

AGENDA

Regulatory Sub Committee

Date: **Wednesday 25 May 2011**

Time: **1.00 pm**

Place: **Meeting Room 22a, Brockington, 35 Hafod Road,
Hereford**

Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

Ricky Clarke, Democratic Services Officer

Tel: 01432 261885

Email: rclarke@herefordshire.gov.uk

If you would like help to understand this document, or would like it in another format or language, please call Ricky Clarke, Democratic Services Officer on 01432 261885 or e-mail rclarke@herefordshire.gov.uk in advance of the meeting.

Agenda for the Meeting of the Regulatory Sub Committee

Membership **Councillor CM Bartrum**
 Councillor JW Hope MBE
 Councillor RC Hunt

GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

The Council's Members' Code of Conduct requires Councillors to declare against an Agenda item(s) the nature of an interest and whether the interest is personal or prejudicial. Councillors have to decide first whether or not they have a personal interest in the matter under discussion. They will then have to decide whether that personal interest is also prejudicial.

A personal interest is an interest that affects the Councillor more than most other people in the area. People in the area include those who live, work or have property in the area of the Council. Councillors will also have a personal interest if their partner, relative or a close friend, or an organisation that they or the member works for, is affected more than other people in the area. If they do have a personal interest, they must declare it but can stay and take part and vote in the meeting.

Whether an interest is prejudicial is a matter of judgement for each Councillor. What Councillors have to do is ask themselves whether a member of the public – if he or she knew all the facts – would think that the Councillor's interest was so important that their decision would be affected by it. If a Councillor has a prejudicial interest then they must declare what that interest is. A Councillor who has declared a prejudicial interest at a meeting may nevertheless be able to address that meeting, but only in circumstances where an ordinary member of the public would be also allowed to speak. In such circumstances, the Councillor concerned will have the same opportunity to address the meeting and on the same terms. However, a Councillor exercising their ability to speak in these circumstances must leave the meeting immediately after they have spoken.

AGENDA

	Pages
1. ELECTION OF CHAIRMAN	
To elect a Chairman for the hearing.	
2. APOLOGIES FOR ABSENCE	
To receive apologies for absence.	
3. NAMED SUBSTITUTES (IF ANY)	
To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
4. DECLARATIONS OF INTEREST	
To receive any declarations of interest by Members in respect of items on the Agenda.	
5. APPLICATION FOR AN EXPEDITED REVIEW 'RADUNI INDIAN CUISINE, 66 THE HOMEND, LEDBURY, HR8 1BT.'	1 - 4
To consider an application for an ' <i>expedited licence review</i> ' of the premises licence relating to 'Korai Ltd T/A Raduni Indian Cuisine, 66 The Homend, Ledbury, HR8 1BT, called by Garry Higgins, Superintendent of the West Mercia Constabulary and represented by Mr James Mooney, Police Licensing Officer.	
Background papers - Raduni Indian Cuisine	5 - 10

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- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
- Access to this summary of your rights as members of the public to attend meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect and copy documents.

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- The nearest bus stop to Brockington is located in Vineyard Road near to its junction with Old Eign Hill. The return journey can be made from the same bus stop.

