

LICENSING ACT 2003 SUB-COMMITTEE

TUESDAY 26 MARCH 2013

1.30 PM

Bourges / Viersen Rooms - Town Hall

AGENDA

Page No

1. **Apologies for Absence**
2. **Declarations of Interest**

At this point Members must declare whether they have a disclosable pecuniary interest, or other interest, in any of the items on the agenda, unless it is already entered in the register of members' interests or is a "pending notification" that has been disclosed to the Solicitor to the Council.

Members must also declare if they are subject to their party group whip in relation to any items under consideration.

3. **Application for Review of Premises Licence - Zaika (Previously known as Shalimar Gardens), 34 New Road, Peterborough, PE1 1FH** 1 - 38



There is an induction hearing loop system available in all meeting rooms. Some of the systems are infra-red operated, if you wish to use this system then please contact Gemma George on 01733 452268 as soon as possible.

Committee Members:

Councillors: Thacker (Chairman), Hiller and Saltmarsh

Further information about this meeting can be obtained from Gemma George on telephone 01733 452268 or by email – gemma.george@peterborough.gov.uk

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LICENSING ACT 2003 SUB-COMMITTEE		AGENDA ITEM No. 3
26 MARCH 2013		PUBLIC REPORT
Contact Officers:	Peter Gell, Strategic Regulatory Services Manager Darren Dolby, Licensing Regulatory Officer	Tel: 453419 Tel. 453561

APPLICATION: Review of Premises Licence

PREMISES: Zaika (previously known as Shalimar Gardens), 34 New Road, Peterborough, PE1 1FH

REFERENCE NUMBER: MAU 066657

GLOSSARY OF TERMS: Attached at **Appendix A – Page 4**

1. PURPOSE OF REPORT

1.1 To consider and determine an application for a review of a Premises Licence under Section 51 of the Licensing Act 2003 for the above premises, taking into account the representation made and supplementary information submitted by Cambridgeshire Constabulary in their capacity as a Responsible Authority. Representations have also been received from the Licensing Authority and the Pollution Control Team in their capacities as Responsible Authorities. The review was bought under all four of the licensing objectives.

2. BACKGROUND INFORMATION

2.1 This premises is located beneath the Travelodge Hotel in New Road, Peterborough and was first granted a premises licence on 12 March 2007. The premises operated as a restaurant and was originally called ‘Maharanis’. The licence holder was Mr Mohammed Farooq.

2.2 On the 24 April 2009 the premises licence was transferred to Mr Tariq Shaheen and a subsequent licence variation was applied for on 26 May 2009. This variation was to extend the hours for alcohol at the premises until 5am and to add licensable activities to the licence. There were no objections received and the application was granted on 24 June 2009. The premises was known after this variation as ‘Shalimar Gardens’.

2.3 On the 28 July 2009 a designated premises supervisor variation was applied for.

2.4 On the 12 February 2010 a minor variation was applied for to add conditions to the existing licence. The variation was to add items such as the need for CCTV to be installed at the premises.

2.5 On the 30 June 2010, Cambridgeshire Constabulary served an expedited review upon the premises. This was due to a serious assault taking place at the premises which led the

Police to believe that the premises was not being run to a standard to ensure public safety. As a result of this review additional conditions were placed upon the licence.

- 2.6 On the 3 August 2012 an application was made to transfer the premises licence to Mr Muhammed Khubaib. A designated premises supervisor transfer was also applied for at this time and both transfers were granted after no representations were received.
- 2.7 A further designated premises supervisor transfer application was made on 7 February 2013. This application was granted after no representations were made and Mr Lajos Boros became the designated premises supervisor of the premises which was now known as Zaika. A copy of this licence is attached at **Appendix B – Page 7**.
- 2.8 On 27 February 2013 Mr Boros removed himself as the designated premises supervisor of the premises.

3. APPLICATION

- 3.1 In accordance with section 51 of the Licensing Act 2003 following the submission of an application to review the premises licence from Cambridgeshire Constabulary, a Responsible Authority, the licensing authority must hold a hearing.
- 3.2 A copy of the application to review served by Cambridgeshire Constabulary was received 29 January 2013, a copy of this application is attached at **Appendix C – Page 19**.
- 3.3 Representations in support of the review and recommendations were received from the Licensing Authority and the Pollution Control Team as Responsible Authorities, copies of these representations are attached at **Appendix D – Page 29**.
- 3.5 No other representations have been received from any of the remaining Responsible Authorities, those being, the Local Health Authority, Cambridgeshire Fire and Rescue, Peterborough City Council Planning Department, Peterborough City Council Health & Safety Department, Peterborough City Council Children's Services, or Trading Standards.

4. RESPONSIBLE AUTHORITIES

4.1 Summary of issues raised by Responsible Authorities

- i. Continued breaches of premises licence conditions.
- ii. Poor management of the premises.
- iii. Continued issues with loud music from the premises.

5. OTHER PERSONS

- 5.1 No representations have been received from 'other persons'.

6 Mediation

- 6.1 A mediation meeting between the applicant, Mr Khubaib and his solicitor, the Licensing Authority and the Council's Noise Pollution Team took place at Thorpe Wood Police Station on Thursday 14th March 2013. As a result of this meeting an agreement was reached between all parties that it is asked that the Licensing Act 2003 Sub-Committee consider as an acceptable solution to the review. A copy of the mediated agreement can be found at **Appendix E – Page 37**.

