

Rother District Council  
DECISION NO: WK201715686

**GENERAL LICENSING PANEL  
DECISION NOTICE**

**Date of General Licensing Panel Meeting: 29 May 2018**

Venue: Town Hall, Bexhill-on-Sea

Date of Decision: 29 May 2018

<b>NAME AND ADDRESS OF PREMISES:</b>	The Chilli Tree Asian Cuisine, 1 King Offa Way, Bexhill-on-Sea
<b>NAME(S) OF APPLICANT:</b>	Rother District Council (the Licensing Authority)
<b>REASON(S) FOR REPORT:</b>	The report had been made on the grounds of the failure of the Premises Licence Holder to uphold the 'prevention of crime and disorder' and the 'protection of children from harm' licensing objectives.
<b>DECISION MADE:</b>	The premises licence be revoked.

**DECISION MADE AND REASONS FOR IT:**

The Members were asked to consider a Review Application from The Licensing Authority for the Premises Licence for The Chilli Tree Asian Cuisine, 1 King Offa Way, Bexhill on Sea. The licence is held by The Chilli Tree Asian Cuisine Ltd and the sole Director and current Designated Premises Supervisor is Mr Saleh Uddin. The Members had been provided with a large bundle of evidence that included extensive Police and Immigration Service statements and information concerning enforcement inspections undertaken at the premises between October 2017 and January 2018. In considering the case the Members also had regard to the Council's Statement of Licensing Policy and the Secretary of State's S.182 Guidance, in particular the section on Reviews.

Prior to the hearing itself, the Premises Licence Holder (PLH) Mr Saleh Uddin had been formally requested, by notice, to supply copies of any evidence he wished to place before the Members at the hearing at least three working days prior to the hearing. Additionally he was required, by notice, to supply the names and relevance of any witnesses he intended to present at the hearing. He did not respond to these notices prior to the hearing.

On the morning of the hearing the PLH attended with a bundle of documents that he wished the Members to consider. He stated he had delivered one copy to one of the Members, but not the other two Members, nor had the Council itself received any copies. The Member on whom he said it had been delivered had not received the papers in readiness for the hearing. He was informed that at such late notice these documents could only be permitted with the consent of all the parties to the hearing. These document included guidance on the conduct of members, the codes of practice for Immigration Officers inspecting premises, The House of Lords Select

Committee Report on the work of the Immigration Service, extracts from the House of Lords library on Separation of Powers, press cuttings relating to individuals not connected to the premises under review, and matters relating to taxi licensing on the fit and properness of applicants. The Members considered the material and decided that none of the material was relevant for the detailed purposes of the review hearing.

In making their application the Licensing Authority provided details of two specific operations that had taken place at the premises. The first operation led by Sussex Police took place on 18 October 2017 as a targeted inspection under 'Operation Discovery'. This Team was set up to tackle Modern Slavery by identifying premises that were suspected of employing illegal workers under immigration laws. Where concerns were identified at premises, the Police shared the intelligence gathered from these operations with supporting agencies, including licensing authorities, in order to facilitate enforcement action to take away the venues that facilitated illegal workers. The ethos of the operation was very much to break the chain of trafficking and prevent establishments harbouring modern slavery. The initial operation at the premises found three illegal immigrants working at the premises. Statements taken at the time by Sussex Police record the PLH confirming that all three worked for him, a fact he later attempted to reverse at the hearing. The statements also confirmed that some were being paid, others were not but were being paid their legal costs in their immigration cases, others had their student fees paid; and that ID documents were said, by the immigrant workers, to be held by the PLH.

Given the results of the Police operation the Home Office Immigration Service arranged to re-inspect the premises on 27 January 2018. Evidence provided by the immigration officers in statements, and in person at the hearing, confirmed that two illegal immigrants were found to be working at the premises. One of the two immigrants was the same individual found working in October. Documentation seen by the officers from the two clearly stated that they were not permitted to work in the UK. When questioned by Immigration Officers they stated their documentation had not been checked by the PLH. It was stated by the officers that the Home Office had issued a Penalty Notice against the PLH for £10,000 for the offences but this was subject to a challenge by the PLH.

Also present at this inspection was a Licensing Officer from the Council who reported that behind the bar of the premises was a school girl who was 15 years old. Subsequent checks with East Sussex County Council established that no Child Employment Licence had been obtained for the employment of the child as required by The Children and Young Persons Act 1933. It was stated that the PLH obtained the licence some six weeks later. Members were given a sense that he thought the only legislation that applied to his whole business was the LA2003 and had little regard for other relevant legislation.

The Members asked a series of questions of the Police and Immigration Officers and the Council officer to clarify matters, and the PLH was invited to ask any questions of these officers to clarify any issues, but he said he had no questions to ask.

The Members were then addressed by the PLH. In his submissions he sought to discredit the two inspections raising questions about the legal authority to enter his premises citing several of the documents that the parties had refused to permit at the beginning of the hearing. He disputed that the 15 year old girl was committing an offence under the Licensing Act 2003, despite there being no allegation in the review application that she was, and he refused to accept that the complaint of the Licensing Authority was that he had failed to obtain a licence for her to work. He

stated that the 2003 Act did not require her to have a licence as justification for not obtaining the licence. Later in his submissions he did acknowledge he had not been aware he needed such a licence and accepted now he should have done. He stated he had done everything he could afterwards to obtain the licence, details of which were within the report stating he had obtained the licence nearly 6 weeks after the second inspection.

