

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, Chief Inspector 10040 Andrew Somerville on behalf of the Chief Officer of Police

Apply for the review of a premises licence under Section 51 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 Gurkha Villa, 30 Bank Street, Ashford, Kent.	
Post town Ashford	Postcode (if known) TN23 1BA

Name of premises licence holder or club holding club premises certificate (if known)
Sukaa Ltd T/A Gurkha Villa

Number of premises licence or club premises certificate (if known)
AS/LN/020060064

Part 2 – Applicant Details

I am,

- | | Please tick yes |
|---|-------------------------------------|
| 1 An interested party (please complete (A) or (B) below) | |
| a) a person living in the vicinity of the premises | <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)

(A) Details of Individual Applicant (fill in as applicable)

Please tick

Mr Mrs Miss Ms Other title (eg, Rev)

Surname

First names

I am 18 years old or over

Please tick yes

**Current postal
address if different
from premises
address**

Post town

Post code

**Daytime contact telephone
number**

Email address (optional)

(A) Details of Other Applicant

Name and address

Telephone number (if any)

Email address (optional)

(B) Details of Responsible Authority Applicant

Kent Police Ashford Police Station Tufton Street Ashford Kent TN23 1BT
Telephone number (if any) 01233 896354
Email address (optional) 10699@kent.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 | X |
| 2 | Public safety | X |
| 3 | The prevention of public nuisance | |
| 4 | The protection of children from harm | |

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

The Prevention of Crime and Disorder and Public Safety

Incidents of crime and disorder at the venue coupled with multiple breaches of licensing conditions inhibiting Police investigations.

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

Overview: Kent Police are making this application for a review of the premises licence, in respect of the following licensing objectives: -

The Prevention of Crime and Disorder, Public Safety.

The Gurkha Villa is a single level Nepalese restaurant situated at 30 Bank Street, Ashford, Kent TN23 1BA. Prior to becoming a Restaurant the premises was a nightclub over two floors. The upper level has been adapted into a residential flat leaving the lower level open to the public. At that time of these alterations the Premises Licence was not altered to reflect this, many of the conditions within it, including drug, door staff and searching policies remained.

On entering the premises there is a tabled area to the front, a small bar area on the left hand side, tables and chairs running along the right hand side of the property with a staged area to the rear. Beyond that are kitchen and staff areas. Behind the bar there are stairs leading down to further storage areas, and the premises CCTV system. The premises are not members of any known Pub or Shop watch scheme. The Designated Premises Supervisor (DPS) is Mr Ananda Dewan.

The current premises Licence was issued on the 25/07/2016.

On Saturday 22nd April 2017 at 02:23 hours several calls were made to Kent Police in relation to 6/7 people smashing glasses within the venue. Within the initial report the informant states that there were only two staff members so it could not be controlled. A female was heard screaming in the background. The informant states the males are trying to harm people and cause trouble in the pub and goes on to say that they are all intoxicated. A Police patrol was dispatched and found that persons had started to disperse.

A member of the public contacted Kent Police at 0230 hours stating that "they were fighting" at the premises. A member of staff from the Gurkha Villa also contacted Kent Police stating that he had been assaulted by one of the males involved. Police stopped several persons nearby however no arrests could be made as the descriptions provided were not sufficient.

Four separate persons contacted Kent Police in relation to this incident, the reports ranged from an assault, glass being smashed to 20 persons fighting. The assault reported was on a member of staff whereby a glass was thrown and struck the victim on the head inside the restaurant causing a cut to the victim's ear, crime report ZY/15930/17 refers – this matter was not progressed due to lack of corroborating evidence. This incident also generated two further crime reports. An affray ZY/16051/17 – where the suspects could not be identified and it was not progressed as well as a Criminal damage to glassware ZY/16050/17 refers – The premises did not support a prosecution therefore the matter was not progressed. It was established that there had been a concert at the venue which resulted in intoxicated persons being involved in a disturbance.

