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Democratic Services



LICENSING (HEARING) SUB-COMMITTEE

Friday 24 February 2023 at 2.00 pm

Place: Council Chamber, Epsom Town Hall

Link for public online access to this meeting:

<https://attendee.gotowebinar.com/register/2414492779265803100>

Webinar ID: 355-039-387

Telephone (listen-only): +44 330 221 9914, Telephone Access code: 992-778-534

The members listed below are summoned to attend the Licensing (Hearing) Sub-Committee meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

Councillor Steven McCormick (Chair) Councillor Phil Neale
Councillor Liz Frost

Yours sincerely

Interim Chief Executive

For further information, please contact Democratic Services, democraticservices@epsom-ewell.gov.uk or 01372 732000

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No emergency drill is planned to take place during the meeting. If the fire alarm sounds continuously, or if you are instructed to do so, you must leave the building by the nearest available exit. You will be directed to the nearest exit by council staff. It is vital that you follow their instructions.

- You should proceed calmly; do not run and do not use the lifts;
- Do not stop to collect personal belongings;
- Once you are outside, please do not wait immediately next to the building, but move to the assembly point at Dullshot Green and await further instructions; and
- Do not re-enter the building until told that it is safe to do so.

Public information

Please note that this meeting will be held at the Town Hall, Epsom and will be available to observe live on the internet

This meeting will be open to the press and public to attend as an observer using free GoToWebinar software, or by telephone.

A link to the online address for this meeting is provided on the first page of this agenda and on the Council's website. A telephone connection number is also provided on the front page of this agenda as a way to observe the meeting, and will relay the full audio from the meeting as an alternative to online connection. A limited number of seats will also be available in the public gallery at the Town Hall. For further information please contact Democratic Services, email: democraticservices@epsom-ewell.gov.uk, telephone: 01372 732000.

Information about the terms of reference and membership of this Committee are available on the [Council's website](#). The website also provides copies of agendas, reports and minutes.

Agendas, reports and minutes for this Committee are also available on the free Modern.Gov app for iPad, Android and Windows devices. For further information on how to access information regarding this Committee, please email us at Democraticservices@epsom-ewell.gov.uk.

Exclusion of the Press and the Public

There are no matters scheduled to be discussed at this meeting that would appear to disclose confidential or exempt information under the provisions Schedule 12A of the Local Government (Access to Information) Act 1985. Should any such matters arise during the course of discussion of the below items or should the Chairman agree to discuss any other such matters on the grounds of urgency, the Committee will wish to resolve to exclude the press and public by virtue of the private nature of the business to be transacted.

Questions from the Public

Questions from the public are not permitted at meetings of the Licensing (Hearing) Sub-Committee. [Part 4 of the Council's Constitution](#) sets out which Committees are able to receive public questions, and the procedure for doing so.

AGENDA

1. DECLARATIONS OF INTEREST

Members are asked to disclose the existence and nature of any Disclosable Pecuniary Interests in respect of any item to be considered at the meeting.

2. REVIEW OF PREMISES LICENCE BAY LEAVES (Pages 5 - 50)

The Licensing (Hearing) Sub-Committee (“the Sub-Committee”) is being asked to determine an application for review of a premises licence made under the Licensing Act 2003.

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REVIEW OF PREMISES LICENCE BAY LEAVES

Head of Service:	Rod Brown, Head of Housing & Community
Wards affected:	Ewell Court Ward;
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	
Appendices (attached):	Appendix 1 Bay leaves premises Licence Appendix 2 Application for review of premises licence Appendix 3 Representation from interested parties Appendix 4 Location Plan Appendix 5 Immigration Enforcement representation Appendix 6 Police representation Appendix 7 Representation in support Appendix 8 Karen James reasons for not withdrawing

Summary

The Licensing (Hearing) Sub-Committee (“the Sub-Committee”) is being asked to determine an application for review of a premises licence made under the Licensing Act 2003.

Recommendation (s)

Have regard to the application and relevant representations made during the consultation period, and to take such steps (if any) as it considers appropriate for the promotion of the licensing objectives.

The steps 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;

1 Reasons for Recommendation

- 1.1 In carrying out its licensing functions, the Licensing Authority must have regard to its statement of licensing policy and any statutory guidance issued under s 182 of the Licensing Act 2003.

2 Background

- 2.1 The sale of alcohol and the provision of late night refreshment (the supply of hot food and hot drink between the hours of 11pm and 5am) are licensable activities under the Licensing Act 2003. Authorisation from the Council, in its role as licensing authority, is required to carry on the activity at a premises within the borough.
- 2.2 Under the scheme of delegation adopted by the Council the Sub-Committee is responsible for the exercise of many of the functions of the Council as a licensing authority, including determination of applications for review of premises licence.

