



COMMITTEE TITLE Licensing Sub Committee

DATE 11 October 2023

REPORT TITLE:	<i>Kervan Kitchen, Church Lane, Doddinghurst, Brentwood, CM15 0NG</i> Application to Review a Premises Licence – Licensing Act 2003
REPORT OF:	Paul Adams – Licensing Manager

1. REPORT SUMMARY

An application has been received from the Home Office Immigration Enforcement Team for a review of the premises licence in respect **Kervan Kitchen, Church Lane, Doddinghurst, Brentwood, CM15 0NG** following a visit by the East of England Immigration Compliance and Enforcement (ICE) team where individuals who had no legal basis to live or work were discovered. During the consultation period, representations were also received from Brentwood Council's Environmental Health Department, Essex Police and one Other Person.

2. RECOMMENDATIONS

2.1 The Sub-Committee considers the application for review and any relevant representations and consider what steps are appropriate for the promotion of the licensing objectives in line with the options open to the committee under the Licensing Act 2003.

2.2 The following options are available to the Licensing Sub-Committee:

- i. Do nothing with the licence;
- ii. Modify the conditions of the premises licence. This can include adding new conditions or alterations to existing conditions e.g. reducing the hours of operation or removing a licensable activity from the licence;
- iii. The removal of the designated premises supervisor from the licence;
- iv. To suspend the licence for a period not exceeding three months;
- v. To revoke the licence

3. THE APPLICATION

3.1 On 15 August 2023, an application for a review of the premises licence was received from the Home Office Immigration Enforcement Team for a review of the premises licence in respect Kervan Kitchen, Church Lane, Doddinghurst,

Brentwood, CM15 0NG. The premises licence holder is Willow Essex Ltd. The sole Director of this company is Savas Firat, who is also the Designated premises Supervisor on the licence.

- 3.2 The application is in relation to on 10 May 2023, the East of England Immigration Compliance and Enforcement (ICE) team visited Kervan Kitchen, Church Lane, Doddinghurst, Brentwood, CM15 0NG. The visit was conducted after intelligence was received that the business was employing illegal workers. Entry to the premises was gained under section 179 Licensing Act 2003.

One Tajikistani male was arrested who had no legal basis to live or work in the UK. During this visit, a member of the public advised officers that three individuals made off from the restaurant and jumped into neighbouring houses' gardens after immigration officers entered the business. These individuals were not located.

On 29 June 2023, the same team executed a search warrant at Kervan Kitchen to investigate the allegation of illegal working. Approximately four individuals within the premises attempted to make off when immigration officers entered but all were stopped. Following questioning, two Tajikistani males were arrested who had no legal basis to live or work in the UK. A redacted copy of the application and supporting materials is attached at **Appendix 1**.

As part of the review application, Immigration Enforcement are asking that the premises licence is revoked.

- 3.3 A copy of the existing premises licence together with a set of OS Street Maps to better identify the location are attached at **Appendix 2**.
- 3.4 During the consultation period, two representations were received from Responsible Authorities, Essex Police and Environmental Health (Noise Team)
- 3.3 Mr Zach Byrne, Environmental Health Officer's representation relates to noise nuisance generated by this premises for nearby residents. Environmental Health have received numerous complaints over the years regarding noise nuisance. A copy of the full representation is attached as **Appendix 3**.
- 3.4 Mr Simon Barnes, Essex Police Licensing Officer's representation is in support of the Immigration Enforcement Review. He also refers to previous visits to the premises & some noncompliance the licence & requirements for the summary licence display. Mr Barnes' representation is attached as **Appendix 4**.
- 3.5 During the consultation period an additional representation was received from Mr Darren White and relates to nuisance from the premises. A copy of his representation is attached at **Appendix 5**. Mr White also has provided video evidence which will be available at the hearing.

