



LICENSING SUB-COMMITTEE

Friday, 16 April 2021

APPLICATION DETAILS

Type:	Review – Premises Licence
Name of Applicant(s):	Suffolk Constabulary
Address of Applicant(s):	Lowestoft Police Station, Old Nelson Street, Lowestoft, NR32 1PE
Type of applicant (Premises Only):	Responsible Authority
Name of Premises:	Spice of Balti
Address of premises:	42 St Marys Street, Bungay, NR35 1AX
Description of Premises:	Restaurant

EXECUTIVE SUMMARY:

- This is an application for the review of a premises licence.
- The current premises licence holder is Mr Shams Uddin. Mr Uddin is also the Designated Premises Supervisor.
- Suffolk Constabulary, in its capacity as a Responsible Authority, is calling for a review of the premises licence under the licensing objectives of 'prevention of crime and disorder', 'public safety' and prevention of 'public nuisance'.

Is the report Open or Exempt?	Open
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Wards Affected:	Bungay & Wainford
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Cabinet Member:	Councillor Mary Rudd - Cabinet Member with responsibility for Community Safety
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Supporting Officer:	<p>Leonie Hout</p> <p>Licensing Officer</p> <p>07733 362154</p> <p>leonie.hout@eastsoffolk.gov.uk</p>
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1. EXISTING LICENCE

- 1.1 The existing licence holder and named Designated Premises Supervisor of Spice of Balti is Mr Shams Uddin of Bungay.
- 1.2 The existing premises licence is attached at **Appendix A**.
- 1.3 A plan of the premises is attached as **Appendix B**.

2. REASON FOR HEARING

- 2.1 In accordance with the Licensing Act 2003, a responsible authority has made an application for a review of the premises licence relating to Spice of Balti, Bungay with the intention to prevent further breaches of The Health Protection (Coronavirus, Restrictions) (No. 3) and (All Tiers) (England) (Amendment) Regulations 2021.
- 2.2 The review application supplied by the Suffolk Constabulary has not been published; some of the material contained in the document could prejudice any future criminal proceedings. The licence holder and all the Responsible Authorities who are named consultees to a licensing review have been provided with a copy of the application. The application will also be made available to the Licensing Sub-Committee panel, this is attached at **Appendix C**.
- 2.3 Police bodycam footage forms part of Suffolk Constabulary's review application and will be made available at the hearing for members of the Sub-Committee and the premises licence holder.
- 2.4 Suffolk Constabulary may make an application for the public to be excluded from the part of the hearing where information they do not wish to be placed in the public domain is to be discussed.
- 2.5 If any such application is made, the Sub-Committee will need to consider and determine the application pursuant to Regulation 14 of The Licensing Act 2003 (Hearings) Regulations 2005, on the day of the hearing.
- 2.6 Summary of grounds for review:

This review has been called under the grounds of the licensing objectives of prevention of crime and disorder, public safety and prevention of public nuisance.

The Police conducted a visit on 9th January 2021 and discovered members of the public sitting in the venue, some were drinking alcohol. None of the staff present were wearing face coverings as required by the Health Protection (Coronavirus, Restrictions) (No. 3) and (All Tiers) (England) (Amendment) Regulations 2021.

3. POINTS FOR CONSIDERATION

- 3.1 The Police have suggested 12 conditions in their application that they would like to see incorporated in the premises licence. The Licensing Authority will need to consider these conditions.

3.2 A representation was received in support of the review application from Public Health, Suffolk County Council. This is attached at **Appendix D**

3.3 In exercising its licensing functions, the Licensing Authority has stated in its licensing policy that it will primarily focus on the direct impact of the licensable activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the vicinity of the premises.

3.4 The attention of the Sub-Committee is drawn to the following:

- a) The Licensing Act 2003 Section 4 requires the Sub-Committee to have regard to:
 - Guidance Issued under Section 182 of the Licensing Act 2003.
 - The Council's Statement of Licensing Policy

If the Sub-Committee has reason to depart from the above it is asked to give full reasons for so doing.

- b) Human Rights Act 1998

The Human Rights Act 1998 came into force on the 2 October 2000. The Sub-Committee is urged to have careful regard of its provisions.

It is unlawful for a public authority (this expression includes local authorities) to act in a way which is incompatible with a human right.

As far as the applicant's right to a fair hearing is concerned (Article 6), the applicant has a right to be heard by the Licensing Sub-Committee. If this application is refused or granted subject to modification, the applicant has a right of appeal to the Magistrates' Court.

In assessing the impact of human rights, the Sub-Committee must seek to strike a balance between the right of the proprietors in the business to conduct it as they wish and local residents who may find its activities intrusive. In this context a business is a "possession" and the human right is expressed to be for the "peaceful enjoyment" of it. A rider to this human right empowers the Council to control the enjoyment of that business by its proprietors in the general interest. At the same time, local residents are entitled to the peaceful enjoyment of their homes.

3.5 The relevant notices about this hearing have been served on the applicant and the premises licence holder and they have until 9th April 2021 to confirm that they intend to attend (or not) as the case may be and give notice that they wish to call witnesses.

4. CONCLUSION

4.1 The Sub-Committee will be asked to determine this application by:

- **Modifying the conditions of the licence**

This could include either imposing further conditions on the licence or changing (for example, further restricting) the hours of certain licensable activities, where this is proportionate and relevant to the licensing objectives.

For this purpose, the conditions of the licence are modified if any of them are altered or omitted, or any new condition is added.

- **Excluding a licensable activity from the scope of the licence**
The Sub-Committee may decide that it is proportionate and relevant to the licensing objectives to remove one or more of the licensable activities.
- **Remove the Designated Premises Supervisor (DPS)**
- **Suspend the licence for a period not exceeding three months.**
- **Revoke the licence.**

4.2 If the decision reached by the Sub-Committee results in differences between the conditions attached to the licence and the planning permission currently in force for these premises, the applicant should be advised that the planning permission must be adhered to unless and until it is amended to reflect the conditions attached to the licence.

4.3 Depending on the decision of the Sub-Committee, the applicant and / or responsible authority and interested parties that have made representations have rights of appeal to the Magistrates Court.

4.4 When announcing its decision, the Sub-Committee is asked to state its reasons.

APPENDICES	
Appendix A	Existing premises licence
Appendix B	Plan of premises
Appendix C	Review application submitted by Suffolk Constabulary (<i>provided to the Sub-Committee Members only</i>)
Appendix D	Public Health representation

BACKGROUND PAPERS - None