

AGENDA

Regulatory Sub Committee

Date: **Tuesday 31 May 2011**

Time: **2.00 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

Chairman 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.' To consider a representation made by Keith Evans & Company Solicitors, representing the premises licence holder, against the interim steps imposed on 25 May 2011 following the expedited licence review of the premises licence for 'Raduni Indian Cuisine, 66 The Homend, Ledbury, HR8 1BT.'	1 - 4
Background Papers - Raduni Indian Cuisine - Representation	5 - 6

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- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- 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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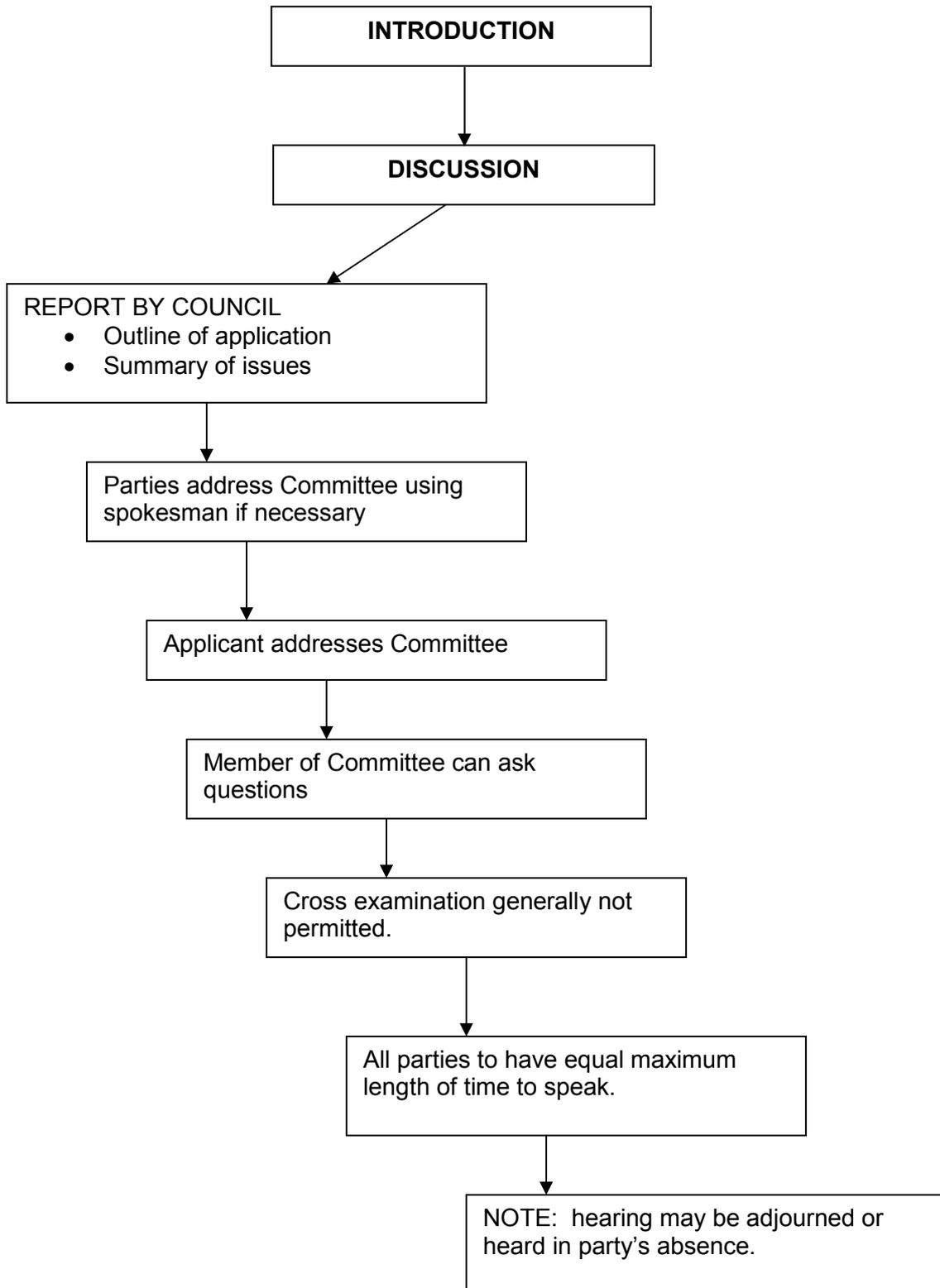
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LICENCING HEARING FLOW CHART



MEETING:	REGULATORY – SUB-COMMITTEE
DATE:	31 MAY 2011
TITLE OF REPORT:	REPRESENTATION AGAINST THE INTERIM STEPS IMPOSED ON 25 MAY 2011 FOLLOWING THE 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 a representation made by Keith Evans & Company Solicitors on behalf of ‘Korai Ltd T/A Raduni Indian Cuisine, 66 The Homend, Ledbury, HR8 1BT, the premises licence holder, against the interim steps imposed on 25 May 2011 following the expedited licence review of the premises licence.

