



BROMSGROVE DISTRICT COUNCIL

VIRTUAL MEETING OF THE LICENSING SUB-COMMITTEE (PREMISES HEARING)

TUESDAY 1ST DECEMBER 2020 AT 9.30 A.M.

MEMBERS: Councillors M. A. Sherrey, C. J. Spencer and P. J. Whittaker

NOTE: Legislation requires this Hearing to be held within 48 hours of notification, as detailed in the Licensing Act 2003 (53B), Interim Steps, pending review.

AGENDA

LICENSING SUB-COMMITTEE HEARING PROCEDURE (Pages 1 - 4)

1. Election of Chairman for the meeting
2. To receive apologies for absence and notification of substitutes
3. Declarations of Interest

To invite Councillors to declare any Disclosable Pecuniary Interests or Other Disclosable Interests they may have in items on the agenda, and to confirm the nature of those interests.
4. Summary Review - Consideration of Representations against Interim Steps - Deedar Restaurant, 26 Hewell Road, Barnt Green, Birmingham. (Pages 5 - 52)
5. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting.

K. DICKS
Chief Executive

Parkside
Market Street
BROMSGROVE
Worcestershire
B61 8DA

30th November 2020

**If you have any queries on this Agenda please contact
Pauline Ross
Democratic Services Officer**

**Parkside, Market Street, Bromsgrove, B61 8DA
Tel: 01527 881406**

e.mail: p.ross@bromsgroveandredditch.gov.uk

GUIDANCE ON VIRTUAL MEETINGS

Due to the current Covid-19 pandemic Bromsgrove District Council will be holding this meeting in accordance with the relevant legislative arrangements for remote meetings of a local authority. For more information please refer to the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police Crime Panels meetings) (England and Wales) Regulations 2020.

Please note that this is a public meeting conducted remotely by Skype conferencing between invited participants and live streamed for general access via the Council's YouTube channel.

You are able to access the livestream of the meeting from the Committee Pages of the website, alongside the agenda for the meeting.

If you have any questions regarding the agenda or attached papers please do not hesitate to contact the officer named above.

Notes:

As referred to above, the virtual Skype meeting will be streamed live and accessible to view. Although this is a public meeting, there are circumstances when the Sub-Committee might have to move into closed session to consider exempt or confidential information. For agenda items that are exempt, the public are excluded and for any such items the live stream will be suspended and that part of the meeting will not be recorded.

Appendix

LICENSING SUB-COMMITTEE (Premises - Interim Steps)

HEARING PROCEDURE

1. The Chairman will open the hearing and introduce Members of the Sub-Committee and officers present.
2. The Chairman will ask parties to the proceedings to introduce themselves.
3. In the event the premises licence holder is not represented, the Chairman will remind them that he/she can be represented by a legal representative at his/her own expense.
4. The Senior Practitioner (Licensing), Worcestershire Regulatory Services will present the report.
5. The Chairman will invite Members of the Sub-Committee and all parties to the proceedings to put any relevant questions to the Senior Practitioner.
6. The Chairman will invite the premises licence holder and/or his/her representative to present his/her case and call any witnesses.
7. The Chairman will invite Members of the Sub-Committee and all parties to the proceedings to put any relevant questions to the premises licence holder and/or his/her representative.
8. The Chairman will invite the chief officer of police for the police area in which the premises are situated to present their representations.
9. The Chairman will invite Members of the Sub-Committee and all parties to the proceedings to put any relevant questions to the chief officer of police for the police area in which the premises are situated.
10. The chief officer of police for the police area in which the premises are situated will be invited to sum up.
11. The premises licence holder will be invited to sum up.
12. The Chairman will ask the Legal Advisor if there is any legal advice to be given.
13. At the conclusion of the hearing Members of the Sub-Committee, the Legal Advisor and the Democratic Services Officer will withdraw from the virtual meeting room so that the Sub-Committee can reach its decision in private.

Appendix

- 14. The Sub-Committee's written decision will be notified to all parties as soon as practicable after the Sub-Committee hearing.**

Appendix

Please Note:

1. ***Each application coming before the Licensing Sub-Committee will be treated on its own merits, and the Sub-Committee will take its decision based upon:***
 - a) ***the promotion of the four licensing objectives, as given by the Licensing Act 2003, namely:***
 - ***the prevention of crime and disorder;***
 - ***public safety;***
 - ***the prevention of public nuisance; and***
 - ***the protection of children from harm;***
 -
 - b) ***Bromsgrove District Council's Statement of Licensing Policy;***
 - c) ***guidance issued under section 182 of the Licensing Act 2003; and***
 - d) ***the Licensing Act 2003.***
2. ***The Chairman may require any person who in his/her opinion is behaving in a disruptive manner to leave the meeting, and may refuse to permit that person to return, or permit him/her to return only on such conditions as the Chairman may specify. However, such person may, before the end of the hearing, submit in writing any information which he/she would have been entitled to have given orally at the meeting had he/she not been required to leave.***
3. ***All notices and representations received from absent parties will be considered.***
4. ***Questioning must not be hostile or intended to unfairly undermine the position of any party.***

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BROMSGROVE DISTRICT COUNCIL

LICENSING SUB-COMMITTEE
TUESDAY 1ST DECEMBER 2020

LICENSING ACT 2003

SUMMARY REVIEW – CONSIDERATION OF REPRESENTATIONS AGAINST INTERIM STEPS

DEEDAR RESTAURANT, 26 HEWELL ROAD, BARNT GREEN, BIRMINGHAM

PUBLIC HEARING	
Director:	Head of Worcestershire Regulatory Services
Contact Officer:	Dave Etheridge Senior Licensing Practitioner 01905 822799 enquiries@worcestershire.gov.uk
Ward(s) affected:	Barnt Green and Hopwood
Appendices:	Appendix 1 – Application for Summary Review Appendix 2 – Existing Licence Appendix 3 – Decision Notice (Interim Steps) Appendix 4 – Representations Against Interim Steps

1 PURPOSE OF REPORT

- 1.1 To consider representations made against the interim steps taken by the licensing authority in response to an application received from West Mercia Police for a summary review of the premises licence in respect of:

**Deedar Restaurant
26 Hewell Road
Barnt Green
Birmingham
B45 8NE**

- 1.2 Having considered the representations, Members are required to consider whether the interim steps are appropriate for the promotion of the licensing objectives and determine whether to modify or withdraw the steps taken.

2. BACKGROUND

- 2.1 At 12:32 hours on Wednesday 25th November 2020 an application was received from West Mercia Police for a summary review of the premises licence in respect of:

**Deedar Restaurant
26 Hewell Road
Barnet Green
Birmingham
B45 8NE**

- 2.2 A copy of the application, the accompanying certificate from the Senior Police Officer and other supporting documents can be seen at **Appendix 1**.
- 2.3 A copy of the current premises licence is attached at **Appendix 2**.
- 2.4 The premises licence is currently held by Mr Kachi Kabir and Mr Kaptan Miah and the designated premises supervisor named on the licence is Mr Kachi Kabir.
- 2.5 Mr Kachi Kabir's personal licence under the Licensing Act 2003 was issued by Solihull Metropolitan Borough Council. Enquiries with Solihull Metropolitan Borough Council have revealed that Mr Kabir surrendered his personal licence in September 2018. Therefore it appears that the designated premises supervisor named on the premises licence does not currently hold a personal licence.
- 2.6 On Thursday 26th November 2020, as required by section 53A of the Licensing Act 2003, the licensing authority considered whether it was necessary to take interim steps pending the determination of the review application.
- 2.7 Following consideration of this matter a decision was taken to take the following interim steps:
- (a) the removal of the designated premises supervisor from the licence;
 - (b) the suspension of the licence.
- 2.8 A copy of the decision notice can be found at **Appendix 3**. The decision notice has been served on the licence holders and West Mercia Police.

