

Licensing Section, Town Hall, Crawley, West Sussex, RH10 1UZ

## 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.

on behalf of Crawley Borough Council Licensing Authority (Insert

name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as appropriate)

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23/02 Part 2	er of premises licence or club premises certificate (if known) 900/LAPRE – Applicant details	Please tick <b>√</b> y
23/02 Part 2	900/LAPRE  - Applicant details	Please tick <b>√</b> y
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23/02 Part 2 - I am 1) a)	an interested party (please complete (A) or (B) below) a person living in the vicinity of the premises	
23/02 Part 2 I am 1) a) b)	an interested party (please complete (A) or (B) below) a person living in the vicinity of the premises a body representing persons living in the vicinity of the premises	

Surname    First names	3)	a member of the club complete (A) below)	to which this appli-	cation relates (ple	ease □
Surname    First names	(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)				
Please tick Vyes  I am 18 years old or over  Current Address  Post Town  Post Code  Daytime contact telephone number  Email address (optional)  (B) DETAILS OF OTHER APPLICANT  Name and address  Crawley Borough Council (being the relevant licensing authority, s.13(4)(za) of the Licensing Act 2003)  Licensing Act 2003)  Licensing Section  Town Hall  The Boulevard  Crawley West Sussex  RH10 1UZ	Mr 🗆	Mrs 🗆	Miss	Ms $\square$	Other title (for example, Rev)
Telephone number (if any)  Email (optional)  (C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT  Name and address  Crawley Borough Council (being the relevant licensing authority, s.13(4)(za) of the Licensing Section Town Hall The Boulevard Crawley West Sussex RH10 1UZ	Surnam	e		First name	es
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licensing@crawley.gov.uk	
iiceiisiiid@ciawiev.dov.uk	

This application to review relates to the following licensing objective(s)

		Please tick one or more boxes Y
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	X

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

The premises has failed to promote the following Licensing Objectives under the Licensing Act 2003 and has not heeded the advice, warnings and guidance afforded to them on a repeated basis in relation to compliance with the Licensing Act 2003, premises licence conditions and compliance with the Smoke Free (Premises and Enforcement) Regulations 2006.

It is the view of the Licensing Authority that the premises is failing to promote the following Licensing Objectives:

The prevention of crime and disorder The premises has repeatedly breached its premises licence conditions contrary to the Licensing Act 2003 and the Premises Licence Holder/Designated Premises Supervisor has both smoked in a smokefree premises and as the person in operational control, has permitted the smoking of shisha by others in an enclosed and/or substantially enclosed premises which is both a workplace and area to which the public have access contrary to the Health Act 2006, and related Smokefree Regulations, including the Smokefree (Enforcement and Premises) Regulations 2006

<u>The protection of children from harm</u> Children are permitted unrestricted access to a premises where licence conditions are being breached and smoking is taking place in a

### Public Safety As above

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

On the 8<sup>th</sup> September 2023, Crawley Borough Council, as the Licensing Authority, received an Application for a new Premises Licence, in respect of "Mon Ami" at 20 Broadwalk, Northgate, Crawley, West Sussex, RH10 1HQ.

The application was submitted by a licensing consultant, on behalf of the individual applicant, of 18B Broad Walk, Crawley, West Sussex, RH10 1HQ.

The Operating Schedule that formed a part of the application, described the premises as, "Mon Ami Lounge is a forthcoming cafe/bistro that will feature a diverse menu including burgers, flatbread pizzas, fish, and various other culinary delights".

The application specified the proposed trading hours as 07:00 hours until 23:00 hours on Sunday through to Wednesday, and 07:00 hours to 01:00 hours on Thursday through to Saturday.

The application also sought to authorise the licensable activity "Supply of Alcohol" 11:00 hours - 22:30 hours Sunday to Wednesday, and between 11:00 hours to 00:30 hours the following day Thursday to Saturday.

