



East Suffolk House, Riduna Park, Station
Road, Melton, Woodbridge, IP12 1RT

Licensing Sub-Committee

Members:

Councillor Jocelyn Bond
Councillor Mark Newton
Councillor Keith Robinson
Councillor John Fisher (Reserve)

Members are invited to a **Meeting** of the **Licensing Sub-Committee** to be held on **Friday, 16 April 2021** at **10.30am**

This meeting will be conducted remotely, pursuant to the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020.

The meeting will be facilitated using the Zoom video conferencing system and broadcast via the East Suffolk Council YouTube channel <https://youtu.be/AjC-yHxp1iM>

An Agenda is set out below.

Part One – Open to the Public

Pages

- 1 Election of a Chairman**
To elect a Chairman for this meeting of the Sub-Committee.
- 2 Apologies for Absence**

To receive apologies for absence, if any.

3 **Declarations of Interest**

Members and Officers are invited to make any declarations of Disclosable Pecuniary or Local Non-Pecuniary Interests that they may have in relation to items on the Agenda and are also reminded to make any declarations at any stage during the Meeting if it becomes apparent that this may be required when a particular item or issue is considered.

4 **Declarations of Lobbying and Responses to Lobbying**

To receive any Declarations of Lobbying in respect of any item on the agenda and also declarations of any response to that lobbying.

5 **Review of Premises Licence - Spice of Balti, Bungay ES/0726**

1 - 11

Report of the Legal and Licensing Services Manager

Part Two – Exempt/Confidential

Pages

There are no Exempt or Confidential items for this Agenda.

Close



Stephen Baker, Chief Executive

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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
Wards Affected:	Bungay & Wainford

Cabinet Member:	Councillor Mary Rudd - Cabinet Member with responsibility for Community Safety
Supporting Officer:	Leonie Hault Licensing Officer 07733 362154 leonie.hault@eastsoffolk.gov.uk

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.

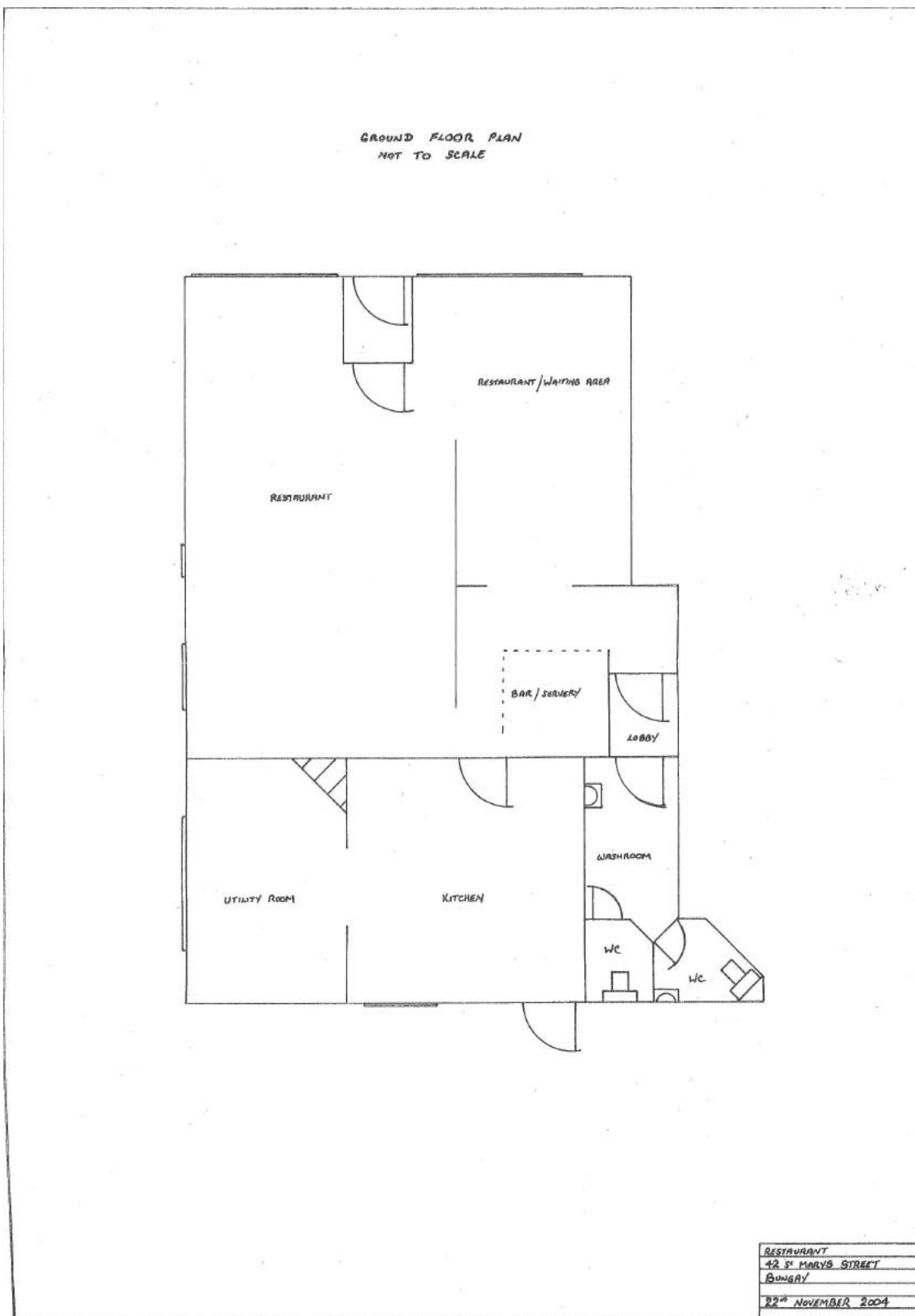
4.4 When announcing its decision, the Sub-Committee is asked to state its reasons.