- 2.9 At 11:20 hours on 27th November 2020, the licensing authority received representations against the interim steps taken, that were submitted on behalf of one of the two holders of the premises licence, Mr. Kaptan Miah. A copy of the representations received can be seen at **Appendix 4**.
- 2.10 The licensing authority is now required to consider these representations within 48 hours and consider whether the interim steps are appropriate for the promotion of the licensing objectives and determine whether to modify or withdraw the steps taken. In computing the period of 48 hours time that is not on a working day is to be disregarded.
- 2.9 Whether or not the interim steps are modified or withdrawn, the licensing authority must determine the application for summary review of the premises licence within 28 days after the day of receipt of the application. A Licensing Sub-Committee hearing will be arranged in due course in order to determine the application.

3. LOCAL POLICY CONSIDERATIONS

- 3.1 The Sub-Committee should have regard to the Council's Statement of Licensing Policy under the Licensing Act 2003.
- 3.2 The Council's Statement of Licensing Policy is available to download from the Council's website or to request a hard copy, contact Worcestershire Regulatory Services on 01905 822799 or email enquiries@worcestershire.gov.uk

4. LEGAL IMPLICATIONS

- 4.1 The Sub-Committee is obliged to consider whether the interim steps are appropriate for the promotion of the licensing objectives and determine whether to modify or withdraw the steps taken.
- 4.2 In considering those matters the relevant licensing authority must have regard to—
- (a) the certificate that accompanied the application;
 - (b) any representations made by the chief officer of police for the police area in which the premises are situated (or for each police area in which they are partly situated); and
 - (c) any representations made by the holder of the premises licence.
- 4.3 In making its decision, the Sub-Committee is obliged to have regard to the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy.

Agenda Item 4

4.4 The licensing authority must hold a hearing to reach a determination on the review application no later than 28 days after the application for a summary review was received from the Chief Officer of Police.

5. **FOR DECISION**

5.1 The Sub-Committee must:

- (a) Consider the representations received against the interim steps,
- (b) Consider whether the interim steps are appropriate for the promotion of the licensing objectives, and
- (c) determine whether to modify or withdraw the steps taken.

Summary Licencing Review
53A Licencing Act 2003

Deedar Restaurant
26 Hewell Road
Barnt Green
Birmingham
B45 8NE

West Mercia Police Supporting Documents

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FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

[Insert name and address of relevant licensing authority and its reference number (optional)]

Bromsgrove District Council, Parkside, Market Street, Bromsgrove, Worcestershire
B61 8DA

Licence Number PL0999

Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing the form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. **Use additional sheets if necessary.**

I Supt Mark Colquhoun [on behalf of] the chief officer of police for the WEST MERCIA police area apply for the review of a premises licence under section 53A of the Licensing Act 2003

1. Premises details:

Postal address of premises, or if none or not known, ordnance survey map reference or description.

**Deedar Restaurant
26 Hewell Road
Barnt Green
Birmingham
B45 8NE**

Post town. Barnt Green, Birmingham

Post code (if known). **B45 8NE**

2. Premises licence details:

Name of premises licence holder (if known). Mr Kachi Kabir and Mr Kaptan Miah

Number of premises licence holder (if known).

3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read

guidance note 1].

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

4. Details of association of the above premises with serious crime, serious disorder or both:

[Please read guidance note 2]

The effects of Covid-19 and the risk it poses to the health of the general population are well publicised through all major media channels, as are the governments efforts to reduce the risk and stem the spread of the virus through changes in legislation.

West Mercia Police assert that this premises has chosen to disregard the changes in legislation and published guidance, and in failing to comply has placed not only their employees and customers at risk but also the wider community due to the virulent nature of the virus.

On 21/03/2020 The Health Protection (Coronavirus, Business Closure) (England) Regulations 2020 came into legal effect at 2pm, enforcing the closure in England of businesses selling food and drink for consumption on the premises, as well as a range of other businesses such as nightclubs and indoor leisure centers where a high risk of infection could be expected.

On 04/07/2020 The Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020 came into force in England, replacing and relaxing the previous Lockdown Regulations. Guidance was published in a document titled "Keeping workers and customers safe during COVID-19 in restaurants, pubs, bars and takeaway services" which has been regularly updated and amended throughout the Covid 19 crisis.

The published guidance included no persons should attend the bar, all customers should be seated with a minimum 1 metre gap between groups if 2 metres is not achievable, no live entertainment indoors and no dancing. There was also a requirement for staff members to wear masks and to display the NHS QR code. Premises were also required to produce a Covid-Safe Risk Assessment to demonstrate their knowledge and understanding of the risks posed by the virus, and measure put in place to limit those risks to their staff and customers.

Due to a rise in COVID-19 in all of our communities the Prime Minster made a public address to advise of the further restrictive measure commonly referred to as "Lockdown 2". This was debated and voted in the houses of commons where The Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020 were passed. On the 5th of November 2020 this was enacted but is time limited until the 2nd of December 2020. A copy of the legislation is enclosed.

https://www.legislation.gov.uk/ukxi/2020/1200/pdfs/ukxi_20201200_en.pdf

The UK Government have been really prescriptive and outlined businesses that must close and businesses that can remain open. Under point 1 of businesses

that must close is Restaurants, including restaurants and dining rooms in hotels or members' clubs which will include premises such as Deedar Restaurant.

The UK Government released a supplementary guidance document called "Closing certain businesses and venues in England" which can be found on this link: -

<https://www.gov.uk/government/publications/further-businesses-and-premises-to-close/closing-certain-businesses-and-venues-in-england>

In this guidance they provided a detailed overview of what can occur for businesses including click and collect, delivery and takeaway services.

The guidance says

"Hospitality

The following hospitality venues are required to close for consumption on the premises.

- Restaurants; pubs; bars, including those in hotels or members' clubs, and shisha bars; social clubs
- Cafes and canteens, excluding workplace canteens where there is no reasonable alternative

These businesses can continue to provide:

- Food and non-alcoholic drinks on a takeaway basis between 5am and 10pm. This means that customers can enter the premises to place and collect their order. Food and non-alcoholic drinks can also be sold for delivery where orders are made online, by telephone or by post, and via click and collect; and drive through;
- Food and drinks for delivery, via click and collect and drive through only between 10pm and 5am. Click-and-collect and delivery services can only operate where goods are pre-ordered (by phone, online, via a mobile app or by post) and collected without entering the premises.
- Alcohol for consumption off the premises through delivery, click and collect and drive through. As above, this means alcohol must be pre-ordered (by phone, online, via a mobile app or by post) and must be collected without entering the premises. Venues offering click-and-collect or delivery services must not include alcoholic beverages if their license does not already permit. Planning regulation has been changed to enable restaurants, cafes and pubs which have not previously offered delivery and hot food takeaway to be able to do so.