It also sought to authorise the licensable activity "Late night refreshment" (hot food) between 23:00 hours and 01:00 hours, Thursday to Saturday.

On the 27<sup>th</sup> September 2023, Sussex Police, in their capacity as a Responsible Authority under the Licensing Act 2003, submitted a representation to the application for a new Premises Licence on the grounds of the Prevention of Crime and Disorder, and the Protection of Children from Harm Licensing Objectives. In their representation, Sussex Police recommended a number of licence conditions be attached to the Premises Licence in order to promote the Licensing Objectives. A copy of this representation is included at **Appendix A**.

The second proposed condition in the Police representation stated that "The sale, supply, and consumption of alcohol on the premises, shall be restricted to patrons seated at tables, and ancillary to them partaking of a table meal."

On the 4<sup>th</sup> October, the then Licensing Consultant for the applicant, and the confirmed via email that the applicant, agreed to the conditions proposed by Sussex Police. A copy of this email is included at **Appendix B**.

The Premises Licence issued under the Licensing Act 2003 was granted on the 7<sup>th</sup> October 2023, with the agreed conditions and a layout plan, including condition numbered 2 on the Premises Licence stating that "the sale, supply, and consumption of alcohol on the premises, shall be restricted to patrons seated at tables, and ancillary to them partaking of a table meal". A copy of this is included at **Appendix C**.

On the social media pages of the premises, Mon Ami indicated that it intended to open on 13<sup>th</sup> October 2023 as a "Grand Opening" and thereafter had commenced trading.

On 3<sup>rd</sup> November 2023, Food Inspector, visited the premises, which was open and trading, with a view to carrying out a food inspection but noted that the premises was not ready to offer food. A copy of this email is included at **Appendix D**.

Earlier in the day on 17<sup>th</sup> November 2023, as part of routine licensing checks, publicly available social media posts displayed by Mon Ami, 20 Broadwalk, Northgate, Crawley, West Sussex, RH10 1HQ, were viewed by Council Authorised Officers. These showed customers smoking Shisha inside the premises at the rear and apparently consuming alcoholic drinks without any table meals visible or in evidence. The only food seen was a single plate of fruit. Screenshots of social media sites taken at the time to support these observations are included at **Appendix E.** 

At 14:52 hours on 17<sup>th</sup> November 2023, Senior Licensing Officer visited the premises, and spoke to the Premises Licence Holder / Designated Premises Supervisor (DPS), the person through whom all alcohol sales are authorised, who on arrival was smoking Shisha from a Shisha pipe in the rear of the premises.

Another person was also seen to be smoking Shisha from a Shisha Pipe in the rear of premises, specifically in the area resembling a conservatory with 4 walls, and a roof, a rear door and windows, which at the time of the visit were closed. formed the view that the premises was a smokefree premises, being that it was open to the public and people were seen working in the premises and that the smoking of shisha and other tobacco products should not be taking place. He also determined that at the time of the visit, no windows or doors were open, that the premises was substantially enclosed, and that offences were being committed under the Smokefree Regulations.

Under the Smokefree (Premises and Vehicles) Regulations 2006 the smoking of shisha and tobacco products is not permitted in premises that are enclosed or substantially enclosed. Smoke free Regulations were made using powers under the Health Act 2006 and means that smoking is not permitted in a premises which is open to the public (a public place) and/or a workplace which is enclosed or substantially enclosed public places or workplaces and that "No Smoking" signage should be displayed to indicate this. The law is enforced by Local Authorities.

### The Smoke-free (Premises and Enforcement) Regulations 2006 (legislation.gov.uk)

Enclosed and substantially enclosed premises.

2.—(1) For the purposes of section 2 of the Act, premises are enclosed if they—

(a)have a ceiling or roof; and

(b)except for doors, windows and passageways, are wholly enclosed either permanently or temporarily.