7. POLICY & GUIDANCE IMPLICATIONS

- 7.1 The following sections/paragraphs are applicable to this application:
- 7.2 **Council's Statement of Licensing Policy**

- Objectives: *section 4 on Page 5*
- Other Legislation : *section 7 page 7*
- Reviews: *section 16 on Page 12 and 13*
- Delegation / Decision Making / Administration: *Section 17 page 13 and 14*

7.3 Guidance Issued under Section 182 of the Licensing Act 2003 (October 2012)

- Reviews: *Section 11 pages 75 to 80*
- Determining applications: *Section 9 pages 58 to 64*

8. LEGAL OFFICER'S COMMENTS

8.1 The Licensing Authority (hereafter referred to as "the Council) is charged with implementing the provisions of the Licensing Act 2003. This is an application for a review of a premises licence following the application by Trading Standards (Responsible Authority) to review the premises licence made under section 51 of the Licensing Act 2003.

8.2 In this case, the application was received at these offices on 29th January 2013.

8.3 The application before this committee will consider –

- (i) The application to review the licence,
- (ii) Any relevant representations

8.4 The committee will take such steps as it considers that are appropriate for the promotion of the licensing objectives. The steps are –

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

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added

8.5 In addition Section 11.17 and 11.18 of guidance issued under section 182 of the Licensing Act 2003 states:

'The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be in issued in writing to the licence holder.

However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.

Note: In this document, the following definitions are included to provide an explanation of certain terms included in the Act. In some cases they are an abbreviation of what is stated in the Licensing Act 2003 or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Licensing Act 2003.

‘Child’

(a) means an individual aged under 16

(b) a child is unaccompanied if he is not in the company of an individual aged 18 years or over

DCMS: Department for Culture Media and Sport

‘Designated Premises Supervisor’ means the person (who must be a Personal Licence Holder), in the case of premises selling alcohol, who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder.

‘Other Persons’:

- persons who live, or are involved in a business, in the relevant licensing authorities area and who are likely to be affected by the application and are not a Responsible Authority.

‘Late Night Refreshment’ means the supply of hot food or hot drink to members of the public (whether for consumption on or off the premises) between the hours of 11.00 pm and 5.00 am.

‘Licensable Activities’ means: -

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- The provision of Regulated Entertainment
- The provision of Late Night Refreshment

‘Licensing Authority’: - is the licensing function of Peterborough City Council

‘Licensed Premises’ includes club premises and events unless the context otherwise requires.

‘Licensing Objectives’

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

‘Operating Schedule’ means a document containing a statement of the following matters (and any others that may be prescribed): -

- The relevant Licensable Activities
- The times at which the Licensable Activities are to take place and any other times when premises are open to the public
- Information regarding the person who will be specified in the Premises Licence as the Premises Supervisor
- Where the Licensable Activities involve the supply of alcohol, whether it is for the supply on and/or off the premises
- The steps being taken to promote the Licensing Objectives

'Rateable Value': as regards a premises, is the value for the time being in force for the premises entered in the local non-domestic rating list for the purposes of Part III of the Local Government Finance Act 1988(b).

'Regulated Entertainment' (Schedule 1 of the Act) means: -

- A performance of a play
- An exhibition of a film
- An indoor sporting event
- A boxing or wrestling entertainment
- A performance of live music
- Any playing of recorded music
- A performance of dance

Or entertainment of a similar description falling within the last three of the categories listed above, where the entertainment takes place in the presence of and for the purposes of entertaining that audience or spectators.

'Relevant Licensing Authority': is the Authority in the area the premises are situated.

'Responsible Authority' means any of the following: -

- Cambridgeshire Constabulary (The Chief Officer of Police)
- Cambridgeshire Fire and Rescue (The Fire Authority)
- Health and Safety Team, Peterborough City Council
- Planning authority, Peterborough City Council
- Trading Standards, Peterborough City Council
- Environmental Health – Pollution, Peterborough City Council
- Children's Services – Child Protection & Review Manager
- Primary Care Trust or Local Health Board (Director of Public Health)
- The Relevant Licensing Authority, Peterborough City Council
- Maritime & Coastguard Agency, Walton on Naze. (For vessels carrying more than 12 passengers.)
- Environment Agency, Peterborough (For vessels carrying 12 or less passengers).

'Supply of alcohol':

- the sale by retail of alcohol, or
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.

'Temporary Event Notice' means a Permitted Temporary Activity involving one or more Licensable Activities subject to the following various conditions and limitations: -

- Duration – they are limited to events lasting for up to 168 hours (7 days);
- Scale – they cannot involve the presence of more than 499 people at any one time;
- Use of the same premises – the same premises cannot be used on more than 12 occasions in a calendar year, but are subject to the overall aggregate of 21 days irrespective of the number of occasions on which they have been used; and
- The number of notices given by an individual within a given period of time – a Personal Licence Holder is limited to 50 notices in one year, and another person to 5 notices in a similar period.

(In any other circumstances, a full Premises Licence or Club Premises Certificate will be required for the period of the event).