Hospitality venues providing food and drink for consumption off the premises are not permitted to allow customers to consume from any adjacent seating to the premises (with the exception of motorway service areas, airports, seaports, and the international terminal at Folkestone)."

On Friday the 20th of November 2020, West Mercia were advised of a COVID-19 businesses regulation breach at Deedar Restaurant, 26 Hewell Road, Barnt Green, Birmingham, B45 8NE. The report suggested that customers were eating meals within the premise. Police Constables Bednall & Barnes were deployed to the business and had their Body Worn Camera activated. At around, 20:30 hours they enter the premises and you can clearly see from their body camera that the staff were not wearing a masks nor does the camera pick up the NHS QR code. The officers go around the premises and you can see a number of customers sat around tables consuming alcohol which is mainly larger in pint glasses and the glasses are similar to the one behind the counter. PC Bednall speaks to staff to confront them on this who say "THEY ARE JUST

WAITING FOR TAKEAWAYS". Pc Bednall asks to speak to the manager or owner and Mohammed HUSSAIN DOB 06/05/1983 states he is the manager. HUSSAIN is asked to go outside with officers as they were close to customers and he was challenged about what they were doing and HUSSAIN was adamant that they were waiting for a takeaway. Based on the fact police officers witnessed customers drinking alcohol onsite and a customers suspected of eating a meal inside the restaurant he is reported for consideration of a £1,000 Fixed Penalty Notice for breaching the business regulations. Hussain was asked to remove the drinks from everyone's tables and PC BEDNALL would go in and speak to the table at the back.

As PC BEDNALL entered the building at the same time as HUSSAIN and he witnessed HUSSAIN go over to the table towards the back of the restaurant where they suspected a meal had been consumed by a customers. HUSSAIN is then seen to remove the beers from this table. PC BEDNALL went over to the table who he suspected had been eating and the smell of food was overwhelming, he asked the male whether he had been eating to which he replied "NO". He was extremely intoxicated and PC BEDNALL could tell this because he was slurring his words, his eyes were glazed and he was dropping his belongings on the floor. As he said no, PC BEDNALL could see on the table that there were used napkins and food scattered across the table indicating that they had been eating inside the restaurant as originally suspected. On top of this there were a number of empty pint glasses and bottles of wine suggesting this had been ordered and paid for at the premises and not brought in by the customer.

PC BEDNALL asked HUSSAIN to come out of the restaurant again so he could speak with him, PC BEDNALL explained to him what he had found at the table when he went over and the fact that he did not like being lied to. PC BEDNALL informed HUSSAIN that the customers would need to leave, and all the drinks removed from the tables. PC BEDNALL waited outside the restaurant whilst they did this, as the two males were leaving the restaurant they were unsteady on their feet and were shouting at each other across the road. As one male left he was swearing loudly the word "FUCK" and PC BEDNALL asked him to stop swearing. At this time there was quite a few members of the public around that could hear and witness this behaviour.

In Summary, there are some serious shortcoming at this restaurant and the only proportionate response based on the current health impacts is to seek a summary review. The concerns of the police are:-

- They was operating as a eat in restaurant and in doing so committed a criminal offence under the The Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020
- They were clearly serving alcohol to customers sat down in the premises which is a criminal offence under the regulations.
- The staff had no mask coverings which is required for close contact services including takeaways.
- There is evidence from the police of customers who were intoxicated and drunk and were clearly served by the premises while in this state.
- The manager, Mr. HUSSAIN tried to lie to the police to cover up the serious shortcoming.
- Members of the public were clearly concerned as they called West Mercia Police to report this breach of the regulations.
- We are currently in the middle of a Pandemic which the UK Government has closed businesses under Lockdown 2. Clear guidance has been issued

and it appears that the premises has not followed any of it by continuing to operate.

- The seriousness of these breaches needs a review by the Licencing committee for significant sanctions to be placed on the premise.

Signature of applicant.

Date 25/11/2020

Capacity: Supt 3748 Mark COLQUHOUN



Contact details for matters concerning this application:

Address **Problem Solving Hub, Room 7, Kidderminster Police Station,
Habberley Rd, Kidderminster DY11 6AN**

Telephone number(s). 01562 828245 / 07890510896

Email richard.field@westmercia.pnn.police.uk

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more, or

- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.



CERTIFICATE UNDER SECTION 53A(1)(b) OF THE LICENSING ACT 2003

I, Supt 3748 Mark COLQUHOUN hereby certify that in my opinion the premises described below are associated with serious crime and serious disorder.

Premise

**Deedar Restaurant
26 Hewell Road
Barnet Green
Birmingham
B45 8NE**

Premises licence number: **PL0999**

Name of Designated Premises Supervisor: **Mr Kachi Kabir**

I am a Superintendent with West Mercia Police and provide the grounds for the Summary Review.-
I am giving this certificate because I am of the opinion that the procedures under the Licensing Act are inappropriate in this case. The standard review procedures are not appropriate due to the seriousness of the crime and the serious management failings of the premises concerned, which requires more timely action than the standard procedures allow.

The actions taken by the premises in deciding to open and inadequacies in implementing risk mitigation have placed an unnecessary risk to the health of individuals, families and local communities at a time where the country is experiencing a national emergency. The risk of transmission of the Covid-19 virus and failure of the premises to follow published guidelines represents a public nuisance.

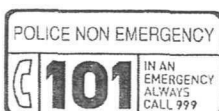
Public Nuisance is a serious crime and combined with the national threat that Covid-19 poses, it warrants use of this power.

I have considered use of the normal review procedure but I do not feel this would be appropriate in these circumstances due to the above reasons. In order to maintain the licensing objective of preventing crime and disorder the normal review procedure is not sufficient. The severity of the incidents is a matter that needs to be brought to the attention of the Licensing Committee immediately.

I am conscious of the guidance on the use of "Expedited Reviews". Given the seriousness of the risk and the emphasis in that guidance to using this power to tackle serious crime and disorder, I feel that this process is most appropriate.

Signed *Mark Colquhoun 3748*

Date. 25th November 2020



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Interim Steps Police Proposed Outcomes.

West Mercia Police has submitted a bundle of evidence and following the Guidance issued under Section 182 of The Licensing Act 2020 members will have the following options available.

- the modification of the conditions of the premises licence;
- the exclusion of the sale of alcohol by retail from the scope of the licence;
- the removal of the designated premises supervisor from the licence; and
- the suspension of the licence.

West Mercia Police would seek the following outcomes in the interim steps:

1) Removal of the Designated Premise Supervisor (DPS)

Justification:

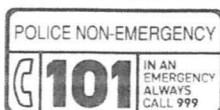
Mr. Kabir has provided a statement to police to confirm he sold this business and surrendered his personal licence so cannot lawfully be a DPS. In this statement he asks that he is removed as DPS of this business.