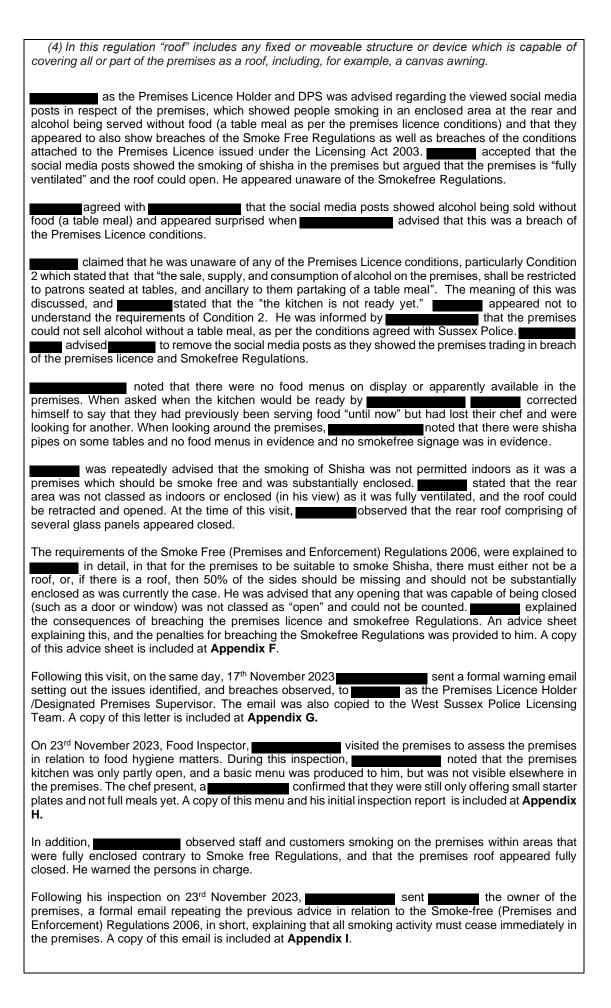
(2) For the purposes of section 2 of the Act, premises are substantially enclosed if they have a ceiling or roof but there is—

(a)an opening in the walls; or

(b)an aggregate area of openings in the walls,

which is less than half of the area of the walls, including other structures that serve the purpose of walls and constitute the perimeter of the premises.

(3) In determining the area of an opening or an aggregate area of openings for the purposes of paragraph (2), no account is to be taken of openings in which there are doors, windows or other fittings that can be opened or shut.



At 20:15 hours on 1<sup>st</sup> December 2023, Senior Licensing Officer and Health, Safety and Licensing Manager for Crawley Borough Council, visited the premises to confirm that licensable activity was being carried on in accordance with the premises licence (Section 179, Licensing Act 2003). The visit was captured on Body Worn Camera.

The following matters were initially observed:

- All parts of the premises were substantially enclosed, including the roof.
- The premises was open to the public as a licensed premises, and also operating as a workplace.
- In the window at the entrance of the premises, only advertising material relating to alcoholic beverages, including cocktails was seen, with no reference to the need for such to be with a table meal, nor was there a food menu on display. The display board on the Highway outside of the premises stated "Mon Ami Cocktail Bar, 241 Cocktails".
- No menus (food or otherwise) were seen on display in the premises nor on any table in the premises.
- Only alcoholic and non-alcoholic beverage, and shisha menus were seen in the vicinity of the bar, and these included prices.
- Whilst the kitchen was illuminated, no food preparation appeared to be taking place. stated that they didn't have a chef on duty, but a person was preparing "snacks only," such as fruit plates.
- Shisha was being smoked, using shisha pipes, in the rear of the premises.
- The roof to the rear of the premises was entirely closed.

During the visit, a number of persons present in the rear of the premises were seen to be smoking Shisha via shisha pipes. Alcoholic drinks were also seen being consumed by customers, without any food or table meals being taken as required by Condition 2 of the Premises Licence. Some "snack plates" in the form of a small plate of humous and flat bread, and fruit platters appeared to have been served to customers.