'the Act': means the Licensing Act 2003

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PART A

Premises Licence

**Peterborough City Council, Environmental Services,
 Bayard Place, Broadway, Peterborough, PE1 1HZ**

Premises Licence Number

066724

Part 1 - Premises Details

Postal address of premises, or if none, ordnance survey map reference or description Zaika 34 New Road	
Post Town Peterborough	Post Code PE1 1FH
Telephone Number 01733 346666	

Where the licence is time limited the dates Start Date N/A End Date N/A
--

<p>Licensable activities authorised by the licence</p> <p>Provision of regulated entertainment</p> <p>Films The exhibition will take place indoors.</p> <p>Live Music The live music will take place indoors.</p> <p>Recorded Music The recorded music will take place indoors.</p> <p>Performances of Dance The performance of dance will take place indoors.</p> <p>Anything of a similar description to that of live music, recorded music or performances of dance The entertainment will take place indoors.</p> <p>Provision of late night refreshment The provision of late night refreshment will take place both indoors and outdoors.</p>

Sale by retail of alcohol

The supply of alcohol will be for consumption both on and off the premises.

The times the licence authorises the carrying out of licensable activities**Films**

Monday to Sunday Between 11.00hrs and 05.00hrs

Live Music

Monday to Sunday Between 11.00hrs and 05.00hrs

Recorded Music

Monday to Sunday Between 11.00hrs and 05.00hrs

Performances of Dance

Monday to Sunday Between 11.00hrs and 05.00hrs

Provision of late night refreshment

Monday to Sunday Between 23.00hrs and 05.00hrs

Sale by Retail of Alcohol

Monday to Sunday Between 11.00hrs and 05.00hrs

The opening hours of the premises

Monday to Sunday Between 11.00hrs and 05.00hrs

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

The supply of alcohol will be for consumption both on and off the premises.

Part 2

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

Mr Muhammed Khubaib
47 Cambridge Avenue
Peterborough
PE1 2JB

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

N/A

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

Lajos Boros
44 Peveril Road
Peterborough
PE1 3PS

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

Licence Number	063969
Issuing Authority	Peterborough City Council

Annex 1 - Mandatory conditions

Licensees should note that the under enclosed Mandatory conditions should be read in conjunction with the granted licence and these conditions shall be enforceable where relevant to the operation of the premise and its activities.

Exhibition of films

This registration authorises the exhibition of films subject to the following conditions:

1. I will not exhibit any film unless –
 - (a) it has received a "U", "PG", "12", "12A", "15" or "18" certificate from the British Board of Film Classification; or
 - (b) it is a current newsreel which has not been submitted to the British Board of Film Classification.
2. Where films are classified by the film classification body, (British Board of Film Classification) I will make sure that children (persons under 18) are only admitted in accordance with the classification of the film:

U – Universal – suitable for audiences aged 4 years and over;
PG – Parental Guidance – some scenes may be unsuitable for young children;
12 – viewing by persons aged 12 years and over;
12A – viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult;
15 – viewing by persons aged 15 years and over;
18 – viewing by persons aged 18 years and over.
3. Where the Licensing Authority has made a recommendation on the restriction of admission of children to a film, I will make sure that notices are displayed both inside and outside the premises so that persons are aware of the classification.

Supply of alcohol (Premises Licence)

This registration authorises the supply of alcohol subject to the following conditions:

4. No supply of alcohol may be made at a time when
 - (a) there is no designated premises supervisor in respect of the premises licence, or
 - (b) when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
5. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Door Supervision (where supervisors are engaged this condition applies)

6. All door supervisors will be Security Industry Authority registered.

Mandatory Conditions – Continued

7. (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children–
- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to–
- (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
- (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
- (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on–
- (i) the outcome of a race, competition or other event or process, or
- (ii) the likelihood of anything occurring or not occurring;
- (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
8. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
9. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
10. (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.
11. The responsible person shall ensure that–
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to

customers in the following measures—

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.

Annex 2 - Conditions consistent with the Operating Schedule

Crime and Disorder

12. Alcohol will only be supplied off the premises with a take-away meal or if the patron has previously had a meal at the restaurant in a container that is sealed
13. Food Deliveries: If an employee has reason to suspect that the person accepting a meal that contains alcohol is under the age of 21 then photographic ID will be requested.
14. Video/CCTV equipment shall be installed inside/outside the premises and maintained in working order.
15. Video/CCTV equipment will be set to record all licensed areas from the time that the premises open to the public until the premises closes and all members of the public have left.
16. Digital images shall be retained for at least one month and shall be produced to an authorised officer on demand.
17. Notices advising that CCTV has been installed on the premises shall be posted up so that they are clearly visible to the public within the licensed premises.
18. An authorised person will be available at all times on the premises to show CCTV images immediately or to an authorised officer on demand.
19. CCTV images will be clear and comprehensible.
20. Any new/existing CCTV system in place will be cleared for use by the Police/Licensing Authority.
21. Facilities will be in place for the immediate copying of CCTV images to a recognised media. These copied images will be made immediately available to an authorised officer on request.

Public Safety

22. The premises will comply with the appropriate Fire, Health & Safety regulations

Public Nuisance

23. Music will be kept to an incidental background level.
24. Waste will be collected and deliveries will be made during reasonable hours.
25. The premises license holder shall take all necessary steps to ensure that noise or vibration is not noticeable at the façade of any noise sensitive premises / nearest residential property.