HEREFORDSHIRE COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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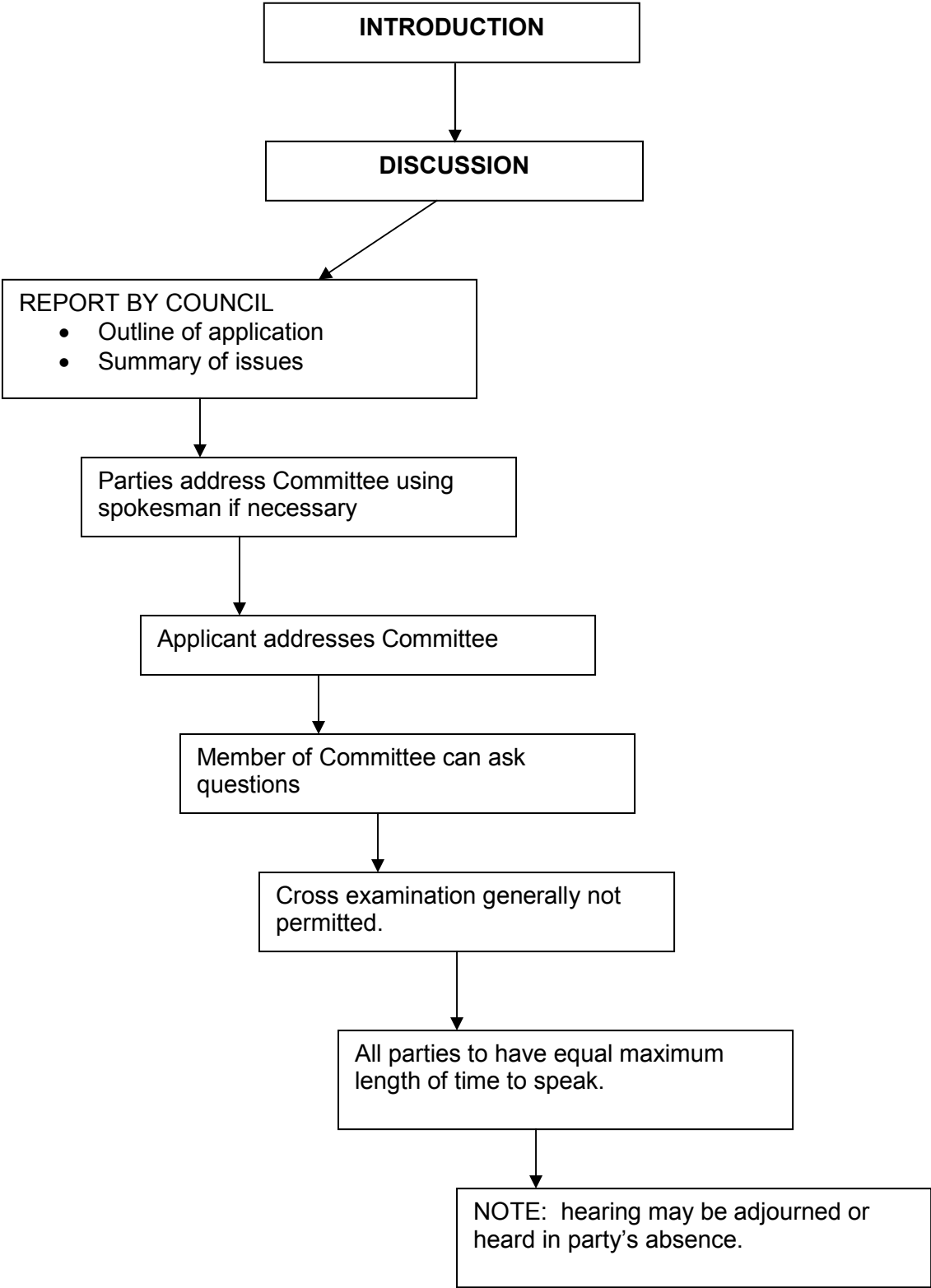
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LICENCING HEARING FLOW CHART



MEETING:	REGULATORY – SUB-COMMITTEE
DATE:	25 MAY 2011
TITLE OF REPORT:	EXPEDITED/SUMMARY LICENCE REVIEW OF PREMISES LICENCE: KORAI LTD, T/A RADUNI INDIAN CUISINE, 66 THE HOMEND, LEDBURY, HR8 1BT.
PORTFOLIO AREA:	ASSISTANT DIRECTOR (EHTS) PEOPLE'S SERVICES DIRECTORATE

CLASSIFICATION: Open

Wards Affected

Ledbury

Purpose

To consider an application for an '*expedited licence review*' of the premises licence relating to 'Korai Ltd T/A Raduni Indian Cuisine, 66 The Homend, Ledbury, HR8 1BT, called by Garry Higgins, Superintendent of the West Mercia Constabulary and represented by Mr James Mooney, Police Licensing Officer.

Key Decision

This is not a Key Decision.