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

LICENSING ACT 2003 – ANNEX 4 – PLAN
SPICE OF BALTI
42 St Marys Street, Bungay

Agenda Item 5
ES/0726



Public Health Suffolk – response statement to licensing application.**Application from:** Suffolk Constabulary**Premise details:** Spice of Balti, St Marys Street, Bungay, NR35 1AX**Licensing authority:** East Suffolk Council**Date received by Public Health:** 25/02/2021**Date response sent by Public Health:** 19/03/2021**Subject of application:** Review application**Summary of this response:**

In response to this consultation on a license review, Public Health Suffolk has undertaken an assessment of the public health evidence. Based on our assessment of the evidence, Public Health Suffolk would recommend that East Suffolk Council review the license for this premises. We believe this will help to mitigate any further risk to the public as a result of COVID-19 transmission associated with the premises.

On 25th February 2021 Public Health Suffolk received consultation documents from East Suffolk Council to review the license of Spice of Balti. The Director of Public Health is a responsible body and therefore a statutory consultee.

On 9th January 2021 police officers entered the premises in question and reported that they had found members of the public inside the venue drinking alcohol, and staff members present without face coverings.

Below, we present evidence that pertains to these events and to the two relevant licensing objectives as detailed in the Licensing Act 2003 – prevention of crime and disorder, and public safety.

1) Prevention of crime and disorder

The Health Protection (Coronavirus Restrictions) (No.3) and (All Tiers) (England) (Amendment) Regulations 2021 came into force on 6th January 2021 and contained provision to strengthen existing Tier 4 restrictions and apply those restrictions to every area in England

(1). This resulted in the following restrictions being in place, which are relevant to the circumstances described:

