

## LICENSING SUB-COMMITTEE – FRIDAY 10 MARCH 2023

### APPLICATION FOR A REVIEW OF A PREMISES LICENCE INDIAN TREE, 14 MARKET PLACE, RINGWOOD, BH24 1AW

#### 1. RECOMMENDATIONS

- 1.1 That, following the representations from all parties, both written and oral, the Licensing Sub-Committee determines the review application submitted by Hampshire Constabulary.

#### 2. INTRODUCTION

- 2.1 An application for the review of a Premises Licence under Section 51 of the Licensing Act 2003 ('the Act') has been received from Hampshire Constabulary ('the Police') on 17 January 2023. The application seeks to review the premises licence for Indian Tree, 14 Market Place, Ringwood, BH24 1AW. Licence number 1485. The Review application is provided as **Appendix 1**.
- 2.2 At any stage, following the grant of a premises licence, a Responsible Authority, or any other person, may ask the Licensing Authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.

Those objectives being:-

- Prevention of crime and disorder
- Prevention of public nuisance
- Public safety
- Protection of children from harm.

#### 3. BACKGROUND

- 3.1 The Indian Tree is an Indian Restaurant located in the Market place in Ringwood. The premises has held a licence since June 2010. The original, and still current Premises Licence Holder is Mr AA Bachhu. The current licence is provided as **Appendix 2**.
- 3.2 In 2017, Home Office Immigration Officers carried out an inspection of the premises and found staff working there illegally, without the necessary right to work. An Illegal Working Compliance Order was made in respect of the premises in April 2017 at Portsmouth Magistrates court.
- 3.3 Following the issue of an Illegal Working Compliance Order, the Licensing Authority must hold a Review hearing within the statutory timescale. The hearing took place on 18 May 2017. Immigration officers attended and submitted all the relevant documents for the Sub-Committee to consider under section 167(1A) of the Licensing Act 2003, as amended by para 18 of schedule 6 of the Immigration Act 2016. The Police also supported the review and their submission can be seen as **Appendix 3**.
- 3.4 Members of the Licensing Sub-Committee heard from the Immigration Officers, the applicant and the Police. In order to support the licensing objectives and to prevent further instances of illegal employment at the premises, the Sub-Committee determined that the licence should be suspended for three months, additional conditions placed on the licence and Mr Bachhu replaced as Designated Premises Supervisor. The minutes of the hearing are provided as **Appendix 4**.
- 3.5 The premises licence holder, Mr Bachhu appealed the decision of the Licensing hearing, but before the appeal hearing could take place at the magistrates' court, Mr

Bachhu withdrew the appeal. The conditions were then applied to the licence and the suspension took place from 22 September 2017 to 21 December 2017 (inclusive). The suspension prevented licensable activities from taking place at the premises, those activities being, the sale of alcohol and the service of hot food or drink after 23:00hrs. The suspension also prevented the display of alcohol at the premises.

- 3.6 In September 2017 an application was made to transfer the premises licence to another person. During the consultation period an objection to the proposed licence holder was received from Immigration and the application was withdrawn.
- 3.7 In October 2017 the premises licence holder submitted an application to remove himself as the Designated Premises Supervisor (DPS) and to vary the licence to add Mr Mukaddim Hassan Chowdhury as the new DPS. The variation had been stipulated at the previous hearing and there were no objections by Police to the change. The licence was subsequently amended and Mr Chowdhury still remains as the current DPS.
- 3.8 The updated licence with the new DPS and additional conditions was issued on 21 December 2017, following the end of the suspension period.
- 3.9 In June 2020, Mr Bachhu submitted a minor variation application to allow the provision of off-sales to be added to the premises licence. Police objected to the application, but the Licensing Manager granted the minor variation in consultation with the Chair of the General Purposes and Licensing Committee. At the time no intelligence had been received with regard to illegal activities and no complaints had been made against the premises. Therefore, the minor variation was granted as permissible under the Act. The following month the Business and Planning Act 2020 allowed temporary permissions to add off-sales to any premises with on-sales. These changes were introduced to assist businesses in the recovery period, following the pandemic.
- 3.10 There have been no alterations to the premises licence since 2020 and annual fee payments are up to date.