26. The placing of bottles into receptacles outside the premises shall take place at times that will minimise disturbance to nearby properties.
27. The premises licence holder shall implement a system to ensure that offensive smells from the licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.

Protection of Children from Harm

28. Children under the age of 16 will not be allowed on the premises unless accompanied by a responsible adult (over 18). Anyone suspected of being under 18 will be asked to provide photo identification before being supplied alcohol.
29. Staff will be trained in appropriate ID procedures
30. The 'Challenge 21' initiative to prevent sales of alcohol to persons under 18 years of age will be implemented at the premises.

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

31. A personal licence holder to be on the premises during all licensable activities between the hours of 11pm and 5am.
32. A certified first aider to be on the premises during all licensable activities between the hours of 11pm and 5am.
33. That all bar staff are aware of their responsibilities under the Licensing Act 2003 and training on the Act to be evidenced in writing.
34. Security door staff to be employed during the hours of 23.00 hrs and closing time when licensable activities take place.
35. City Link to be in place and operational during licensable activities.
36. Challenge 21 posters to be displayed within the premises.
37. A refusals register to be kept and available for inspection by the police and authorised officers of the local authority.
38. The Travel Lodge located near the premises has a direct telephone number to the premises in order to speak with the DPS or premises licence holder in case of noise nuisance.
39. The sale of alcohol only to be ancillary to the sale of a substantial meal.

BLANK

PART B

Premises licence summary

Peterborough City Council, Licensing Section,
 Bayard Place, Broadway, Peterborough, PE11HZ

Premises Licence Number

066724

Premises Details

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

Zaika
 34 New Road

Post Town Peterborough

Post Code PE1 1FH

Telephone Number 01733 346666

Where the licence is time limited the dates

Start Date N/A
 End Date N/A

Licensable activities authorised by the licence

Provision of regulated entertainment

Films

The exhibition will take place indoors.

Live Music

The live music will take place indoors.

Recorded Music

The recorded music will take place indoors.

Performances of Dance

The performance of dance will take place indoors.

Anything of a similar description to that of live music, recorded music or performances of dance

The entertainment will take place indoors

Provision of late night refreshment

The provision of late night refreshment will take place both indoors and outdoors.

Sale by retail of alcohol

The supply of alcohol will be for consumption both on and off the premises.

The times the licence authorises the carrying out of licensable activities

Films

Monday to Sunday Between 11.00hrs and 05.00hrs

Live Music

Monday to Sunday Between 11.00hrs and 05.00hrs

Recorded Music

Monday to Sunday Between 11.00hrs and 05.00hrs

Performances of Dance

Monday to Sunday Between 11.00hrs and 05.00hrs

Provision of late night refreshment

Monday to Sunday Between 23.00hrs and 05.00hrs

Sale by Retail of Alcohol

Monday to Sunday Between 11.00hrs and 05.00hrs

The opening hours of the premises

Monday to Sunday Between 11.00hrs and 05.00hrs

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

The supply of alcohol will be for consumption both on and off the premises.

Name, (registered) address of holder of premises licence

Mr Muhammed Khubaib
Peterborough

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

N/A

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

Lajos Boros

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

Restricted

LC1

APPENDIX C

**Peterborough City Council, Licensing Section, Bayard Place,
Broadway, Peterborough, PE1 1HZ**

**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, Simon Parr, Chief Constable of Cambridgeshire Constabulary apply
for the review of a premises licence under section 51 of the Licensing
Act 2003 for the premises described in Part 1 below**

Part 1 – Premises or club premises details

Postal address of premises or club premises, or if none, ordnance survey map reference or description SHALIMAR GARDENS (ZAIKA), 34 New Road	
Post town PETERBOROUGH	Post code (if known) PE1 1FH

Name of premises licence holder or club holding club premises certificate (if known) Mohammed Khubaib, 47 Cambridge Avenue, Peterborough, Cambridgeshire, PE1 2JB.

Number of premises licence or club premises certificate (if known) 065114 – Peterborough City Council

Part 2 - Applicant details

Please tick ✓ yes

I am

- | | | |
|----|---|-------------------------------------|
| 1) | an interested party (please complete (A) or (B) below) | <input type="checkbox"/> |
| a) | a person living in the vicinity of the premises | <input type="checkbox"/> |
| b) | a body representing persons living in the vicinity of the premises | <input type="checkbox"/> |
| c) | a person involved in business in the vicinity of the premises | <input type="checkbox"/> |
| d) | a body representing persons involved in business in the vicinity of the premises | <input type="checkbox"/> |
| 2) | a responsible authority (please complete (C) below) | <input checked="" type="checkbox"/> |
| 3) | a member of the club to which this application relates
(please complete (A) below) | <input type="checkbox"/> |

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Mr Mrs Miss Ms Other title

(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

Current address

Post Town

Postcode

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

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

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Cambridgeshire Constabulary Hinchingsbrooke Park Huntingdon Cambridgeshire PE29 6NP
Telephone number (if any) 01733 42 4438
E-mail (optional) grahame.robinson@cambs.pnn.police.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
- 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 note1)

This application to review the premises license for SHALIMAR GARDENS is based on evidence which shows consistent breaches to the Premises License conditions and the licensing objectives of:

- Crime & Disorder – Numerous Operating Conditions are not being upheld which will give rise to crime and disorder.
- Public Safety – Numerous Operating Conditions are not being upheld which will give rise to crime and disorder.
- Public Nuisance – Numerous breaches to Operating Conditions which have led the premises to become a public nuisance with consistent noise complaints.
- Protection of Children from Harm - Numerous Operating Conditions are not being upheld which will give rise to potential harm to children and young people.