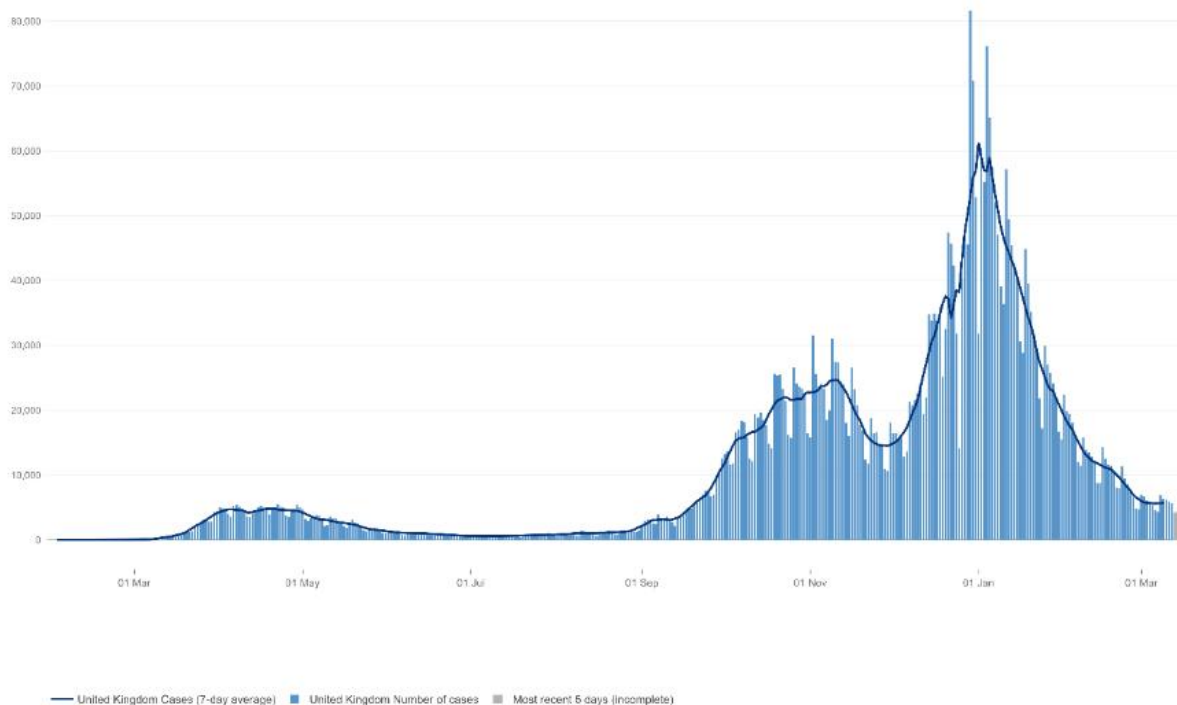
- Hospitality venues were required to close, including restaurants, with the exception of providing food and non-alcoholic drinks for takeaway (until 11pm), click-and-collect, and drive-through. Alcoholic drinks were permitted to be provided through takeaway delivery only.

The evidence presented by the police suggests that there has been contravention of regulation intended to protect the health of the public, which pertains to the licensing objective of prevention of crime and disorder.

2) Public safety

As indicated in Figure 1 below, this event took place around the peak of the second wave of the COVID-19 pandemic. On 9th January 2021 there were 39,104 positive cases of COVID-19 in the UK (people testing positive who provided a specimen on this day) (2).

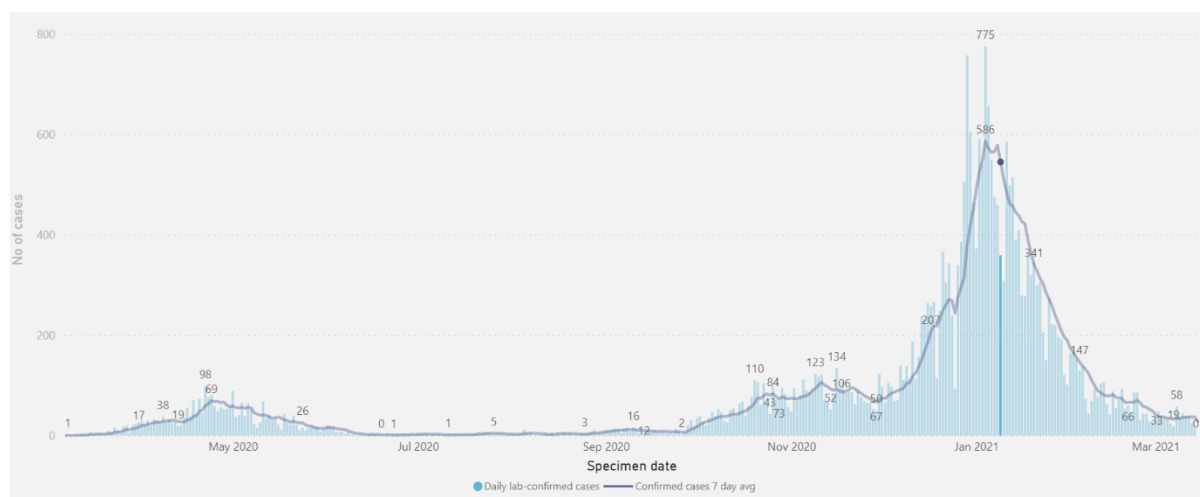
Figure 1: Number of people with at least one positive COVID-19 result by specimen date, UK.



