

Public Document Pack

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Date: Thursday, 6 July 2023

Dear Sir or Madam

The Licensing Sub-Committee – Friday, 14 July 2023, 10.00 am – Kenn Room

A meeting of the Licensing Sub-Committee will take place as indicated above.

The agenda is set out overleaf.

Yours faithfully

Assistant Director Legal & Governance and Monitoring Officer

To: Members of the Licensing Sub-Committee

Councillors:

Nicola Holland, Marcia Pepperall and Mike Solomon.

This document and associated papers can be made available in a different format on request.

Agenda

- 1. Election of Chairperson for the meeting**
- 2. Apologies for absence and notification of substitutes**
- 3. Declaration of Disclosable Pecuniary Interest (Standing Order 37)**

A Member must declare any disclosable pecuniary interest where it relates to any matter being considered at the meeting. A declaration of a disclosable pecuniary interest should indicate the interest and the agenda item to which it relates. A Member is not permitted to participate in this agenda item by law and should immediately leave the meeting before the start of any debate.

If the Member leaves the Chamber in respect of a declaration, he or she should ensure that the Chairperson is aware of this before he or she leaves to enable their exit from the meeting to be recorded in the minutes in accordance with Standing Order 37.

- 4. Adoption of hearing procedure (Pages 5 - 6)**
- 5. Application for Premises Licence Review (Pages 7 - 30)**
- 6. Urgent business permitted by the Local Government Act 1972**

For a matter to be considered as an urgent item, the following question must be addressed: "What harm to the public interest would flow from leaving it until the next meeting". If harm can be demonstrated, then it is open to the Chairman to rule that it be considered as urgent. Otherwise the matter cannot be considered urgent within the statutory provisions.

Exempt Items

Should the Licensing Sub-Committee wish to consider a matter as an Exempt Item, the following resolution should be passed -

"(1) That the press, public, and officers not required by the Members, the Chief Executive or the Director, to remain during the exempt session, be excluded from the meeting during consideration of the following item of business on the ground that its consideration will involve the disclosure of exempt information as defined in Section 100I of the Local Government Act 1972."

Also, if appropriate, the following resolution should be passed –

"(2) That members of the Council who are not members of the Licensing Sub-Committee be invited to remain."

Mobile phones and other mobile devices

All persons attending the meeting are requested to ensure that these devices are switched to silent mode. The chairman may approve an exception to this request in special circumstances.

Filming and recording of meetings

The proceedings of this meeting may be recorded for broadcasting purposes.

Anyone wishing to film part or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so, as directed by the Chairman. Any filming must be done as unobtrusively as possible from a single fixed position without the use of any additional lighting, focusing only on those actively participating in the meeting and having regard to the wishes of any members of the public present who may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chairman or the Assistant Director Legal & Governance and Monitoring Officer's representative before the start of the meeting so that all those present may be made aware that it is happening.

Members of the public may also use Facebook and Twitter or other forms of social media to report on proceedings at this meeting.

Emergency Evacuation Procedure

On hearing the alarm – (a continuous two tone siren)

Leave the room by the nearest exit door. Ensure that windows are closed.

Last person out to close the door.

Do not stop to collect personal belongings.

Do not use the lifts.

Follow the green and white exit signs and make your way to the assembly point.

Do not re-enter the building until authorised to do so by the Fire Authority.

Go to Assembly Point C – Outside the offices formerly occupied by Stephen & Co

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Agenda Item 4

North Somerset Council

Licensing Sub-Committee

Procedure to be followed for meetings of the Licensing Sub-Committee when considering applications for the review of a premises licence under the Licensing Act 2003

The Chairperson introduces members of the Sub-Committee and officers present, and explains the procedure to be followed

- 1 The Chairperson invites the Licensing Officer to outline the application. All parties may then ask questions for clarification only
- 2 The Chairperson invites the party having called for a review of the premises licence to clarify the reasons for the review. All parties may then ask questions or make comment at the discretion of the Chairperson
- 3 The Chairperson then invites any persons having made relevant representations to clarify the representations. All parties may then ask questions of or make comment at the discretion of the Chairperson
- 4 The Chairperson will then invite the premises licence/premises licence holder's representative holder to respond. All parties may then ask questions of or make comment at the discretion of the Chairperson
- 5 The parties are then invited to sum up
- 6 The Sub-Committee then withdraws to consider the submissions and to make its deliberations
- 7 On returning to the meeting with all parties present, the Chairperson/Legal Adviser to the Sub-Committee will announce the decision

Please note:-

The Chairperson appointed for the meeting shall have absolute control of the Hearing and the ruling of the Chairperson shall be final.

