

**Committee:** Licensing & Environmental Health

**Agenda Item**

**Date:** 31 July 2017

**3**

**Title:** Application to Vary a Premises Licence to Specify an Individual as Designated Premises Supervisor for Indian Villa Restaurant, 20 Watling Street, Thaxted, Essex. CM6 2PE.

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Item for decision  
yes

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## Summary

1. Members are required to consider the application that has been received under the Licensing Act 2003 from the premises licence holder Mr Mohammed Abdul Malique to vary the Designated Premises Supervisor (DPS) at Indian Villa Restaurant, 20 Watling Street, Thaxted, CM6 2PE as an objection notice to the to the proposed variation has been received from Essex Police.

The Indian Villa Restaurant is situated in the centre of the village of Thaxted. It is licensed for the sale of alcohol by for consumption on and off the premises from 10am to 11.30pm Monday to Saturday and 12 noon to 11pm Sunday

## Recommendations

2. To consider the objection notice in accordance with the options detailed later in the report and make a decision on the application.

## Financial Implications

3. The fees are based on a cost recovery basis. The fee for the application of a new licence is £23.00. This is a fee Statutory and non-refundable.

## Background Papers

4. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.  
Licensing Act 2003 (sections 37-40)  
Revised Guidance issued under section 182 of the Licensing Act 2003

## Impact

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Communication/Consultation	Statutory consultees notified and application advertised on the UDC website.
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Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	<p>Under Article 1 First Protocol to the European Convention on Human Rights everyone is entitled to peaceful enjoyment of their possessions which includes property. This right may be interfered with if necessary to control the use of property in accordance with the general interest.</p> <p>In the event that the licence holder or anyone who has made relevant representations is dissatisfied with the decision of the committee there is a right of appeal to the Magistrates Court.</p>
Sustainability	None
Ward-specific impacts	Thaxted
Workforce/Workplace	None

## Situation

6. The application was received from Mohammed Abdul Malique the premises licence holder. The premises licence holder is applying to vary the premises licence to specify Mohammed Akther Hussain as the proposed new designated premises supervisor.
7. The application was made on 22 June 17 and accepted by Uttlesford District Council as a properly made application. The application proposes that Mr Mohammed Akther Hussain be named as the designated premises supervisor by virtue of a request made by the applicant in accordance with Section 38 of the Licensing Act 2003. A copy of the application and consent is attached as Appendix 1.
8. The Police have been consulted on this application as a responsible authority, and have made relevant representations and are objecting to this application. A copy of their representation is attached as Appendix 2.
9. A copy of the premises licence is attached as Appendix 3.
10. The applicant, the prospective designated premises supervisor and Essex Police have been invited to attend the hearing.

11. Section 37 of the Licensing Act 2003 (“the Act) provides that an application may be made to vary the premises licence to specify a proposed individual as a designated premises supervisor.

Section 39 of the 2003 Act provides application to vary a person specified as a designated premises supervisor may only be rejected if it is considered necessary for the promotion of the crime and disorder objective. Regard shall be given to guidance issued by the Secretary of State under Section 182 of the Licensing Act and Uttlesford District Council’s draft licensing policy statement. Immigration offences are considered under the Crime and Disorder objective.

The Home Office Guidance at paragraphs 2.6 is relevant, and Members should give particularly attention to paragraphs 4.39 –4.41 when making their decision.

- 2.6        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 employed staff 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.
- 4.39        The police may object to the designation of a new premises supervisor where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective. The police can object where, for example, a DPS is first specified in relation to particular premises and the specification of that DPS in relation to the particular premises gives rise to exceptional concerns. For example, where a personal licence holder has been allowed by the courts to retain their licence despite convictions for selling alcohol to children (a relevant offence) and then transfers into premises known for underage drinking.
- 4.40        Where the police do object, the licensing authority must arrange for a hearing at which the issue can be considered and both parties can put their arguments. The 2003 Act provides that the applicant may apply for the individual to take up post as DPS immediately and in such cases, the issue would be whether the individual should be removed from this post. The licensing authority considering the matter must restrict its consideration to the issue of crime and disorder and give comprehensive reasons for its decision. Either party would be entitled to appeal if their argument is rejected..”
- 4.41        The portability of personal licences between premises is an important concept under the 2003 Act. It is expected that police objections would arise in only genuinely exceptional circumstances. If a licensing

authority believes that the police are routinely objecting to the designation of new premises supervisors on grounds which are not exceptional, they should raise the matter with the chief officer of police as a matter of urgency.

12. Members must, having regard to the application and the police objection notice, decide whether to grant the application or reject the application if members consider it appropriate for the promotion of the crime prevention objective to do so.