

Our Reference: CG/GH

Date: 29th November 2024

Private & Confidential

Idris Khan



5a

Carlo Grilli
CLERK OF THE LICENSING BOARD

John Muir House
Haddington
East Lothian
EH41 3HA
licensing@eastlothian.gov.uk

Dear Sir/Madam

**LICENSING (SCOTLAND) ACT 2005 – SECTION 37(1)
NOTIFICATION OF PREMISE REVIEW HEARING
IDRIS KHAN, EL0199, SHISH MAHAL, 63A HIGH STREET, MUSSELBURGH, EH21 7BZ**

The Review Hearing was heard at the Licensing Board on **Thursday 28th November, 2024.**

The decision at the meeting was to continue the hearing until the East Lothian Licensing Board on **Thursday 30th January 2025**. The Licensing Board Members have requested that **you must attend in person.**

An Agenda will follow in due course.

Yours faithfully

Carlo Grilli
Clerk to the Licensing Board

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EAST LoTHIAN COUNCIL

Licensing Standards

From: Licensing Standards Officer

To: C. Grilli
Clerk to the Licensing Board

Date: 8th November 2024

Subject: LICENSING (SCOTLAND) ACT 2005

PREMISES LICENCE REVIEW

EL0199, SHISH MAHAL, 63A HIGH STREET, MUSSELBURGH, EAST LoTHIAN EH21 7BZ

On 4th November 2024, I received intimation under Section 38(3)(b) of the licensing (Scotland) Act 2005 of the intention of the Licensing Board to review the Premises Licence in respect of the above premises for nonpayment of the annual fee.

In terms of Section 38(4) of the Act, I have prepared this report outlining information relevant to the review for the consideration of Licensing Board Members.

Licensing Standards Officer

Premises Licence Review

Shish Mahal
63A High Street, Musselburgh, East Lothian EH21 7BZ

Licensing Board 28th November 2024

Licensing Standards Officer's Report

In 2009 Idris Khan was granted a Premises Licence in respect of the above on conversion from the 1976 Act.

The premises manager named on the licence is Inam Khan.

On 1st August 2024, the Clerk to the East Lothian Licensing Board wrote to all Premises Licence Holders advising of the Annual Fee due in respect of their licence, requesting payment by 1st October 2024. It was intimated at this time that payment was a mandatory condition of the Premises Licence, in terms of Section 27(1) of the Licensing (Scotland) Act 2005 and failure to pay may be treated as a breach of Premises Licence. Details of payment methods were included in this letter.

On 8th October 2024, the Clerk to the Board sent additional reminder letters to the premises address. No response was received.

By 30th October 2024, payment of the mandatory annual fee had still not been made. I hand delivered a further reminder for payment from the Clerk to the Board to the premises address and posted it through the door. The premises was not open at this time.

The letter gave a further reminder that the mandatory annual fee had not been paid. As this was a breach of a condition of their Premises Licence, payment of the outstanding fee was required by 1st November 2024, and the premises licence holder may be required to appear at the Licensing Board on 28th November 2024, to explain the reason for the stated breach of premises licence.

On 4th November 2024, the Board resolved to review all premises licences that had failed to pay the annual fee under Section 37(1) of the Licensing (Scotland) Act 2005. I received intimation of this proposal and produced this report.

On 4th November I received a phone call from Mr Khan, premises licence holder and explained the situation and the requirement to pay the fee. He said he would pay, and I gave him details on how to do this. I reminded him that the annual fee is due every year by 1st October and late payment was not acceptable. I informed him that late payment has resulted in follow up by Licensing Officers and visits by the Licensing Standards Officers and this has occurred every year since 2012. I explained the Licensing Board may review the premises licence and that he would be requested to attend the Licensing Board hearing.

On 5th November 2024, payment of the premises licence annual fee was received. This was 35 days late.

Since 2012 the premises licence annual fee has been paid after 1st October (late) on the following dates:

09/10/2012
24/10/2013
03/10/2014
07/10/2015
07/10/2016
03/10/2017
03/10/2018
11/10/2019
06/10/2020
06/10/2021
10/10/2022
27/10/2023
05/11/2024

Each year the payment of the annual fee has been chased by Licensing Officers and the Licensing Standards Officer.

Licensing Board's Powers on Review

Licensing (Scotland) 2005 Section 39 (1) At a review hearing in relation to any premises licence, the Licensing Board may, if satisfied that a ground for review is established (whether or not on the basis of any circumstances alleged in the premises licence review proposal or application considered at the hearing) take such of the steps mentioned in subsection (2) as the Board considers necessary or appropriate for the purposes of any of the licensing objectives.

(2) Those steps are—

(a) to issue a written warning to the licence holder,

(b) to make a variation of the licence,

(c) to suspend the licence for such period as the Board may determine,

(d) to revoke the licence.

(3) On making a variation under subsection (2)(b), the Board may provide for the variation to apply only for such period as they may determine.

Licensing Standards Officer