



**MINUTES of
LICENSING SUB-COMMITTEE
9 JULY 2019**

PRESENT

Purpose of the Hearing:	To review a premises licence
Premises:	Village Tandoori, 11 High Street, Southminster, CM0 7AA
Councillors:	Mrs P A Channer, CC, M F L Durham, CC and Mrs M E Thompson
Representing the Licensing Sub- Committee:	Ms Lacey Latimer, Licensing Office Mr Simon Quelch, Solicitor to the Council Miss Tara Bird, Committee Services Adviser
Applicant:	Mr Nigel Dermott, Essex Police Licensing Officer
Licence Holder:	Mr Abdur Rashid, Premises Licence Holder and Designated Premises Supervisor
Interested Party	Mr Mohammed Chowdhury, Solicitor to Mr Rashid
Responsible Authorities:	None
In Attendance:	Councillor R G Boyce MBE, Maldon District Councillor Councillor C Morris, Maldon District Councillor Ms Emma Holmes, Senior Legal Specialist, Maldon District Council Ms Rachel Savill, Essex Police Licensing Officer
Members of the Public:	None
Members of the Press:	None

229. TO APPOINT A CHAIRMAN FOR HEARING

RESOLVED that Councillor M F L Durham, CC be appointed Chairman for the meeting.

IN THE CHAIR: COUNCILLOR M F L DURHAM

230. CHAIRMAN'S NOTICES

The Chairman drew attention to the list of notices published on the back of the agenda.

231. APOLOGIES FOR ABSENCE

There were none.

232. DISCLOSURE OF INTEREST

There were none.

233. LICENSING ACT 2003 - APPLICATION TO REVIEW PREMISES LICENCE - VILLAGE TANDOORI, 11 HIGH STREET, SOUTHMINSTER, CM0 7AA

The Chairman sought confirmation that all present were in possession of and had read the report of the Director of Strategy, Performance and Governance along with Appendices A – E.

The Licensing Officer outlined the application for review of the Premises Licence at the Village Tandoori, 11 High Street, Southminster, CM0 7AA.

The Chairman then explained the procedures that would be followed and invited Mr Nigel Dermott, Licensing Officer for Essex Police to make his opening statement.

Mr Dermott took the Committee through his submitted statement and referred to a number of intelligence items which were detailed in the application for review as submitted by the Police. He advised that the Premises Licence Holder had failed to support the licensing objectives, namely the prevention of crime and disorder. Mr Dermott explained that the employment of illegal workers was considered by Essex Police to be a serious crime, making reference to the national guidance provided by Section 182 to the Licensing Act 2003 and how in the Police's view revocation of the licence was the advised outcome. During his statement Mr Dermott referred to an incident in 2015 relating to the premises, relevant case law and the Home Office Guidance for Licensing Authorities to Prevent Illegal Working in Licensed Premises in England and Wales (6 April 2017) particularly paragraphs 11.27 and 11.28 which defined such incidents as a serious matter. He advised that Essex Police's expectation was that the licence in this matter be revoked.

As a point of clarification Mr Quelch, the Council's Solicitor, drew Members' attention to paragraph 11.28 of the national guidance which stated "...where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be **seriously** considered".

Mr Dermott advised that he would not be calling any other witnesses.

The Chairman then invited the applicant's legal representative, Mr Mohammed Chowdhury to make his opening statement to the Committee. Mr Chowdhury provided the Committee with some background information regarding Mr Rashid, and the licence for this premise. In respect of the submission from Essex Police and evidence submitted, Mr Chowdhury provided the Committee with a great deal of detail regarding the current arrangements in relation to the premises and Mr Rashid's response to the points raised by the Police.

At this point Members were advised that Mr Rashid was willing to give an undertaking to keep records as required by the Home Office which would be available for inspection by the authorities and to have this added as a condition of the licence. Mr Chowdhury outlined how Mr Rashid now understood the requirements for his licence to be available and would take steps to ensure this. Mr Rashid's Solicitor questioned the submissions regarding the Bassetlaw case law as this was not relevant to this application as it related to underage drinking. Mr Chowdhury advised that Mr Rashid was remorseful for the mistake which had occurred. He suggested to the Sub-Committee that it would be harsh to revoke the licence but fair and reasonable to impose some conditions on the licence and Mr Chowdhury outlined a suggested condition relating to employee records.