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

Re: License Review – SHALIMAR GARDENS, 34 NEW ROAD, PETERBOROUGH.

On Saturday 26th January 2013 at 23:55 hours I conducted a Licensing Inspection of SHALIMAR GARDENS, 34 NEW ROAD, PETERBOROUGH, PE1 1FH, in the company of Sgt1699 HOUGHTON. The inspection was as a direct result of a significant increase in activity at the venue which is believed to be detrimental to the licensing objectives – namely the prevention of crime and disorder, public safety, preventing public nuisance and the protection of children from harm.

SHALIMAR GARDENS is a restaurant operating on a full Premises License in accordance with the Licensing Act 2003, license No: 065114 refers. The premises license holder is MOHAMMED KHUBAIB, 47 CAMBRIDGE AVENUE, PETERBOROUGH, CAMBRIDGESHIRE, PE1 2JB. The designated premises supervisor was Mrs. LENKE STUMF, 43 AUDLEY GATE, PETERBOROUGH, CAMBRIDGESHIRE, PE3 9PE. The premises are situated within the busy street of NEW ROAD. According to the issued license the premises is open Monday to Sunday 11:00 hours to 05:00 hours allowing the sale of alcohol between 11:00 hours and 05:00 hours daily. The license has adopted all the provisions of licensing activity in accordance with the Licensing Act 2003, including 'Live music' between the hours of 11:00 hours and 05:00 hours; 'Recorded music' between the hours of 11:00 hours and 05:00 hours; 'Dancing' between 11:00 hours and 05:00 hours; and the provision of 'Late night refreshment' between 23:00 hours and 05:00 hours.

The premises have been the subject of a Licensing Sub-Committee Hearing on 26th July 2010 following a Review application submitted by Cambridgeshire Constabulary. This was due to substantiated and consistent reports of the venue being responsible for violent crime and disorder at the venue and public nuisance (noise disturbance) towards Travelodge guests accommodated above the premises. As a result of the Sub-Committee Hearing several important and valuable conditions were added to the license which included:

- A personal licence holder to be on the premises during all licensable activities between the hours of 11pm and 5am.
- A certified first aider to be on the premises during all licensable activities between the hours of 11pm and 5am.
- That all bar staff are aware of their responsibilities under the Licensing Act 2003 and training on the Act to be evidenced in writing.
- Security door staff to be employed during the hours of 23.00 hrs and closing time when licensable activities take place.
- City Link to be in place and operational during licensable activities.
- Challenge 21 posters to be displayed within the premises.

- A refusals register to be kept and available for inspection by the police and authorised officers of the local authority.
- The Travel Lodge located near the premises has a direct telephone number to the premises in order to speak with the DPS or premises licence holder in case of noise nuisance.
- The sale of alcohol only to be ancillary to the sale of a substantial meal.

These additional conditions were deemed necessary to promote the objectives of licensing and assist the Premises License Holder (PLH) and Designated Premises Supervisor (DPS) uphold those objectives. The venue was being abused consistently by the management in an attempt to compete with the Nightclubs across the road and become a main player within the Night Time Economy (NTE). As a result the noise disturbance caused to the hotel above was sufficient enough for customers to persistently complain about the noise. Travelodge has had to compensate customers their money back. Furthermore control of the venue with the previous license conditions was insufficient to maintain law and order within and outside the venue and there was becoming a marked increase in violent crime and disorder.

Conditions consistent with the Operating Schedule include:

- Video/CCTV equipment shall be installed inside/outside the premises and maintained in working order.
- Video/CCTV equipment will be set to record all licensed areas from the time that the premises open to the public until the premises closes and all members of the public have left.
- Digital images shall be retained for at least one month and shall be produced to an authorised officer on demand.
- Notices advising that CCTV has been installed on the premises shall be posted up so that they are clearly visible to the public within the licensed premises.
- An authorised person will be available at all times on the premises to show CCTV images immediately or to an authorised officer on demand.
- CCTV images will be clear and comprehensible.
- Any new/existing CCTV system in place will be cleared for use by the Police/Licensing Authority.
- Facilities will be in place for the immediate copying of CCTV images to a recognised media. These copied images will be made immediately available to an authorised officer on request.

During the inspection I observed the following issues:

- DPS – Lenke Stumpf – not a fit and proper been absent for several weeks. Breach of Condition 29. Stumpf is the only APLH holder employed at the venue.

