

BROMSGROVE DISTRICT COUNCIL

LICENSING SUB-COMMITTEE

LICENSING ACT 2003

TUESDAY 22ND DECEMBER 2020

SUMMARY REVIEW OF A PREMISES LICENCE

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 & Hopwood |
| Appendices: | Appendix 1 – Existing Licence Appendix 2 – Review application / supporting documents Appendix 3 – Additional Police Evidence (including DVD) Appendix 4 – Representations of licence holder Appendix 5 – Director of Public Health’s Representation Appendix 6 – Environmental Health Representation Appendix 7 – Representation from local resident |

1 PURPOSE OF REPORT

- 1.1 To consider 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**

2. BACKGROUND

- 2.1 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
Bart Green
Birmingham
B45 8NE**

- 2.2 A copy of the current premises licence is attached at **Appendix 1**.
- 2.3 At the time the application was received, the premises licence was held by Mr Kachi Kabir and Mr Kaptan Miah and the designated premises supervisor named on the licence is Mr Kachi Kabir.
- 2.4 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 did not hold a personal licence at the time the application was made by the Police.
- 2.5 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, the decision was taken to remove the designated premises supervisor and suspend the licence, this decision remained in place following written representations submitted on behalf of the licence holder.
- 2.6 On 2nd December 2020 an application was made by the holder of the premises licence to vary the licence to specify Mr Dildar Hussain as the designated premises supervisor. This application was made in such a way as to have immediate effect and therefore the designated premises supervisor now named on the licence is Mr Dildar Hussain. Mr Dildar Hussain is the son of one of the licence holders, Mr Kaptan Miah.
- 2.7 The licensing authority is now required to hold a hearing to consider the application for the review and any relevant representations that have been received and to take

such of the following steps (if any) as it considers appropriate for the promotion of the licensing objectives:

- (a) the modification of the conditions of the premises licence,
- (b) the exclusion of a licensable activity from the scope of the licence,
- (c) the removal of the designated premises supervisor from the licence,
- (d) the suspension of the licence for a period not exceeding three months,
- (e) the revocation of the licence.

2.8 The licensing authority must also consider and determine whether the interim steps already taken in respect of the premises licence will cease following the review hearing or will continue to have effect during the period within which an appeal against the decision taken at the review hearing can be made or until such an appeal is disposed of.

3. APPLICATION FOR SUMMARY REVIEW AND REPRESENTATIONS

3.1 The summary review application, the accompanying certificate from the Senior Police Officer and other supporting documents received on 25th November 2020, can be seen at **Appendix 2**.

3.2 During the 10 working days within which representations by the premises licence holder, responsible authorities or other persons could be made, the Police submitted further evidence in support of their application, including DVD footage from the bodycam worn by the officer who attended the premises on 20th November 2020.

This further supporting evidence can be seen at **Appendix 3**. The DVD provided by the Police is not publically available as it is exempt under S.100 (A) (4) of the Local Government Act 1972, on the grounds that it involves the likely disclosure of exempt information as defined in the relevant paragraphs of Part 1 of Schedule 12(A) of the said Act as subject to the “public interest” test, information relating to:

- Para 1 – any individual;
- Para 2 – the identify of any individual;
- Para 7 – the prevention, investigation or prosecution of crime;

Representations from the holder of the premises licence

- 3.3 Representations in respect of the review application have been submitted by Mr Dildar Hussain, the son of one of the holders of the premises licence, Mr Kaptan Miah. Mr Hussain has stated that this representations have been made on his father's behalf.
- 3.4 Mr Hussain has subsequently been nominated by Mr Miah to replace Mr Kabir as the designated premises supervisor specified on the premises licence. A copy of these representations can be seen at **Appendix 4**.

Representations from other responsible authorities

- 3.5 A representation in respect of the review application has been submitted for consideration on behalf of the Director of Public Health at Worcestershire County Council. The representation states that the Director of Public Health fully supports West Mercia Police in implementing any measures to ensure Deedar restaurant complies with Covid-19 guidelines and the law. The representation can be seen at **Appendix 5**.
- 3.6 A representation in respect of the review application has been submitted by Environmental Health Officer. The representations outline the officer's findings following a recent joint visit to the premises with the Police. The representation can be seen at **Appendix 6**.

Representations from other persons

- 3.7 A representation in respect of the review application has also been received from a local resident. This representation is supportive of the business and its working practices. A copy of the representation can be seen at **Appendix 7**.

4. LOCAL POLICY CONSIDERATIONS

- 4.1 The Sub-Committee should have regard to the Council's Statement of Licensing Policy under the Licensing Act 2003.
- 4.2 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

5. LEGAL IMPLICATIONS

- 5.1 The Sub-Committee is obliged to determine the review application with a view to the promotion of the licensing objectives, which are:
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 5.2 In considering those matters the relevant licensing authority must have regard to—
- (a) the review application and accompanying certificate from the senior police officer; and
 - (b) the relevant representations received
- 5.3 The licensing authority is now required to take such of the following steps (if any) as it considers appropriate for the promotion of the licensing objectives:
- (a) the modification of the conditions of the premises licence,
 - (b) the exclusion of a licensable activity from the scope of the licence,
 - (c) the removal of the designated premises supervisor from the licence,
 - (d) the suspension of the licence for a period (not exceeding three months), or
 - (e) the revocation of the licence.
- 5.4 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.
- 5.5 The licensing authority must notify the determination and its reasons for making it to—
- (a) the holder of the premises licence,
 - (b) any person who made relevant representations, and
 - (c) 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).

- 5.6 The decision of the licensing authority does not take effect until the end of the period given for appealing against the decision or if the decision is appealed against, the time the appeal is disposed of.
- 5.7 Therefore the licensing authority must also review the interim steps that have been taken in respect of the premises licence thus far and must:
- (a) consider whether the interim steps are appropriate for the promotion of the licensing objectives;
 - (b) consider any relevant representations; and
 - (c) determine whether to withdraw or modify the interim steps taken
- 5.8 The power of the relevant licensing authority on a such a review includes a power to take any of the following interim steps—
- (a) the modification of the conditions of the premises licence;
 - (b) the exclusion of the sale of alcohol by retail from the scope of the licence;
 - (c) the removal of the designated premises supervisor from the licence;
 - (d) the suspension of the licence;
- 5.9 For this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.
- 5.10 Any interim steps taken at this hearing will apply until—
- (a) the end of the period given for appealing against the decision made in respect of the review application,
 - (b) if the decision made in respect of the review application is appealed against, the time the appeal is disposed of, or
 - (c) the end of a period determined by the relevant licensing authority (which may not be longer than the period of time for which such interim steps could apply under paragraph (a) or (b)).
- 5.11 Any interim steps taken under in relation to a premises licence cease to have effect when the decision made under section 53C comes into effect.

6. FOR DECISION

6.1 The Sub-Committee must:

- (a) Determine the review application
- (b) Determine which interim steps (if any) will apply in respect of the premises licence pending any appeal against that determination.