SUPPORTING INFORMATION

4.0 REASONS FOR RECOMMENDATIONS

- 4.1 These are options available to the Sub-Committee under the Licensing Act 2003
- 4.2 The decision made by the committee will not take effect until the end of the period given for appealing against the decision or, if the decision is appealed against, until the appeal is disposed of.
- 4.3 In determining this application for a review of the premises licence, the Sub-Committee should have regard to the Council's Statement of Licensing Policy and to the guidance issued by the Secretary of State under s182 of the Licensing Act 2003.
- 4.4 The Sub-Committee are advised that the hearing is a statutory exercise of power delegated by residents to consider what the public interest requires. The licensing authority, via the Sub-Committee, has a duty, in accordance with the rule of law, to behave fairly in the decision-making procedure. Representations from all parties both written and verbal will form part of matters that are to be considered. Findings on issues of fact should be on the balance of probability.
- 4.5 The Sub-Committee are advised that the final decision should be based on the individual merits of the application & findings of fact made at the hearing.
- 4.6 The application must be determined within 5 working days of the conclusion of the hearing, in accordance with paragraph 26 of the Licensing Act 2003 (Hearings) Regulations 2005.

5.0 BACKGROUND INFORMATION

- 5.1 Applications for reviews of premises licences can be brought by responsible authorities or any other persons under section 51 Licensing Act 2003 one or more of the four licensing objectives.
- 5.2 The four licensing objectives are:
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 5.3 Any decision could be subject to an appeal to a Magistrates Court, which can be instigated by either the applicant, the licence holder or a person who made the representation.
- 5.4 Each application must be considered on its own merits and in accordance with the Licensing Authority's statement of licensing policy.

- 5.5 Conditions attached to licences must be tailored to the individual type, location and characteristics of the premises concerned and be appropriate for the promotion of the licensing objectives in an individual case.

6 STATEMENT OF LICENSING POLICY

- 6.1 The following sections may be relevant to this review:

19.1 Brentwood Borough Council, through its Corporate Strategy is committed to further improving the quality of life for the people of the Borough of Brentwood by continuing to reduce crime and the fear of crime.

19.2 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on Brentwood Borough Council, Essex Police, Essex County Council and others to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003, as amended, reinforces this duty for local authorities.

7 RELEVANT SECTIONS OF THE SECRETARY OF STATE'S GUIDANCE

- 7.1 Section 11 of the guidance is relevant to reviews. In particular Sections 11.27 and 11.28 which read:

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; Revised Guidance issued under section 182 of the Licensing Act 2003 | 101
- 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**

8.0 LEGAL IMPLICATIONS

8.1 Conditions may be attached to the grant of any licence, the hours or activities may be amended as appropriate, or in some cases the application may be refused. However, any action taken must be appropriate and relevant to promotion of the licensing objectives having considered the full details of the application and representations including testimony from any interested party present at the hearing.

8.2 The justification behind any decision to grant or refuse a licence application or the attachment of conditions, or variation of terms applied for must be recorded and given to the applicant and any person that has made representation.

8.3 There is a right of appeal to Magistrates Court by any person or party aggrieved by any decision made by the Sub-Committee.

8.4 Section 17 of the Crime and Disorder Act 1998 places a duty on local authorities to do all that it can to prevent –

(a) crime and disorder in its area (including anti-social behaviour and other behaviour adversely affecting the local community), and;

(b) the misuse of drugs, alcohol and other substances in its areas.

In considering this application in relation to these duties the authority should have due regard to Section 61(1) (b) Local Government (Miscellaneous Provisions) Act 1976, Brentwood Borough Council's guidelines on previous convictions or cautions and any submissions made by the applicant.

**Name & Title: Claire Mayhew, Joint Acting Director –
People & Governance & Monitoring Officer**

Tel & Email 01277 312500 / claire.mayhew@brentwood.gov.uk

8.0 ENGAGEMENT/CONSULTATION

- 8.1 The application has been consulted on in accordance with the requirements of the Licensing Act 2003 and any responses have been included in this report.
- 8.2 Officers from the Licensing Authority have made checks on the display of public the notices & are satisfied that these requirements have been met.

REPORT AUTHOR:

Name: Paul Adams

Title: Licensing Manager

Phone: 01277 312500

Email: paul.adams@brentwood.gov.uk

APPENDICES

- Appendix 1 - Application for review & supporting information.
- Appendix 2 - Copy of premises licence and OS Street Plans
- Appendix 3 - Representation of Mr Zach Byrne, Environmental Health Officer.
- Appendix 4 - Representation of Mr Simon Barnes, Essex Police Licensing Officer.
- Appendix 5 - Representation of Mr White