The Legal Advisor to the Sub-Committee can assist the Chairperson during the Hearing and may interrupt proceedings when it is considered necessary to ensure that the Sub-Committee is able to determine the application fairly.

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North Somerset Council

Report to the Licensing Sub-Committee

Date of meeting: Friday 14 July 2023

Subject of report: application to review the premises licence at Yatton Tandoori, 65 High Street, Yatton, BS49 4EQ

Town or parish: Yatton

Officer/member presenting: Director of Public Health & Regulatory Services

Key decision: No

Recommendations

That the Committee considers the evidence presented within the application made by the Home Office Immigration Service to review the Premises Licence, and takes any remedial action deemed appropriate in relation to the premises licence.

1. Summary of report

An application for the review of the premises licence for Yatton Tandoori, 65 High Street, Yatton, BS49 4EQ was received from the Home Office Immigration Service on 22 May 2023. Immigration Enforcement officers visited the premises along with representatives from Avon & Somerset Fire Authority, North Somerset Council Food & Safety Team and Licensing officers on 20 April 2023 and found that two illegal workers were being employed.

2. Policy

- 2.1 The North Somerset Licensing Authority's Statement of Licensing Policy (2021-2025) applies to the application made. Paragraphs 40-48 of the Licensing Policy relate to the review application.
- 2.2 Regard must be given to the Statutory Guidance issued under section 182 of the Licensing Act 2003 and the Licensing Act itself.

3. Details

- 3.1 The review application was received from Immigration Enforcement Officers on 22 May 2023 requesting a review of the Premises Licence for Yatton Tandoori, 65 High Street, Yatton, BS49 4EQ. A copy of the application made is shown at **Appendix A**.
- 3.2 The licence review application relates to the premises situated at 65 High Street, Yatton. The premise is a restaurant with a takeaway service. The Licence has licensable activities including the sale of alcohol and late-night refreshment.

- 3.3 The review application relates to the following licensing objectives:
- a) Crime & Disorder
 - b) Public Safety
- 3.4 The grounds for review are based on the employment of illegal workers in breach of licensing conditions under the Licensing Act 2003.
- 3.5 There are residential and commercial properties in the proximity of the licensed premises.
- 3.6 A plan of the licensed premises is shown at **Appendix B**.
- 3.7 A copy of the current Premises Licence is shown at **Appendix C**
- 3.8 The Designated Premises Supervisor for the premises is Mr Sheik Mohammed Mostafijur Rahaman, Personal Licence no: NSC/020462 issued by North Somerset Council.
- 3.9 The Premises Licence has been in force since November 2005 and held by Mr Golap Miah and Mr Abdul Anwar since November 2005.

4. Consultation

- 4.1 In accordance with the requirements of the Act, Immigration Enforcement have served copies of the application to review the premises licence upon the responsible authorities, the licensing authority and the Premises licence holders.
- 4.2 A notice of application for the review of a Premises Licence was first displayed on 23 May 2023 at Yatton Tandoori, 65 High Street, Yatton, BS49 4EQ and at the offices of the Licensing Authority, Weston-super-Mare Town Hall, in a central and conspicuous place for a period of not less than 28 consecutive days.
- 4.3 An electronic version of the notice was also placed on the North Somerset Council website.
- 4.4 Representations regarding the review application made were invited from interested parties and responsible authorities.
- 4.5 As a result of the consultations carried out representations have been received from the North Somerset Council Food & Safety Team. These relate to the Public safety licensing objective.
- 4.6 A further representation has been received from Mr Geoff Audcent, in support of Yatton Tandoori.
- 4.7 Copies of the representations can be seen at **Appendix D**.

5. FINANCIAL IMPLICATIONS

Costs - None

Funding - None

6. LEGAL POWERS AND IMPLICATIONS

- 6.1 The Licensing Authority recognises that its licensing function is only one means of securing the delivery of the service. The Licensing Authority will therefore continue to work in partnership with other stakeholders, such as the Police, Crime & Disorder Partnerships and the Vehicle and Vehicle Standards Agency (DVSA) towards the promotion of any licensing objectives.
- 6.2 In undertaking this licensing function, the Licensing Authority has regard to the following legislation:
- Environmental Protection Act 1990
 - Health Act 2006
 - The Smoke-free (Premises and Enforcement) Regulations
 - The Equality Act 2010
 - The European Convention on Human Rights, which is applied by the Human Rights Act 1998
 - The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002
 - Licensing Act 2003
 - Gambling Act 2005
- 6.3 The Licensing Authority also has regard to any other relevant legislation, strategies, policies and guidance in its decision-making

7. Climate change and environmental implications

There are no climatic or environmental implications within this report.

