

WILTSHIRE COUNCIL

EASTERN AREA LICENSING SUB COMMITTEE

15 January 2020

Application for Review of a Premises Licence: Tale of Spice, 9 North Street, Pewsey, Wiltshire, SP9 5ES

1. Purpose of Report

- 1.1 To determine an application for a review of a Premises Licence in respect of Tale of Spice, 9 North Street, Pewsey, Wiltshire made by Home Office Immigration Enforcement.

2. Background Information

- 2.1 An application for the review of the Tale of Spice Premises Licence has been made by the Home Office (Immigration Enforcement). Following advertisement of the application 3 further relevant representations have been received.

- 2.2 Wiltshire Council (as the Licensing Authority) must hold a hearing to consider the review application and any representations received. In accordance with Section 52 (3) of The Licensing Act 2003 the Licensing Sub Committee is required to take such steps as it considers appropriate for the promotion of the licensing objectives.

- 2.3 The licensing objectives are:

- i) The Prevention of Crime and Disorder;
- ii) Public Safety;
- iii) The Prevention of Public Nuisance; and
- iv) The Protection of Children from Harm.

- 2.4 Such steps are:

- i) To modify the conditions of the licence;
- ii) To exclude a licensable activity from the scope of the licence;
- iii) To remove the designated premises supervisor;
- iv) To suspend the licence for a period not exceeding three months;
- v) To revoke the licence;
- vi) To determine that no steps are necessary.

- 2.5 Government Guidance issued under s.182 of the Licensing Act states that:

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business

holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for employing a person who is disqualified from that work by reason of their immigration status in the UK;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. 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.

- 2.6 The premises benefits from a Premises Licence issued under the Licensing Act 2003, since 24 November 2005 and the current copy is attached as **Appendix 1**. The premises was previously known as The Khyber Restaurant.
- 2.7 The Premises Licence has been held by Abul Jashim since transferring the licence on 22 April 2011.
- 2.8 The current Premises Licence permits the following activities: -

| Licensable activity | Hours |
|--|---|
| Sale of Alcohol (ON Sales Only) | Monday to Sunday: 11:00 – 00:00 New Year’s Eve: 11:00 – 03:30 the next day |
| Late Night Refreshment (Indoors and Outdoors) | Monday to Sunday: 23:00 – 00:00 New Year’s Eve: 23:00 – 03:30 the next day |

2.9 A location plan of the premises is attached at **Appendix 2**.

3. Details of the Grounds for Review

3.1 The review of the premises licence has been requested by the Home Office (Immigration Enforcement), on the grounds that the Premises Licence Holder has failed to meet the licensing objective of the prevention of crime and disorder, due to illegal working identified at the premises. The grounds for review include:

- A visit to the premises on 20 September 2019, identified seven persons found to be working illegally.
- Previous visit on 18 August 2018, identified five persons found to be working illegally.
- Previous visit on 4 April 2014, identified six persons found to be working illegally.

3.2 The application for review is attached as **Appendix 3(a)**. The evidence relied upon in support of the application is contained within **Appendix 3(b) – (publication of Appendix 3 (b) to follow)**.

4. Consultation and Representations

4.1 Consultation for the review started on 20 November 2019, following receipt of the application. During this consultation, 3 relevant representations were received, along with a number of letters of support.

Relevant representations were received from:

- Chris Stephens
- Simon Hobden
- Mark Sheen

The relevant representations are attached as **Appendix 4**.

4.2 The review process requires a public notice to be posted on the premises for a period of 28 days together with a copy of the notice posted at the offices of Wiltshire Council, Monkton Park Offices, Chippenham, SN15 1ER.

4.3 The Sub Committee can take into account documentary or other information presented at the hearing with the consent of all other parties.

5. Legal Implications

- 5.1 This hearing is governed by the Licensing Act 2003 (Hearings) Regulations. These provide that hearings should be held in public unless the Licensing Authority considers that the public interest in excluding the public outweighs the public interest in the hearing taking place in public.

6. Officer Recommendations

- 6.1 Officers are not permitted to make a recommendation – the decision is to be reached by the members of the Licensing Sub Committee.

7. Right of Appeal

- 7.1 It should be noted that the Premises Licence Holder, the party that applied for the review and any Responsible Authority or Interested Parties who have made representations may appeal the decision made by the Licensing Sub Committee to the Magistrates Court. The appeal must be lodged with the Magistrates Court within 21 days of the notification of the decision.
- 7.2 The decision of the Licensing Sub Committee does not take effect until the end of the period for appealing against that decision. In the event of an appeal being lodged, the decision made by the Licensing Sub Committee does not take effect until any appeal is heard and finally determined.
- 7.3 The Premises Licence Holder and all Interested Parties have been informed of the date, time and location of the hearing and their right to attend and be represented.

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Date of report: 6 January 2020

Background Papers Used in the Preparation of this Report

- **The Licensing Act 2003**
- **The Licensing Act (Hearings) Regulations 2005**
- **Guidance issued under Section 182 of the Licensing Act 2003**
- **Wiltshire Council Licensing Policy**

Appendices

- 1 Current Premises Licence**
- 2 Location Plan**
- 3(a) Application for Review**
- 3(b) Evidence submitted by Home Office (Immigration Enforcement)**
- 4 Representations received**