

**Committee:** Licensing and Environmental Health Committee

**Date:**  
12<sup>th</sup> May 2020

**Title:** Application for a Major Premises Licence Variation – Queen Victoria, 79 Stortford Road, Great Dunmow, CM6 1DL

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## Summary

1. The application before the panel today is for the grant of a major variation of the Queen Victoria also known as Jalsa Ghar Restaurant, the application is dated 20 March 2020 and is made by Fazlul Bari Choudhury the premises licence holder. This report sets out details of that application for a major variation to a premises licence in respect of 79 Stortford Road, Great Dunmow, CM6 1DL. Representations have been made by Essex Police in response to this application so therefore this matter has been referred to the Committee for adjudication.
2. 79 Stortford Road Great Dunmow Public House and restaurant is situated in the town of Great Dunmow and is also known as Jalsa Ghar restaurant. A plan showing the location of the premises is attached as Appendix D.
3. An application for a grant of a premises licence at 79 Stortford Road, Great Dunmow was determined by the Licensing and Environmental Health Committee in June 2019 and the decision of this Committee was to grant the licence with conditions, one of which the applicant seeks to have removed with this Major Variation application.
4. This premises has been before the Licensing and Environmental Health Committee before and been the subject of Police attention all of which is on the time line of significant events appendix C.6 that forms part of the Essex Police representations pack.
5. The options open to the committee are set out by law, and are:-
  - To grant the application
  - To modify the application by inserting conditions
  - To reject the application

## Recommendations

6. The application is determined

## Financial Implications

7. None

## Background Papers

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.

- (a) Variation of the Premises licence application (Appendix A)
- (b) Plan of the premises (Application B)
- (c) Representation from statutory consultee (Essex Police) (Appendix C)
- (d) Location map of premises (Appendix 0044)
- (e) Revised Guidance issued under section 182 of the Licensing Act 2003
- (f) Uttlesford District Council Statement of Licensing Act 2003 Policy 2017-22

## Impact

Communication/Consultation	Details of the application were conveyed to Members of Uttlesford District Council, The Parish Council.
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. The imposition of conditions under the Licensing Act 2003 is a legitimate interference with this right in this context.</p> <p>In the event that an applicant, responsible authority or interested party is dissatisfied with the decision of the committee there is a right of appeal to the Magistrates Court</p>
Sustainability	None
Ward-specific impacts	Great Dunmow being the ward within which the premises are situated
Workforce/Workplace	None

## Situation

8. In accordance with the Licensing Act 2003, where an application is made for a variation to the premises licence, a description of the proposed variation must accompany the application. This can be read on page 2 part 3 "Variation" appended to the application form (appendix A).
9. The variation being sought on the application is to amend the condition below:  
  
Condition 5 annex 3 of the premises licence states: Mr Ziaul Islam Choudhury and Mr Omar Shorif will be excluded from any involvement in the ownership and management of the business and from the premises themselves to –  
  
Mr Ziaul Islam Choudhury and Mr Omar Shorif will be excluded from any involvement in the ownership and management of the business, Mr Omar Shorif will be excluded from the premises
10. Copies of this application have been served on all of the statutory bodies and this has attracted a representation from Essex Police based on the crime and disorder objective. Details of this representation along with exhibits can be seen in Appendix C
11. In carrying out its statutory function, the Licensing Authority must promote the licensing objectives as set out in the Licensing Act 2003. These are:-
  - The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm
12. There is no hierarchy of importance among them and all must be given equal weight.
13. The decisions that the Committee can make in respect of this application are to:
  - Grant the application
  - Modify the application by inserting conditions
  - Reject the whole or part of the application
14. When determining an application due regard should be given to the Council's licensing policy and the Secretary of States' Guidance issued in accordance with the 2003 Act.
15. The Secretary of State's Guidance was last updated in April 2018 and includes new and specific guidance in respect of immigration crime issues.
16. Paragraph 2.6 thereof specifically says the prevention of crime includes the prevention of immigration crime, including the prevention of illegal working in licensed premises. Licensing authorities are expressly required to work with Home Office Immigration Enforcement, as well as the police, in respect of these matters.

17. Paragraph 11.26 relates to reviews but it can be taken into consideration determining new applications –

“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 and 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 wider community and not those of the individual licence holder”.

18. Paragraph 11.27 further states

“There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously...

- “Employing a person who is disqualified from that work by reason of their immigration status in the UK.”

19. The relevant sections of the Council’s Licensing Policy state:

3.3 The prevention of crime includes the prevention of immigration crime, and the Licensing Authority will work with Home Office Immigration Enforcement in respect of these matters.

- The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. If representations are made to the Licensing Authority **applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.**

3.4 When addressing the issue of crime and disorder, the applicant should consider those factors that impact on crime and disorder. These may include:

- Underage drinking
- Drunkenness on premises
- Public drunkenness
- Drugs
- Violent behaviour
- Anti-social behaviour
- **Illegal working**

- 3.5 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule in the event that representations are received, having regard to their particular type of premises and/or activities:
- - (a) Effective and responsible management of premises
  - (b) Training and supervision of staff
  - (c) Adoption of best practice guidance (e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice, including those relating to drinks promotions e.g. The Point of Sale Promotions published by BBPA, Security in Design published by BBPA and Drugs and Pubs, published by BBPA)
  - (d) Acceptance of accredited 'proof of age' cards e.g. PASS, locally approved 'proof of age' cards e.g. 'Prove It' and/or 'new type' driving licences with photographs or adoption of industry best practice (e.g. Challenge 25 policy)
  - (e) Provision of effective CCTV and mirrors in and around premises
  - (f) Employment of Security Industry Authority licensed doorstaff
  - (g) Provision of toughened or plastic drinking vessels
  - (h) Provision of secure, deposit boxes for confiscated items ('sin bins')
  - (i) Provision of litterbins and other security measures, such as lighting, outside premises
  - (j) Membership of local 'Pubwatch' schemes or similar organisations
  - (k) Right to work checks on staff and retention of documents [emphasis added]**

20. If the Committee's decision is to impose conditions, the only conditions that can be imposed are those that are necessary and proportionate to promote the licensing objective relevant to the representations received. Furthermore, the Committee should not impose conditions that duplicate the effect of existing legislation.

21. The Secretary of State's Guidance provides at paragraphs 10.8 and 10.10 the following assistance for members-

10.8 "The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises".

10.10 "The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol

or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions”.

22. If the Committee in their discretion wishes to impose conditions, the only conditions that can be imposed are those that are appropriate and proportionate to promote the licensing objective relevant to the representations received. Equally, the Committee cannot impose conditions that duplicate the effect of existing legislation.

### Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
1 Either no conditions are attached to the licence or the conditions do not satisfactorily achieve the licensing objectives the prevention of crime and disorder.	1The new Directors must ensure right to work checks are in place otherwise the licence would be subject to a further review.	2 The undermining of the licensing objective relating to the prevention of crime and disorder would be treated as a serious matter by the Licensing Authority	None

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.