8. Risk management

- 8.1 Regularly reviewing licensing policies and practices and using a risk-rated approach to both proactive and reactive enforcement reduces the risk to the Authority. Ensuring MoU agreements are in place with external partner agencies will also help strengthen roles and responsibilities surrounding Licensing work.

9. Equality implications

No equality impact assessment has been required as part of this report.

10. Corporate implications

- 10.1 An appeal against the decision of the Licensing Authority may be made to the Magistrates' Court by the applicant for the review, the holder of the Premises Licence, or any other person who made relevant representation to the application, within 21 days of receipt in writing of any decision made.

11. Options considered.

- 11.1 The authority must, having regard to the application, and any relevant representations, take such of the steps mentioned below as it considers appropriate for the promotion of the licensing objectives.
- 11.2 The steps outlined in section 52 (4) of the Licensing Act 2003 which can be considered 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.
- 11.3 In deciding whether to use the powers outlined above, the licensing authority is required, as far as possible, to seek to establish the cause or causes of the concerns which the representations identify. Any remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response.
- 11.4 Any detrimental financial impact that may result from the licensing authority's decision should be appropriate and proportionate to the promotion of the licensing objectives in the circumstances that gave rise to the application for the review.

Author

Amanda Hodge, Licensing Officer

Appendices

Appendix A – Copy of the Review Application
Appendix B – Plan of the Premises
Appendix C – Copy of current Premises Licence
Appendix D – Copy of Representations

Background papers

Licensing Act 2003 and associated Regulations.
Guidance to the Licensing Act issued under section 182 of the Licensing Act 2003.
North Somerset Council Statement of Licensing Policy (2021-2025)

Appendix A



Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

Please read the following instructions first

1.

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 or typed in **black** ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

2. **I IO Marcus Johnson**

(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 Yatton Tandoori, 65 High St, Yatton, Bristol BS49 4EQ	
Post town Yatton	Post code (if known) BS49 4EQ
Name of premises licence holder or club holding club premises certificate (if known) N/K	
Number of premises licence or club premises certificate (if known) N/K	

Part 2 - Applicant details

I am

Please tick yes

1) an interested party (please complete (A) or (B) below)	
a) a person living in the vicinity of the premises	
b) a body representing persons living in the vicinity of the premises	
c) a person involved in business in the vicinity of the premises	
d) a body representing persons involved in business in the vicinity of the premises	
2) a responsible authority (please complete (C) below)	x
3) a member of the club to which this application relates (please complete (A) below)	

(A) Details of individual applicant (fill in as applicable)

Please tick									
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						12. Post Code			
13. Daytime contact telephone number				14.					
E-mail address (optional)									

(B) Details of other applicant

Name and address
4.
Telephone number (if any)
E-mail address (optional)

(C) Details of responsible authority applicant

6. Name and address
IO Marcus Johnson
Immigration Enforcement
Conference House
Conference Avenue
Portishead
BS20 7LZ

Telephone number (if any)

E-mail address (optional)
Marcus.Johnson22@homeoffice.gov.uk

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

	Please tick one or more boxes
1) the prevention of crime and disorder	x
2) public safety	
3) the prevention of public nuisance	
4) the protection of children from harm	

Please state the ground(s) for review (please read guidance note 1)

Yatton Tandoori have been employing illegal workers in breach of their licensing conditions under the Licensing Act 2003

Please provide as much information as possible to support the application (please read guidance note 2)

On 20/04/2023 Immigration Enforcement conducted a visit to Yatton Tandoori alongside licensing, food hygiene and the fire service and made two arrests at the premises. One of the subjects arrested had an outstanding asylum claim and had no right to work in the UK and the other subject was a student who was found to be working well in excess of his permitted 20 hours per week which is a condition of his leave in the UK. The subject who was a student was also found to have his name on health and safety certificates and hygiene certificates at the restaurant, giving us further reason to believe that he was working in excess of his permitted hours and was working at the premises regularly. The subject who had an outstanding Asylum claim had no permission to work in the UK and was found to be working in the kitchen. It is the responsibility of the management and owners of the premises to conduct the appropriate immigration checks on staff before employing them and conducting these checks and only employing individuals with the right to work in the UK is a condition of the restaurants licence under the Licensing act 2003.

Whilst this is the first time in recent years that Immigration officers have visited Yatton Tandoori Bristol Immigration have visited its sister restaurant Posh Spice, which has the same owners and management as Yatton Tandoori, on several occasions in the past year.