#### **4. THE APPLICATION**

- 4.1 On 17 January 2023, Hampshire Police submitted an application for a Review of the premises licence number provided as **Appendix 1**.
- 4.2 The application seeks the Review of the licence on the grounds that the premises is failing to uphold the licensing objectives, primarily the Prevention of Crime and Disorder.
- 4.3 The Review application has been submitted following a joint visit to the premises by Home Office Immigration Enforcement Officers and the Police on Thursday 12 January 2023.
- 4.4 The reasons for the Review are outlined in the application, presented as **Appendix 1**. However, conditions placed on the licence at the previous Review hearing in 2017 require that proper checks are made for any employee, including ensuring that they have the legal Right to Work in the UK.
- 4.5 There were a large number of failings and licence breaches found at the visit, including failure to ensure the legal status of employees, failure to keep or produce the necessary records, failure to produce staff training records and overall poor management. Mr Bachhu was asked to attend the premises by Officers during the visit but despite requests by Officers, he failed to attend, to assist with the investigation.

- 4.6 Illegal immigration activity has taken place at the premises over a long period of time and previous warnings by Officers and the Licensing Sub-Committee have not been heeded. The additional conditions added to the licence at the previous hearing, plus the suspension and the replacement of Mr Bachhu as DPS have, unfortunately, not prevented further illegal activity from occurring at the premises.

## **5. REQUIREMENTS FOR A HEARING**

- 5.1 Before determining the application for review, the Licensing Authority must hold a hearing to consider it.
- 5.2 Members are referred to statutory guidance issued by the Home Office under section 182 of the Licensing Act 2003 dated December 2022, in particular, section 11 which provides guidance on Review applications.

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

- 5.3 In determining the application, the Licensing Sub-Committee must give appropriate weight to:
- 1) The steps that are appropriate to promote the licensing objectives;
  - 2) The presentations and written material presented by all parties;
  - 3) Home Office guidance;
  - 4) The Council's own Statement of Licensing Policy.

## **6. REPRESENTATIONS RECEIVED**

- 6.1 During the representation period a representation supporting the Review application was received from the Home Office, Immigration Officer. This is presented for members at **Appendix 5**. The officer has presented background to the case and further details of the visit on 12 January 2023.

## **7. LEGAL IMPLICATIONS**

- 7.1 This hearing is governed by the Licensing Act 2003 (Hearings) Regulations 2005. These Regulations provide that hearings should be held in public unless the Licensing Authority considers that the public interest in excluding the public outweighs the public interest in the hearing taking place in public.
- 7.2 The applicant (the Police) and the Premises Licence Holder have been invited to this meeting together with the Immigration Officer. All parties have been provided with this report and accompanying documents.
- 7.3 The applicant and the Premises Licence Holder and /or his representative are entitled to address the Sub-Committee and to ask questions of the other party.

## **8. CONCLUSION**

- 8.1 The Licensing Sub-Committee must, having regard to the application and any relevant representations, take such steps (as set out in section 52 (4) of the Act, as it considers appropriate for the promotion of the licensing objectives. Therefore, the Sub-Committee may:
- Modify the conditions of the licence (either permanently or for a temporary period not exceeding three months);
  - Exclude a licensable activity (either permanently or for a temporary period not

- exceeding three months);
- Remove Mr Chowdhury as the Designated Premises Supervisor;
- Suspend the licence for a period not exceeding three months;
- Revoke the licence; or
- Take no further action.

## **9. RIGHT OF APPEAL**

9.1 It should be noted that the applicant and the Premises Licence Holder may appeal the decision made by the Licensing Sub-Committee to the Magistrates' Court. The appeal must be lodged with the Magistrates' Court, together with the appropriate fee, within 21 days of the notification of the decision.

9.2 The determination does not have effect until the end of the period given for appealing against the decision, or if the decision is appealed against, until the appeal is disposed of.

## **10. CRIME & DISORDER, ENVIRONMENTAL, EQUALITY & DIVERSITY AND DATA PROTECTION IMPLICATIONS**

10.1 None

## **11. APPENDICES**

Appendix 1- Review application

Appendix 2- Current Premises Licence

Appendix 3- Police support document from the May 2017 hearing

Appendix 4- Minutes from the May 2017 hearing

Appendix 5 Home Office immigration representation

### **For further information contact:**

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### **Background Papers:**

NFDC Licensing Policy

Statutory guidance issued under S182 of  
the Licensing Act 2003