3 Current position

- 3.1 The Bay Leaves Restaurant 364 Kingston Road, Ewell KT19 0DT is authorised under a premises licence to sell alcohol and provide late night refreshment for the following hours;

	SUPPLY OF ALCOHOL	PROVISION OF LATE NIGHT REFRESHMENT	THE OPENING HOURS OF THE PREMISES
MONDAY TO SATURDAY	10.00 - 00.00	23.00 - 00.00	10.00 - 00.30
SUNDAYS AND GOOD FRIDAY	12.00 -23.30	23.00 - 23.30	12.00 to 00.00
CHRISTMAS DAY	12.00 - 22.30	Not permitted	12.00 - 23.00

- 3.2 The Licence holder is Alom Hussain, who has held the licence since 2010. Mr Hussain is also the designated premises supervisor for the premises. A copy of the premises licence including the plan of the premises is attached at Appendix 1.

4 Details of application

- 4.1 On Friday 9th December 2022 an application for review of the Bay Leaves premises licence was received digitally from the responsible authority for Home Office Immigration Enforcement. The application confirmed the applicant had served the application on the licence holder and all the responsible authorities. The application states the grounds for review are the belief that Mr Hussain is using his restaurant business to employ illegal workers thereby undermining the licensing objective of the prevention of crime and disorder. A copy of the application (showing the full grounds for review and supporting information) is attached at Appendix 2.
- 4.2 On Monday 12th December 2022 licensing officer contacted the licence holder to confirm he had received the application for review. Mr Hussain advised that he had received the e-mail from Home Office Immigration Enforcement, but had been unable to open the attachment, and had not yet received his copy of the application by post. With the agreement of the applicant and the licence holder, a Licensing Officer delivered a hard copy of the application to the premises the same day. As a result the 28 day period for representations started the day after the application was hand delivered to the applicant (the day the application was valid by virtue of being served on the applicant), making the last day for representation was the 9th January 2023.
- 4.3 Officers can confirm the licensing authority has advertised the review application as required on the Council website, public notice board and by displaying a note on the premises.

5 Representations

- 5.1 Five valid representations were received during the consultation period.
- 5.2 Two representations relate to the effect of noise problems from the premises on local residents. Copies of these representations are attached at Appendix 3. A map showing the location of the premises in relation to neighbouring business and residential properties is attached to Appendix 4.

- 5.3 A further representation was submitted by Home Office Immigration Enforcement Alcohol and LNR Licensing Team, which details previous penalties issued with respect to the premises. A copy of this representation is attached at Appendix 5. This representation states that in 2016 the owner of the premises, Bayleaves (Gorment) Limited, was issued a fixed penalty notice for employing four persons with no right to work in the UK. The representation states that Mr Alom Hussain was a Director of this company at the time of this earlier fixed penalty notice. The address details recorded on companies house for this director matches the address details provided by the Mr Alom Hussain in the transfer application for the premises licence in 2010.
- 5.4 The police made representation to support the application for review, a copy of this representation is attached at Appendix 6.
- 5.5 One representation in support of the business was received, and a copy of this representation is attached at Appendix 7.

6 Adjournment of hearing

- 6.1 A licensing Sub-Committee was arranged to consider the application and representations on 25th January 2023. On 24th January 2023 the licence holder e-mailed the licensing authority to advise that due to ill health they would not be able to attend the hearing, and to request an adjournment of the hearing so they could oppose the revocation of the premises licence in person.
- 6.2 It was agreed by the Chair of the Sub-Committee that it was in the public interest to adjourn the hearing and it was rescheduled to 24th February.

7 Change of ownership

- 7.1 On 30th January 2023 an application was made to transfer the premises licence and vary the designated premises from Alom Hussain to Mosobbir Ali.
- 7.2 Home Office Immigration Officers were notified of the transfer application, and requested that the new owners provide copies of the documents relating to the sale of the business from Mr Hussain to Mr Ali.
- 7.3 On 8th February 2023 the applicant's agent provided copies of the Agreement for the sale of the business dated 5th January 2023. Home Office Immigration Officers were satisfied that everything appeared in order, and on 9th February requested the withdrawal of their application and representation.

- 7.4 The police and one of the other interested parties also agreed to withdraw their representation as a result of change of licence holder at the premises. However, one of the interested parties (Karen James) did not agree that a hearing was no longer necessary. A copy of the e-mail explaining her reasons for not withdrawing her representation is attached as Appendix 8.
- 7.5 Although the applicant has requested the withdrawal of the application, the legislation does not allow the licensing authority to dispense with the need for a hearing unless all parties agree that a hearing is no longer necessary. However it submitted that the issues around the premises being associated with crime and disorder have now been addressed, and the only matter for the Sub-Committee to resolve relate to the single unwithdrawn representation relating to the prevention of public nuisance.

