

LICENSING SUB COMMITTEE
DATE OF HEARING: 19 NOVEMBER 2025

**DETERMINATION OF AN APPLICATION TO REVIEW THE PREMISES LICENCE
FOR MUMBAI KITCHEN, 46 – 48 BAMPTON STREET, TIVERTON, DEVON, EX16
6AH**

Cabinet Member(s): Cllr David Wulff, Cabinet Member for Community and Leisure

Responsible Officer: Simon Newcombe, Head of Housing and Health

Reason for Report: An application has been received from the Home Office (Immigration Enforcement) for a premises licence to be reviewed under the Licensing Act 2003. The premises is Mumbai Kitchen, 46 – 48 Bampton Street, Tiverton, Devon, EX16 6AH.

The licensing authority (Mid Devon District Council) must hold a hearing to determine the application.

RECOMMENDATION: That this review application be decided in accordance with the licensing objectives.

Financial Implications: The potential cost of defending an appeal in the courts.

Legal Implications: If there is an appeal against the decision Mid Devon District Council (the Council) could find itself bearing the costs.

Risk Assessment: If the decision is not reasonably and lawfully made it could be overturned on appeal to the Magistrates' Court.

Equality Impact Assessment: No equality issues identified for this report.

Relationship to Corporate Plan: Not applicable

Impact on climate change: Not applicable

Additional information relevant to this application: None

1.0 INTRODUCTION AND THE REVIEW PROCESS

1.1 The Licensing Act 2003 ('the Act') introduced a new concept into licensing legislation – that of a premises licence review and it is a key part of the licensing process.

1.2 At any stage following the grant of a premises licence, a responsible authority (see below), or any other person, such as a resident living in the vicinity of the

premises, may ask a licensing authority to review a licence because of a matter arising in connection with one or more of the licensing objectives. The licensing objectives are:

- the prevention of crime and disorder
- public safety
- the protection of children from harm
- the prevention of public nuisance

1.3 The process of applying for a review of a licence under the Act is prescribed by regulation and requires the applicant to copy the application to the licence holder, the relevant licensing authority and all responsible authorities. The responsible authorities are:

- Police
- Fire Service
- Environmental Health (nuisance / health and safety)
- Planning Authority
- Licensing Authority
- Health and Safety Executive
- Weights and Measures (Trading Standards)
- the body responsible for Child Protection
- the local Director of Public Health
- Home Office

1.4 On receipt of the application the licensing authority is obliged to advertise it by displaying a notice prominently at its offices and at the premises subject to the review, so passers-by may read it. A notice must also go on the licensing authority's website.

1.5 Any of the responsible authorities and any other person then have 28 days to make a representation.

1.6 Guidance produced under Section 182 of the Act ("S182 Guidance") gives a brief overview as to when and why the Home Office (Immigration Enforcement) became a responsible authority. It states:

'The Immigration Act 2016 made the Secretary of State a responsible authority in respect of premises licensed to sell alcohol or late night refreshment with effect from 6 April 2017. In effect this conveys the role of responsible authority to Home Office Immigration Enforcement who exercises the powers on the Secretary of State's behalf. When Immigration Enforcement exercises its powers as a responsible authority it will do so in respect of the prevention of crime and disorder licensing objective because it is concerned with the prevention of illegal working or immigration offences more broadly'. (Paragraph 9.25)

2.0 PREMISES AND HISTORY

- 2.1 Mumbai Kitchen is located at 46 – 48 Bampton Street, Tiverton, Devon, EX16 6AH. The premises has held a licence since the enactment of the Act in 2005. The premises licence number is MDV PR0074.
- 2.2 According to records, the premises has been known as Mumbai Kitchen since 2020.
- 2.3 The current premises licence holder is Mr Joy Abraham. He has held the licence since it was known as Mumbai Kitchen in 2020.
- 2.4 The current Designated Premises Supervisor (DPS) is Mr Jamal Ahmed and he has held this position since 2020.
- 2.5 A copy of the premises licence is attached to this report as **Annex 1**. It contains details of the licensable activities (and times) permitted and the conditions to which the premises must operate.
- 2.6 A copy of the plan for the premises is attached to this report as **Annex 2**.