2) Suspension of Licence pending full review hearing

Justification:

In a summary hearing members can suspend the licence pending a full hearing. This would have a significant impact on the business and needs to be balanced against the strong evidential case to suspend the licence which in summary is:-

- Serious and significant breaches of current regulations supported by the chief officers view that this would be a public nuisance.
- Evidence from the Police Constables BEDBALL & BARNES that the manager was fined £1K for breaking the current restrictions and tried to lie to police.
- Evidence that they served customers alcohol unlawfully as the sale of alcohol was not authorised as Mr. Kabir does not hold a premise licence. This is an offence under S136 of the Licensing Act 2003.
- Evidence of drunk and anti-social customers leaving the premise. Section 141 of the Licensing Act 2003 creates of an offence of selling a drunk person alcohol.
- A condition on the licence is that alcohol can only be sold with a meal and evidence from the police will say that customers were just drinking alcohol supported by Body Worn Camera footage.
- A complete lack of any COVID-19 control measures and the supporting Public Health data of rising COVID-19 infection rates in Bromsgrove. This could have a causation impact of increased transmission and lead to people getting ill, impact on hospital admissions or lead to death.
- Mr. Kabir has asked the committee to revoke the licence. Although this cannot be completed in the interim steps suspension appears wise until the full hearing.



www.westmercia.police.uk

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In practice this will mean that the business can still trade for food but only between the hours of 0500-2300 hours as this does not require a late night refreshment licence. It would also mean that the business would not be allowed to sell alcohol until the full hearing. However, this would not stop customers bringing their own alcohol into the premise as this does not require a licence.

Author : Police Sergeant Richard FIELD

LICENSING ACT 2003



PREMISES LICENCE

PREMISES LICENCE NUMBER

PL0099

Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

Deedar Restaurant
26 Hewell Road
Barnt Green
Birmingham
Worcestershire
B45 8NE

Telephone number	0121 4477692
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Where the licence is time limited, the dates
Not applicable

Licensable activities authorised by the licence and the times the licence authorises the carrying out of licensable activities

Activity	Days	From	To	Indoors/Outdoors
Late Night Refreshment	Monday to Saturday	23:00	- 00:00	Indoors
Sale of Alcohol	Sunday	12:00	- 23:30	N/A
Sale of Alcohol	Monday to Saturday	12:00	- 00:00	N/A

Non-standard timings

Good Friday and Christmas Day - 12:00 - 23:30.

New Year's Eve - All licensable activities listed are permitted till the start of trading hours on New Year's Day.

The opening hours of the premises

Days	From	To
Sunday	12:00	- 00:00
Monday to Saturday	12:00	- 00:30

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

Alcohol is supplied for consumption on the premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Mr Kachi Kabir
10 Clarksland Grove
Marston Green
Solihull
West Midlands
B37 7GT

Mr Kaptan Miah
292 Washwood Heath Road
Washwood Heath
Birmingham
West Midlands
B8 2UL

Registered number of holder, for example company number, charity number (where applicable)

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Kachi Kabir, 10 Clarkland Grove, Marston Green, Solihull, West Midlands, B37 7GT

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Personal Licence No: 171

Licensing Authority: Solihull Metropolitan Borough Council



Date of first issue: 24 November 2005

This version valid from: 24 November 2005

AUTHORISED OFFICER
Head of Regulatory Services
Worcestershire Regulatory Services
On behalf of Bromsgrove District Council

Issuing Authority: Bromsgrove District Council
Parkside
Market Street
Bromsgrove
Worcestershire
B61 8DA

ANNEX 1 – MANDATORY CONDITIONS

The making and authorisation of alcohol sales

No supply of alcohol may be made under the premises licence—

- a) at a time when there is no designated premises supervisor in respect of the premises licence, or
- b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Irresponsible alcohol promotions

The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
- (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

Provision of free potable water

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

Age verification policy for the sale or supply of alcohol

The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

- (a) a holographic mark, or
- (b) an ultraviolet feature.

Availability of small measures of alcohol

The responsible person must ensure that—

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Permitted price of alcohol

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price
 2. For the purposes of the condition set out in paragraph 1—
 - a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979);
 - b) "permitted price" is the price found by applying the formula—
$$P=D+(D\times V)$$
where—
 - P is the permitted price,
 - D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence—
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - e) "valued added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
 4.
 - (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
 - (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

ANNEX 2 – CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

- a) General – all four licensing objectives (b,c,d,e):
- b) The prevention of crime and disorder:
- c) Public safety:
- d) The prevention of public nuisance:
- e) The protection of children from harm:

Other operating conditions

Agenda Item 4

ANNEX 3 – CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

ANNEX 4 – PLANS

As deposited with the licensing authority

LICENSING ACT 2003



PREMISES LICENCE SUMMARY

PREMISES LICENCE NUMBER

PL0099

Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

Deedar Restaurant
26 Hewell Road
Bart Green
Birmingham
Worcestershire
B45 8NE

Telephone number 0121 4477692

Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence and the times the licence authorises the carrying out of licensable activities

Activity	Days	From	To	Indoors/Outdoors
Late Night Refreshment	Monday to Saturday	23:00	- 00:00	Indoors
Sale of Alcohol	Sunday	12:00	- 23:30	N/A
Sale of Alcohol	Monday to Saturday	12:00	- 00:00	N/A

Non-standard timings

Good Friday and Christmas Day - 12:00 - 23:30.

New Year's Eve - All licensable activities listed are permitted till the start of trading hours on New Year's Day.

The opening hours of the premises

Days	From	To
Sunday	12:00	- 00:00
Monday to Saturday	12:00	- 00:30

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

Alcohol is supplied for consumption on the premises

Agenda Item 4

Name, (registered) address of holder of premises licence

Mr Kachi Kabir
10 Clarksland Grove
Marston Green
Solihull
West Midlands
B37 7GT

Mr Kaptan Miah
292 Washwood Heath Road
Washwood Heath
Birmingham
West Midlands
B8 2UL

Registered number of holder, for example company number, charity number (where applicable)

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

Kachi Kabir

State whether access to the premises by children is restricted or prohibited

No specific restriction



Date of first issue: 24 November 2005

This version valid from: 24 November 2005

AUTHORISED OFFICER
Head of Regulatory Services
Worcestershire Regulatory Services
On behalf of Bromsgrove District Council

Issuing Authority: Bromsgrove District Council
Parkside
Market Street
Bromsgrove
Worcestershire
B61 8DA



**Her Majesty's Courts Service
West Mercia Area**

Licensing Act, 1964

**GRANT OF NEW JUSTICES 'RESTAURANT'
LICENCE**

AT THE LICENSING SESSIONS for the Local Justice Area of

BROMSGROVE & REDDITCH

held on the

1st June 2005

The Licensing Justices for the said division hereby grant to

Kachi KABIR

this Justices' 'Restaurant' Licence authorising him/her to sell by retail, at the premises,

**DEEDAR INDIAN CUISINE, 26 & 26a Hewell Road, Barnt Green,
Birmingham**

intoxicating liquor of all descriptions for consumption on the premises.

The owners of the premises in respect of which this licence is granted are

Alan Samuel Pollock

This licence is granted subject to the conditions endorsed hereon and shall have effect
From the date hereof until and including the

4th day of April 2007

GIVEN under the official seal of the
Licensing Justices which is hereto
Affixed under their authority by me.

Justice of the Peace.



Licence Conditions/Undertakings
DEEDAR INDIAN CUISINE, 26 & 26A HEWELL ROAD,
BARNT GREEN, BIRMINGHAM

1. Intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such a person as an ancillary to his meal.
2. Suitable beverages other than intoxicating liquor (including drinking water) shall be equally available for consumption with or otherwise as an ancillary to meals served in the premises.