Recommendation

THAT Sub-Committee determine the interim steps necessary to prevent serious crime or serious disorder or substantial financial gain at the premises and to promote the licensing objectives in the overall interests of the local community. They should give appropriate weight to:

- The steps that are necessary to promote the licensing objectives,
- The steps that are necessary to assist with the prevention of serious crime and disorder,
- The representations (including supporting information) presented by all parties,
- The Guidance issued to local authorities under Section 53A of the Licensing Act 2003 by the Violent Crime Reduction Act 2006, and
- The Herefordshire Council Licensing Policy.

Key Points Summary

- Application received for an expedited review on 23 May 2011.
- Hearing arranged for 25 May 2011 within the required 48 hours.

Further information on the subject of this report is available from
Fred Spriggs – Licensing Officer 01432 383542

- 23 May 2011 - Copies of application and certificate sent to the premise licence holder and responsible authorities.

Options

The interim steps that the licensing authority can consider taking are:

1 Take no action or

Take any of the following steps: -

- (a) to modify the conditions of the licence;
- (b) the exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence;

Where the authority takes a step mentioned in subsection (a) or (b), it may provide that the modification or exclusion is to have effect until the full review hearing.

Reasons for Recommendations

2 Ensures compliance with the Licensing Act 2003 and the Crime & Disorder Act 2006.

Background Information

The powers to call for an expedited review are contained in Section 53A of the 2003 Act by virtue of the Violent Crime Reduction Act 2006. The powers allow:

- i. The police to trigger a fast track process to review a premises licence where the police consider that the premises are associated with serious crime or serious disorder (or both); and
- ii. The licensing authority to respond by taking interim steps quickly, where appropriate, pending a full review.

Applicant	Garry Higgins – Superintendent West Mercia Constabulary Represented by: - James Mooney – Police Licensing Officer	
Premise Licence Holder	Korai Ltd, T/A Raduni Indian Cuisine, 66 The Homend, Ledbury, HR8 1BT	
Solicitor	Not known	
Type of application: Expedited Review	Date received: 23/5/2011	Interim Steps Hearing 48 hours 25/5/2011

3 **Current Licence**

The current licence authorises the following licensable activities during the hours shown: -

Sale by retail of alcohol & Late Night refreshment

On weekdays, other than Christmas Day, Good Friday or New Year's Eve from 10 am to 12 midnight.

On Sundays, other than Christmas Day or New Year's Eve, and on Good Friday: 12 noon to 11:30 pm

On Christmas Day: 12 noon to 11:30 pm; For residential licence only from 12 noon to 10.30 with a break of four hours beginning at 3 pm.

On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).

4 **The Grounds for the Review**

The grounds for the review are contained in Appendix 1 and 2 of the background papers.

5 **Responsible Authorities**

Copies of the application and certificate have been sent to the responsible authorities.

6 **Premises Licence Holder**

A copy of the application was sent by first class post to the premises licence holder.

Key Considerations

- 7 To consider what action should be taken, if any, to prevent further outbreaks of serious crime and disorder or substantial financial gain and to promote the four licensing objectives in accordance with the recommendation.

Guidance issued under Section 182 of the Licensing Act 2003 in respect of reviews states at paragraph: -

- 3.5 If the licensing authority decides to take steps at the interim stage then:

The decision takes effect immediately, or as soon after then as the licensing authority directs; but

The licensing authority must give immediate notice of its decision and its reasons for doing so to the holder of the premises licence and the chief officer of police who make the application.

- 3.6 The licensing authority in deciding when its decision on interim steps should take effect should consider the practical implication of compliance in relation to the premises.

- 3.7 In addition, very careful consideration needs to be given to interim steps which would require significant cost or permanent or semi-permanent adjustments to a premises which would be difficult to remove if the outcome of the subsequent full review was to withdraw or modify those steps. The focus for interim steps should be on the immediate measures that are necessary to prevent serious crime or serious disorder occurring. In some circumstances, it might be better to seek suspension of the licence pending the full review, rather than imposing a range of costly conditions or permanent adjustments.

Community Impact

- 8 It is felt that if no action is taken this could have an adverse effect on the local community.