Customers were spoken to regarding the smoking of shisha in the premises, the flavour of the Shisha being smoked, and to confirm what they were drinking. This included alcoholic beverages without a table meal, in breach of the premises licence conditions.

as the Premises Licence Holder and Designated Premises Supervisor was present along with the owner of the premises Both were spoken to regarding the clear breaches of the Smoke Free regulations, and the breaches of the condition attached to the Premises Licence. The owner explained that their chef had left them, and that they had a new helper/chef who was serving snacks only.

It was noted that there were no food menus available in the premises on display, and none were available when requested by Officers with stating that they were "still being worked on" and not available. He admitted that no table meals were available, only snacks.

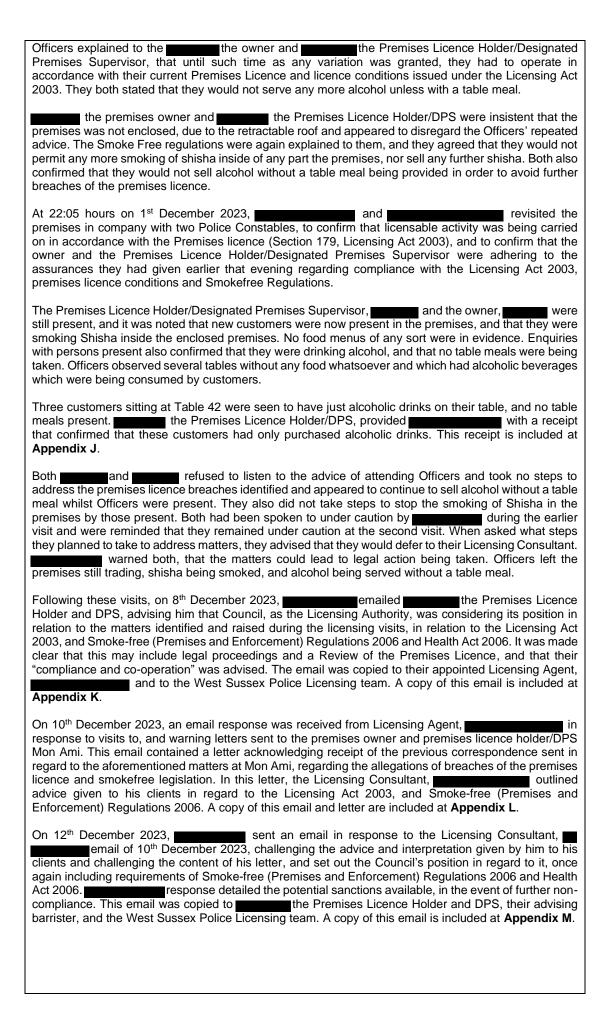
the owner, explained that they had been unaware of the conditions agreed with Sussex Police, and that their former Licensing Agent had not informed them of requirement for customers to have a table meal to be able to consume alcohol, and that they could not simply have alcohol by itself or without the benefit of a table meal. He further explained that they had subsequently appointed a local Licensing Agent to act on their behalf, and that they had applied for a variation of the premises licence, to amend conditions, to allow for the sale and supply of alcohol without food. It was observed that the premises licence variation application site notice was displayed in the window of premises.

The current premises licence specifies the following (as well as other licence conditions to which this review relates)

"The sale, supply, and consumption of alcohol on the premises, shall be restricted to patrons seated at tables, and ancillary to them partaking of a table meal."

The application to vary the premises licence seeks to release this and other licence conditions:

- 1. To modify existing condition in Annex 2 Condition 2: "The sale, supply, and consumption of alcohol on the premises, shall be restricted to patrons seated at tables, and ancillary to them partaking of a table meal" to read, "The sale, supply, and consumption of alcohol on the premises, shall be restricted to patrons seated at tables, service will be by waiter/ess only."
- 2. To add Condition There is to be no Vertical drinking permitted, food will be available throughout the time that alcohol is being served.