8 Policy Considerations

- 8.1 Section 4 of the Licensing Act 2003 stresses that in carrying out its functions, a licensing authority must “have regard to” guidance issued by the Secretary of State under Section 182. This implies looking at the guidance, factoring in its relevance and/or weight, if any, as those matters appear to the licensing authority. The Section 182 Guidance document was reissued by the Home Office in December 2022, however none of the updates effect the determination of review applications.

- 8.2 Paragraph 11.27 of the revised guidance states that

‘There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

...

- *for employing a person who is disqualified from that work by reason of their immigration status in the UK; ...’*

- 8.3 Paragraph 11.28 continues;-

‘It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.’

- 8.4 Should the Sub-Committee consider it appropriate for the promotion of the licensing objectives that the conditions of the premises licence should be modified, then Paragraph 2.5 provides the following guidance

'The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that evidence of a right to work check, either physical or digital (e.g. a copy of any document checked as part of a right to work check or a clear copy of the online right to work check) are retained at the licensed premises.'

9 Legal Implications

- 9.1 Decisions on licensing matters engage issues of human rights, in particular, Article 1 of the First Protocol, the peaceful enjoyment of possessions, Article 6, the right to a fair hearing, and Article 8, respect for private and family life. However, interference with Convention rights is permitted where lawful and necessary in the interests of public safety, the prevention of disorder or crime, the protection of health and morals or for the protection of the rights and freedoms of others.
- 9.2 Due regard must also be had to the public sector equality duty enshrined in Section 149 of the Equality Act 2010, which aims to eliminate unlawful discrimination, having regard to the nine protected characteristics. The nine protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 9.3 All applications for review of Premises Licences or Club Premises Certificates must be advertised by the display of a notice at the premises and by a public notice on the Council notice board, as well as on the Council's website. Pursuant to the Council's constitution the Council's licensing department has determined that there is a valid application that complies with the requirements of the Licensing Act 2003.

Legal Officer's comments:

When determining an application for a review of a premises Members may take any of the following steps they consider necessary to promote the licensing objectives:

- 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; or,
- f. to take no action.

Members are asked to note that they may not take any of the steps outlined above merely because they consider it desirable to do so. It must actually be necessary in order to promote the licensing objectives.

Members should note the Guidance also suggests it is open to Members to issue an informal warning to the licence holder or to recommend improvement within a particular time. However the Guidance further provides that where responsible authorities have already issued such warnings, the issuing of another warning should not be repeated.

10 Background papers

10.1 The documents referred to in compiling this report are as follows:

Previous reports:

- None

Other papers:

- [Code of Conduct and Practice in Licensing Procedures and Hearings](#)
- [Statement of Licensing Policy, dated 11 December 2018](#)
- [Revised Guidance Issued under Section 182 of the Licensing Act 2003](#)

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SCHEDULE 12 PART A (Regulation 33,34)

PREMISES LICENCE

Premises licence number

EEBC/10/00120/LAPRE

Part 1 - Premises details

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

**BAY LEAVES,
364 KINGSTON ROAD,
EWELL,**

Post town EWELL

Post code KT19 0DT

Telephone number 020 8786 7788

Where the licence is time limited the dates

NONE

Licensable activities authorised by the licence

SALE OF ALCOHOL BY RETAIL & PROVISION OF LATE NIGHT REFRESHMENT.

The times the licence authorises the carrying out of licensable activities

SUPPLY OF ALCOHOL

**MONDAY TO SATURDAY 10.00 HOURS UNTIL 00.00 HOURS
SUNDAYS AND GOOD FRIDAY 12.00HOURS UNTIL 23.30 HOURS
CHRISTMAS DAY 12.00 HOURS UNTIL 22.30 HOURS**

PROVISION OF LATE NIGHT REFRESHMENT

**MONDAY TO SATURDAY 23.00 HOURS UNTIL 00.00 HOURS
SUNDAYS AND GOOD FRIDAY 23.00 HOURS UNTIL 23.30 HOURS**

The opening hours of the premises

**MONDAY TO SATURDAY 10.00 HOURS UNTIL 00.30 HOURS
SUNDAYS AND GOOD FRIDAY 12.00 HOURS UNTIL 00.00 HOURS
CHRISTMAS DAY 12.00 HOURS UNTIL 23.00 HOUR**

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

FOR CONSUMPTION ON THE PREMISES

Part 2

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

**MR ALOM HUSSAIN
364 KINGSTON ROAD
EWELL
KT19 0DT**

TELEPHONE 07846466572

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 for the supply of alcohol

**MR ALOM HUSSAIN
364 KINGSTON ROAD
EWELL
KT19 0DT**

TELEPHONE 07846466572

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

EEBC/09/00082/LAPER

Dated this 18th day of August 2010

Grants and Licensing Team

Annex 1 – Mandatory conditions

Mandatory Condition: where licence authorities supply of alcohol

Where a premises licence authorises the supply of alcohol, the licence must include the following conditions

1. No supply of alcohol may be made under the premises licence
 - (a) at a time when there is not 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.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Mandatory Condition: exhibition of films

1. Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection 3(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.
3. Where:
 - (a) The film classification body is not specified in the licence, or
 - (b) The relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,
Admission of children must be restricted in accordance with any recommendation made by that licensing authority.

