

Licensing Team
Folkestone & Hythe District Council
Civic Centre
Castle Hill Avenue
Folkestone
Kent CT20 2QY
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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 **Andrew Tutton, Immigration Officer 5137**

(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

Spicy Touch (UK) Ltd
15 Station Road
Lyminge
FOLKESTONE

Post town

Post code (if known) CT18 8HS

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

Mr Vishal NANDA

(Mr Man Bahadur LIMBU is listed as the designated premises supervisor)

Number of premises licence or club premises certificate (if known)

N/K

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)

☐

(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)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Andrew Tutton Immigration Enforcement Frontier House 7 Shorncliffe Road Folkestone CT20 2SH
Telephone number (if any) 07880 079672
E-mail address (optional) Andrew.Tutton@homeoffice.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

✓
☒
☐
☐
☐

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

I would like to apply for a review of the premises licence on the grounds that illegal activity has been carried out and potentially continues to be carried out at Spicy Touch, 15 Station Road, Lyminge – namely that illegal working was undertaken by individuals at this premises; and that the manager and owner of the business knowingly employed illegal workers at the premises. Furthermore, the owner of the premises has to date failed to pay a Civil Penalty issued by the Home Office in respect of illegal workers encountered at the premises. I would therefore request a review of the licence in order to prevent further crime from taking place at the premises.

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

On 21st November 2019 I led a team of 7 Immigration Officers (including myself) on an enforcement visit to the above-named premises. We were accompanied on the visit by Briony Williams, Licensing Officer from Folkestone District Council. Information had been received that illegal working was taking place at the premises – a criminal offence under Section 21(1A) of the Immigration, Asylum and Nationality Act 2006 (as amended). An employer is also liable to a Civil Penalty under Section 15 of the same Act of up to £20,000 per illegal worker encountered working unless the employer is able to provide a statutory excuse as to the employment. Information indicated that Azam UDDIN, 01/01/1986, Bangladeshi male (claiming to be a Myanmar national) was working on the premises in breach of the terms of his permission to be in the United Kingdom. Azam UDDIN was issued a biometric residence permit and accompanying paperwork by the Home Office in August 2018 clearly setting out the terms and conditions under which he is permitted to seek and engage in employment in the United Kingdom. His employment at Spicy Touch did not meet those requirements. It is a criminal offence under Section 24B of the Immigration Act 1971 (as amended) for a person to work at a time when he/she is disqualified from employment by means of his/her immigration status and knows or has reasonable cause to believe that he/she is disqualified from working because of his/her immigration status.

Entry to the premises was gained at 18:21 hours by means of a warrant issued under Section 10(3) of Schedule 10 to the Immigration Act 2016 on 11/11/2019 by East Kent Magistrates Court. On entering the premises officers encountered Azam UDDIN dressed in chef's whites and preparing food in the kitchen area of the restaurant. Also present was Miraj LIMBU (manager of the premises and son of the current owner – Man Bahadur LIMBU) and Mohammed Farag Hassan Abduldqadir AMER, 10/10/1999, Egyptian male. AMER was also encountered in the kitchen area wearing an apron and was seen to be chopping vegetables upon entry to the kitchen. On seeing us enter the kitchen AMER put down the knife he was holding and took off his apron. Checks conducted on AMER indicated that he had no permission to work in the United Kingdom. UDDIN and AMER were both interviewed by officers with respect to illegal working. I interviewed Miraj LIMBU, as the premises manager, with respect to the employment of the 2 individuals and any statutory checks that had been undertaken on them. On the basis of these 3 interviews I was satisfied that there were grounds to issue a Notice of Penalty Liability to Miraj LIMBU in respect of the 2 workers. Both UDDIN and AMER were subsequently escorted from the premises as they had no right to work. As Mr LIMBU had no other workers present, or that he could call on, the premises were closed as we left.

UDDIN was taken to his place of residence by the team as we intended to conduct a search of his residence under Paragraph 25(A) of Schedule 2 to the Immigration Act 1971 (as amended) in order to locate and retain any nationality/identity documents he may have at the address. UDDIN gave his address as 56 Roman Way, Folkestone, Kent, CT19 4JZ. Enquiries with the manager, Miraj LIMBU, revealed that this was his and his parents' address, and that Mr UDDIN was residing in a converted garage at the address. On arrival at this address it was found that the above was true with UDDIN sleeping in a converted garage. Given the conditions encountered at UDDIN's place of abode, he was questioned as to whether he was being exploited and if any form of modern slavery was taking place. However, UDDIN gave no indication he was being exploited, held against his will or was being forced to work. Mr LIMBU's mother was also present at the address. UDDIN was bailed after his arrest to reside at this address. He is still registered with the Home Office at this address.

Subsequent to the visit I sent a report to the Immigration Enforcement Civil Penalties Compliance Team (CPCT) referring the owner of Spicy Touch Ltd (Man Bahadur LIMBU) for a civil penalty in respect of the 2 illegal workers encountered. On 17th February 2020 I was informed by CPCT that a penalty of £15,000 had been served on Spicy Touch Ltd in respect Azzam UDDIN. CPCT informed that while there was some evidence that AMER was working illegally, there was insufficient evidence to issue a penalty in this case. On

21st May 2020 I was informed by CPCT that the above civil penalty was still outstanding. The owner's right to appeal the penalty had expired on 17th March 2020 without him exercising that option. No correspondence has been received to date from the owner and the penalty remains outstanding. It would appear that Spicy Touch (UK) Ltd continues to trade and the 'Just Eat' website has the business registered for deliveries and is taking orders for food deliveries for the business. In addition, Azam UDDIN is still registered

I understand that the premises licence holder for Spicy Touch is currently listed as Vishal NANDA and that Man Bahadur LIMBU is listed as the designated premises supervisor. However, when I spoke with Miraj LIMBU (the manager and son of Man Bahadur LIMBU) he stated that his father had purchased the business from Vishal NANDA. Companies House has a listing for Spicy Touch Ltd as a dissolved company (Company Number 08540445, dissolved 30/10/2018) with Vishal NANDA as 1 of 2 directors. Companies House also has a listing for Spicy Touch (UK) Ltd as currently active (Company Number 10550511 incorporated on 06/01/2017) with Man Bahadur LIMBU as the sole director.

Please tick ✓ yes

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

☐

If yes please state the date of that application

Day Month Year

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

Please tick ✓ yes

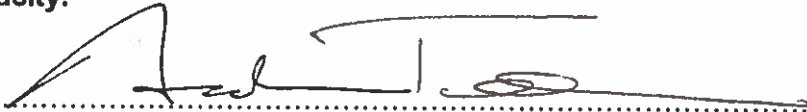
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

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.

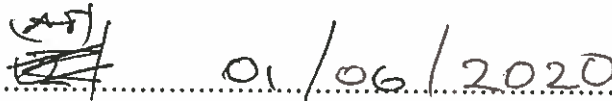
Part 3 – Signatures (please read guidance note 4)

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



Date



Capacity **Applicant**

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.