RESTRICTED (when complete)

WITNESS STATEMENT

(Criminal Procedure Rules, r27.2; Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s.5B)

URN:

Statement of: Joshua BEDNALL

Age if under 18: Over 18

Occupation: Police Constable

This statement (consisting of 2 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it, which I know to be false, or do not believe to be true.

Signature: 

Date: 23/11/2020

I am Police Constable 2713 Joshua BEDNALL of West Mercia Police, currently based at Bromsgrove Police Station.

On Friday 20th November 2020 I was on duty in full police uniform. At approximately 2030 hours I was on mobile patrol in company with PC 21705 BARNES.

At this time we were made aware of a possible breach of COVID at The Deedar restaurant, HEWELL ROAD, BARNT GREEN by serving customers food. We arrived at the location a short time later and as we entered, I could see two tables sat to the right hand side who had no food in front of them, one of the tables had two drinks on their table which were pints of what looked like Lager, the same branding on the glasses of lager was the same branding which was on the beer tap which was located on the bar. I immediately assumed that these drinks had been served by the staff within the restaurant.

I explained that a report had been made to us that a table had been eating food within the restaurant against government guidelines. A staff member stated something similar to "THEY ARE JUST WAITING FOR TAKEAWAYS". I explained that they could not be served drinks in the restaurant even if they were waiting for food. I then walked into the restaurant and could see a table of two males who had empty beer glasses and a nearly empty bottle of wine on the table, both males seemed quite loud, animated and seemed to be intoxicated.

I asked who the owner or manager was and a male of spoke with a male Mr Mohammed HUSSAIN DOB 06/05/1983 who identified himself as the owner of the business, I explained to him that by serving customers drinks whilst waiting for takeaway food was against the current government guidelines. I also asked him about the table who was located in the rear and he stated "THEY ARE JUST

Signature: 

Signature witnessed by:

Date/Time Started: 23/11/2020 12:48:14

Date/Time Finished: 23/11/2020 12:49:17

Format/Status: Digital Master - 36D9B64EC531ADC5BDA6059914A1823794F0243D05A769ED5EFED2E1738E4963

RESTRICTED (when complete)

Statement of: Joshua BEDNALL

URN:

WAITING FOR A TAKEAWAY". He was challenged about what they were doing and HUSSAIN was adamant that they were waiting for a takeaway. At 2020 hours I informed him that he was being reported for breaching the coronavirus legislation for opening his business when he shouldn't be and I then cautioned him to which he made no reply. I told him to remove the drinks from everyone's tables and I would go in and speak to the table at the back. As I entered at the same time as HUSSAIN I saw him go over to the table and remove the beers from the table. I went over to the table who I suspected had been eating and the smell of food was overwhelming, I asked the male whether he had been eating to which he replied "NO". He was extremely intoxicated and I could tell this because he was slurring his words, his eyes were glazed and he was dropping his belongings on the floor. As he said no, I could see on the table that there were used napkins and food scattered across the table indicating that they had been eating inside the restaurant as originally suspected.

I asked HUSSAIN to come out of the restaurant again so I could speak with him, I explained to him what I had found at the table when I went over and the fact that I did not like being lied to. I told him that they would need to leave, and all the drinks removed from the tables. I waited outside the restaurant whilst they did this, as the two males were leaving the restaurant they were unsteady on their feet and were shouting at each other across the road. As one male left he was swearing saying "FUCK" and I asked him to stop swearing. There was quite a few members of the public around that could hear and witness this behaviour.

I have nothing further to add in relation to this incident and these are my original notes.



Signature:



Signature witnessed by:

RESTRICTED (when complete)

WITNESS STATEMENT

(Criminal Procedure Rules, r27.2; Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s.5B)

URN: []

Statement of: Joanne Barnes

Age if under 18: Over 18

Occupation: Constable

This statement (consisting of 3 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it, which I know to be false, or do not believe to be true.

Signature: *J Barnes 21705*

Date: 24/11/2020

I am Constable 21705 Joanne Barnes of West Mercia, currently based at Bromsgrove Police Station.

On FRIDAY 20TH NOVEMBER 2020 I was on duty in full police uniform. I was working a 1700 x 2300 tour of duty on mobile patrol with PC 2713 BEDNALL.

At approximately 2020 hours we attended the DEEDAR INDIAN RESTAURANT on HEWELL LANE in BARNT GREEN, following receiving information of a possible breach of COVID regulations.

As we approached the restaurant on foot, I could see that its lights were on inside and outside.

On entering the door to the premises there was a small seating area to the left. In front of me to my right was a bar area. Opposite that bar area was a row of tables and seating.

There was an Asian male behind the bar and he had empty beer glasses in his hand. There was a silver pump behind the bar that served draught lager, I cannot remember what type.

In the small seating area to my left, there was a male who appeared to be waiting for a food takeaway.

On the tables opposite the bar I saw that people were sat possibly waiting for food also. These people had glasses on the table with what appeared to be lager in them.

Signature: *J Barnes 21705*

Signature witnessed by:

Date/Time Started: 24/11/2020 09:49:28
Date/Time Finished: 24/11/2020 10:33:30
Format/Status: Digital Master - 35CAD41EBEB11A829AB3FC35CB4951C81322CC6A2A7EC5B7A6165660EE75BAFA

RESTRICTED (when complete)

Statement of: Joanne Barnes

URN:

PC BEDNALL spoke to the male behind the bar and asked if there was a Manager on the premises. He then explained that a report had been made of customers eating within the premises and drinking, both not being allowed under the current guidelines. PC BEDNALL mentioned the drinks on the tables and was told that "THEY ARE WAITING FOR TAKEAWAYS." PC BEDNALL explained that this was not allowed. Only takeaway drinks were allowed.

A male approached us and identified himself as the manager. I heard PC BEDNALL explain what was happening to him and I asked for his details. I recorded his details in my notebook as Mohammed HUSSAIN, born 06.05.1983, with a home address of 153 BURNEY LANE, WARD END, B8 2AJ.

As I was speaking to the manager, PC BEDNALL walked to the end of the bar and off to the right, which I now know led to a further seating area of the restaurant.

PC BEDNALL returned and explained to the manager that he had observed two males sat at a table in that area. He said that both males seemed extremely intoxicated and were being very loud. He also told the manager that it did appear upon observation that the males had been eating food at the table. There were used napkins and a plate on there, with remnants of food.

The manager Mr HUSSAIN told PC BEDNALL that the males at the back were waiting for a takeaway. PC BEDNALL challenged him over this statement and asked him not to lie.

PC BEDNALL then asked me to accompany him to the table. The table itself was partially hidden from view of the outside by a moveable partition of some sort. It was at the back of the room, just off from what I believe is a door leading to the kitchen. I saw empty beer glasses and an almost empty bottle of wine on the table. There were also napkins and crumbs. A male that was there seemed very intoxicated and was swaying from side to side in his chair, holding cash in his hands.

I was present when PC BEDNALL reported Mr HUSSAIN for offences relating to breaching Coronavirus Regulations.

Again the manager said that the table at the back were only waiting for a takeaway. PC BEDNALL went to speak with the people at the table and I waited with Mr HUSSAIN.