Children means persons aged under 18; and

Film classification body means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification)

Mandatory Condition: door supervision

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.
2. But nothing requires a condition to be imposed in respect of:
 - (a) paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
 - (b) any occasion mentioned in paragraph 8(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

Security activity means an activity to which paragraph 2(1)(a) of that Schedule applies, and Paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

Conditions 1, 2 and 3 below came into force on 6th April 2010, and 4 and 5 came into force on 1st October 2010.

1.—(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.

2. 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).

3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

4. 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. 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.

5. The responsible person shall ensure that were any of the following 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 -

1, Beer or cider ½ pint;

2. Gin, rum, vodka or whisky - 25 ml or 35 ml; and

3. Still wine in a glass - 125 ml; and

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

Please note that Conditions 1 and 2 do not apply to premises licences where it authorizes only the sale by retail off the premises

Annex 2 – Conditions consistent with the operating schedule

Intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals and for the consumption by such persons as an ancillary to his meal or to persons residing there or their private friends bona fide entertained by them at their own expense and for consumption by such person or his private friends so entertained by him either on the premises or with a meal supplied at, but consumed off the premises.

Suitable beverages other than intoxicating liquor (including drinking water) shall be equally available for consumption with or otherwise as an ancillary to meals served in the premises.

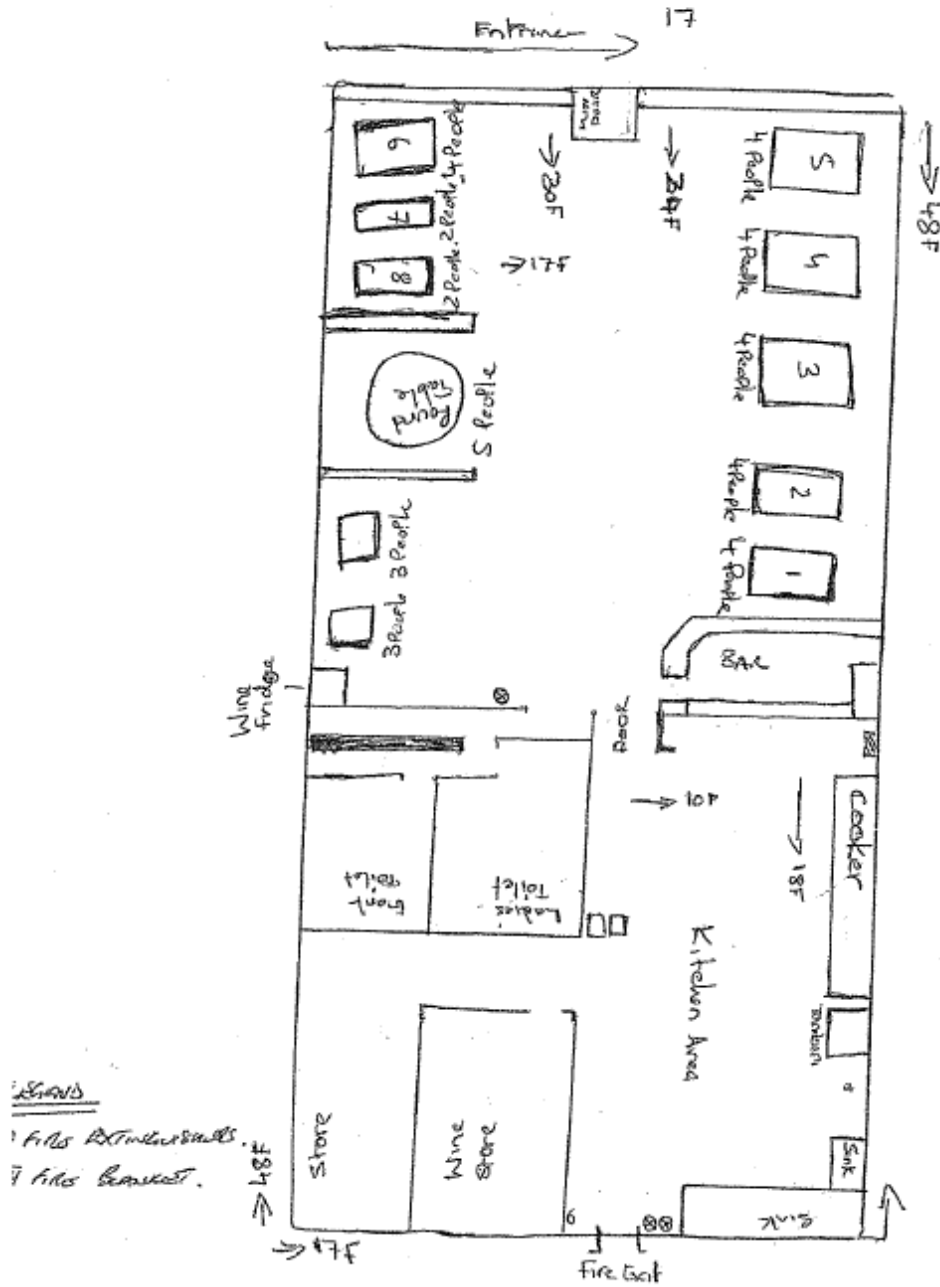
There shall be afforded on the premises for persons provided with board and lodging for reward, adequate sitting accommodation in a room not used or to be used for sleeping accommodation, for the service of substantial refreshment and for the supply of consumption of intoxicating liquor.

