premises Licence to Specify an Individual as Designated Premises Supervisor 5 - 20
- 3 Consideration of an item containing exempt information within the meaning of para 1 of schedule 12A of the Local Government Act 1972

## **PART 2 Exclusion of the Public and Press**

- 4 Determination of a Private Hire-Hackney Carriage Drivers Licence - Item 4
- 5 Determination of a Private Hire- Hackney Carriage Drivers License - Item 5



**For information about this meeting please contact Democratic Services**

Telephone: 01799 510433, 510369 or 510548

Email: [Committee@uttlesford.gov.uk](mailto:Committee@uttlesford.gov.uk)

**General Enquiries**

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Website: [www.uttlesford.gov.uk](http://www.uttlesford.gov.uk)



**Committee:** Licensing & Environmental Health

**Agenda Item**

**Date:** 31 July 2017

**3**

**Title:** Application to Vary a Premises Licence to Specify an Individual as Designated Premises Supervisor for Indian Villa Restaurant, 20 Watling Street, Thaxted, Essex. CM6 2PE.

**Author:** Amanda Turner, Licensing Team Leader.  
Tel: 01799 510613

Item for decision  
yes

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### Summary

1. Members are required to consider the application that has been received under the Licensing Act 2003 from the premises licence holder Mr Mohammed Abdul Malique to vary the Designated Premises Supervisor (DPS) at Indian Villa Restaurant, 20 Watling Street, Thaxted, CM6 2PE as an objection notice to the to the proposed variation has been received from Essex Police.

The Indian Villa Restaurant is situated in the centre of the village of Thaxted. It is licensed for the sale of alcohol by for consumption on and off the premises from 10am to 11.30pm Monday to Saturday and 12 noon to 11pm Sunday

### Recommendations

2. To consider the objection notice in accordance with the options detailed later in the report and make a decision on the application.

### Financial Implications

3. The fees are based on a cost recovery basis. The fee for the application of a new licence is £23.00. This is a fee Statutory and non-refundable.

### Background Papers

4. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.  
Licensing Act 2003 (sections 37-40)  
Revised Guidance issued under section 182 of the Licensing Act 2003

### Impact

- 5.

Communication/Consultation	Statutory consultees notified and application advertised on the UDC website.
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Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	<p>Under Article 1 First Protocol to the European Convention on Human Rights everyone is entitled to peaceful enjoyment of their possessions which includes property. This right may be interfered with if necessary to control the use of property in accordance with the general interest.</p> <p>In the event that the licence holder or anyone who has made relevant representations is dissatisfied with the decision of the committee there is a right of appeal to the Magistrates Court.</p>
Sustainability	None
Ward-specific impacts	Thaxted
Workforce/Workplace	None

## Situation

6. The application was received from Mohammed Abdul Malique the premises licence holder. The premises licence holder is applying to vary the premises licence to specify Mohammed Akther Hussain as the proposed new designated premises supervisor.
7. The application was made on 22 June 17 and accepted by Uttlesford District Council as a properly made application. The application proposes that Mr Mohammed Akther Hussain be named as the designated premises supervisor by virtue of a request made by the applicant in accordance with Section 38 of the Licensing Act 2003. A copy of the application and consent is attached as Appendix 1.
8. The Police have been consulted on this application as a responsible authority, and have made relevant representations and are objecting to this application. A copy of their representation is attached as Appendix 2.
9. A copy of the premises licence is attached as Appendix 3.
10. The applicant, the prospective designated premises supervisor and Essex Police have been invited to attend the hearing.

11. Section 37 of the Licensing Act 2003 (“the Act) provides that an application may be made to vary the premises licence to specify a proposed individual as a designated premises supervisor.

Section 39 of the 2003 Act provides application to vary a person specified as a designated premises supervisor may only be rejected if it is considered necessary for the promotion of the crime and disorder objective. Regard shall be given to guidance issued by the Secretary of State under Section 182 of the Licensing Act and Uttlesford District Council’s draft licensing policy statement. Immigration offences are considered under the Crime and Disorder objective.

The Home Office Guidance at paragraphs 2.6 is relevant, and Members should give particularly attention to paragraphs 4.39 –4.41 when making their decision.

- 2.6        The prevention of crime includes the prevention of Immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all employed staff at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.
- 4.39        The police may object to the designation of a new premises supervisor where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective. The police can object where, for example, a DPS is first specified in relation to particular premises and the specification of that DPS in relation to the particular premises gives rise to exceptional concerns. For example, where a personal licence holder has been allowed by the courts to retain their licence despite convictions for selling alcohol to children (a relevant offence) and then transfers into premises known for underage drinking.
- 4.40        Where the police do object, the licensing authority must arrange for a hearing at which the issue can be considered and both parties can put their arguments. The 2003 Act provides that the applicant may apply for the individual to take up post as DPS immediately and in such cases, the issue would be whether the individual should be removed from this post. The licensing authority considering the matter must restrict its consideration to the issue of crime and disorder and give comprehensive reasons for its decision. Either party would be entitled to appeal if their argument is rejected..”
- 4.41        The portability of personal licences between premises is an important concept under the 2003 Act. It is expected that police objections would arise in only genuinely exceptional circumstances. If a licensing

authority believes that the police are routinely objecting to the designation of new premises supervisors on grounds which are not exceptional, they should raise the matter with the chief officer of police as a matter of urgency.