When immigration first visited Posh Spice on 14/06/2022 four arrests of staff found to be working at the restaurant were made and three of these arrests were detained for removal from the UK. On this occasion the managers were informed that the individuals arrested at the premises are not allowed to work and it is the managements responsibility to conduct the appropriate right to work checks and that this is a condition of their licence. When Immigration visited Posh Spice again on 18/02/2023 three arrests were made, all of which were the same people as the visit on 24/06/2022. The management were aware that none of these people had the right to work in the UK as they were informed on our last visit however they continued to employ them showing a blatant disregard for UK immigration law and the conditions of their licence. This resulted in a licence review being carried out and Posh Spice losing their licence recently.

The manager of Yatton Tandoori when we visited on 20/04/2023 was the same manager that was working at Posh Spice when Immigration visited on 28/02/2023 and 24/06/2022. It has the same owner and even though the management have been informed of what checks are required before employing people in the UK by immigration officers they have continued to do it at Yatton Tandoori. This is despite their licence for Posh Spice being reviewed and taken away only weeks before our visit, again showing a blatant disregard for UK immigration law and the conditions of their licence. It is for this reason I suggest a review of their alcohol licence.

Have you made an application for review relating to this premises before

Please tick yes

If yes please state the date of that application

Day Month Year

1	5	0	5	2	0	2	3
---	---	---	---	---	---	---	---

If you have made representations before relating to this premises please state what they were and when you made them

- 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

Please tick yes

YES

YES

It is an offence, liable on conviction to a fine up to level 5 on the standard scale, under section 158 of the licensing act 2003 to make a false statement in or in connection with this application

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature  19471

Date
.....20/05/2023.....

Capacity
.....Immigration Officer.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5) IO Marcus Johnson Marcus.Johnson22@homeoffice.gov.uk 07876392438	
Post town Portishead	Post Code BS20 7LZ
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 <ol style="list-style-type: none">1. The ground(s) for review must be based on one of the licensing objectives.2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.3. The application form must be signed.4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.5. This is the address which we shall use to correspond with you about this application.	

Appendix B

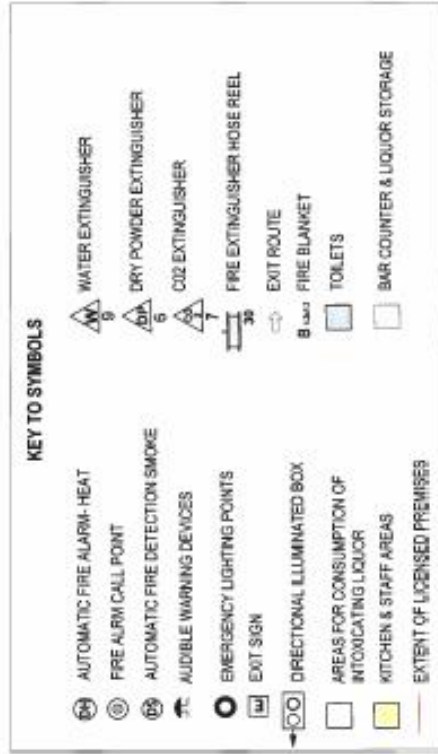
Yatton Tandoori Restaurant, North Somerset scale 1:50 @ A3, July 2005



UPPER LEVEL



LOWER LEVEL



Appendix C

SCHEDULE 12 PART A REGULATION 33, 34

PREMISES LICENCE

Premises Licence Number:

NSC/ 018730

Part 1

Premises Details:

Yatton Tandoori
65 High Street
Yatton
Somerset
BS49 4EQ

Telephone Number - 01934 877201

Where the licence is time limited the dates

Start Date: 24 November 2005

End Date:

Licensable activities authorised by the licence:

Sale of Alcohol
Late Night Refreshment

The times the licence authorises the carrying out of licensable activities:

SUPPLY OF ALCOHOL	START:	FINISH:
MONDAY:	11:00	00:00
TUESDAY:	11:00	00:00
WEDNESDAY:	11:00	00:00
THURSDAY:	11:00	00:00
FRIDAY:	11:00	00:00
SATURDAY:	11:00	00:00
SUNDAY:	12:00	23:30

Non Standard Timings:

LATE NIGHT REFRESHMENT:	START:	FINISH
MONDAY:	23:00	00:00
TUESDAY:	23:00	00:00
WEDNESDAY:	23:00	00:00
THURSDAY:	23:00	00:00
FRIDAY:	23:00	00:00
SATURDAY:	23:00	00:00
SUNDAY:	23:00	23:30