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

NONE

Annex 4 - Plans

BAY LEAVE
364 Kingston Rd
Cwell Annex 4 - Plans
KTA DOT



SEATS
1 fills 2x tables & stools.
7 fills benches.

**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 Caroline LAIRD

(Insert name of applicant)

apply for the review of a premises licence under section 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	
Bay Leaves Restaurant, 364 Kingston Road, Ewell, Surrey	
Post town	Post code (if known)
Ewell	KD19 0DT

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

Number of premises licence or club premises certificate (if known)
EEBC/09/00082/LAPER

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

Please tick ✓ yes

I am 18 years old or over

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 IO Caroline LAIRD 18876 Immigration Enforcement (South Central) 581 Staines Road Hounslow Middlesex TW4 5DL
Telephone number (if any) 020 8814 5017
E-mail address (optional) Caroline.Laird@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
- 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 2)

One of the licensing objectives which underpins the Licensing Act 2003 is the prevention of crime and disorder and all operators are expected to take steps to promote the licensing objectives.

Home Office (Immigration Enforcement) believe Mr HUSSAIN is not preventing crime and disorder and therefore should no longer be allowed to hold a premises licence.

Mr HUSSAIN is using his restaurant business to employ illegal workers which is strictly prohibited under the Licensing Act 2003 and Immigration Act 1971(aa).

Employing illegal workers in the UK has the following impact on the community and society as a whole:-

1. It deprives HMRC and the Government of revenue by non-payment of tax and national insurance.
2. It exploits the undocumented by paying them less than the minimum wage and provides no employment or income protection.
3. It encourages other overstayers / illegals to seek similar work.
4. It allows a business to unfairly undercut other businesses by employing cheap labour.
5. Illegal workers are often housed in cramped and unsatisfactory conditions by the employer as part of their working arrangement.

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

Bay Leaves is a restaurant in the town of Epsom, Surrey. The premises has a licence to sell Alcohol for consumption only on the premises between the hours of 1000-0000 Monday to Saturday, 1200-2330 Sundays and Good Friday and 1200-2230 on Christmas Day.

There is also a Licence for late night refreshment Monday to Saturday 2300-0000 and Sundays and Good Friday 2300-2330.

Home Office (Immigration Enforcement) have received information stating that the employer is employing workers that have no right to be working in the UK and is not carrying out the required checks.

As a result of this intelligence, Home Office (Immigration Enforcement) with 2x Police Officers from the Modern Day Slavery & Organised Crime Unit, planned an Enforcement visit which was conducted on 1st September 2022 with entry being gained by Immigration Officers from South Central ICE under Section 179 of the Licencing Act 2003.

When inside the premises, The Police Officers noticed that the alcohol licence was not on display and none of the workers had an idea where it was kept.

Immigration Officers also encountered and arrested 2 people who at the time were believed to be working with no right to do so, and so a civil penalty referral notice was served on the business.

This was considered by the Home Office Civil Penalties team, who up on further investigation found 1 of the workers had been granted leave, however the other had overstayed his period of granted leave and was not entitled to be in the UK, nor working and has resulted in a fine of £10,000 for the business.

Agenda Item 2 Appendix 2

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
<input type="text"/>	<input type="text"/>	<input type="text"/>

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 C LAIRD

.....

Date 09 DECEMBER 2022

.....

Capacity IMMIGRATION ENFORCEMENT OFFICER

.....

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.

Paul Holliday

From: dawn bowling [REDACTED]
Sent: 14 December 2022 08:23
To: Licensing
Subject: Bay Leaves Section 51

Dear Licensing ,

As neighbours to Bay Leaves we welcome a review of their practises. I have complained numerous times to themselves and to the council of the partying that goes in the shop until 1:00pm in the morning. This is always followed by them shouting at the rear of the premises in the early hours of the morning where our bedrooms are situated.

They have deliveries at 4:30am - 5:30am in the morning, again I have complained to Bay Leaves but they ignore any complaints.

We have photos that show an oil trail being put into the drains here from their shop at the back. I will send the photos in a separate email.