- No APLH present after 23:00pm. Breach of Condition 29.
- No SIA employed on the door after 23:00pm. Breach of Condition 32.
- No persons present who knew how to operate the CCTV system including the DPS and Premises License holder – officer told to come back later. Breach of Conditions 14, 16 and 19.
- No person present First Aid qualified including the DPS or PL Holder. Breach of Condition 30.
- No DPS authorisation list.
- No record of staff training – ID issues / due diligence. Breach of Condition 27.
- Staff not aware of responsibilities under Licensing Act 2003. Breach of Condition 31.
- No City Link Radio system in place. Breach of Condition 33.
- Refusal register not maintained post August 2010. Breach of Condition 35.
- Numerous complaints from the Travel Lodge – Documented – towards premises over loud music / public nuisance. Breach of Conditions 21 and 23.

A Section 19 Closure Order was issued in accordance with the Licensing Act 2003 immediately following the inspection (see below) and a request for a review of the premises license initiated.

Since the Premise License transferred to Mr. Khubaib on the 03rd August 2012 numerous issues have come to light involving the Premises License, Designated Premises Supervisor and the conditional operation of the venue. 3 inspections have taken place where Darren Dolby, Peterborough City Council Licensing Officer and I have spoken to the DPS and PLH and reminded them how to maintain the conditions on their Premises License. I am satisfied that we have made ourselves perfectly clear and understood to the operators in relation to these conditions. Despite this three S19 Closure Notices have been issued against the Premises for various breaches as shown below:

1. Friday 03rd August 2012 at 10:30am – a visit took place where it was identified the premises was open and operating without a DPS. This was confirmed by speaking to Mr. Khubaib and a S19 Closure Notice Issued. This was cancelled on the 07th August 2012 after the current DPS – Lenke Stumpf was installed as DPS.
2. Saturday 01st September at 00:45am – PS1841 Nicholson issued a S19 Closure Notice as the venue was operating with no APLH present and no SIA regulated doorstaff. The S19 was cancelled the following night at 23:00 as an SIA door supervisor had been employed and the DPS was present.
3. Sunday 27th January 2013 at 00:35 – PC1572 Robinson issued a S19 Closure Notice as the venue was in breach of several license conditions as listed above. This resulted in Cambridgeshire Constabulary requesting a review of the Premises License.

The investigation is still ongoing. A further comprehensive supplementary report will be submitted once enquiries are completed and in good time for the Sub-Committee and Premises License holder to consider prior to any hearing.

Please tick yes

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

 YES

If yes please state the date of that application

Day Month Year

2	6	0	7	2	0	1	0
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Suggested Recommendation:

Cambridgeshire Constabulary Licensing Officer and Peterborough City Council Licensing Officers have worked closely with the Premises License Holder and the Designated Premises Supervisor in an attempt to help them understand the Premises License and its conditions and maintain them effectively in order to uphold the licensing objectives. Unfortunately this appears to have been blatantly ignored and the operator is intent on doing as he pleases in order to maximize profit and increase foot fall on his venue. I do not believe he is a fit and proper Premises License Holder.

Conditions are already in place that if maintained effectively can assist the operators to promote a safe and responsible venue which I believe will uphold the licensing objectives.

As licensing officer for Cambridgeshire Constabulary I recommend that the license is revoked.

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, 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 (please read guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature
.....

Date...29th 2013

Capacity Licensing Officer, Northern Division, Cambridgeshire Constabulary

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

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Telephone: 01733 454437
Facsimile: 01733 863811
E-Mail: adrian.day@peterborough.gov.uk
Please ask for: Adrian Day
Our Ref:
Your Ref: MAU 066657

Strategic Regulatory Services
Peterborough City Council
Fourth Floor
Bayard Place
Peterborough
PE1 1HZ

Mr Darren Dolby
Peterborough City Council
Fourth Floor
Bayard Place
Peterborough
PE1 1HU

Telephone 01733 747474
Minicom 01733 452421

25 February 2013

Dear Darren

Reference: Premises Licence Review
Zaika, 34 New Road, Peterborough. PE1 1FH

I would like to support the above application for the review of the premises licence served by the Cambridge Constabulary in relation to the following licensing objectives.

- The prevention of crime and disorder
- Public safety
- Public nuisance
- The protection of children from harm.

I submit my representation as a Responsible Authority (Licensing Authority) for the following reasons.

The premise has a chequered history where the licence has already been the subject to a previous review hearing and as a result numerous conditions were added to the licence. Although I accept that the current licence holder was not associated with the previous review or licence at the time I feel it is quite pertinent to mention as I believe the premises was then and indeed is now being operated as a late night drinking venue to compete with the surrounding businesses under the guise of a restaurant. It is also relevant to mention that the current licensee is in fact a family member of the previous licence holder.

The additional conditions added to the licence were attached by the committee as an attempt to control the premises and in order to promote the licensing objectives, also as a potential method of eliminating late night drinking without the purchase of a table meal.

In reviewing the information held regarding the current licence holder and management of the premises I am left with little or no confidence that they have the necessary attributes or business acumen to operate the premises within the parameters required of the licence. I would even go as far to say there is a blatant disregard to the obligations afforded to them as a licence holders, demonstrating little regards to regulatory requirements or public safety.

It is very clear from the review application served by the Cambridgeshire Constabulary that the premises had been found operating in breach of many of the conditions as attached to the premises licence, and what's even more astounding is that the conditions were attached following the previous licence review to address many previous problem.