A further visit was carried to the premises on 21st December 2023 in the early evening by Senior Licensing Officer as part of routine licensing checks. The visit was and captured on Body Worn Camera. Prior to entering the premises, on the window, there was a variety of information including an alcoholic and non-alcoholic drinks menu, but no food menu or smoke free signage visible. On entering the premises, no menus of any sort were seen on the front tables. The Premises Licence Holder, and his relative were present and showed where the new menus were in place, located adjacent to the kitchen. They were advised to display the availability of food in a more prominent location given that alcohol should only be sold as ancillary to a table meal. On going to the rear of the premises, an area Officers considered to be substantially enclosed, a number of people were seen to be smoking shisha, and confirmed when asked by Officers that this was the case. Customers were also seen consuming food and drinking alcohol. When asked, I demonstrated with till records, that alcohol had been sold with food. It was noted by that there had been some changes to the roof in the rear part of the premises, but it still comprised of 4 walls, retractable windows and a new metal frame/roof structure appeared to be in place. the DPS and Premises Licence Holder again that this was contrary to enclosed and advised the Smokefree Regulations. However, both men disputed this and challenged the right of being in the premises, further that she should not be engaging with customers. explained her remit and that engaging with customers was standard practice in order to check compliance and provide reassurance. and his brother accepted that the front of premises was substantially enclosed, but not at the rear of the premises and challenged assertion that the premises was substantially enclosed as they had spoken to "Building Control and been to London to see shisha places", stating that shisha and smoking was allowed in the rear part of the premises and that they would not be taking steps to stop people smoking in the premises. The DPS/Premises Licence Holder was cautioned

2 small no smoking stickers were pointed out to the Officers adjacent to the entrance of the premises and adjacent to the bar, but these were not immediately obvious to Officers and therefore members of the public may not be able to see them, and recommended that there should be more prominent signage at the point of entry and in other locations in the premises in the front and rear parts of the premises being entirely or substantially enclosed to inform that the area is smokefree and smoking is not permitted.

The Local Authority is a Responsible Authority under the Licensing Act 2003 and submits this review application. The Premises Licence Holder/DPS has demonstrated that they have repeatedly failed to comply with premises licence conditions and persistently breached Smokefree law and regulations and have failed to act upon repeated advice afforded to them by Officers.

The Authority is not satisfied that the following Licensing Objectives:

- The prevention of crime and disorder
- Public safety

and continued to debate the point.

The protection of children from harm

are being promoted and that it has no confidence in the management, that the premises will comply with the requirements of the Licensing Act 2003, Smokefree Regulations, nor other regulatory requirements. The Licensing Sub Committee is invited therefore to:

- Refuse to specify, and remove as the Designated Premises Supervisor (DPS).
- Suspend the premises licence for not less than 14 days to allow for all staff to be re-trained as
  to their obligations under the Licensing Act 2003 and to ensure compliance with all regulatory
  regimes including smokefree matters.

# Have you made an application for review relating to this premises before If yes, please state the date of that application Day Month Year If you have made representations before relating to this premises please state what they were and when you made them

Not applicable

Please tick Y if yes

•	I have sent copies of this form and enclosur and the premises licence holder or club hold as appropriate	사용하는 1xm		
•	I understand that if I do not comply with the will be rejected	above requirements my application		
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	3)		
	re of applicant or applicant's solicitor or of If signing on behalf of the applicant pleas		read guidance	
Signatur	e			
Date	22 <sup>nd</sup> December 2023			
Capacity	Health, Safety and Licensing Manager			
	ct name (where not previously given) and oplication (please read guidance note 5)	address for correspondence associated	iated with	
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If you would prefer us to correspond with you using an e-mail address your e-mail address				
(k • ()76)		. A.S.A. 188.1		

Please tick √ yes

# **Notes for Guidance**

- The ground(s) for review must be based on one of the licensing objectives.
   Please list any additional formation 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 in the address which we shall use to correspond with you about this application.