Non Standard Timings:

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

On the Premises

Part 2

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

Mr Miah Golap & Mr Abdul Anwar
20 Banks Close
Clevedon
Somerset
BS21 5DF
Telephone Number : 01275 856627
Email address :

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

Mr Sheik Mohammad Mostafijur Rahaman
20 Banks Close
Clevedon
Somerset
BS21 5DF

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

Number: NSC/020462

Issuing Authority: North Somerset Council

Annex 1 – Mandatory Conditions

1. Intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such a person as an ancillary to his meal;
2. Suitable beverages other than intoxicating liquor (inc. drinking water) shall be equally available for consumption with or otherwise as an ancillary to meals served in the licensed premises.

RESTAURANT PREMISES and RESTAURANT AND RESIDENTIAL PREMISES

Permitted Hours

(S. 95 LA 1964)

Alcohol may be sold or supplied:

- (1) On weekdays, other than Christmas Day, Good Friday or New Year's Eve from 11 a.m. to 12 p.m.
- (2) On Sundays, other than Christmas Day or New Year's Eve, and on Good Friday: 12 noon to 11.30 p.m.
- (3) On Christmas Day: 12 noon to 11.30 p.m.
- (4) On New Year's Eve, except on a Sunday, 11 a.m. to midnight;
- (5) On New Year's Eve on a Sunday, 12 noon to 11.30 p.m.
- (6) On 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 31st December).

The above restrictions do not prohibit:

- (a) during the first twenty minutes after the above hours to 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 is the Alcohol was supplied for consumption as ancillary to the meals;
- (d) consumption of the Alcohol on the premises or the take of sale or supply of Alcohol to any person residing in the premises.

Supply of Alcohol

No supply of alcohol may be made under the premises licence –

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

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

Annex 2 – Conditions consistent with the operating Schedule

GENERAL:

PREVENTION OF CRIME & DISORDER:

PUBLIC SAFETY:

PREVENTION OF PUBLIC NUISANCE:

PROTECTION OF CHILDREN FROM HARM:

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

Annex 4 – Plans

Original plans with the Licensing Section, North Somerset Council, Environmental and Consumer Services, Somerset House, Oxford Street, Weston-super-Mare, Somerset, BS23 1TG

Part B

Premises Licence Summary

Premises Licence Number

NSC/ 018730

Premises details:

Yatton Tandoori
65 High Street
Yatton
Somerset
BS49 4EQ

Telephone Number: 01934 877201

Where the licence is time limited the dates

Start Date: 24 November 2005

End Date:

Licensable activities authorised by the licence:

Sale of Alcohol
Late Night Refreshment

The times the licence authorises the carrying out of licensable activities

SUPPLY OF ALCOHOL	START:	FINISH:
MONDAY:	11:00	00:00
TUESDAY:	11:00	00:00
WEDNESDAY:	11:00	00:00
THURSDAY:	11:00	00:00
FRIDAY:	11:00	00:00
SATURDAY:	11:00	00:00
SUNDAY:	12:00	23:30

Non Standard Timings:

LATE NIGHT REFRESHMENT:	START:	FINISH
MONDAY:	23:00	00:00
TUESDAY:	23:00	00:00
WEDNESDAY:	23:00	00:00
THURSDAY:	23:00	00:00
FRIDAY:	23:00	00:00
SATURDAY:	23:00	00:00
SUNDAY:	23:00	23:30

Non Standard Timings:

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

On the Premises

Name, (registered) address of holder of premises licence
Mr Miah Golap & Mr Abdul Anwar
20 Banks Close
Clevedon
Somerset
BS21 5DF

Registered number of holder, for example company number, charity number, (where applicable)

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol
Sheik Mohammad Mostafijur Rahaman

State whether access to the premises by children is restricted or prohibited

NOTICE OF GRANT OF PREMISES LICENCE

Premises Licence Number:

NSC/018730

Premises Details:

**Yatton Tandoori
65 High Street
Yatton
Somerset
BS49 4EQ**

Registered Business Number:

GRANTED at the Office of the said council on the 19th August 2005

**Mandy Bishop
Environmental and Consumer Services Manager
Directorate of Development and Environment**

Appendix D



Licensing Act 2003 Representation in respect of a review of a Premises Licence or Club Premise Certificate

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Representations must be made to the Licensing Authority in writing. You are not obliged to use this form to make a representation and you may make a representation by letter if you wish.

Before completing this form please read the guidance notes on page 4.

If you are completing this form by hand please write legibly inside the boxes in black ink and stay within the box provided.