The inspection was carried out by the Police on 26 January 2013 at 23:55hrs at a time when the premises was operating, the observations made by the Police were real time insofar as they were actually witnessed



rather than a daytime inspection where the premises normally is not in operation and therefore there is a greater reliance on what the licence holder says rather than what is witnessed.

A section 19 notice was served on the premises by the police and subsequently a visit was made to the premises on Friday 8 February 2013 by Sgt Saunders, PCSO Petruzziello and a council Regulatory Officer Teresa Martin to review the notice and to ascertain if the notice could be lifted.

In reading the Regulatory Officers meeting notes it was very apparent that the licence holder and staff present at the meeting struggled to answer even the most basic of questions in relation to the Licensing Act 2003. For example they were unaware of the legal age for the consumption of alcohol on the premises, and were under the impression that children of any age could consume alcohol with a meal. Even after the officer had provided them with the relevant answers they still questioned if it was ok for children to drink Baileys? This is just one example of many breaches that were highlighted in the notes; I have attached the email from Teresa martin for reference. The section 19 notice was not lifted following this visit.

It is important to point out that although the section 19 notice and the review application had been served on the licence holder, little or no attempt had been made to rectify any issues that had been previously identified. There seemed to be an alarming reliance on officers by the licence holder and staff to offer assistance rather than them taking responsibility for their own business.

A further inspection was carried out on 21 February 2013 by officers from the Police and the Council; there are still outstanding issues at the premises such as refusal logs and training records. There is also a distinct lack of understanding regarding home deliveries and age verification, which looking at the visit notes would indicate there are no age verification checks being made. This is yet another example of the naivety of the licence holder.

It is also important to mention that on a food safety inspection carried out on 26 November 2012 the officer's comments included:

- No suitable product to carry out disinfection process on the premises
- The cook was wearing a heavily soiled apron whilst handling raw and ready to eat food.
- The premises were in a generally dirty condition.
- A number of dirty wiping cloths were used to clean down and mop up spillages.
- The cook at the premises did not satisfy the officer that he was adequately trained or had sufficient knowledge in food hygiene and safety matters.

The appropriate actions in relation to the above were taken, however it is also very important to mention that the above inspection was instigated following information received from the fire officer in relation to LPG gas cylinders onsite.

In following up the fire officers comments council officers found that equipment previously connected to the mains gas supply had been converted to run off LPG, there was no gas safety certificate, the only information that could be provided by the licence holder about the installer was his name was Simon? There was also some concern that the pipe work a prohibition notice was issued on 26 November 2013.

Although the above food safety and gas safety issues are not specifically associated to the activities as authorised by premises licence they do offer some insight in to the way the business is managed.

I feel that there are 2 conclusions to be made when reviewing the information, these being either the licence holder does not have the necessary ability or knowledge to run such an establishment in accordance with the requirements. Or, he has a blatant disregard to authority and his customers and his priority is simply to make money.

I would ask the committee to seriously consider the possible revocation of the premises licence, I have based this request on the fact that officers from both the Council and the Cambridgeshire Constabulary have worked with the licence holder and the DPS insofar as supporting and educating in an attempt to help them understand the premises licence and their obligations accordingly.



However I think it is very apparent that this has failed due to the support offered being blatantly ignored by the licensee and DPS who appear to only be interested in doing as they please to maximise profits.

Yours sincerely

By email 25 February 2013

Adrian Day
Licensing Manager

Representation from the Licensing Authority

Hi,

I visited Zaika Restaurant with Sgt Stuart Saunders and Nick Petruzzello (PCSO) on Friday (8/2/13). The aim of the visit was to assess if the Section 19 (served by the police) could be lifted.

We met with Muhammed Khubaib (Premises Licence holder) and Mr Lajos Boros (new DPS), two other staff members were also present. I have concerns about the premises and detail some of the issues below.

The premises does give me cause for concern as the staff were unaware of what age alcohol could be consumed by persons on the premises, they seemed to think that children (irrespective of age) could consume alcohol if they were having a meal with parents. Even after providing them with the answers (children aged 16+ could consume wine, beer or cider if accompanied by an individual aged over 18 and were having a meal) they asked if children could consume Baileys. The DPS did know the answers, but a staff member who stated that he had just passed the personal licence course did not.

I went through some of the conditions on the licence, reiterating that alcohol could only be sold to persons ancillary to a substantial meal. The CCTV was checked by Stuart and problems with downloading the images were still occurring at 17.30, as they couldn't make it download to a USB memory stick. I understand that this issue was resolved at approx 18.07. As the premises has CCTV they were informed that they must register with the ICO (Information Commissioners Office).

I had a quick look at the Fire Risk Assessment and the maximum capacity within the document was 80, but the premises has 86 covers and that excludes any staff. The rest of the document did not look suitable or sufficient and didn't cover all aspects. Stuart has contacted the fire officer in order for them to visit and provide further assistance.

The staff had a particular issue with condition 23 on the licence which reads 'Music will be kept to an incidental background level.' They continued asking questions such as, 'But if we have a party then that's alright in it?' Even after they read the condition themselves. They also seemed to think that the licence has too many conditions for a restaurant.

The conditions (29 and 33) in relation to staff training records could not be verified. They showed me a signed sheet but could not produce what the staff had been trained on as they said that all this information was on the computer seized by the police. They did have a new book marked refusals log, it had no recorded entry's as it had just been put in place.