During the summer someone was living in the shop who used to put their washing outside to dry. I am aware that environment health visited and found beds in the shop but said that often premises had these for staff to rest on. This shop is supposed to only open from 5:00pm - 11:00pm???

They are lawless and an absolute nightmare and it keeps getting worse

Many thanks

Dawn Bowling



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pdfelement



Paul Holliday

From: James Karen: [REDACTED]
Sent: 13 December 2022 17:31
To: Licensing; [REDACTED]
Cc: [REDACTED]
Subject: Bay Leaves 364 Kingston Rd, Ewell KT19 0DT - Section 51 Licensing Act 2003 Review.
Attachments: Fwd: 364 Kingston road Kt19 0DT - restaurant; Fwd: Noise complaint
Importance: High

Dear Epsom and Ewell Licensing Team,

We own [REDACTED] Kingston Rd which is a flat [REDACTED] Bay Leaves Restaurant, [REDACTED] lives in the flat [REDACTED] the restaurant.

I have attached my initial email to the freeholder and the response which was received and sent to myself.

We would like to oppose any renewal of any Licence to this restaurant, evidence provided in the attached emails.

I must strongly advise that the noise continues to disturb not only our flat but others too, by way of chairs being dragged about and voices raised and music mostly during their business hours and after 11pm. I believe noise was being sent to Epsom and Ewell council via an app.

The parking issues continue with the numerous members of staff.

Since my complaint to our Freeholder [REDACTED] has felt quite afraid on occasions as the restaurant staff come out and stand and stare at her, this is quite intimidating for a lone female.

I know that [REDACTED] and other neighbours have visited the restaurant since my email to ask for the noise level to end. [REDACTED] has telephoned them too, she can not go to bed until they have fully closed and moved items about in the restaurant.

I did contact the council some time back about the Flue that comes up from the shop via both flats above as it was rumoured it was not in use, the restaurant manager told me it was, I did ask Epsom and Ewell hygiene / environmental team to investigate. I do not know the outcome. It is rumoured that staff sleep in the restaurant.

I have sent this via my work email so I could attach the emails, I have added my own email for future correspondence.

Any questions do let me know.
Kind regards



Paul Holliday

From: karen james [REDACTED]
Sent: 13 December 2022 17:02
To: James Karen: [REDACTED] Karen James
Subject: Fwd: 364 Kingston road Kt19 0DT - restaurant

Sent from my iPhone

Begin forwarded message:

From: [REDACTED]
Date: 7 September 2022 at 10:16:56 BST
To: karen james [REDACTED]
Subject: Re: 364 Kingston road Kt19 0DT - restaurant

Good morning

I shall convey your complaint to the lessee and remind him of the terms of the lease. I trust this will have the desired effect.

Kind regards



----- Original Message -----

From: "karen james" [REDACTED]
To: [REDACTED]
Sent: Tuesday, 6 Sep, 2022 At 19:18
Subject: 364 Kingston road Kt19 0DT - restaurant

Hello

Are you able to let me know the conditions of the lease for the restaurant at 364 Kingston road please ?

It appears that many of the neighbours (including [REDACTED] in [REDACTED]) have constant battles over noise - music and the workers shouting at each other until approximately 1am on various nights , even Monday nights.

Plus the numerous cars in and out doing deliveries for the business.

I know they are running a business but can you ask them to be considerate to all neighbours with the noise.

Sometimes they turn the music down, after neighbours telephoning them or actually visiting the shop to ask them to stop.

They claim to conduct 'management meetings' after closing which results in loud voices until 1am

this is most nights.

They have on occasion blamed customers. Even after close of business.

It's alleged that immigration visit yearly to remove workers, it's alleged they sleep on the premises.

If you could check the leaseholder agreement and ask them not to do these things I think all residents will be happy, maybe asking them to sound proof the ceiling would help. If they are blaming customers then they need to put up a notice asking them to leave the premises quietly.

I am aware that some neighbours are logging matters with the council.

Many thanks

Kind regards

Karen



Sent from my iPhone



Paul Holliday

From: karen james [REDACTED]
Sent: 12 December 2022 20:22
To: James Karen: [REDACTED] ren James
Subject: Fwd: Noise complaint

Sent from my iPhone

Begin forwarded message:

From: [REDACTED]
Date: 20 September 2022 at 09:51:50 BST
To: karen james [REDACTED]
Subject: Re: Noise complaint

Good morning

Thank you for the update. The flats, whether leased or tenanted, do not have any parking rights.

Kind regards

[REDACTED]

----- Original Message -----

From: "karen james" [REDACTED]
To: [REDACTED]
Sent: Monday, 19 Sep, 2022 At 19:48
Subject: Re: Noise complaint

Thank you [REDACTED] for raising the issues with the restaurant, I have been told that it's now quite 'blissful' after 11pm. The other neighbours are also very happy.

