

MINUTES of the meeting of Regulatory Sub Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Tuesday 11 October 2011 at 2.00 pm

Present: Councillor JW Hope MBE (Chairman)

Councillors: Brig P Jones CBE and GA Powell

39. ELECTION OF CHAIRMAN

Councillor JW Hope MBE was elected as Chairman for the Regulatory Sub-Committee hearing.

40. APOLOGIES FOR ABSENCE

No apologies for absence were received.

41. NAMED SUBSTITUTES (IF ANY)

There were no substitutes present at the hearing.

42. DECLARATIONS OF INTEREST

There were no declarations of interest made.

43. HIGHWAYS ACT 1980, SECTION 119, TO MAKE A PUBLIC PATH DIVERSION ORDER TO DIVERT PART OF BRIDLEWAY HU4 IN THE PARISH OF HUMBER

A report was presented by the Parks, Countryside and Leisure Development Manager about an application under the Highways Act 1980, section 119, to make a Public Path Diversion Order to divert part of footpath HU4. No objections had been received from the parish council or the Local Ward Member and the applicant would meet the costs.

The consideration of the application was deferred due to a question from Mr Lee, representing the Ramblers' Association as to whether the footpath connected to a highway. When the consideration of the application was recommenced the Parks, Countryside and Leisure Development Manager advised that there was an error at paragraph 4 of the report and the footpath route should be referred to as F-E and not F-A and that therefore there was a connection to the footpath.

Having discussed all the aspects about the application, the Sub-Committee was agreeable to the course of action proposed by the Parks, Countryside and Leisure Development Manager.

RESOLVED:

THAT a public path diversion order is made under Section 119 of the Highways Act 1980, as illustrated on drawing number D409/193-4.

44. APPLICATION FOR A NEW PREMISES LICENCE 'INTERNATIONAL FOODS LTD, 10 COMMERCIAL ROAD, HEREFORD, HR1 2BB.'

The Licensing Officer advised the sub-committee that the application had been withdrawn.

45. APPLICATION FOR A REVIEW OF A PREMISES LICENCE 'JALSAGAR RESTAURANT, 60 ST OWENS STREET, HEREFORD, HR1 2PU.' (Pages 1 - 2)

The Regulatory Sub-Committee was convened in order to determine an application for a review of a premises licence in accordance with Section 51 of the Licensing Act 2003. The Review had been applied for by West Mercia Police based on the licensing objectives regarding the prevention of crime and disorder.

The Chairman introduced the Members and Officers and asked any interested parties to introduce themselves. He advised them of the hearing procedures and then asked the Licensing Officer to present the report.

The Licensing Officer advised the Sub-Committee that an application to change the Designated Premises Supervisor had been received. He also advised the Sub-Committee in respect of a condition recently applied to the licence of another restaurant who had been the subject of a similar review which required them to be in receipt of all of the relevant documentation for their employees subject to employment being commenced.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr James Mooney, representing West Mercia Police who had applied for the review, addressed the sub-committee. He made a number of points, including:

- The premises had been subject of two warrants in 2011 as part of a joint operation with the UK Border Agency.
- During the operations 3 males had been detained as well as 1 further student who was in breach of his visa.
- At the time of the operations Mr Abadan was the manager of the premises.
- At present the fine resulting from the operations had not been paid and no appeal had been lodged.
- West Mercia Police were seeking revocation of the licence.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr Hucker, the premise licence holder's legal advisor, addressed the sub-committee. He raised a number of points, including:

- The situation was unacceptable and his clients apologised.
- His clients had not been charged with a criminal offence.
- Negotiations were ongoing in respect of the payment of the fine with a suitable payment plan being put in place.
- The review process was not a punitive exercise and any actions should necessary and proportionate.
- The premises had been open since 2004.
- The punishment imposed by the UK Border Agency was a sufficient deterrent and his clients would not allow themselves to be in a similar situation again.
- The new DPS, Mr Ahmed, had considerable experience as a manager and owner of a number of restaurants throughout the country.

- The condition referred to by the Licensing Officer would address the concerns of the Police and would be proportionate.
- This was the first review of the premises and therefore revocation of the licence would not be fair or proportionate.

