

Title of report: To consider representation against the interim steps imposed on 22 November 2023 by the Licensing Sub-Committee following an application for an expedited /summary licence review of the premises licence relating to the Razbari, 156 Eign Street, Hereford. HR4 0AP

Meeting: Licensing sub-committee

Meeting date: Friday 1 December 2023

Report by: Senior Licensing Technical Officer

Classification

Open

Decision type

This is not an executive decision

Wards affected

Hereford – Widemarsh

Purpose

To consider representation against the interim steps imposed on 22 November 2023 by the Licensing Sub-Committee following an application for an expedited /summary licence review of the premises licence relating to the Razbari, 156 Eign Street, Hereford. HR4 0AP

Recommendation(s)

That:

Sub-Committee determine the interim steps necessary to prevent serious crime or serious disorder 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 assist with the prevention of serious crime or disorder or both
- The representations (including supporting information) presented by all parties
- The Guidance issued under Section 182 of the Licensing Act 2003 – appendix 4
- The Herefordshire Council Licensing Policy 2020 - 2025

Reasons for Recommendations

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

Alternative options

1. There are a number of options open to the sub-committee:

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 interim steps that the licensing authority can consider taking are:

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) uphold the suspension of 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.

Key considerations

Licence Application

2. 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:

- 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.

Applicant	West Mercia Police's Licensing and MATES Officer for Herefordshire.	
Premise Licence Holder	CT INDIAN RESTAURANT LIMITED	
Solicitor	Not known	
Type of application: Expedited Review	Date received: 20.11.2023	Interim Steps Hearing 48 hours 22.11.2023

Current Licence

3. The current licence (appendix 1) authorises the following licensable activities during the hours shown: -

Late Night Refreshment (Indoors/Outdoors)

Monday – Thursday 23:00 – 23:30

Friday & Saturday 23:00 – 24:00

Sale/Supply of Alcohol (For consumption on and off the premises)

Monday – Thursday 17:00 – 23:00

Friday & Saturday 17:00 – 23:30

Sunday 12:00 – 22:00

NB: Late Night Refreshment is only a licensable activity between the hours of Monday – Sunday 23:00 – 05:00

The Grounds for the Review

4. The grounds for the review and the Superintendent's authority are contained in Appendix 2.
5. On Thursday 16 November 2023, a joint agency operation involving West Mercia Police, Immigration, Herefordshire Council Licensing, Herefordshire Council Housing and Hereford & Worcester Fire and Rescue took place, where a visit was made to the premises regarding intelligence received that exploitation was taking place at the premises, which involved potential immigration offences.
6. One member of staff from Bangladesh held permission to stay as a student with the condition he was permitted to work 20 hours a week during his course term time. He was arrested as he could not provide any evidence to support he was undertaking his studies in the UK.
7. A hearing took place on 22 November 2023, where the decision of the licensing sub-committee was to suspend the licence with immediate effect as an interim step until the full review was held (14 December 2023).
8. The request to make representation against the interim steps (implemented on 22 November 2023) found at Appendix 3 was received 29 November 2023

History

9. West Mercia Police launched an expedited review on 21 October 2021 against the previous licence holder, due to one member of staff being detained and arrested due to his immigration status and two other members of staff were also reported for overstaying their visas.
10. The hearing was heard on 22 October 2021 where the decision of the sub-committees was to suspend the licence with immediate effect as an interim step until the full review was held.
11. A full hearing was heard on 5 November 2021, where the sub-committee's decision was to revoke the licence. The premises licence holder at the time was MD Masud Ruhel Mintu.
12. The Licensing Authority received an application to grant a licence on 29 January 2022 in the name of H F Business Ltd. The DPS being Usha Begum. This was granted on 10 March 2022.

13. The Licensing Authority received an application to transfer the premises licence on 13 March 2023 from H F Business Ltd to Ct Indian Restaurant Limited. This was granted on 29 March 2023.

Community impact

14. Any decision may have an impact on the local community.

Environmental Impact

15. This report is in relation to a premises license under the Licensing Act 2003 and as such there are minimal environmental impacts for the council, as licensing authority.

Equality duty

16. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
17. There are no equality issues in relation to the content of this report.
 18. This report has human rights implications for both the premises licence holder and the residents from the local neighbourhood. Any of the steps outlined in section 1 of this report may have financial implications for a licensee's business and livelihood and/or may have impact upon the day to day lives of residents living in close proximity to the premises.
 19. Article 8(i) of the European Convention of Human Rights provides that everyone has the right to respect for his/her private and family life and his/her home (which includes business premises). This right may be interfered with by the council on a number of grounds including the protection of rights and freedoms of others. The First Protocol – Article 1 – also provides that every person is entitled to the peaceful enjoyment of his possessions and shall not be deprived of his possessions except in the public interest and conditions provided for by law. Members must accordingly make a decision which is proportionate to the hearing and endeavour to find a balance between the rights of the applicant, residents and the community as a whole.

Resource implications

20. This report is in relation to a premises license under the Licensing Act 2003 and as such there are minimal resource implications for the council, as licensing authority.

Financial implications

21. There are unlikely to be any financial implications for the council, as licensing authority at this time.

Legal implications

22. 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.

Risk management

23. There is little risk associated with the decision at this time as the legislation allows representation to be made against the interim steps.

Consultees

24. Copies of the application and certificate have been sent to the responsible authorities and served on the premises licence holder.

Appendices

Appendix 1 – Current Premises Licence

Appendix 2 – Application for expedited review & Superintendent's certificate

Appendix 3 – Written representation to appeal against interim steps

Appendix 4 – Relevant pages of the Section 182 Guidance Background papers

Background Papers

None identified

Please include a glossary of terms, abbreviations and acronyms used in this report.

Designated Premises Supervisor - DPS