In relation to the serious nature of reports of illegal workers being found at the premises, in summary he stated they were not working at the premises and that they were either living there or were students. He stated he supported their studies and that he had never taken custody of ID documents, despite the statements within the report. He insisted he carried out appropriate checks on immigration documents and that in these five cases they had not shown him all their documents, suggesting they had withheld those documents that suggested they had no right to work. He stated that statements taken by the Police and Immigration Officers could have been inaccurate as the spoken English of the individuals was poor. The Police confirmed that in questioning workers the Police used simple plain English, and where there was any doubt that there may be difficulty in understanding they used an interpretation service to translate the questions into the workers Mother tongue. The PLH again repeated that the documents he had seen for the individuals had all been in order despite what was set out in the Police and Immigration evidence.

The Members asked a series of questions of the PLH to understand the management arrangements of the premises and to understand the process of checks that were carried out. The PLH was asked whether he had made any changes since the inspections and he stated that from now on he would look to changing the management of the process. The Members repeated what changes had been put in place already but the PLH could not state any changes had been made. He was asked what he paid his staff. He stated he paid his waitresses £5 per hour but could not state what he paid his kitchen staff as he claimed he supported their studies and travel and therefore there was no hourly rate.

The Members were asked to consider whether on the evidence they had read and heard at the hearing, they considered that the licensing objectives were being undermined by the premises, and if so, what appropriate actions should be considered. The Members were satisfied on balance that the evidence provided by Police, Immigration and Council Officers was compelling in depicting a premises that had little, if any, solid management to ensure that the licensing objectives were being upheld. They were satisfied on balance that illegal workers had been discovered at the premises on two occasions, and were alarmed to be told that no measures had been put in place after the initial inspection in October 2017 to prevent further breaches. The fact that one individual was caught working at the premises at both inspections demonstrated a total disregard for the immigration process and seriously undermined the crime and disorder objective. The Members were satisfied that the PLH's account of the period between October 17 and January 18 was not reliable and statements he made to the Members at the hearing contradicted statements he had made at the time of the inspections. The Members found his statements unreliable and the lack of any relevant documented evidence of any changes to the culture of his premises was disturbing given the serious nature of the case before him. The Members were satisfied that information on simple immigration checks was easily accessible on the Home Office website. They were satisfied that the PLH ability to use the web had been demonstrated by the volume of material he had downloaded to bring to the hearing and that there was no excuse for not carrying out the basic checks required by the immigration legislation.

On the matter of the Child Employment Licence, the Members were satisfied that information on how to apply was easily accessible through the County Council and that ignorance of the safety measure that this licensing regime sought to uphold had been undermined by the inaction of the PLH. Despite being advised by officers to obtain a licence it still took the PLH 6 weeks to obtain the licence. The Members were satisfied that such ignorance and delay in applying for the required licence had undermined the licensing objective of protecting children from harm.

The Members were satisfied these failings were attributable to the poor management by the PLH. They were satisfied on balance that the PLH had ignored advice from Police, Immigration and Council officers that were intended to help the PLH to operate within the perimeters of the licensing objectives. The Members were equally satisfied that the PLH appeared to be in total denial of the offences reported within the report and were astounded at his apparent belief that overwhelming evidence could simply be dismissed without any supported evidence to challenge the statements. This attitude caused Members to have serious concerns at the PLH ability to uphold the Licensing Objectives owing to his refusal to accept any wrongdoing on his part. The Members considered whether the imposition of further conditions or the imposition of a period of suspension could achieve a change in the mind-set and culture of the premises and the PLH, but they were satisfied on the evidence they had heard and seen at the hearing itself, that the objectives were likely to be undermined in the future. Accordingly the Members accepted on balance that the appropriate decision was to revoke the premises licence. The Members were satisfied that this decision was the only appropriate sanction in this case and that in addition it would act as a deterrent to any other premises in the area who may be considering employing immigrants with no right to work.

A written or electronic copy of this Notice will be publicly available to all parties, and published on the Council's website.

All,

Attached is a screen shot from our Civil Penalty System detailing the penalty issued against Mr Uddin.

The attached confirms that the £10,000 penalty is live but unpaid. \*

There is a court appeal outstanding that has been lodged.

No date set for the hearing.

If you need further details, then please let me know.

Kind Regards

**Luke Dartnall**  
**HM Inspector**  
*Immigration Enforcement*  
*Home Office*



**Immigration  
Enforcement**

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Number	Seq	Class	Days Late	Due Date	Currency	Original	Balance Due	Status	Comments
CPCT14380/RPI	1	Invoice	15	12 JUN 2018	GBP	10,000.00	10,000.00	Open	

Cumulative Balances

Total Balances	10,000.00	10,000.00
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- Dispute History
- Dunning History
- Call
- Adjust
- Transaction Overview
- Balances
- Activities
- Details