source: [Gov.uk](https://www.gov.uk)

This was also a time when there was a high number of cases in Suffolk, indicating that the virus was in circulation in the area. On 9th January 2021 there were 359 daily lab confirmed cases in the county, indicated by the highlighted bar in Figure 2 below (3).

Figure 2: COVID-19 cases by specimen date in Suffolk



Source: [Suffolk Coronawatch](#)

There is a consensus that COVID-19 spreads most effectively through close proximity, prolonged contact, high frequency of contacts and confined shared environments, with the vast majority of transmission happening in indoor spaces (4). Evidence has been presented by the UK's Chief Medical Officer, Chris Whitty, indicating that hospitality venues count for 30% of common exposure settings (5).

Social distancing and use of face coverings can help to mitigate the risk of contracting COVID-19. Transmission risk has been found to be greater at a distance of 1m or less (12.8%) compared with over 1m (2.6%) (6) and there is evidence that the risk of transmission increases by 2-10 times at 1m compared to 2m (7). The use of face masks has been found to result in a 14.3% reduction in the absolute risk of infection (the risk of infection without a face mask has been estimated at 17.4%; with one, it reduces to 3.1%) (8).

This event took place when case numbers were high, meaning increased risk of community transmission. The police describe a situation whereby a group of people were interacting in an indoor environment in the absence of social distancing and face coverings. Therefore, we would argue that the events as described by the police may constitute a risk to public safety.

In summary:

- The evidence presented by Suffolk Constabulary indicates that there has been a contravention of law which is intended to protect the health of the public, pertaining to the licensing objective of prevention of crime and disorder.
- Because of the lack of adherence to COVID-19 rules and regulations and disregard for social distancing and the use of face coverings, the events described may have constituted a risk to the public's health and this pertains to the licensing objective of public safety.

Please accept this as our formal representation.

Yours sincerely,



on behalf of Director of Public Health

Dr P Badrinath

Consultant in Public Health Medicine

Public Health, Suffolk County Council

References:

- (1) Legislation.gov.uk. The Health Protection (Coronavirus, Restrictions) (No.3) and (All Tiers) (England) (Amendment) Regulations 2021 [Internet] 2021 [cited 2021 Mar 16]. Available from: <https://www.legislation.gov.uk/uksi/2021/8/made>
- (2) Gov.uk. Coronavirus (COVID-19) in the UK: Cases in United Kingdom [Internet] 2021 [cited 2021 Mar 16]. Available from: <https://coronavirus.data.gov.uk/details/cases>

- (3) Suffolk CoronaWatch. Cases by specimen date [Internet] 2021 [cited 2021 Mar 16]. Available from:
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- (4) PHE Transmission Group. Factors contributing to the risk of SARS-CoV2 transmission associated with various settings [Internet] 2020 [cited 2021 Mar 16]. Available from:
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- (6) Derek K Chu D K, Akl E A, Duda S, Solo K, Yaacoub S, Schünemann H J. Physical distancing, face masks, and eye protection to prevent person-to-person transmission of SARS-CoV-2 and COVID-19: a systematic review and meta-analysis. The Lancet [Internet] 2020 Jun [cited 2021 Mar 17]; 395: 1973-87. Available from:
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- (8) Derek K Chu D K, Akl E A, Duda S, Solo K, Yaacoub S, Schünemann H J. Physical distancing, face masks, and eye protection to prevent person-to-person transmission of SARS-CoV-2 and COVID-19: a systematic review and meta-analysis. The Lancet [Internet] 2020 Jun [cited 2021 Mar 17]; 395: 1973-87. Available from:
<https://www.thelancet.com/action/showPdf?pii=S0140-6736%2820%2931142-9>