In response to the comment from Mr Chowdhury regarding applying conditions on the licence, Mr Dermott advised that even with conditions the Police would still request revocation and that conditions should not replicate something which was a legal requirement.

Mr Quelch, through the Chairman, sought clarification from Mr Rashid regarding the payment of National Insurance and Tax to the temporary worker. In response Mr Chowdhury advised the Sub-Committee that Mr Rashid had been waiting for documents to be produced and had spoken to his accountant who was aware of the situation.

Mr Quelch, then questioned the point raised by Mr Chowdhury that the Bassetlaw case was distinguishable. Mr Quelch referred to guidance from the Government which stated how criminal offences on licensable premises needed to be treated seriously and asked in light of this whether Mr Chowdhury felt this case law was still not relevant. In response, Mr Chowdhury advised that it was distinguishable as there was no excuse for selling alcohol to a young child but there were mitigating factors regarding employing someone as mistakes could be made.

In response to a number of questions from the Chairman, Mr Chowdhury provided the Sub-Committee with the following clarifications relating to Mr Rashid:

- He employed five persons.
- He had been a manager at the premises for 17 years;
- Employment checks etc. had not been carried out on other employees as they were family members, but he had taken legal advice and understood the requirements of being a responsible employer and Designated Premises Supervisor.

Mr Dermott clarified that the Bassetlaw case had been referred to because of the principals it raised and not necessarily the actual offence being dealt with e.g. underage drinking, which it was accepted had no relevance or bearing to this application. He referred to there being a number of anomalies on the day in addition to the legal worker which demonstrated that there was a lack of understanding of the licensing objectives.

In response to a further question regarding Mr Rashid's understanding of the licensing objectives, Mr Chowdhury advised that Mr Rashid was extremely nervous when the warrant was served but did have full knowledge and understanding of the licensing objectives. However, Mr Chowdhury had also explained the responsibilities and licensing objectives to Mr Rashid.

Mr Chowdhury confirmed that all records were up to date and provided further information on the reasons why these arrangements were not in place for the new employee. He asked the Committee to consider that Mr Rashid was a credible witness, he did not have the documents in place, there had been no concerns with the premises over the last 20 years and he personally knew his employees who were family members and had paid all liabilities to the HM Revenues and Customs.

On confirmation of there being no further question or statements from the application or license holder, the Chairman thanked everyone present and advised that the Committee would now adjourn to consider its decision.

Councillor C Morris joined the meeting during this item of business.

Councillor R G Boyce left the meeting during this item of business and did not return.

234. ADJOURNMENT OF THE MEETING

RESOLVED that the meeting be adjourned at 3:51pm.

235. RESUMPTION IN OPEN SESSION

RESOLVED that the meeting resumes in open session at 4:19pm.

236. LICENSING ACT 2003 - APPLICATION TO REVIEW PREMISES LICENCE - VILLAGE TANDOORI: DETERMINATION OF THE APPLICATION

The Chairman advised that the Licensing Sub-Committee had reviewed all of the statements provided and the various submissions. It had listened to the statement by the Police Licensing Officer and the Licence holder and taking everything into consideration it was the decision of the Sub-Committee to agree the applicants request and revoke the premises licence to serve alcohol relating to this premises. The Chairman then outlined the reasons behind the Committee's decision, as follows:

It was very clear that Mr Rashid understood the intricacies of the UK Pay As You Earn (PAYE) and Value Added Tax (VAT) legislation but had failed to check other important legislation such as the illegibility to work in the UK legally. There was also evidence that this was not the first offence, going back to the Police statement that in 2015 the Police uncovered another person who had allegedly worked at the premises illegally and it was presumed that they were not a family member.

Secondly, Mr Rasheed clearly did not take his responsibilities of being a personal licence holder or the Designated Premises Supervisor seriously or even understand them when questioned.

The Panel would expect someone of 17 years' experience to check the right to work status and there can be no excuse not to do so. Evidence from the Police

show that no records or systems whatsoever were in place proving that checks had been made.

The Chairman advised Mr Rashid that he had 21 days (from the date of this hearing) in which to appeal the decision of the Council to the Magistrate's Court.

RESOLVED that the premises licence for the Village Tandoori, 11 High Street, Southminster, CM0 7RR be revoked.

The Chairman thanked all parties for attending, their submissions and advised that a formal decision would be notified to all interested parties.

There being no further items of business the Chairman closed the meeting at 4.22 pm.

M F L DURHAM, CC
CHAIRMAN