Once completed please send your application to **North Somerset Council, Licensing Team, Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ**. You may wish to keep a copy of the completed form for your records.

I Jane Day hereby make representations in respect of the application for the review of the Premises Licence or Club Premises Certificate, made by:

Aimee Averne – Chief Immigration Officer*

(insert name of applicant requesting review)

Part 1 - Premises or Club details

Name and postal address of premises or club premises, if any, or if none ordinance survey map reference or description. Yatton Tandoori, 65 High Street	
Post town: Yatton	Post code: BS24 4EQ

Part 2 – Details of person making representations

I am Jane Day

Please tick ✓

- 1) an interested party
 - a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises
 - d) a body representing persons involved in business in the vicinity of the premises.
- 2) a responsible authority ✓
- 3) a member of the club to which this application relates

(A) Representors Details (fill in as applicable) (please read guidance note 1)

Mr **Mrs** ✓ Miss Ms Other title
(for example, Rev)

Surname: Day

First names: Jane

Are you over 18? **Yes** ✓

No

Current address:
North Somerset Council
Town Hall
Walliscote Grove Road

Post town: Weston-super-Mare

Post code: BS23 1UJ

Contact phone number (working hours) 01934 634528

E-mail address (optional)

(B) Details of Body Making Representation

Name and address:
Home Office
Aimee Averne
Chief Immigration Officer
West of England Immigration Compliance and Enforcement
Conference House, Conference Avenue, Portishead, Bristol, BS20 7LZ

Telephone Number: 07920 265723

(C) Details of Responsible Authorities Making Representations

Name and address:
Regulatory Services:
 Food, Health and Safety Team.
 Licencing Team
Avon Fire & Rescue Service

Telephone Number:

This representation relates to the following licensing objective(s) - please read guidance note 2)

Please tick one or more boxes ✓

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

If your representation does not relate to one of the above objectives your representation will be invalid.

Please state the ground(s) for the representation and how it relates to one of the licensing objectives. Please provide as much information as possible to support the application, (Guidance Note 3). Continue on separate numbered sheets if required.

The food business operator, Mr Shaju Miah, Director of Malik and Sons (Yatton) Ltd [incorporated June 2015] has continually failed to achieve and maintain the required statutory standards for food hygiene and safety. The food business has been subject to eight food hygiene audits in the past seven years, a duration that would cover four audits for a three rated, 'broadly compliant' business or three audits for a restaurant with a hygiene rating of Four or Five.

The business has failed to achieve the statutory standards at each of the four 'routine' hygiene audits, resulting in Food Business Operator (FBO) preferring to pay for a revisit and reassessment of the rating within three months of the visit. The local authority is obliged to revisit and reassess the hygiene rating within three to six months of the original, non-complaint audit, at no cost to the FBO, to make sure appropriate improvements have been made. However, after each time Mr Miah has paid for a reassessment of the hygiene rating, he has failed to maintain the compliant standards resulting in the business failing to comply with the standard for safe food production, storage and handling.

The records for this business show that, since June 2000 under the management of Mr Shaju and Mr Golap Miah, the food business has failed to achieve a minimum standard of hygiene at eight of nineteen inspections, 42%.

The hygiene audit of April 20th 2023 highlighted general failings in the protection of the food from physical, environmental hazards from open storage of ready-to-eat food, exposing ready-to-eat to the hazards from the rear 'garden' area by storing it on a service trolley in front of the open rear door, storing open food on the floor and on the stairs creating both a food safety and health and safety hazard.

The cooked, ready-to-eat meats were all removed from refrigeration and subject to temperature abuse by being stored on the worksurfaces around the kitchen and on the steel service trolley. The temperatures of the food were taken and found to be between eleven and sixteen degrees centigrade.

Open food was stored in filthy conditions in the ventilation canopy 'plant' room and in the mezzanine 'bottle store', where plastic containers of open poppadoms were sitting on, what would be, the 'floor' of the storage area.

Cardboard was placed beneath the open gas burners of the 'vintage' cooking hob. The cardboard was spattered with grease and presented an ignition source for fire, directly below the ventilation canopy that vented up toward the first-floor accommodation. The metal canopy filters were propped open with rolled pieces of cardboard to encourage increased extraction from the kitchen. This practice indicated a lack of adequate cleaning of the ventilation shaft to removed condensed grease and cooking debris, again increasing the potential fire hazard.

The smoke or heat detector in the kitchen had been wrapped in cling film. The duty manager was unable to provide any comment on the reason or duration of this life-threatening non-conformity.