Legal Implications

- 9 The premise licence holder may make representations against the interim steps taken by the licensing authority. There is not a time limit for the premises licence holder to make representation on the interim steps, although this would be within the normal review period of 28 days. On receipt of representations and if they are not withdrawn, a hearing must be arranged within 48 hours of receipt.

Consultees

- 10 Copies have been sent to the Responsible authorities and the premise licence holder.

Appendices

- 11 a. Application Form for Expedited Review
b. Certificate

Background Papers

Background papers are available for inspection in Meeting Room 22a, Brockington, 35 Hafod Road, Hereford 30 minutes before the start of the hearing.

West Mercia Police
Territorial Policing Unit - Herefordshire
Bath Street
Hereford. HR1 1TA



ANNEX B

CERTIFICATE UNDER SECTION 53A(1)(b) OF THE LICENSING ACT 2003

I hereby certify that in my opinion the premises described below are associated with serious crime / serious disorder / both serious crime and serious disorder¹.

*Premises*²:

Raduni Indian Resturant
66 The Homend
Ledbury
Herefordshire

Premises licence number (if known): PR00182

Name of premises supervisor (if known): Mohammed HASNATH

I am a Superintendent³ in the West Mercia police force.

I am giving this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case, because⁴:

As a result of a joint UK Border Agency and police operation, a number of persons were arrested for immigration offences. These are all employed at the premises in various capacities. All are viewed as illegal immigrants with no right to stay in the UK or to be employed.

¹ Delete as applicable.

² Include business name and address and any other relevant identifying details.

³ Insert rank of officer giving the certificate, which must be superintendent or above.

⁴ Give a brief description of why other procedures such as a standard review process are thought to be inappropriate, e.g. the degree of seriousness of the crime and/or disorder, the past history of compliance in relation to the premises concerned.

It is believed that their presence is as a result of illegal people smuggling and it is likely that despite this operation, the premises will continue to employ others of a similar status.

Standard review process is inappropriate to ensure this level of serious criminal activity does not continue.

It is the view of West Mercia Police that employment of staff in these circumstances is a serious crime activity, that there is financial gain and benefit for the premises licence holder.

.....
G.V. Higgins Supt. 23/5 2011.
(Signed) (Date)

FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

[Insert name and address of relevant licensing authority and its reference number (optional)]

Herefordshire District Council

Licensing Section

County Offices

PO Box 233

Hereford.. HR1 2ZF

Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)

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 the 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.**

<p>I James MOONEY - Police Licensing Officer behalf of] the chief officer of police for the West Mercia police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.</p>	[on
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1. Premises details:

Postal address of premises, or if none or not known, ordnance survey map reference or description:

**Raduni Indian Restaurant
66 The Homend**

Post town: **Ledbury**

Post code (if known): **HR8 1BT**

2. Premises licence details:

Name of premises licence holder (if known): **Raduni Indian Cuisine Ltd**

Number of premises licence holder (if known):

3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read guidance note 1]:

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

4. Details of association of the above premises with serious crime, serious disorder or both:

[Please read guidance note 2]

This premises is an indian restaurant based in a small market town

On Thursday 19 May 2011, a joint UK Border Agency and policing operation took place, where a warrant was executed at the premises regarding the employment of illegal immigrants.

At the time, the designated premises supervisor Mohammed HASNATH was present. The premises was open and was undertaking licensable activities - including the sale of alcohol. A total of 5 other members of staff were detained and arrested due to their immigration status. This caused the premises to close as it had no staff left to operate.

It is believed those detained are in the UK illegally, that they have no residence and employment status, that whilst employed they have not been paying UK taxes or insurances.

It is further believed that their presence in the UK is as a result of serious criminal activity and is regarded as 'people smuggling'. Additionally it is believed that there is financial gain and benefit to the premises licence holder for the continual employment of people in these circumstances.

Signature of applicant:



Date:

23.05.2011

Capacity: Police Licensing Officer

Contact details for matters concerning this application:

**Address: West Mercia Police
Territorial Policing Unit - Herefordshire
Hereford Police Station
Licensing Officer**

**Bath Street
Hereford. HR1 2HT**

Telephone number(s): 01432 347102

Email: licensing.herefordshire@westmercia.pnn.police.uk

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.