3.0 REVIEW APPLICATION SUBMITTED BY THE HOME OFFICE (IMMIGRATION ENFORCEMENT)

- 3.1 The application to review the premises licence was received by the licensing authority on 24 September 2025. A copy is attached as **Annex 3**. The application was accompanied by a 'review pack', and this is attached as **Annex 4**.
- 3.2 The review application stated that:

'We have grounds to believe the license holder has failed to meet the licensing objectives of prevention of crime and disorder, as illegal working has been identified at this premises.'
- 3.3 The review pack (**Annex 4**) submitted by the Home Office (Immigration Enforcement) contains details of two visits made to the premises by Immigration Officers on 1 September 2022 and 14 November 2024.
- 3.4 On 1 September 2022 they have said that one person was found working in breach of conditions.
- 3.5 On 14 November 2024 they have said that one person was working in breach of conditions, and another person did not hold the right to work.
- 3.6 The review pack also contains additional information and reasons for the review, but this will not be repeated in this report as it can be seen in full within **Annex 4**.

4.0 RESPONSIBLE AUTHORITIES

- 4.1 The application to review the premises licence was sent to all responsible authorities.
- 4.2 No representations were received from any responsible authority.

5.0 OTHER PERSONS

- 5.1 The Act allows 'other persons' to make representations provided they are relevant to one or more of the licensing objectives. Representations may be positive or negative in that they can either be in support of the application to review or alternatively, in support of the premises subject of the review.
- 5.2 No representations were received from other persons.

6.0 OFFICER COMMENTS AND REQUESTS FOR ADDITIONAL INFORMATION

Crime and disorder and immigration related issues

- 6.1 The S182 Guidance states that licensing authorities '*should look to the police as the main source of advice on crime and disorder*'. (Paragraph 2.1). The Police have not made a representation in this case.
- 6.2 The S182 Guidance goes on to say that 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 employing a person who is disqualified from that work by reason of their immigration status in the UK*'. (Paragraph 11.27)
- 6.3 '*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*'. (Paragraph 11.28)

Home Office (Immigration Enforcement) – request for information

- 6.4 The S182 Guidance highlights that it is good practice for responsible authorities to discuss concerns with licence holders. Specifically, it states:

'Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be

encouraged and reviews should not be used to undermine this co-operation’.
(Paragraph 11.10)

- 6.5 The Home Office (Immigration Enforcement) should provide the licensing authority with details of any conversations / correspondence they have had with the premises licence holder (Mr Joy Abraham) prior to submitting this review application. For example, did they have any dealings with him following the compliance issues found at the premises in either 2022 or 2024?
- 6.6 It is felt the Sub-Committee would find this helpful because, in accordance with the S182 Guidance, it could demonstrate the licence holder was given a clear warning and opportunity for improvement. Failure on the part of the licence holder to heed such warnings would be a relevant consideration.
- 6.7 Conversely, if the licence holder has not received any correspondence or information regarding the issues previously found at the premises from the Home Office (Immigration Enforcement), that could indicate good practice has not been followed in this case. The Sub-Committee will need to consider if the licence holder has been (or should have been) given the opportunity to address the issues directly, following visits to the premises which identified compliance issues.
- 6.8 This point is made because the review pack (**Annex 4**) does not appear to cover this. There is no information concerning conversations / correspondence with the licence holder. It instead mentions the manager of the premises, who is a third party that is neither the licence holder nor DPS.
- 6.9 The Home Office (Immigration Enforcement) should also confirm why, in this case, they felt it necessary to submit the review application some 10 months after the most recent visit to the premises. Have there been any further concerns or issues since the visit in 2024?
- 6.10 It is noted that the S182 Guidance confirms that *‘licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker’* (Paragraph 11.18). From the information received, it does not appear that the licence holder has been subject to a civil immigration penalty. The Home Office (Immigration Enforcement) should confirm why the licence holder was not subject to such penalties and if this in any way reflects culpability (or lack thereof) with regards to the potential offences.

Premises licence holder - request for information

- 6.11 The above does not negate the fact that the licence holder has responsibility for ensuring the premises operates in accordance with the relevant legislation (and in a manner that would promote the four licensing objectives). This responsibility would include ensuring staff, particularly key staff such as managers and the DPS, are competent and appropriately trained.

- 6.12 Mr Joy Abraham should provide the licensing authority with details of what was in place, from his perspective, to ensure the relevant right to work checks were undertaken at the premises (if any).
- 6.13 He should also confirm what information, if any, he received from the Home Office (Immigration Enforcement) following the visits undertaken in 2022 and 2024. Furthermore, was he made aware of any issues by staff working at the premises and if not, when and how did he become aware of the previous compliance issues?
- 6.14 If staff at the premises failed to notify him of immigration issues being identified at the premises, he should, if not already, reflect on why this was the case and explain what action, if any, has been taken to address this.
- 6.15 He should also provide details of what he has in place now to ensure the premises complies with its obligations to conduct right to work checks.