The Sub-Committee retired to make their decision, the Council's Legal Advisor and the Democratic Services Officer also retired to assist them with legal and procedural matters.

RESOLVED

That the following condition be added to the licence in respect of the Jalsagar Restaurant, 60 St Owen's Street, Hereford, HR1 2PU.

- 1 A log book must be kept at the premises and made immediately available on request to an authorised person (as defined by Section 13 of the Licensing Act 2003) or the Police. The log book must record the following:**
 - a) Details of all persons employed at the premises in any capacity.**
 - b) Date of birth of the person.**
 - c) The full name of the person.**
 - d) Their current address.**
 - e) Their national insurance number.**
 - f) Their passport details.**
 - g) In respect of EU citizens, proof of a current EU passport, national insurance card, P45 or P60 shall be provided.**
 - h) In respect of non EU citizens, a passport or other travel document endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the United Kingdom, has the right of abode in the United Kingdom, or has no time limit on their stay in the United Kingdom must be provided.**

All such information shall be recorded prior to them working at the premises. All information detailed above to be supported by a copy of the relevant document.

46. NOTIFICATION OF A TEMPORARY EVENT NOTICE 'THE HOP POLE, BROMYARD, HEREFORDSHIRE.'

The Sub-Committee could not be satisfied that Mr Stevens had received notification of the hearing and therefore deferred the determination of his application until 1500 hours on Wednesday 12 October 2011.

RESOLVED

THAT the meeting be adjourned until 1500 on Wednesday 12 October 2011.

HEREFORDSHIRE COUNCIL
**REGULATORY COMMITTEE DECISION NOTICE
(THE LICENSING ACT 2003)**

PREMISES	Jalsagar Restaurant
DESIGNATED PREMISES SUPERVISOR	Mrs Wahida Khatun
APPLICANT'S NAME	West Mercia Police
APPLICATION TYPE	Review of Premises Licence
PANEL MEMBERS	Councillor JW Hope MBE (Chairman) Councillor Brig. P Jones CBE Councillor GA Powell
DATE OF MEETING	11 October 2011

Members of the Licensing Panel of the Council's Regulatory Committee considered the above application, full details of which appeared before the Members in their agenda and the background papers.

Prior to making their decision the Members heard from James Mooney, representing West Mercia Police, and the Designated Premises Supervisor's Legal Advisor.

Having carefully considered those matters brought before them and in reaching their decision, the Members had full regard to both the provisions of the Licensing Act 2003 and the Council's Licensing Policy. The Members made the following decisions in order to promote the licensing objective of the prevention of crime and disorder.

DECISION

- 1 It is the decision of the Committee that the condition detailed below be added to the premises licence.

CONDITION

- 1 A log book must be kept at the premises and made immediately available on request to an authorised person (as defined by Section 13 of the Licensing Act 2003) or the Police. The log book must record the following:
 - a) Details of all persons employed at the premises in any capacity.
 - b) Date of birth of the person.
 - c) The full name of the person.
 - d) Their current address.
 - e) Their national insurance number.
 - f) Their passport details.
 - g) In respect of EU citizens, proof of a current EU passport, national insurance card, P45 or P60 shall be provided.
 - h) In respect of non EU citizens, a passport or other travel document endorsed to show that the holder is exempt from immigration control, is

HEREFORDSHIRE COUNCIL**REGULATORY COMMITTEE DECISION NOTICE
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allowed to stay indefinitely in the United Kingdom, has the right of abode in the United Kingdom, or has no time limit on their stay in the United Kingdom must be provided.

All such information shall be recorded prior to them working at the premises. All information detailed above to be supported by a copy of the relevant document.

REASON

- 1 The Committee came to this decision in order to promote the licensing objective of the prevention of crime and disorder.

** Subject to Section 52(11) which states that a determination under this section does not have effect:
(a) until the end of the period given for appealing against the decision, or
(b) if the decision is appealed against, until the appeal is disposed of.*

There is a right of appeal under Schedule 5 Paragraph 8a, which must be made to a magistrates court within 21 days of this decision. It is recommended that you obtain your own legal advice or contact the Magistrates Court at Bath Street, Hereford, if you do wish to appeal this decision.