On 3rd May 2017 Police and Council Licensing Officers conducted a follow up visit to the premises after the incident on the 22nd April 2017. Mr Dewan was not present however he was spoken to on the phone and a further meeting was arranged.

On 4th May 2017 Police and Council Licensing Officers attended the Gurkha Villa and met with the DPS Mr Ananda Dewan and the manager Mr Jitendra Chemjong to discuss the incident and assault on a member of staff. Mr Chemjong was present on the night of that incident and explained they had a live music event until 0200 hrs. Customers started to leave an argument started over payment of a bill. The argument escalated and a male threw glass at a member of staff. CCTV was not provided on the night as staff did not know how to use the equipment. After chasing the premises for CCTV on the 9th May 2017 Mr Chemjong confirmed on the 11th May 2017 that they were not able to provide footage. Police had to seize the hard drive to integrate it. This caused delays in the investigation. It was finally established that the hard drive held no information and had not been recording. Due to the lack of corroborating evidence the matter was not progressed.

On the 16th May 2017 Police attended the Gurkha Villa and spoke to Mr Chemjong. Mr Dewan was not present. Police advised that members of staff should be trained in the use of the CCTV. Kent Police raised concerns that the Gurkha Villa was not promoting the 'Prevention of Crime and Disorder' objective.

A number of conditions were not being adhered to – Concerns were raised that they were not supporting a prosecution, so they agreed to support. Unfortunately this made no difference to the final outcome. Police informed Mr Dewan that a Full Variation should be submitted to Ashford Borough Council by 22nd May 2017.

Ashford Borough Council Licensing department attempted to contact Mr Dewan on the 18th May 2017, 25th May 2017 and 2nd June 2017 in an attempt to rectify this issue. Mr Dewan finally responded and a meeting was set for the 12th June 2017. During the meeting, which was attended by Mr Dewan, Mr Chemjong, Police and Council Licensing Officers the full variation process was fully explained. Relevant and enforceable conditions were agreed by all parties. The application was then submitted on the 13th June 2017. Due to an objection, a hearing was scheduled for 1st August 2017. Mr Dewan nor the objector attended the hearing. Therefore it did not proceed. Following the failed hearing Police and Council Licensing Officers attended the Gurkha Villa. Mr Dewan was not present but was spoken to on the phone. He stated that he was waiting for paperwork clarifying details of the hearing but had not heard anything. The hearing papers were located at the restaurant. Mr Chemjong confirmed that Mr Dewan comes to the premises once a month or more if called. It was advised that a further application be submitted as soon as possible. A follow up letter was sent by Kent Police to Mr Dewan raising concerns that he was not the best person for the position of DPS given that for several weeks he was not present to collect business related post.

On 1st September 2017 the Gurkha Villa submitted a full variation to amend conditions on the premises licence. Information on the blue notice displayed at the premises showed incorrect timings to that on the application. Mr Dewan was informed that due to contravention of the application process, the application was considered void. Mr Dewan was advised to rectify the matter urgently given he was in contravention of his licence. He was advised to seek the services of a licensing practitioner/solicitor to assist him with the application.

On 15th December 2017 Ashford Borough Council forwarded correspondence from Worthington's Solicitors acting on behalf of Mr Dewan to Kent Police. The Council's views were sought in respect of the removal of conditions relating to Door Staff. Given that removal of door staff conditions related to the prevention of Crime and Disorder objective Kent Police responded.

Concerns were raised that Mr Dewan was not addressing issues with the entire Licence. The enquiry related to removing a few selective conditions concerning the restrictions on children and door staff at the venue. Police asked if the Gurkha Villa would be ceasing the live music concert events and return the venue to a restaurant only venue however this question was not answered. With this in mind Police asked – would customers be eating dinner so late on a Friday / Saturday night? Concerns were raised that if door staff were removed who would enforce conditions such as ensuring glass did not leave the premises. These points were not clarified by Mr Dewan.