7.0 LICENSING POLICY

- 7.1 The Act requires the Council, as the licensing authority, to formally adopt a policy setting out how it will deal with its duties under the Act. The Policy must be considered in its entirety, but in order to help proceedings, the following information is highlighted in advance of the hearing.
- 7.2 *In carrying out its licensing function the Licensing Authority must promote the following four licensing objectives:*
- *The prevention of crime and disorder*
 - *Public Safety*
 - *The prevention of public nuisance*
 - *The protection of children from harm (Paragraph 2.2)*
- 7.3 *Any application for a review should be treated seriously. Responsible Authorities will aim to give licensees early warning of any concerns identified at a premises, and talk to the Licence or Certificate holder to establish whether there are any steps they may be willing to take to rectify the situation. (Paragraph 4.48)*
- 7.4 *When considering a review of a Premises Licence or Club Premises Certificate, the Licensing Authority will expect the applicants for the review to provide evidence of infringements of licensing regulations, failure to comply with licence conditions and/or of failure to promote the licensing objectives. (Paragraph 4.50)*
- 7.5 *The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. The Licensing Authority will work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a Premises Licence holder to undertake right to work checks on all staff employed*

at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises. (Paragraph 8.8)

- 7.6 The Sub-Committee must have regard to the policy when making their decision and it can be viewed in full here:

<https://www.middevon.gov.uk/business/licensing/statement-of-licensing-policy-licensing-act-2003/>

8.0 GOVERNMENT GUIDANCE

- 8.1 The Sub-Committee are also obliged to have regard to the S182 Guidance. The most recent version of this was published in February 2025. Sections of this have already been highlighted above and other sections are highlighted below. The full Guidance can be viewed here:

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

- 8.2 *The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that evidence of a right to work check, either physical or digital (e.g. a copy of any document checked as part of a right to work check or a clear copy of the online right to work check) are retained at the licensed premises. (Paragraph 2.6)*
- 8.3 *A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective. (Paragraph 11.24)*
- 8.4 *Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go*

beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them. (Paragraph 11.25)

- 8.5 *Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder. (Paragraph 11.26)*

9.0 DETERMINATION AND OPTIONS

- 9.1 The S182 Guidance states:

- 9.2 *The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives. (Paragraph 11.16)*

- 9.3 *The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder. (Paragraph 11.17)*

- 9.4 *However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker. (Paragraph 11.18)*

- 9.5 *Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:*

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;*

- *exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);*
 - *remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;*
 - *suspend the licence for a period not exceeding three months;*
 - *revoke the licence. (Paragraph 11.19)*
- 9.6 *In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review. (Paragraph 11.20)*
- 9.7 *For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual. (Paragraph 11.21)*
- 9.8 *Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives. (Paragraph 11.22)*
- 9.9 *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. (Paragraph 11.23)*

- 9.10 The Sub-Committee has five working days from the conclusion of the hearing to make a decision.

10.0 THE PROCESS FOR THIS HEARING

- 10.1 The procedures for this hearing can be found online here:
<https://www.middevon.gov.uk/media/346399/appendix-b-hearing-procedures.pdf>
- 10.2 An 'order of play' document setting out how the hearing will run is attached at **Annex 5**.

11.0 APPEAL

- 11.1 If any party is dissatisfied with the decision made then they have the right of appeal to the Magistrates' Court within 21 days of formal notification of the decision.

LIST OF ANNEXES TO THIS REPORT

Annex 1: Copy of the premises licence
Annex 2: Copy of the plan for the premises
Annex 3: Application to review the premises licence
Annex 4: Review pack - redactions by Home Office (Immigration Enforcement)
Annex 5: Order of play

Contact for more information: Tom Keating (tkeating@middevon.gov.uk)

Circulation of the report: Legal / Sub-Committee / licence holder and their representative / review applicant

List of background papers:

- Licensing Act 2003 - <https://www.legislation.gov.uk/ukpga/2003/17/contents>
- Section 182 Guidance - <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003/revised-guidance-issued-under-section-182-of-the-licensing-act-2003-december-2023-accessible-version>
- Mid Devon District Council Licensing Act Policy - <https://www.middevon.gov.uk/business/licensing/statement-of-licensing-policy-licensing-act-2003/>