On his return PC BEDNALL asked to speak to MR HUSSAIN outside in the street, away from the remaining customers in the premises. PC BEDNALL spoke directly to MR HUSSAIN and advised him that he shouldn't lie to the police when asked a question and that it was clear from what he and I had seen, that people were being

Signature: 

Signature witnessed by:

RESTRICTED (when complete)

Statement of: Joanne Barnes

URN:

allowed to eat and drink alcohol within that restaurant. It was explained to him that he would be receiving a fine over what we had observed in his premises that evening.

As we were talking to Mr HUSSAIN, one of the men that was sat at the table came outside. I heard the male swear. There were members of the public around at that time as the premises is at the end of a row of shops.

PC BEDNALL shouted to the male and asked him to watch his language in a public place.

*J Barnes
PC 21705*

Signature:

*J Barnes
PC 21705*

Signature witnessed by:

RESTRICTED (when complete)

WITNESS STATEMENT

(Criminal Procedure Rules, r 16.2; Criminal Justice Act 1967. s.9)

Statement of: Kachi KABIR

Age if under 18: Over 18

Occupation: Business Owner

This statement (consisting of page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I may be required to attend court and that I shall be liable to prosecution if I have wilfully stated anything in it, which I know to be false, or do not believe to be true.

Signature: K. Kabir

Date: 25th Noveember 2020

I am the above named person and I used to part own a business called Deedar, 26 Hewell Road, Barnt Green, B458NE in partnership with Kaptan Miah and Dildar Hussain.

Approximately two years ago I sold my share of the partnership to Kaptan Miah and Dildar Hussain. I told Dildar Hussain that they needed to transfer the licence to sell alcohol as I was surrendering my personal licence to Solihull Council. Mr. Dildar Hussain informed me that they had arranged a transfer of the licence and that I could now surrender my licence. I made contact with Solihull Council and arranged for my personal licence to be surrendered as I no longer required it.

On Tuesday 24th November 2020 I was visited by the police who asked about this business as I was showing as the Designated Premise Supervisor (DPS) and I informed them that I no longer have a licence nor do I have any control over the business.

I have since been made aware that the business has been operating unlawfully and sold alcohol illegally last week. I do not have any control over these matters nor do I have a say in the business. I would ask that the licensing committee be aware of these facts and if they have been operating unlawfully to remove me as DPS as I no longer have a licence and to revoke the premise licence.

END

K.KABIR

Signature: **Error! Bookmark not defined.**

Signature witnessed by: **Error! Bookmark not defined.**

RESTRICTED (when complete)

WITNESS STATEMENT

(Criminal Procedure Rules, r 16.2; Criminal Justice Act 1967. s.9)

URN:

Statement of: Marc GINDER

Age if under 18: Over 16

Occupation: Police Officer

This statement (consisting of 1 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I may be required to attend court and that I shall be liable to prosecution if I have wilfully stated anything in it, which I know to be false, or do not believe to be true.

Signature: M. GINDER

Date: 25/11/2020

I am PC 1505 Marc GINDER and I am the local Police Officer for the area that covers Barnt Green village in Worcestershire.

I was made aware by Police Sergeant Richard Field of an incident at Deedar Restaurant, Hewell Road in Barnt Green where they were selling alcohol against the current restrictions. At that time, no one could locate or make contact with the Designated Premise Supervisor so I was asked to make enquiries at his home address.

On Tuesday 24th of November 2020 I attended the last known address of Kachi KABIR in the Marston Green area. I have knocked on the door and spoke with Mr. Kabir who confirmed he used to be a business partner of Deedar restaurant. Mr. Kabir informed me that he sold this two years ago and has no control or involvement in the business currently.

END

M. Ginder

Signature: **Error! Bookmark not defined.**Signature witnessed by: **Error! Bookmark not defined.**

RESTRICTED (when complete)

WITNESS STATEMENT

(Criminal Procedure Rules, r 16.2; Criminal Justice Act 1967. s.9)

URN:

Statement of: Richard Paul FIELD

Age if under 18: Over 18

Occupation: Police Officer

This statement (consisting of 1 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I may be required to attend court and that I shall be liable to prosecution if I have wilfully stated anything in it, which I know to be false, or do not believe to be true.

Signature: R. P FIELD

Date: 24/11/2020

I am Police Sergeant 2458 Richard Paul Field of West Mercia Police. I currently work for West Mercia Police out of Kidderminster Police Station where I supervise staff from the Problem Solving Hub which includes licensing functions. I have been a Police Officer for 11 years and I have been involved in licensing for around 6 of those years. I currently hold a BA Hons in Business Management, hold qualifications in risk assessments, Health and Safety and hold a Professional Licensing Practitioners Qualification (PLPQ).

During my time in licensing we aim to work with licensees to offer encouragement and support where we can. However, we do undertake enforcement when it is serious and proportionate to do so especially when members of the public's safety are at risk.

On Monday 23rd November 2020 I was made aware that the manager of Deedar Restaurant, 26 Hewell Road, Barnt Green, Birmingham, B45 8NE had been reported for consideration of a £1,000 fixed penalty notice for breaching business regulation in opening a closed business namely a restaurant.

I have reviewed the evidence which included officer statements, the associated body worn camera footage and the fixed penalty notice. When I reviewed the body worn camera I was shocked, appalled and dismayed of the blatant disregard to the current lockdown regulations. From reviewing the body worn camera it was clear there were serious shortcomings at this restaurant and the only proportionate response based on the current health impacts is to seek a summary review.

Signature: R. P FIELD

Signature witnessed by:

2020

Field, Richard/11/20

RESTRICTED (when complete)

Page 2 of 2

Statement of: Richard Paul FIELD

URN:

The main issues that I highlighted were:-

- They was operating as a eat in restaurant and in doing so committed a criminal offence under the The Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020
- They were clearly serving alcohol to customers sat down in the premises which is a criminal offence under the regulations.
- The staff had no mask coverings which is required for close contact services including takeaways.
- There is evidence from the police officer that customers were intoxicated and drunk and were clearly served by the premises while in this state.
- The manager, Mr. HUSSAIN tried to lie to the police to cover up the serious shortcoming.
- We are currently in the middle of a Pandemic which the UK Government has closed businesses under Lockdown 2. Clear guidance has been issued and it appears that the premises has not followed any of it by continuing to operate.
- That there was no sign of the DPS at the site nor could the officers locate the DPS.

From reviewing the footage it was clear that the premise had committed serious criminal offences and there was a public safety concern in line with the four licencing objectives. It was clear that this premises had chosen to disregard the changes in legislation and published guidance, and in failing to comply has placed not only their employees and customers at risk but also the wider community due to the virulent nature of the virus. COVID-19 is rapidly rising in Worcestershire in line with the national picture and this premise in my view posed a health and safety risk.

On Tuesday 24th November 2020, I made a request to Public Health within Worcestershire County Council to provide an overview of the current CoVID-19 infection rates in Bromsgrove. A summary report was provided which I now produce as evidence and exhibit as RPF/1.