On 15th January 2018 at 23:48 hours Kent Police received a call from the Gurkha Villa in relation to an intoxicated customer who became agitated after being

refused more alcohol. The male smashed the full length glass entrance door to the premises before leaving the area. This offence of criminal damage was recorded by Kent Police under reference number ZY/2768/18. It transpired that the male responsible was in fact that male that threw glass injuring staff in April 2017. This matter is still being investigated therefore no further information can be provided.

On the 16th January 2018 at 03:29 hours Kent Police received contact from Ashford Borough Councils CCTV operators. A suspicious incident was reported in that a male was seen outside the Gurkha Villa appearing to damage windows at the venue with an unknown implement – the premises were closed. Kent Police officers attended and found that every window pane to the front of the premises had been damaged. It appeared as though the side of a paving slab had been smashed into each panel. Officers located a male nearby who was arrested on suspicion of causing the criminal damage. The quality of the CCTV was not sufficient to identify the male; the arrested male was interviewed but denied the offence. It was decided that it was not cost effective to conduct forensic testing on samples obtained therefore the matter was not progressed.

On the 16th January 2018 at 13:30 hours Kent Police Licensing and Ashford Borough Council Licensing officers attended the Gurkha Villa. Mr Dewan was not present. Mr Chemjong was spoken to, he was not aware of the second incident of criminal damage as the premises was closed when it took place. Mr Chemjong was asked about the earlier damage to the entrance door, he explained that a customer wanted to drink more alcohol and became angry when he was refused. Then 4/5 minutes later they heard the glass smash. The damage was caused at around 23:30 to 23:45 hours. Mr Chemjong explained that the night of the 15th January 2018 was a normal evening at the venue. He stated they were serving food until 22:00 hours. Which is a breach of a condition on their premises licence which states:

Food is not served past 21:00 hours.

Kent Police required till receipts to be produced from 21:00 hours onwards on the 15th January 2018. Mr Chemjong was not able to do so. It appeared that he was not able to provide the information from the electronic till.

Paper hand written receipts were located behind the bar, it was explained that these were for cash payments only. The receipts which included sales of alcohol were not timed or dated. It was explained that only card payments went through the till.

On leaving the premises Kent Police required the Gurkha Villa to provide CCTV and all receipts from 21:00 hours until close. Mr Dewan was emailed providing him the details of the licensing visit and the requirement for receipts and CCTV. During the visit Mr Chemjong again confirmed that Mr Dewan attends the Gurkha Villa once a month. Mr Chemjong was not able to operate the CCTV system but said he would arrange a technician to come and look at it. The premises were told to provide the items requested by the end of the following day.

The following day Mr Chemjong attended Ashford Police Station and said he was having difficulties getting hold of a technician to access the CCTV, but he would continue trying to rectify this. He provided the hand written receipts which were

seen by police previously at the venue. No receipts showing payments by card were provided.

Mr Dewan emailed Kent Police on the 19th January 2018 stating Mr Chemjong has provided all cash payment receipts from 21:00 hours onwards on the 15th January 2018. He then explained that there was an issue with the CCTV hard drive, which had now been fixed. He apologised and stated he could not provide CCTV footage of the date requested.

On 18th January 2018 at 11:00 hours Kent Police conducted 'open source' enquiries on Social Media. The Gurkha Villa Facebook page showed several breaches specifically the serving of food after 2100 hours and children on the premises past 2100 hours. Although it may appear minor, it showed that the premises had been breaching conditions over a long period of time; attempts to advise and guide the premises have not made any difference to the running of the premises.

On the 23rd January 2018 Kent Police responded to Mr Dewan. He was thanked for providing the cash receipts and asked if he had any receipts covering card payments, and if so if he could provide them (these were not provided). He was advised that it was usual and best practise that receipts are timed and dated, so that it could be established when a transaction had taken place. Mr Dewan was informed that by not being able to produce CCTV of a crime at the venue he was yet again in breach of conditions. He was reminded that he was warned for a similar occurrence last year. The condition relating to CCTV states:

CCTV shall be installed to cover the access and egress of the premises. All cameras shall continually record whilst the premises are open to the public and the video recordings shall be kept available for a minimum of 28 days with time and date stamping. The Licence Holder shall ensure that suitable CCTV coverage is maintained within the two licensed areas and over the front entrance to the premises.