The first-floor rooms were being used for accommodation for which the only means of access was down the stairs, past the ventilation plant room and kitchen, without fire doors, and egressed through the restaurant. The Fire Safety Officers were concerned at the lack of adequate insulation of the plant room and their comments are included in their supplemental representation. The concerns do, nevertheless, fail the Duty of Care imposed on the employer by Section 2 of the Health and Safety at Work, etc. Act 1974.

A food store was situated in the eaves of the attic behind the wall of the sleeping accommodation. The store was accessed by a 1.2m high doorway into the attic eaves. Chipboard flooring had been placed over the joists and two refrigerators and a chest freezer were in situ. The freezer was full of commercial stock and other stored foodstuffs included approximately eight large blue plastic spice bins, several plastic 'bins', containing unmarked foodstuffs including, what appeared to be, dried coconut, turmeric and garam masala. Exposed take-away foil containers were stored on the floor. A large hole, approximately 20cm in diameter was seen at the base of the eaves adjacent to the party wall. It was not examined in detail but could present an access point for rodents to an area that was unsuitable for use as a food store.

The stairs to the first-floor level were narrow and raised the concern of how a chest freezer had been installed in the eaves storage area safely and by whom. This concern presented further compromise to the Duty of Care owed by the employer to the employees. The FBO was not available to provide any information or assurances to address these concerns. The structure of the eaves food store was not appropriate for the storage of open food or equipment that is likely to come into contact with food.

The ready-to-eat food that had been removed from refrigeration and placed in the warmth of the working kitchen, with undetermined ventilation capability, represented the entire content of the storage refrigerators, in the ground floor store room. The refrigerator was devoid of any other prepared or cooked meat products but presented several empty shelves where the containers of meat would have been stored.

There was no system of date coding of the prepared ready-to-eat food, to indicate when it was made or by when it should be disposed of. The FBO was not on site to provide comment on the practice of removing ready-to-eat foods from refrigeration. Whilst a period of four hours 'outside the requirement of at or below 8°C' is tolerated, the FBO must still be able to demonstrate that the single period was necessary and, in all other ways, the associated hazards were being effectively managed. The food safety guidance would be to remove only limited quantities of ready-to-eat food from refrigeration and replenish stock frequently rather than removing all the food in anticipation of an order. This practice does not ally with the tolerance of the practice being 'necessary'. Any food that is removed from refrigeration should be protected in a lidded container.

The ground floor store room had no ventilation to remove the heat created by the three large refrigeration units. The lack of ventilation in an enclosed room, creates an environment where warm air is drawn into the unit when it is opened, increasing the internal temperature and reducing the efficiency of the freezers by creating an relentless build-up of ice. Poor temperature control of the equipment will compromise the storage life of frozen food from three months to three weeks, for example.

Following several tragic fatalities there has been a review of legislation to impose strict duties upon FBOs to assess their menu items and provide comprehensive and accurate allergen information to customers. The allergen matrix on display in the restaurant provided information on seven generic 'group' items, including 'starters', 'main courses', 'side dishes' and 'naan breads'. The menu included twenty three starters, some of which included crustaceans, which were not ticked or itemised on the allergen poster. The poster stated that all meals on the menu included nuts, apart from the naan breads. Peshwari Naan was available on the menu, contains almonds but was not identified on the allergen poster.

The potential consequence of providing inaccurate or wrong information of allergen content in food can be fatal. Not only is this a failure to comply with the requirement of the food labelling regulations but is another failure to comply with Section 3 of HASAWA 1974, to whomever the business owner owes a Duty of Care. The consequence of this failure may constitute an offence of corporate manslaughter.

- A completed version of Safer Food Better Business pack for Indian, Bangladeshi, Pakistani and Sri Lankan cuisines was available in the storeroom,
- Records were available to confirm that the daily food safety checks had been completed by a competent, trained food handler. The records confirm that all the necessary and appropriate food safety control measures, as stated in the FBOs Safer Food Better Business pack, are in place or being implemented by the appropriate food handler.
- The FBO was not available to identify the signatories or provide assurance of their competence to be able to sign-off hygiene checks.
- Hot food temperatures had been recorded until the previous week.
- Training certificates for various employees were available, including several for Mr Shaju Miah to Level 3. The Duty Manager, Mr Md. Miah was unable to identify all the members of staff to the available training records.
- The only food handler present on site who held a level 2 food safety in catering certificate was arrested and removed by Immigration colleagues for not having correct rights to work. This was apparent when the member of staff identified himself to the Home Office officials.

