

# Licensing Sub-Committee Report



## Review Application in respect of The Don Restaurant, Elder Gate, Central Milton Keynes

Report author: Ed Fisher  
Licensing and Business  
01908 252409

Exempt / confidential / not for publication	No
---------------------------------------------	----

### 1. Purpose

- 1.1 To decide a review application from the Home Office in respect of a premises licence in place.

### 2. Background Information

- 2.1 Milton Keynes Council (“The Council”) is the local Licensing Authority for its district under the Licensing Act 2003 (“the Act”). The Council has granted a premises licence in respect to the above premises to Mr Akikur Rahman (“the premises licence holder”).
- 2.2 The Home Office (Immigration Enforcement) are a statutory responsible authority under the Act and have submitted an application requesting that the Licensing Authority review the premises licence that it has granted. A review is a formal request to look again at a licence in place. The application is attached at **Annex A** and requests that the licence be revoked by the Council due to immigration offences and in effect the presence of illegal persons at the premises. The crime and disorder objective is relevant.
- 2.3 The licence in place is provided at **Annex B**. The premises are a restaurant. The licence is in the name of Mr Rahman and he is also specified as the Designated Premises Supervisor. Mr Rahman has been the licence holder and DPS since 2015. The licence permits supply of alcohol; recorded music and late night refreshment until 00:30hrs with a closure time of 1am.
- 2.4 The Review has been submitted following an enforcement operation undertaken in December 2019 by Immigration enforcement at which time three individuals were detained as having no right to be in the UK. The operation was as a result of intelligence received. The application at Annex A

contains redacted statements from those in attendance. The premises licence holder was on site at the time and questioned.

- 2.5 Following submission of the application, the licence holder has provided evidence that the Home Office are taking no action against him in respect of the visit and this is provided at **Annex C**. The Home office has not withdrawn the application as a result of this and part of their application submission provides evidence that a 'notice of no action' does not mean there were no issues of concern.

#### **Legal Requirements to be Complied with by the Council**

- 2.6 Once a review application is received the Licensing Authority is obliged to advertise that the application has been made.
- 2.7 No later than one day after receipt of an application the Licensing Authority displayed a notice prominently on the premises, at the main Council Offices and on the Council's website. The notices are required to give an opportunity for Responsible Authorities and other persons to submit representations in respect of the application within 28 consecutive days of the application being made. The last date for representations was 7 April 2020. The Licensing Authority can confirm that the above requirements were complied with.
- 2.8 Where the Licensing Authority has complied with its legislative requirements it must hold a hearing to determine the review application no later than 20 working days after the last date for representations. There is provision for hearings to be adjourned if appropriate.

#### **Responsible Authorities**

- 2.9 Two representations have been received from Thames Valley Police (**Annex D**) and the Licensing Authority itself (**Annex E**). These support the review application in respect of crime and disorder and also public safety.

#### **Other Persons**

- 2.10 No representations have been submitted by any other person.

### **3. Issues and Choices**

- 3.1 The Sub-Committee have a wide range of options in respect of review applications. These range from revocation; suspension for a period not exceeding three months; removal of the designated premises supervisor; exclusion of a licensable activity from the scope of the licence; modification of the conditions of the licence (i.e. add, remove or amend conditions of the licence); modifying the conditions of the licence for a limited period of time not exceeding three months; a warning; or taking no action.
- 3.2 When carrying out its functions under the Act, and determining an application, the Licensing Authority must have regard to the Guidance issued by the Home Secretary under section 182 of the Act and its own Statement of Licensing Policy. To assist the

Sub-Committee extracts from the statutory guidance are provided at **Annex F**.  
Extracts from the Council's statement of Licensing Policy are provided at **Annex G**.

- 3.3 In order to clarify and confirm some of the evidence submitted by all parties and to thus assist the committee in its judgement questions have been asked of the applicant, the premises licence holder, the Police, and the Licensing Officer who has made representation. These are provided at **Annex H**. Information received on these matters will be provided by way of an update prior to the hearing at **Annex I**.

## **4. Implications**

### **4.1 Policy**

See **Annex G**. A full copy of the statement of licensing policy can be found at:  
<https://www.milton-keynes.gov.uk/environmental-health-and-trading-standards/licensing/beer-and-entertainment/milton-keynes-council-licensing-policy>

### **4.2 Resources and Risk**

The Licensing Act allows for a right of appeal to the Magistrates Court by any party to the hearing following the decision of the sub committee

### **4.3 Legal**

Statutory provisions regarding review and hearings can be found in the Licensing Act 2003 and its subordinate regulations.

Background Papers:

Licensing Act 2003 Section 182 Statutory Guidance:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/705588/Revised\\_guidance\\_issued\\_under\\_section\\_182\\_of\\_the\\_Licensing\\_Act\\_2003\\_April\\_2018\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf)

List of Annexes

- Annex A:** Copy of Application to review premises licence submitted by the Home Office together with associated appendices and redacted statements
- Annex B:** Copy of existing premises licence
- Annex C:** Copies of 'notice of no action' in respect of individuals detained
- Annex D:** Representation from Thames Valley Police
- Annex E:** Representation from Licensing Authority
- Annex F:** Relevant extracts from Statutory Guidance
- Annex G:** Relevant extracts from Statement of Licensing Policy
- Annex H:** Questions of clarification requested of all parties
- Annex I:** Subsequent information received prior to the hearing