[REDACTED] has had stares from the staff in the restaurant when parking her car in nearby. I have told her to take no notice.

[REDACTED] and the other neighbours will be monitoring the situation going forward.

Thank you
Kind regards
Karen

Sent from my iPhone

On 17 Sep 2022, at 10:34, [REDACTED] wrote:

Good morning

Here is my email to the restaurant owner and his response to the complaint.

Kind regards

John Bissell

----- Original Message -----

From: "Bay Leaves" <bayleavesewell@gmail.com>

To: [REDACTED]

Sent: Friday, 16 Sep, 2022 At 18:57

Subject: Re: Noise complaint

Hi [REDACTED]

Hope you are well.

Thank you for your email and bringing the residences concern to my attention. I can confirm that the allegations made by the resident at 364A are incorrect and have been exaggerated.

I can confirm as your long standing tenant that I have always kept to the lease and licensing terms and conditions and never played music or entertained customers in the premises after 11pm.

My staff leave the premises by 11pm once their shift is over.

I appreciate your concern with the various complaints and allegations made by the tenant at 364A, however I have no legal right outside of my premises to control what the customers do once they have left. My staff do not loiter out the back during business hours or after closing hours and therefore that is also a false claim.

As mentioned, I appreciate you bringing this to my attention and I will inform all my staff regarding this and will continue to adhere to our terms and conditions of our agreement.

Kind regards

Alom

On Thu, Sep 15, 2022 at 10:40 AM [REDACTED]

wrote:

Good morning Alom

I have received a lengthy complaint from 364A about noise from your premises and one which I am told is supported by other nearby residents. It concerns the following:

Disturbance by loud music coming from restaurant after closing time and often until 1 a.m Your lease prohibits use of a radio or creating other forms of noise after 11 pm.

Disturbance from customers and staff when dealing with off-premises takeaway collections at the rear of the premises. This must cease forthwith as it will be in conflict with other terms of the lease.

Finally, I shall be glad if you will ensure your restaurant customers leave the premises and walk away in a quiet fashion. Also that your staff do not sit outside the rear of the premises talking loudly in a manner that disturbs residents and other shopkeepers.

Thank you for your co-operation.

Kind regards

██████████



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Calverley Court

ESS

Bay Leaves
364 Kingston
Road KT19 0DT

368

Shelter

350 to 356

332

27.4m

TCB
417

407

405

Pinewood Place

397



164700

164600



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Immigration representation in support of an application for the review of a premises licence

On behalf of the Secretary of State, Home Office (Immigration Enforcement) makes representations in support of the following application for the review of a premises licence, relating to the prevention of crime and disorder objective, including the prevention of illegal working and immigration crime in licensed premises.

IE wishes to make representations on an application for a review of a premises licence.

Details of Premises:			
Premises Licence Holder:			
Mr Alom Hussain			
Name and Address of Premises:			
Bay Leaves Restaurant, 364, Kingston Road, Surrey			
Post Town:	Ewell	Post Code:	KT19 0DT

Representations are being made for the following reasons:

An Enforcement visit was conducted on 01/09/2022. One person was encountered with no right to work in the United Kingdom. A civil penalty for £10,000 was issued the business.

Immigration Enforcement previously visited the premises on 26/05/2016, where they encountered four persons with no right to work in the United Kingdom.

The business at the time of the visit was owned by Bayleaves (Gorment) Limited of which Mr Alom Hussain was the Director. A civil penalty of £60,000 was issued to the business for the employment of four persons with no right to work in the United Kingdom. The company was Dissolved on 18/05/2019.

Signatures

Signature of Responsible Authority

Home Office Immigration Enforcement

Date:

13/12/2022

Capacity:

**Responsible
Authority**

Details of Responsible Authority

Name and Address:

Home Office Immigration Enforcement
The Alcohol and LNR Licensing Team
40 Wellesley Road
Croydon
CR9 2BY

Email address
(optional):

alcohol@homeoffice.gov.uk

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Paul Holliday

Subject: FW: Application for a Licence Review - Bay Leaves Restaurant, 364, Kingston Road, Ewell, Surrey, KT19 0DT
Attachments: Bay Leaves Restaurant - Representation in Support of a Review.docx

Paul,

Surrey Police support the representation submitted by Immigration to review the Licence. I would like to comment by bringing to attention Section 11.28 of the 182 Licensing Guidance:

“11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. **Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.**”

As the main crime is around IE, Surrey Police have no representations other than a comment of support to revoke the licence.

Regards,

Jenny Billin
Licensing Enforcement Officer
Eastern Division
Surrey Police

Tel: 101 extension 38476
Office: 01483 638476
Mobile: 07967986441

Surrey Police
PO Box 101
Guildford
GU1 9PE
www.surrey.police.uk

LGBT+ Liaison Officer



Did you know that Surrey Police is on Twitter, Facebook, and other social media channels? Find out more: <http://www.surrey.police.uk/contact-us/social-media>

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Paul Holliday

From: Denise Quy [REDACTED]
Sent: 09 January 2023 22:01
To: Licensing
Subject: Bayleaves Ewell

We have been a customer of the Bayleaves for several years and they are a well respected restaurant in the community, we think that removal of their alcohol license would have a detrimental effect on its customers and a popular business in the community.