They said that one of their staff did have a valid first aid certificate (as required by condition 32), but they did not have a copy on site, I advised them to take a photocopy and keep it on the premises.

They do not have a City Link radio (as required by condition 35).

They were provided information to enable them to employ a SIA, as required by condition 34. I advised the DPS to email the travel lodge with the telephone number of the premises, as required by condition 38. He got the email address whilst we were present.

Mr Khubaib did complain about the Travel Lodge, as he states that their faulty plumbing is allowing raw sewage to seep through his ceiling into his restaurant. This has been reported to the food team, as this has obvious concerns in relation to his food business. Food officers are hoping to visit the premises today (11/2/13) to assess the situation.

The new DPS stated that he was being the DPS as a favour. I informed him that he must have the controlling influence over all sales and refusals of alcohol, as it was his personal

licence being put at risk if any illegal sales occurred. However, the DPS did seem to know the position he was in and also seemed to have a knowledge of what was required of him.

They were aware that free drinking water must be provided. They did not have an age verification policy in place, one was provided to them. They were not aware of the 'smaller measure' mandatory condition, and when asked what would they do if a customer wanted a 125ml of wine they said 'tell them we only serve in 175ml'. They do not have a 125ml measure so will measure a 125 by using a 50ml twice and a 25 measure once. I informed them that this was not considered best practice.

Overall I was disappointed, they kept saying that my job was to help them, which I mostly agree, but informed them that it wasn't my job to run their business.

Mr Khubaib said that he wants to mediate with the licensing department and the police in the hope that the review application can be withdrawn.

Kind regards

Terri Martin
Regulatory Officer (Licensing)
Peterborough City Council
Operations Directorate
Fourth Floor
Bayard Place
Broadway
Peterborough
PE1 1HZ

01733 453561

teresa.martin@peterborough.gov.uk

Representation from the Pollution Control Team at Peterborough City Council

I visited the premises on the 3rd August with Darren Dolby and PC1572 Grahame Robinson to meet with the PLH, Mr Khubaib. During the visit I looked around the premise and took note that there were several speakers embedded in the ceiling and a couple of small wall mounted ones. I pointed out the Public Nuisance conditions of his licence particularly number 23. Music will be kept to an incidental background level. I also explained how the ceiling mounted speakers were inappropriate for the restaurant as the sound would travel upwards. With Mr Khubaib's permission I went behind the bar and set the amplifier's volume for the inbuilt system to an appropriate level for incidental music. I told Mr Khubaib the volume level and said that the volume should never be turned up louder than that otherwise he would be breaking his licence conditions.. I also turned the bass setting to the lowest and asked him not to change it.

On investigating the restaurants Facebook page I came across a picture with the title "Last Night party" (sic) uploaded on the 20th January 2013, I have attached a copy . This shows a woman dancing in front of 2 large speakers which in my opinion would be unnecessary to provide an incidental level of music.

I suggest that due to the complaints received from the Travel Lodge conditions 23 and 25 have been broken.

Public Nuisance

23. Music will be kept to an incidental background level.
24. Waste will be collected and deliveries will be made during reasonable hours.
25. The premises license holder shall take all necessary steps to ensure that noise or vibration is not noticeable at the façade of any noise sensitive premises / nearest residential property.
26. The placing of bottles into receptacles outside the premises shall take place at times that will minimise disturbance to nearby properties.
27. The premises licence holder shall implement a system to ensure that offensive smells from the licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.

Victoria Matsell
Pollution Control Officer
Business Regulation
Bayard Place
Broadway
Peterborough
PE1 1HZ
Tel 01733 453481
e-mail victoria.matsell@peterborough.gov.uk



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APPENDIX E

Mediated agreement – Zaika, 34 New Road, Peterborough, PE1 1FH

Present

Darren Dolby – PCC – Mediator

PC Grahame Robinson – Applicant – Cambridgeshire Constabulary

PS Stuart Saunders – Cambridgeshire Constabulary

PCSO Nic Petruzzello – Cambridgeshire Constabulary

Adrian Day – PCC Licensing Manager

Stephen Blake – PCC Noise Pollution Officer

Mohammed Khubaib – Premises Licence Holder - Zaika

Belinda Smith – Mr Khubaib's solicitor

Omar Riaz – Mr Khubaib's cousin

Agreement

Remove the following authorisations :

- Films
- Live Music (between 11pm & 5am)
- Recorded Music
- Performance of dance
- Anything of similar description of that of live music, recorded music or performance of dance
- Provision of late night refreshment
- The 'off' sales of alcohol.

The only permitted authorisation will be the following :

- Sale by retail of 'on' sales of alcohol – Monday to Sunday – 11am until 11pm

Add the following conditions to the premises licence :

- Alcohol will only be sold when purchasing a substantial meal at the premises
- No person will be allowed to bring alcohol in to the premises other than as a wholesaler delivery to the premises.

Remove the following conditions from the licence :

- Condition 32 – A certified first aider to be on the premises during all licensable activities between the hours of 11pm and 5am
- Condition 34 – Security door staff to be employed during the hours of 23.00 hrs and closing time when licensable activities take place
- Condition 35 – City Link to be in place and operational during licensable activities

Email agreements received from all parties on 15th March 2013.

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