12. Members must, having regard to the application and the police objection notice, decide whether to grant the application or reject the application if members consider it appropriate for the promotion of the crime prevention objective to do so.



## Uttlesford District Council



# Application to vary a premises licence to specify an individual as designated premises supervisor 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/we MOHAMMED ABDUL HALIQ  
(full name(s) of premises licence holder)

being the premises licence holder, apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003

Premises licence number

PL0 182

### Part 1 - Premises details

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

INDIA VILLA  
20 WATLING STREET  
THAXTED  
ESSEX

Post town

Post code (if known)

CM6 2PE

Telephone number (if any)

Description of premises (please read guidance note 1)

INDIAN RESTAURANT



Part 2

Full name of proposed designated premises supervisor

MOHAMMED AKTHAR HUSSAIN

Nationality

BRITISH BANGLADESHI

Place of birth

SYLHET - BANGLADESH

Date of birth

Personal licence number of proposed designated premises supervisor and issuing authority of that licence (if any)

PERS LIC [REDACTED]

Full name of existing designated premises supervisor (if any)

MRS DILARA HALIQUE

Please tick yes

I would like this application to have immediate effect under section 38 of the Licensing Act 2003



I have enclosed the premises licence or relevant part of it



(If you have not enclosed the premises licence, or relevant part of it, please give reasons why not)

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

Lost

Please tick yes

- I have made or enclosed payment of the fee ☒
- I will give a copy of this application to the chief officer of police ☒
- I have enclosed the consent form completed by the proposed premises supervisor ☒
- I have enclosed the premises licence, or relevant part of it or explanation ☒
- I will give a copy of this form to the existing premises supervisor, if any ☐
- 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.

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971] FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OF WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

**Part 3 – Signatures** (please read guidance note 2)

**Signature of applicant or applicant's solicitor or other duly authorised agent** (See guidance note 3). If signing on behalf of the applicant please state in what capacity.

Signature

Date

23/6/17

Capacity

**For joint applicants signature of 2<sup>nd</sup> applicant 2<sup>nd</sup> applicant's solicitor or other authorised agent** (please read guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature

Date

Capacity

**Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)**

Post town

Post Code

## Consent of individual to being specified as premises supervisor

MOHAMMAD

MR AKTHER HUSSAIN

[full name of prospective premises supervisor]

of

[redacted address]

[home address of prospective premises supervisor]

hereby confirm that I give my consent to be specified as the designated premises supervisor in relation to the application for

change of DPS

[type of application]

by

M. A. MALIQUE

[name of applicant]

relating to a premises licence

PL0182

[number of existing licence, if any]

for

INDIA VILLA  
20 KATUNG STREET  
THAXTED  
BSSBX  
CM6 2PE

[name and address of premises to which the application relates]

and any premises licence to be granted or varied in respect of this application made by

M. A. MALIQUE  
[name of applicant]

concerning the supply of alcohol at

INDIA MILL  
20 KATLING STREET  
THAXTED, ESSEX  
CM16 2PR

[name and address of premises to which application relates]

I also confirm that I am entitled to work in the United Kingdom and am applying for, intend to apply for or currently hold a personal licence, details of which I set out below.

Personal licence number

PERS-LIC/ [REDACTED]  
[insert personal licence number, if any]

Personal licence issuing authority

CANDEN  
[insert name and address and telephone number of personal licence issuing authority, if any]

Signed

[REDACTED]

Name (please print)

MOHAMMAD AKTHER HUSSAIN

Date

23/06/17





Ms Amanda Turner  
Licensing Officer  
Uttlesford District Council  
Council Offices  
Saffron Walden  
Essex

County Licensing Hub  
Braintree Police Station  
Blyths Meadow  
Braintree  
Essex  
CM7 3DJ  
05/07/2017

Application of vary a premises licence: PL0182 Indian Villa, Thaxted, CM6 2PE

Change of DPS to Mohammad Akthar HUSSAIN

### POLICE OBJECTION NOTICE

Dear Ms Turner

It is my duty to inform you that Essex Police are objecting to the application to vary the premises licence of Indian Villa Restaurant, 20 Wating St, Thaxted, Essex CM6 2PE to change of DPS to the above named person. The objection is made to the Uttlesford District Council Licensing Committee. This notice is served under the Licensing Act 2003 Section 37 (5) that Essex Police consider that there are exceptional circumstances in this case and that the granting of this application would undermine the crime prevention objective whereby the applicant is the current manager of this premises which was subject to an Immigration enforcement operation on 14/06/2017.