Kind regards

Denise & Peter Quy
[REDACTED]

Sent from my iPhone

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Paul Holliday

From: James Karen: [REDACTED]
Sent: 13 February 2023 16:02
To: Paul Holliday
Subject: RE: Update - Bay Leaves licence review: Action needed

Ok, thank you.

I wont be able to attend.

From: Paul Holliday <PHolliday@epsom-ewell.gov.uk>
Sent: 13 February 2023 15:58
To: James Karen: [REDACTED]
Subject: RE: Update - Bay Leaves licence review: Action needed

Dear Karen James,

The Licensing Sub-Committee will only be able to consider issues that relate to the impact of the licence on one of the licensing objectives (public safety, prevention of crime and disorder, protection of children from harm , and prevention of public nuisance). The problems you describe relating to parking and deliveries to the premises do not relate to the impact of the licence on the licensing objectives, and could not be considered by the sub-committee. The problems with noise could relate to the impact of the licence on the prevention of public nuisance, and the sub-committee would need to weigh up the evidence before them.

As you have not said you think a hearing is unnecessary, we shall proceed to a hearing. All the other interested parties have now agreed that a hearing is not necessary, so the hearing will be to consider your representation alone. I will advise the new licence holder accordingly, and their agent may contact you to see if they can give any assurance, or agree any additional measures, so that they may be resolved before the committee date. This potentially could involve them agreeing to new conditions on the licence, although they of course will want to weigh up the potential cost to the business.

Please can you advise whether you will be attending the hearing 2pm 24th February 2023?

Regards

Paul Holliday
Principal Licensing Officer
Epsom & Ewell Borough Council
Tel: 01372 732449
Email: pholliday@epsom-ewell.gov.uk

From: James Karen: [REDACTED]
Sent: 13 February 2023 15:12
To: Paul Holliday <PHolliday@epsom-ewell.gov.uk>
Subject: RE: Update - Bay Leaves licence review: Action needed

Dear Paul,

Thank you for the email and information.

I am led to believe that this pattern of change of ownership happened last time a case was raised (neighbour told us)

I would want assurances that noise, disruption and the inconsiderate parking of the employees of the restaurant, including the numerous delivery drivers are to be polite and considerate to all who live nearby. I will raise these via the Freeholder.

I am quite sure immigration will be back to check at some point.

The hours of trading need to be restricted due to the disturbance to all who live nearby. Would this form part of any hearing or do we raise these complaints via new owner.

Kind regards
Karen

From: Paul Holliday <PHolliday@epsom-ewell.gov.uk>
Sent: 13 February 2023 14:42
To: James Karen: [REDACTED]
Subject: RE: Update - Bay Leaves licence review: Action needed

Dear Karen James,

Can you please reply to this e-mail advising whether you agree with the police and the home office immigration officers that a hearing is no longer necessary, given the change of ownership as detailed below?

We are currently having to arrange a hearing when it appears the grounds have been removed along with the old owner, and the new owner will be unable to talk about problems at the premises before they became involved in the business.

If we do not hear from you we will have to assume you want the hearing to go ahead, and I will have to ask the new licence holder's agent to contact you to see what assurances they can give you that problems you have described will not occur.

Regards

From: Paul Holliday
Sent: 09 February 2023 13:14
To: James Karen: [REDACTED]
Subject: Update - Bay Leaves licence review: Action needed
Importance: High

Dear Karen James,

The Bay Leaves business has been sold to new owners. Evidence of this sale has been provided to the Home Office Immigration Enforcement, and they are satisfied the change of ownership is genuine, and that the previous licence holder will no longer be involved in the business and will not be found in the business premises at 364 Kingston Road, Ewell. As a result **the Home Office have withdrawn their application for review.**

However, before the hearing can be cancelled we require confirmation from all parties who have made representations that they agree that the hearing is no longer necessary.

As your representation appears to relate to the previous running of the premises, and the new licence holder would be unable to answer questions about how the business had operated under the previous management, we would suggest that the hearing is now no longer necessary. Should problem arise under the new management then a new application for review could be made.

Please can you reply to this e-mail confirming whether you agree that a hearing is no longer necessary? If you could please reply ASAP (preferably today) we may be able to avoid the need to publish the hearing papers unnecessarily.

Should you wish to discuss this development with me directly my phone number is 01372-732449.

Regards

Paul Holliday
Principal Licensing Officer
Epsom & Ewell Borough Council
Tel: 01372 732449
Email: pholliday@epsom-ewell.gov.uk



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