

Title of report: To consider what action if any should be taken against the interim steps imposed on 22 November 2023 and 14 December 2023 by the Licensing Sub-Committee following an application for an expedited review of the premises licence relating to the Razbari, 156 Eign Street, Hereford. HR4 0AP

Meeting: Licensing sub-committee

Meeting date: Thursday 21 December 2023

Report by: Senior Licensing Technical Officer

Classification

Open

Decision type

This is not an executive decision

Reason Key

Notice has been served in accordance with Part 3, Section 10 (General Exception) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012.

Wards affected

Hereford – Widemarsh

Purpose

To consider what action should be taken if any against the interim steps imposed on 22 November 2023 and 14 December 2023 by the Licensing Sub-Committee following an application for an expedited 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
- 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. With reference to section 53D, the relevant licensing authority must review any interim steps that have been taken by the relevant licensing authority under section 53B that have effect on the date of the hearing.
2. In conducting the review under this section, the relevant licensing authority must—
 - a. consider whether the interim steps are appropriate for the promotion of the licensing objectives;
 - b. consider any relevant representations; and
 - c. determine whether to withdraw or modify the interim steps taken.

The committee must consider whether the interim steps are necessary for the promotion of the 'Licensing Objectives

Any interim steps taken under section 53D apply until—

- (a) the end of the period given for appealing against a decision made under section 53C,
- (b) if the decision under section 53C is appealed against, the time the appeal is disposed of, or
- (c) the end of a period determined by the relevant licensing authority (which may not be longer than the period of time for which such interim steps could apply under paragraph (a) or (b)).

Key considerations

Licence Application

3. 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 and 01.12.2023 Full hearing held 14.12.2023

Current Licence

4. 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

5. The grounds for the review and the Superintendent's authority are contained in Appendix 2 of the background papers.
6. 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.
7. 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.

The Interim Steps

8. 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) Appendix 3.
9. The Licensing Authority received written representation against the interim steps from a solicitor authorised to act on behalf of the premises licence holder on 29 November 2023 (appendix 4).
10. The matter was therefore brought before licensing sub-committee on 1 December 2023 (within the required 48 hours).
11. In response to the written representation, West Mercia Police served on the Licensing sub-committee information received from Immigration regarding the interview carried with the gentleman subject to the immigration offences (appendix 5).
12. At that hearing the committee heard from the solicitor acting on behalf of the premises licence holder, a representative for the premises licence holder and West Mercia Police.
13. The Licensing sub-committee decided to uphold their decision of 22 November 2023 to suspend the licence with immediate effect until the date of the full hearing which was set for 14 December 2023 at 10:00hrs (appendix 6).
14. The full review hearing took place on 14 December 2023.
15. The decision of the sub-committee was to suspend the licence for a period of three (3) months.
16. The Licensing Authority has considered that the Premise Licence Holder was not provided with a proper opportunity to make representations against the interim steps at the hearing on 14th December 2023 and in accordance with Regulation 31 and 32 of The Licensing Act 2003 (Hearings) Regulations 2005 has scheduled a further hearing to consider the issue of interim steps on 21 December 2023.
17. Under Section 53D, the licensing authority is required to review any interim steps that it has taken that are in place on the date of the hearing and consider whether it is appropriate for the promotion

of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn.

18. The review of the interim steps should take place immediately after the determination under section 53C has been reached. In making its decision, the licensing authority must consider any relevant representations made.

History

19. 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.
20. 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.
21. 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.
22. 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.
23. 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

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

Environmental Impact

25. 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

26. 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.

27. There are no equality issues in relation to the content of this report.
28. 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.
29. 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

30. 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

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

Legal implications

32. With reference to section 53D, to ensure that there are appropriate and proportionate safeguards in place at all times, the licensing authority is required to review any interim steps that it has taken that are in place on the date of the hearing and consider whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn. The review of the interim steps should take place immediately after the determination under section 53C has been reached. In making its decision, the licensing authority must consider any relevant representations made.
33. The premise licence holder may make representations against the interim steps taken by the licensing authority.
34. The licence holder or the chief officer of police may appeal against the decision made by the licensing authority concerning its review of the interim steps to a magistrates' court. The appeal must be made within 21 days of the appellant being notified of the licensing authority's decision and must be heard in full by the magistrates' court within 28 days beginning with the day on which the appellant lodged the appeal.

Risk management

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

Consultees

36. 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 – Decision Notice 22 November 2023

Appendix 4 – Written representation against the interim steps

Appendix 5 – Information received from West Mercia Police

Appendix 6 - Decision Notice 1 December 2023

Background Papers

Relevant pages of the Section 182 Guidance Background papers

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

Designated Premises Supervisor - DPS