

Report to Licensing Sub Committee

Date of Meeting: 29 September 2107

By the Head of Environmental Health & Licensing

DECISION REQUIRED

Not Exempt



Application for the Review of a Premises Licence under Section 51 of the Licensing Act 2003

Executive Summary

On the 03 August 2017, the Chief Immigration Officer for The South East – Immigration Compliance and Enforcement Team based at The Home Office, Timberham House, World Cargo Centre, Gatwick Airport, West Sussex, RH6 0EZ submitted a review application in respect of The Indian Cottage, London Road, Ashington, West Sussex, RH20 3JT.

Following three (3) enforcement inspections within a twelve (12) month period starting July 2016 conducted by The Immigration Compliance and Enforcement Team at The Indian Cottage, London Road, Ashington, West Sussex, RH20 3JT., and on each occasion a number of illegal employees were found to be working with the incorrect immigration status.

The purpose of the hearing is for the Licensing Sub-Committee to consider the Review Application, in relation to the Licensing Act 2003's Licensing Objectives. The relevant Licensing objectives being:

- The prevention of crime and disorder

The Chief Immigration Officer seeks to have the premises licence revoked.

Recommendations

The Sub- Committee is recommended:

- i) To determine the application for the review of the premises licence.

Reasons for Recommendations

- i) The Sub-Committee is required to make a decision under the Licensing Act 2003

Background Papers

1. Review Application (Appendix 1)
2. Immigration Officer's Supporting Statements (Appendix 2)
3. Supporting representation from Sussex Police (Appendix 3)
4. Premises Licence (Appendix 4)
5. Plans (Appendix 5)
6. Notification of review letter to the Premises Licence Holders (Appendix 6)
7. Stated Legal Case (Appendix 7)
8. Newspaper Reports (Appendix 8)
9. Public Notices (Appendix 9)

Wards affected:

Chanctonbury

Contact

Chris Boyle, Licensing Officer, extension 5578

Background Information

1 Introduction and Background

- 1.1 For the Sub-Committee to determine the application for the review of an existing premises licence
- 1.2 At present The Indian Cottage benefits from a premises licence that was granted on the 04 January 2006 and the existing premises licence holders are Mr Bodruz Raman, Mr Jashim Uddin and Mr Kaher Zaman as the applicants and premises licence holders

The granting of the above mentioned premises licence allows the following licensable activities to take place:

Premises open to the public:

Everyday 08:00hrs - 00:00hrs

Sale and supply of alcohol by retail for consumption on the premises only:

Everyday 12:00hrs - 23:30hrs

Any playing of recorded music.

Everyday 12:00hrs - 00:00hrs

The Provision of Late Night Refreshment

Everyday 23:00hrs - 00:00hrs

2 Relevant Council policy

- 2.1 Statement of Licensing Policy dated January 2014

3 Details

- 3.1 The Indian Cottage Restaurant is a centrally located Indian restaurant in the town of Ashington and has been trading for many years.
- 3.2 On the 03 August 2017, the Chief Immigration Officer for The South East – Immigration Compliance and Enforcement Team based at The Home Office, Timberham House, World Cargo Centre, Gatwick Airport, West Sussex, RH6 0EZ submitted a review application in respect of The Indian Cottage, London Road, Ashington, West Sussex, RH20 3JT.

Following three (3) enforcement inspections on the 14 July 2016, 18 November 2016 and 31 May 2017 at The Indian Cottage conducted by The Immigration Compliance and Enforcement Team and on each occasion a number of employees were found to be working with the incorrect immigration status.

The Chief Immigration Officer has made an application to the Council for the Council to revoke the premises licence.

4 Next Steps

The Licensing Sub-Committee is obliged to determine this application with a view to promoting the licensing objectives.

- 4.2 In making its decision, the Sub-Committee is also required to have regard to Guidance issued under the Section 182 Licensing Act 2003 (as amended) and the Council's own Licensing Policy
- 4.3 The Sub-Committee must take one of the following steps as it considers necessary for the promotion of the Licensing Objectives:
- To modify the existing conditions on the premises licence
 - To exclude a licensable activity from the scope of the premises licence
 - To remove the Designated Premises Supervisor
 - To suspend the licence for a period not exceeding three months
 - To revoke the licence
- 4.4 The Sub Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be appropriate in order to promote the four licensing objectives.

5 Outcome of Consultations

- 5.1 The application was advertised on The Horsham District Council's website and notices were displayed on the premises
- 5.2 A copy of the application was served on all statutory Consultees in accordance with the provisions contained within the Licensing Act 2003 and its associated regulations.
- 5.3 The following consultation responses were received:
- 5.3.1 **Sussex Police** – Representation In Support of Review
- 5.3.2 **Local Planning Authority** – No Supporting Representation

6 Other Courses of Action Considered but Rejected

- 6.1 None

7 Resource Consequences

- 7.1 None

8 Legal Consequences

- 8.1 The Council has a duty to determine the application under the Licensing Act 2003

9 Risk Assessment

- 9.1 This application does not relate to any of the specific risks on the Corporate Risk Register.

10 Other Considerations

- 10.1 The Sub-Committee are to determine the application under the following four licensing objectives.
- The prevention of crime and disorder.
 - The prevention of public nuisance.
 - The protection of children from harm.
 - Public Safety.
- 10.2 The operation of the Licensing Sub-Committee is a quasi-judicial function and as such particular regard is to be had to Article 6 'the right to a fair trial'.