The generally poor standards of food management throughout the premises, the standards of cleaning, broken tiles above work surfaces, immobilised smoke detector, tripping hazards on the stairs and inaccurate and dangerous allergen information all reflected the Food Standards Agency's Code of Practice and Food Hygiene Rating System Brand Standard to achieve a Hygiene rating of Zero.

Mr Md. Miah, duty manager and son of Mr Shaju Miah was unable to provide any assurance that the food business was being operated in accordance with the current statutory requirements or the businesses' own food safety procedures. Mr Md Miah pleaded ignorance, when questioned, several times about the running of the business and the staff employed there, even maintaining that he couldn't identify them. He maintained that he did not often come to the premises and was merely 'standing in temporarily', however a regular customer made a passing comment that he was frequently at the business. Mr Md Miah did not know when Mr Shaju Miah would be back at the premises to be able to discuss the concerns found at the time of the visit.

The visit which triggered this review was carried out on Thursday 20 April 2023. All correspondence following the visit has been sent to Mr Miah and there, to date (9 May 2023) has been no attempt to contact the service to work through the issues. Officers

are making arrangements to conduct a follow up visit to re-assess the standards.

- I understand that this representation will be put before a Licensing Sub-Committee and if the decision of that Sub-Committee is appealed against, a hearing at the magistrate's Court.



- I understand that this representation may become a public document, that a full copy will be sent to the applicant and that it will be scrutinised by members of the Licensing Sub-Committee. Please tick



IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO KNOWINGLY OR RECKLESSLY MAKE A FALSE STATEMENT IN CONNECTION WITH THIS REPRESENTATION. THIS IS PUNISABLE, ON CONVICTION, BY A FINE OF UP TO £5,000.

Part 5 – 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



Date: 24 May 2023

Capacity: Head of Food, Health and Safety/ Lead Officer Food Safety

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

Post town:

Post code:

LICENSING ACT 2003

INTERESTED PARTY REPRESENTATION



LLF12

Application number:	018730
Applicant's name:	Home Office Immigration Service
Premises name and address:	Mr Golap Miah & Mr Abdul Anwar Yatton Tandoori 65 High Street Yatton
Application for a:	Review of a Premises Licence

Details of person making representation:

Name:	Mr Geoff Audcent
Address:	117 Mendip Road Yatton
Organisation name if applicable:	

Please note that a full copy of your representation (including your name and address) will be sent to the applicant and will form part of a public document prior to any hearing of this matter.

Representation Details:

My/our representation is relevant to the following licensing objective(s):

- Prevention of crime and disorder
- Prevention of public nuisance
- Protection of children from harm
- Public safety
- I/We object to this application being granted at all
- I/We object to the application being granted in its current form*

* If you choose this option please tell us below what changes you would like to see.

Please detail your representation(s) as fully as possible in the box below. If you do not then the Committee may not understand why you have submitted a representation. Please also state if you consider a hearing to be unnecessary.

Please attach supporting documents/further pages as necessary and number all extra pages.

Try to be as specific as possible and give examples e.g. *On 1 February I could hear loud music from the premises between 10pm and 1 am. I am concerned that if the premises open until 2 am this will cause a nuisance to me and other residents of the street.*

This representation is in support of the business owners

I do not want the business to lose its licence because it provides a valuable service to the local community. It provides high quality and good value meals – both eat-in and takeaway - and is extremely popular and very well frequented by local people, with reduced prices on Wednesday and Thursday evenings, which helps people facing the cost of living crisis.

In businesses of this type, alcohol sales will help to subsidise the food prices. If this restaurant was to lose its alcohol licence then the business model could be put at risk – likely needing to put up its food prices, potentially it could close down or it might even be sold, leading to a reduction in quality of the food offer.

I know the restaurant was found to be employing illegal workers, which obviously should not have happened, but it will face appropriate penalties under immigration and employment legislation. However, it would be a great shame if it is also penalised under licencing legislation, considering the excellent service it provides to the local community and the fact that the presence of illegal workers did not result to any anti-social/rowdy behaviour nor to any problems relating to alcohol abuse, as far I am aware.

I consent to this document, including my personal details, forming part of the official papers to be presented to a public hearing to determine the application, and a copy will be made available to the applicant.

Signed G Audcent

Date 24 June 2023

Contact telephone number(s)
(This is essential as we may need to contact you at short notice) 01934 838271

I will be attending the hearing

I will not be attending the hearing

I will be represented at the hearing by _____

Please return this form along with any additional sheets to: The Licensing Team, North Somerset Council, Town Hall, Walliscote Grove Road, Weston- super- Mare. BS23 1UJ. Or email to licensing@n-somerset.gov.uk.