He was advised that all members of staff should be aware of the conditions and adhere to them.

A further licensing visit was conducted on 23rd January 2018 at 10:00 hours. Mr Dewan was not present. Mr Chemjong stated the premises now wanted to support a prosecution in relation to the ongoing investigation relating to the criminal damage to the entrance door which was welcomed.

Police were told that during the previous evening (22nd January 2018) there was a birthday party for a 5 or 6 year old, which involved 20 to 30 persons. There was singing and a food buffet which started at 18:00 hours and ended at 21:00 / 22:00 hours. CCTV showed that at 23:41 hours on the 22nd January 2018 the CCTV showed a member of staff pouring a pint of beer from one of the pumps. At the same time a young child is seen in the venue. Police asked Mr Chemjong how old he thought the child was, and he replied about 5 years of age, in breach of conditions. It was confirmed that the alcohol seen being poured was paid for at 00:10 hours on the 23rd January 2018. There was clear evidence of food being served. Police were informed that the serving of food ceased as 22:30 hours, again in breach of conditions.

Mr Chemjong was asked if he was the person in day to day control of the premises. He agreed that he was. He confirmed Mr Dewan attends monthly. He confirmed The Gurkha Villa does not use door staff at weekends but only one SIA member of door staff during events, contrary to licensing conditions which state:

**Door supervisors registered by the Security Industry Authority (SIA) shall be used on Friday and Saturday nights. And
A minimum of two door supervisors registered by the Security Industry Authority (SIA) shall be used on Friday and Saturday night**

Due to the breaches of conditions and an evidenced unauthorised alcohol sale Kent Police issued a 'Closure Notice'. The notice was left at the premises and a copy of it emailed directly to Mr Dewan. Within that email Kent Police recommended that Mr Dewan remove himself as DPS and the position passed to someone working at the premises, so that the ongoing situation could finally be rectified and no further offences or breaches committed.

On 29th January 2018 Kent Police received a 'minor variation' which was submitted by Worthington Solicitors on behalf of Mr Dewan. Kent Police made representations that the variation should have been a full variation and not a minor based on the fact that the alterations were capable of having an adverse impact on the licensing objectives. It was therefore rejected. Ashford Borough Council sent correspondence to Worthington's Solicitors informing them of this and recommended contact is made with Kent Police prior to submitting a further application. No further application has been seen nor discussed.

Given that a further application would be the fourth of its kind, Kent Police have little faith the process would be followed to a satisfactory conclusion. Ashford Borough Council and Kent Police have spent a disproportionate amount of time advising the premises; application instructions have not been followed. Members of staff have been unable to provide Police with footage from their own CCTV system, a number of conditions are regularly breached. These issues severely undermine the licensing objective of the prevention of crime and disorder and Public Safety.

On the 1st February 2018 Kent Police and Ashford Borough Council visited the Gurkha Villa. Mr Dewan was not present, Mr Chemjong was spoken to. Initially incorrect information was provided to him, in that as long as no alcohol sales took place children could enter, and food could be served past 21:00 hours. This was rectified on the 15th February 2018 via a telephone call and in writing.

The operational control at the premises is lacking. Mr Dewan has had more than enough time to rectify these concerns but has failed to grip the issues, leaving Mr Chemjong to manage the premises in contravention of the Premises Licence.

Recommendations:

The licence is revoked as compliance with conditions, advice and guidance from enforcement authorities is ignored. The DPS is not adequately supervising the premises nor promoting the licensing objectives.

Should it be decided not to revoke the licence, Mr Dewan should be removed as DPS. There is a lack of control at the premises when it comes to procedures for CCTV/training and compliance of conditions. Mr Dewan has another restaurant in Aldershot, and only attends Ashford once a month as described on several occasions by staff. Mr Dewan has not taken on board advice and guidance from the licensing authority and Kent Police. Police have previously recommended he remove himself from the position and instate someone more involved in the day to day operation of the premises, yet he continues to remain in post. Mr Dewan has not promoted the licensing objectives of 'Prevention of Crime and Disorder' nor 'Public Safety'.