END

R.P. FIELD

Signature: R. P FIELD

Signature witnessed by:

2020

Field, Richard/11/20

Summary of digital data

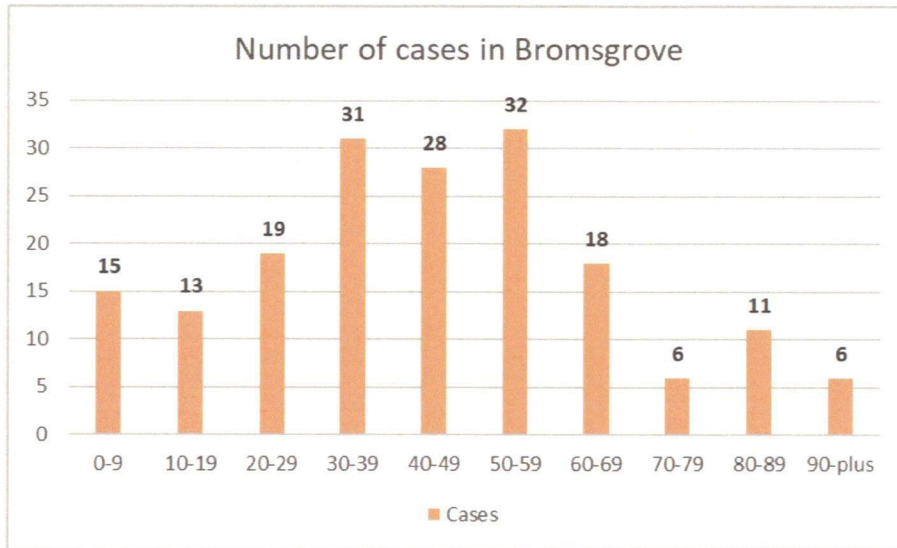
Exhibit no:	LEA/1		
Ref no:			
Accused:		Witnesses	
Exhibit:		Signature:	
Officer viewing (printed):	PC ATWELL 535	Date:	

Time counter	Summary of evidence
00.00	Pc Bednal 222713 enters the Deedar Restaurant, Hewell Road at 20.26 on 20/11/2020.
	As his body cam scans around to the left you can see 3 individual couples sat at the 3 booths. All had glasses on the table which looked to contain alcohol. The liquid was brown and looked like beer In a half pint glass.
	Pc Bednal talks to the manager and he is insistent that the people are just waiting for takeaways.
	There are other customers hidden behind a screen in the restaurant. Pc Bednal approaches them, there are empty glasses on the table, there is a bottle of wine and the table appears to have been sat at for some time as it looks untidy and Pc Bednal comments that he can clearly see that food has been eaten. He speaks to a male who is sat at that table and he is clearly intoxicated. He is asked if he has had a meal in the restaurant but he denies that.
	Pc Bednal speaks to the manager outside and states to him that he has been serving food but the manager continues to deny it and states that they are awaiting takeaways. Pc Bednal reports the manager for the relevant Covid breaches and Cautions him.
	Pc Bednal is still outside when the drunk male leaves, he is carrying a bag and he swears and looks unsteady on his feet.
	The footage lasts for 12 minutes and 38 seconds.

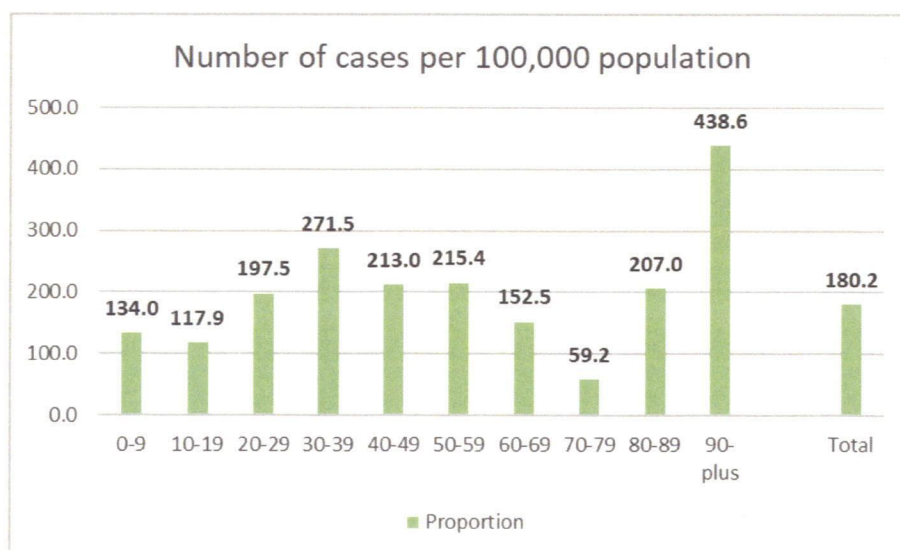
Press TAB key at end of last row to insert extra rows.

Bromsgrove cases summary – 7-days up to 22nd November 2020

- In the seven-day period between 16th November 2020 and 22nd November 2020 there have been 180 cases in Bromsgrove. Of these, 100 (representing 56%) have been female.
- The most common age groups to have had a positive test in Bromsgrove are in the 30-59 age range. 91 positive cases were in this age range.



- In terms of cases per 100,000 population, the highest proportion was among people aged 90-plus, at almost 439 per 100,000 population. Proportions in the 30-39 age group are also relatively high. The total figure for all people in Bromsgrove is just over 180 per 100,000 population.



Agenda Item 4

- It should be noted that there has been a relatively high positivity rate (i.e. proportion of tests coming back positive) in Bromsgrove, at around 10.2%.
- According to the latest official ONS figure which includes deaths which occurred up to the end of Week 46 (ending 15th November) there have been 141 deaths among Bromsgrove residents where Covid has been involved since the middle of March.



LICENSING ACT 2003

PREMISES LICENCE

PREMISES LICENCE NUMBER

PL0099

Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

Deedar Restaurant
26 Hewell Road
Barnt Green
Birmingham
Worcestershire
B45 8NE

Telephone number 0121 4477692

Where the licence is time limited, the dates

Not applicable

Licensable activities authorised by the licence and the times the licence authorises the carrying out of licensable activities

Activity	Days	From	To	Indoors/Outdoors
Late Night Refreshment	Monday to Saturday	23:00	- 00:00	Indoors
Sale of Alcohol	Sunday	12:00	- 23:30	N/A
Sale of Alcohol	Monday to Saturday	12:00	- 00:00	N/A

Non-standard timings

Good Friday and Christmas Day - 12:00 - 23:30.

New Year's Eve - All licensable activities listed are permitted till the start of trading hours on New Year's Day.

The opening hours of the premises

Days	From	To
Sunday	12:00	- 00:00
Monday to Saturday	12:00	- 00:30

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

Alcohol is supplied for consumption on the premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Mr Kachi Kabir
10 Clarksland Grove
Marston Green
Solihull
West Midlands
B37 7GT

Mr Kaptan Miah
292 Washwood Heath Road
Washwood Heath
Birmingham
West Midlands
B8 2UL

Registered number of holder, for example company number, charity number (where applicable)

Not applicable

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Kachi Kabir, 10 Clarkland Grove, Marston Green, Solihull, West Midlands, B37 7GT

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Personal Licence No: SOL/PE/094195

Licensing Authority: Solihull Metropolitan Borough Council



Date of first issue: 24 November 2005

This version valid from: 24 November 2005

AUTHORISED OFFICER
Head of Regulatory Services
Worcestershire Regulatory Services
On behalf of Bromsgrove District Council

Issuing Authority: Bromsgrove District Council
Parkside
Market Street
Bromsgrove
Worcestershire
B61 8DA

ANNEX 1 – MANDATORY CONDITIONS

The making and authorisation of alcohol sales

No supply of alcohol may be made under the premises licence—

- a) at a time when there is no designated premises supervisor in respect of the premises licence, or
- b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Irresponsible alcohol promotions

The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
- (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

Provision of free potable water

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

Age verification policy for the sale or supply of alcohol

The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

- (a) a holographic mark, or
- (b) an ultraviolet feature.

