

LICENSING SUB-COMMITTEE – TUESDAY 8 AUGUST 2023

APPLICATION TO VARY A PREMISES LICENCE INDIA COTTAGE, 35 CHRISTCHURCH ROAD, RINGWOOD BH24 1DG

1. RECOMMENDATIONS

1.1 That the Licensing Sub-Committee determines the application made under section 34 of the Licensing Act 2003 (“the Act”) (provided as **Appendix 1**) having regard to any relevant representations and considers which of the following measures are appropriate for promotion of the licensing objectives:

- To grant the variation as applied for and modify conditions of the licence,
- To grant part of the variation,
- To reject the application.

2. INTRODUCTION

2.1 The purpose of the report is to provide the Sub-Committee with information at the hearing to determine the application for a full variation to the premises licence under section 35 of the Act in respect of India Cottage, 35 Christchurch Road, Ringwood, BH24 1DG.

3. BACKGROUND INFORMATION

3.1 The premises is an Indian Restaurant operated under a Premises Licence (number 713) granted by this Authority for the sale of alcohol and regulated entertainment. A copy of the licence is provided as **Appendix 2**.

3.2 Mr Shadeq Mannan has been the Premise Licence Holder (PLH) and Designated Premises Supervisor (DPS) since 2005.

3.3 The current premises licence permits the following licensable activities:

- Live Music inside until 24:00hrs Thursday, Friday and Saturday and outside until 23:00hrs.
- Recorded Music inside until 24:00hrs Monday to Sunday and outside until 23:00hrs.
- Provision of late-night refreshment inside until 24:00hrs Monday to Sunday.
- Supply of alcohol until 24:00hrs Monday to Sunday on and off premises.

3.4 The terminal hour for the premises is midnight, however, an operator may choose to close earlier than this on occasion but must not operate any later.

4. THE APPLICATION

4.1 On 13 June 2023, the Licensing Authority received an application for a full variation of the premises licence from Mr Shadeq Mannan (“the applicant”). The application is attached in **Appendix 1**.

4.2 The application seeks permission to vary the licence as follows:

- 1) To amend the external licensed area of the premises. The applicant has stated that the proposed total external licensed area would not significantly change, as the area proposed to be removed is of a similar size to the proposed new addition.
- 4.3 The current plan attached to the premises licence (labelled NFDC Approved Plan) is provided as **Appendix 3**.
- 4.4 The plan highlighting the proposed variation to the external area is provided as **Appendix 4** and noted as below:
 - Cross-hatched in black only - external areas included in the original licence.
 - Cross-hatched in black and red - external areas granted in previous variation.
 - Outlined in blue – the area that the Applicant no longer wishes to have licensed and in future to only use for storage.
 - Outlined in green – the proposed new additional external licensed area for moveable tables and bench seating.
- 4.5 The plan at **Appendix 5** shows the proposed entire licensed area outlined in red, with the external area cross-hatched in black. This plan would replace the current plan should the variation application be granted.
- 4.6 To further assist the Sub-Committee, photographs have been taken at the site by the Licensing Compliance Officer and are provided as **Appendix 6**.
- 4.7 A map indicating the location of the India Cottage and nearby residential properties is provided as **Appendix 7**. Representations have been received from neighbouring properties and another two properties along the road.
- 4.8 Public consultation has been carried out as required under the Act and officers have confirmed that the application has been advertised both at the site and in the local newspaper.

5. REQUIREMENTS FOR A HEARING

- 5.1 The Licensing Authority must hold a hearing to determine the application where relevant representations addressing the licensing objectives are made. These objectives being:
 - The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.
- 5.2 The Sub-Committee is referred to statutory guidance issued by the Home Office under section 182 of the Licensing Act 2003 dated April 2018, in particular the sections on the licensing objectives and determining 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:

- The steps that are appropriate to promote the licensing objectives;
- The relevant representations presented by all parties;
- Home Office guidance;
- The Council's own Statement of Licensing Policy.

6. REPRESENTATIONS RECEIVED

6.1 During the consultation period, the Licensing Authority received three relevant representations from members of the public.

6.2 Representations received against the application raise concerns about the implications of varying the licence for the premises and are provided as **Appendix 8**. Neighbours have raised concerns about the relocation of tables and chairs, nearer to the boundary of the property, closer to residents, impacting them from noise from customers.

6.3 For the purposes of the Act and promotion of the licensing objectives, those objections that are considered relevant and therefore engage the Sub-Committee's discretion, fall into the following areas:

- Inadequate steps taken to prevent Crime and Disorder,
- Noise from guests who are enjoying the outside areas,
- Noise from music.

6.4 Comments on issues such as transport, road layout, highways and infringements of parking are not considered as relevant under the scope of the 2003 Act with regard to the licensing objectives.

6.5 As required, all Responsible Authorities have been consulted, including the Police, NFDC and NPA planning departments, Hampshire Fire and Rescue Service and NFDC Environmental Protection. No representations or additional conditions have been submitted by any agency.

7. THE HEARING

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 and those parties making representations have been invited to this hearing and have been provided with this report and the procedures to be followed at the hearing.

7.3 The applicant and those who have made relevant representations are entitled to address the Sub-Committee and to ask questions of the other party, with the consent of the Sub-Committee.

8. RIGHT OF APPEAL

- 8.1 It should be noted that the applicant and those who have made relevant representations may appeal the decision made by the Licensing Sub-Committee to the Magistrates' Court. The appeal must be lodged with the Magistrates' Court within 21 days of the notification of the decision.
- 8.2 In the event of an appeal being lodged, the decision made by the Licensing Sub-Committee remains valid until any appeal is heard and the decision made by the Magistrates' Court.

9. CRIME & DISORDER, ENVIRONMENTAL, EQUALITY & DIVERSITY AND DATA PROTECTION IMPLICATIONS

- 9.1 None.

10. APPENDICES

Appendix 1	Variation application form
Appendix 2	Current Premises licence
Appendix 3	Current approved NFDC plan
Appendix 4	Proposed changes to plan
Appendix 5	Proposed new plan showing entire licensed area
Appendix 6	Photographs of site and surrounding area
Appendix 7	Location of premises
Appendix 8	Representations received (3).

For further information contact:

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Background Papers:

NFDC Licensing Policy
Statutory guidance issued under S182 of
the Licensing Act 2003