During the enforcement visit two Bangladesh nations who were working illegally at Indian Villa were encountered who had no right to work in the UK. One was removed from the premises and one arrested and taken to detention.

It is the contention of Essex Police that as the full time manager and the holder of a personal licence Mohammed HUSSAIN would have been aware that these persons had no right to work yet he allowed them to do so. No right to work checks were undertaken by the manager Hussain, the current DPS Dilera Malique or the Premises Licence Holder Muhammed Malique. This demonstrates a lack of management control and due diligence by those persons who were responsible for supervising the premises. It should be noted that Essex Police are seeking REVOCATION of the premises licence under separate application.

Yours faithfully

6895 Stephen Sparrow  
Essex Police County Licensing Officer  
Ext 406358

Licensing Act 2003

**Premises Licence****182****LOCAL AUTHORITY**

**Licensing Section  
Uttlesford District Council  
Council Offices  
London Road  
SAFFRON WALDEN  
ESSEX  
CB11 4ER**

**Part 1 - Premises Details****POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION****INDIAN VILLA RESTAURANT**

20 WATLING STREET, THAXTED, ESSEX, CM6 2PE.

**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
- a performance of dance
- entertainment of a similar description to that falling within a performance of live music, any playing of recorded music or a performance of dance
- entertainment facilities for making music
- entertainment facilities for dancing
- entertainment of a similar description to that falling within entertainment facilities for making music or dancing
- 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)	Monday to Sunday	Midnight	Midnight
	Private entertainment only		
F. Playing of recorded music (Indoors)	Sunday	Noon	11:00pm
	Monday to Saturday	11:00am	11:30pm
	Non Standard Timings: Christmas Day 12 noon to 3:20pm and 7.00pm to 10:50pm. Good Friday 12 noon to 10:50pm. New Year's Eve, except on a Sunday, 11:00am to 11:20pm; New Year's Eve on a Sunday, 12 noon to 10.50pm, New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31 <sup>st</sup> December). Monday to Sunday Private entertainment only		
	Monday to Sunday	Midnight	Midnight
	Private entertainment only		



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

Activity (and Area if applicable)	Description	Time From	Time To
G. Performance of dance (Indoors)	Monday to Sunday Private entertainment only	Midnight	Midnight
H. Entertainment of a similar description to that falling within E, F, or G (Indoors)	Monday to Sunday Private entertainment only	Midnight	Midnight
I. Provision of facilities for making music (Indoors)	Monday to Sunday Private entertainment only	Midnight	Midnight
J. Provision of facilities for dancing (Indoors)	Monday to Sunday Private entertainment only	Midnight	Midnight
K. Provision of facilities for entertainment of a similar description to that falling within I or J (Indoors)	Monday to Sunday Private entertainment only	Midnight	Midnight
M. The sale by retail of alcohol for consumption ON and OFF the premises	Sunday	Noon	10:30pm
	Monday to Saturday	10:00am	11:00pm
	Non Standard Timings: Christmas Day 12 noon to 3:00pm and 7.00pm to 10:30pm. Good Friday 12 noon to 10:30 pm. New Year's Eve, except on a Sunday, 10:00am to 11:00pm; New Year's Eve on a Sunday, 12 noon to 10.30pm, New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31 <sup>st</sup> December).		

## THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Sunday	Noon	11:00pm
Monday to Saturday	10:00am	11:30pm
Non Standard Timings: Christmas Day 12 noon to 3:30pm and 7.00pm to 11:00pm. Good Friday 12 noon to 11:00pm. New Year's Eve, except on a Sunday, 10:00am to 11:30pm; New Year's Eve on a Sunday, 12 noon to 11.00pm, New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31 <sup>st</sup> December).		

## 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 and OFF the premises

## Part 2

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

MUHAMMED ABDUL MALIQUE

F





Licensing Act 2003

# Premises Licence

182

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

DILARA MALIQUE

Telephone 01258 793789

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

Licence No. 150240

Issued by Uttlesford



ANNEXES

**Annexe 1 - Mandatory Conditions**

Mandatory conditions - supply of alcohol

- 1) No supply of alcohol may be made under the premises licence
  - at a time when there is no designated premises supervisor in respect of the premises licence or
  - 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 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.
- 4 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.
- 5 For the purposes of the condition set out in paragraph 4 -
  - (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(a);
  - (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(a).
- 6 Where the permitted price given by Paragraph (b) of paragraph 5 would (apart from this 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.
- 7 - (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 5 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.

**Embedded Conditions of 1964 Act**

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

- (1) He is the child of the holder of the premises licence.



## ANNEXES continued ...

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

(3) 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.

(4) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

In this condition "bar" includes any place exclusively or mainly used for the consumption of intoxicating liquor. 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.

**Annexe 2 - Conditions Consistent with Operating Schedule**

None.

**Annexe 3 - Conditions Imposed Following a Hearing**

None.

**Annexe 4 - Plan of Premises**

See attached.

  
Chief Executive