Key Decision

This is not a Key Decision.

Recommendation

THAT the Sub-Committee, when determining this representation against the interim steps, must take into account:

- The senior police officer’s certificate that accompanied the application
- The chief officer’s representation and
- Any representation made by the premises licence holder

Key Points Summary

- Application received for an expedited review on 23 May 2011.
- Hearing held on 25 May 2011 within the required 48 hours.
- 23 May 2011 - Copies of application and certificate sent to the premise licence holder and responsible authorities.

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

- Application against interim steps received on 27 May 2011

Options

1 The committee must:

- Consider whether the interim steps are necessary for the promotion of the 'Licensing Objectives' and
- Determine whether or not to withdraw or modify the steps taken.

The following are options in respect of modification

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 Licensing Act as amended by the Violent Crime Reduction Act 2006. The powers allow:-

- 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
- The licensing authority to respond by taking interim steps quickly, where appropriate, pending a full review.

The requirements of the legislation are that the application must be accompanied by a Certificate signed by a Superintendent. Where that has happened, as in this case, the requirements for launching an expedited review has been met and the Licensing Authority do not have power to question whether such certificate should have been issued by a Superintendent.

The expedited review hearing was held on 25 May where the committee considered an application made by the Chief Constable of the West Mercia Police. At that hearing it was decided that the premises licence should be suspended forthwith.

On 27 May 2011 an application was received by the Licensing Authority from Keith Evans Company Solicitors on behalf of the premises licence holder to make representation against the interim steps.

The full review hearing has been arranged for Friday 17 June 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 are contained in Appendix 1 and 2 of the background papers. Also attached is the request to make representation against the expedited review.

5 **Responsible Authorities**

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

Key Considerations

- 6 To consider whether the interim steps are necessary for the promotion of the 'Licensing Objectives' and to determine whether to withdraw or modify the steps taken.

Guidance issued by the DCMS in respect of Expedited Reviews states at paragraphs 3.5 – 3.7: -

- 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. For example to comply with a modification of the conditions of a licence that requires employment of door supervisors, those running the premises may need some time to recruit appropriately qualified and accredited staff.

- 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

- 7 It is felt that if the wrong course of action is taken then this could have an adverse effect on the local community.

Legal Implications

- 8 There is no right of appeal against the decision of the Licensing Authority at this stage.

Consultees

- 9 Responsible authorities and the premise licence holder.
- 10 A copy of the application has been served on the responsible authorities.

Appendices

- 11 a. Application form for expedited review
- b. Certificate
- c. Request to make representation against the interim steps

Background Papers

Background papers are available for inspection in the Meeting Room 30 minutes before the start of the hearing.

Our Ref: CB/SB/26712

Your Ref:

26 May 2011

Herefordshire Council
Licencing Committee
Brockington
35 Hafford Road
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HR1 1SH

**KEITH
EVANS
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Dear Sirs

**RE: Korai Ltd t/a Raduni Indian Cuisine
66 The Homend, Ledbury, HR8 1BT
Premises Licence No: PR00182**

We act on behalf of Korai Ltd and Mohammed Abdul Hasnath. We wish to make representations against the suspension of the Premises Licence granted by the Licencing Committee on the 25th May 2011.

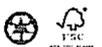
Our grounds for making the representations are:

- (1) Our client was not given sufficient opportunity to receive legal advice or to make legal representations at the Hearing on the 25th May.
- (2) The reasons given by the Police for the suspension of the Premises Licence are that they are associated with a serious crime/serious disorder/both serious crime and serious disorder.

It is not accepted that the matters complained of are in breach of Section 81(3)(a)(b) of the Regulation of Investigative Powers Act of 2000. It is not accepted that Mr Hasnath, as a person over 21 with no previous convictions, would have been sentenced to a minimum of three years in respect of the activities complained of. There was no serious disorder at the premises and there has not been any complaint about his previous running of the premises during the past eleven years.

- (3) Mr Hasnath was an innocent party and has not been party to people smuggling and he would not gain serious financial benefit as a result of the employment concerned.

We look forward to hearing from you with regard to the date and time of the Hearing of our client's representations.



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Partners:

Keith V. Evans BA (Hons)
solicitor

Scott M. Bowen LL.B. (Hons)
Solicitor-Advocate (Higher Courts Criminal)

Elliott J. Evans ACMI
Non-Lawyer Manager

Jessica L. Good LL.B. (Hons)
Solicitor

We would advise that our client will be represented by Counsel at such Hearing.

Yours faithfully



Keith Evans & Co

KEITH EVANS & COMPANY



Cc: West Mercia Police, Bath Street, Hereford, HR1 1TA