Timings:

The Authorised Hours for licensable activities be reduced to 23:00hrs on a Monday, Tuesday, Wednesday and Thursday and 00:00hrs on a Friday, Saturday and Sunday.

The Opening hours (closing times) of the Premises be reduced to 23:30 hours on a Monday, Tuesday, Wednesday and Thursday and 00:30 hours on a Friday, Saturday, and Sunday.

Kent Police understand that the premises had wished to operate until 02:00 hours on a Friday/Saturday as per the previous variation submitted. They stated they wished to conduct live music events, and estimated this would be approximately six times a year. Kent Police believe that these can be achieved on temporary event notifications. The above timings are more in line with a premises that defines itself as "essentially a restaurant rather than a late night venue"

Non Standard Timings & Seasonal Variations:

To reflect timings more consistent to a restaurant Kent Police propose the times are altered from:

Bank Holiday Mondays: 11:00 to 03:00, Christmas Eve: 11:00 to 03:00, New Years Eve: 11:00 to 04:30

To

Bank Holiday Mondays: 11:00 to 01:00 hours, Christmas Eve: 11:00 to 01:00 hours.

New Year's Eve: 11:00 to 01:00 hours.

Proposed conditions:

Remove all current conditions which have been inherited from previous licence and propose new ones. Alcohol ON SALES only. Alter timings to those more suitable to a restaurant.

Inclusion of the following conditions:

Prevention of crime and disorder:

1. CCTV system will be installed at the premises and maintained in good and efficient working order to the satisfaction of both the licensing authority and

Kent Police. The system will be operated by trained staff, be in operation at all times that the premises are being used for any licensable activity. Ensure coverage of entrances and exits to the licensed premises, internally and externally. Provide continuous recording facilities for each camera to a good standard and clarity. Recordings will be retained (on disc or otherwise) for 30 days and will be supplied to the licensing authority or Police Officer on request.

2. The licence holder will ensure that an incident record is maintained at the premises and that all staff will be trained in its use. This will be bound and clearly marked with the following information:

Time and date of incident

Full description of the incident

Description/names of any persons involved in the incident

Actions taken by any staff member

Details of all staff present at time of incident.

Name of staff member making the entry/time of entry.

3. The licence Holder will ensure that staff are fully trained in responsible sales of alcohol (BIIAB or equivalent) and that training records are kept.
4. The Licence Holder shall ensure appropriate numbers of staff are on duty to monitor for crime & disorder. Such staff are to be trained as appropriate to promote the prevention of crime & disorder objective.
5. Intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and as an ancillary to the meal.
6. Anyone leaving the premises will not be permitted to remove, or take with them, open bottles or open containers of any kind that contain or have contained beverages of any type

Public Safety:

7. A minimum of two SIA licensed door supervisors to be present at the premises for any organised, ticketed or advertised event as defined by the Licensing Authority/Kent Police.
SIA registered door staff will remain until everyone has left the building and immediate vicinity.

The prevention of public nuisance:

8. The licence holder will ensure, where necessary that noise from the premises is monitored and any concerns are addressed immediately.

Protection of Children from Harm:

9. Children to be accompanied by an appropriate adult in the restaurant at all times.

Please tick yes

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

If yes, please state the date of that application

Day Month Year

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


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- | | Please
yes | tick |
|---|---------------|------|
| • 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 | X | X |
| • 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 (see guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature  Date 01/03/2018
CI 10040

CH/INSP Somerville

Capacity –

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)	
PC 10699 PRINGLE Ashford Police Station Tufton Street	
Post town Ashford	Postcode TN23 1BT
Telephone number (if any) 01233 896354	
If you would prefer us to correspond with you using an email address, please provide your email address (optional) 10699@kent.pnn.police.uk	

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.