Availability of small measures of alcohol

The responsible person must ensure that—

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Permitted price of alcohol

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price
2. For the purposes of the condition set out in paragraph 1—
 - a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979);
 - b) “permitted price” is the price found by applying the formula—
$$P=D+(D \times V)$$
where—
 - P is the permitted price,
 - D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - e) “valued added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4.
 - (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
 - (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

ANNEX 2 – CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

a) General – all four licensing objectives (b,c,d,e):

Intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such a person as an ancillary to his meal.

Suitable beverages other than intoxicating liquor (including drinking water) shall be equally available for consumption with or otherwise as an ancillary to meals served in the premises.

b) The prevention of crime and disorder:

c) Public safety:

d) The prevention of public nuisance:

e) The protection of children from harm:

ANNEX 3 – CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

None

ANNEX 4 – PLANS

As deposited with the licensing authority



LICENSING ACT 2003

PREMISES LICENCE SUMMARY

PREMISES LICENCE NUMBER

PL0099

Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

Deedar Restaurant
26 Hewell Road
Barnt Green
Birmingham
Worcestershire
B45 8NE

Telephone number 0121 4477692

Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence and the times the licence authorises the carrying out of licensable activities

Activity	Days	From	To	Indoors/Outdoors
Late Night Refreshment	Monday to Saturday	23:00	- 00:00	Indoors
Sale of Alcohol	Sunday	12:00	- 23:30	N/A
Sale of Alcohol	Monday to Saturday	12:00	- 00:00	N/A

Non-standard timings

Good Friday and Christmas Day - 12:00 - 23:30.

New Year's Eve - All licensable activities listed are permitted till the start of trading hours on New Year's Day.

The opening hours of the premises

Days	From	To
Sunday	12:00	- 00:00
Monday to Saturday	12:00	- 00:30

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

Alcohol is supplied for consumption on the premises

Agenda Item 4

Name, (registered) address of holder of premises licence

Mr Kachi Kabir
10 Clarksland Grove
Marston Green
Solihull
West Midlands
B37 7GT

Mr Kaptan Miah
292 Washwood Heath Road
Washwood Heath
Birmingham
West Midlands
B8 2UL

Registered number of holder, for example company number, charity number (where applicable)

Not applicable

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

Kachi Kabir

State whether access to the premises by children is restricted or prohibited

No specific restrictions



Date of first issue: 24 November 2005

This version valid from: 24 November 2005

AUTHORISED OFFICER
Head of Regulatory Services
Worcestershire Regulatory Services
On behalf of Bromsgrove District Council

Issuing Authority: Bromsgrove District Council
Parkside
Market Street
Bromsgrove
Worcestershire
B61 8DA

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Bromsgrove District Council

Licensing Sub Committee

26th November 2020

Decision Notice

Consideration of Interim Steps Pending Review Hearing

Under Section 53A of the Licensing Act 2003

The Sub Committee was required to consider whether it was necessary to take interim steps pending the determination of the review application, in relation to Deedar Restaurant, 26 Hewell Road, Barnt Green, Birmingham B45 8NE, and in doing so had regard to the Certificate and supporting documentation provided by West Mercia Police and the correspondence provided by Mr Dildar Hussain to the Senior Licensing Practitioner.

The Sub- Committee concluded that the following interim steps are necessary:

- Removal of the DPS
- Suspension of the licence

The Sub Committee reasons for this decision are as follows:

Having considered the evidence presented the Sub-Committee was satisfied that the information provided by the Police identified significant and serious breaches of the Coronavirus regulations which imposed restrictions which were specifically to protect the public. What was witnessed by the police identified a risk to public safety.

The Sub Committee was of the view that there had been a flagrant disregard of the regulations which the police were satisfied identified criminal offences, and for which a Fixed Penalty Notice was issued, and a potential public nuisance as the risk to the public extended not only to those in the restaurant at that time but could transmit to other unsuspecting members of the public.

The evidence demonstrated a significant and fundamental failing in the management of the business not only with regards to the current coronavirus restrictions but also in relation to the licence condition which allows alcohol to be sold only to persons who were eating in the premises. The police witnessed customers who were intoxicated which endorsed the failing in management of the premises. There was no identifiable DPS as required under the Licensing Act 2003 again providing a clear indication that this premises was failing to operate within the licensing regime.

Agenda Item 4

The Sub Committee considered the interim steps to be necessary to address the immediate concerns arising at this premises.

The Decision of the Sub Committee takes effect immediately it is served.

The holder of the premises licence can make representation against any of the interim steps taken by the Sub Committee, and if a representation is received the licensing authority **must** hold a hearing to consider the representations within 48 hours of its receipt.

Dated 26th November 2020

From: Dildar Hussain [mailto:]
Sent: 27 November 2020 11:20
To: Dave Etheridge
Subject: External Email : Re: Summary Review Application - Deedar Restaurant

This email originated from outside of the organisation

STOP : Were you expecting this email? Does it look genuine?

THINK : Before you CLICK on any links or OPEN any attachments.

Thank you for your email

I Dildar Hussain on behalf of my father Mr Kaptan Miah(the licence holder for Deedar Indian Cuisine) would like to make representations for the interim steps taken by the sub committee as follows:

To remove Mr Kachi Kabir from DPS of the premise.

To suspend the licence of Deedar Indian Cuisine to sell Alcohol.

Firstly removal of Mr Kabir to act as a DPS is accepted by my father (mr Kaptan Miah) as he has no say in business affairs anymore. I Dildar Hussain volunteer to take the roll of the DPS of Deedar Indian Cuisine as I am a personal licence holder from Birmingham city council (licence number 5264/2, date of issue 20/05/2009).

We weren't made aware that Mr Kabir surrendered his licence or voluntarily decided to remove him self of the DPS of Deedar Indian Cuisine. If he made me aware I would have applied to become a DPS replacing him at the premises. I believe he did not notify the council about his withdrawal and subsequently I was not notified. Also when the annual renew came to Mr Kabir every year at his home address he would pass it onto me to renew the licence. At any point when he passed me the renewal he mentioned to me that he was withdrawing from being the DPS of Deedar Indian Cuisine I would have known and taken the necessary steps to become a DPS.

Secondly the removal of the licence to sell alcohol at the restaurant would have adverse effect on my business. Yes I have made a mistake by interpreting the law differently in regards to COVID 19. And I sincerely apologise to this. I never knowingly intended to put my staff, customers or members of public to harm in anyway. Since the the restaurant was established in 1993 their have been no complaints, miss use of alcohol, public nuisance or any form of complaints. I am a very well liked trader of Barnet Green community with no history of breaking any law. I have many members of the community and traders alike who will no doubt replicate what I have just mentioned. I assure all members of the committee that this is a one of incident and will not be repeated again.

Again I sincerely apologise for my action and this will not be repeated.

I hope you make your decision with good heart for me and the community.

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