

**Boston Borough Council
Licensing Act 2003
Review of a Premises Licence
Decision Notice**

Date of hearing	19 September 2024
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Members of Sub-Committee	Councillor Paul Gleeson (Chair) Councillor Stuart Evans Councillor Suzanne Welberry
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Review Applicant	Home Office – Immigration Enforcement
Premises Address	Bombay Brasserie, 53 West Street, Boston
Date Application Received	3 July 2024
Details of Application	Application for the review of a Premises Licence

The Parties:

The Licensing Sub-Committee re-convened to consider an application for the review of the premises licence for Bombay Brasserie, 53 West Street, Boston. The original hearing was scheduled for the 22 August 2024 and was adjourned at the agreement of all parties.

At the hearing the report was presented by Anna McDowell, Senior Licensing Officer. The Sub-Committee heard from the CIO Donnelly on behalf of the Home Office (applicant), Sgt Adams and PC McConville on behalf of Lincolnshire Police (having submitted representation in respect of the review application), Mr Dalton-Gooding from the Gangmaster and Labour Abuse Authority who answered questions in respect of his statement which was included in Lincolnshire Police's representation, Mr Sharma of Lexwin Solicitors on behalf of the premises licence holder, and the premises licence holder Mr Miah who answered question posed by the sub-committee.

Policy and Guidance:

In reaching its decision the Sub-Committee has had due regard for all that they have read, heard, and seen, and has considered the statutory guidance issued under Section 182 of the Licensing Act 2003, along with the Council's Statement of Licensing Policy, and their public sector duty under the Equality Act 2010

Decision and Reasons:

The Sub-Committee have read all the written evidence before them and heard from all parties to the review. The sub-committee noted that Mr Miah is the premises licence holder and that Well Spicy own the business. They noted that whilst the civil penalty charge notice to Mr Miah was cancelled it had been reissued to Well Spicy and was still awaiting payment. The sub-committee noted the details from the visit on 29th February this year. Mr Miah advised the sub-committee that he was himself employed by Well Spicy and Well Spicy were also the company that employed the workers at the premises. My Miah had no involvement with that business and _____ was the owner of the business. Mr Miah advised he did not pay them. He acknowledged that _____ had provided cash to him for him to pay the self-employed works. Mr Miah further acknowledged that had not completed right to work checks on two workers at the premises as he believed that they had the right to work because they were European. Mr Miah advised during the course of investigations that he had taken passport pictures of both workers but was only able to produce one and the other may have been deleted. The investigations carried out by the police and immigration evidenced that these workers did not have a right to work in the UK.

The sub-committee heard evidence about works being paid under the minimum wage. No documentary evidence was provided to show that they were paid the correct wage, and the sub-committee heard from Mr Miah that he hadn't employed them but _____ had. Mr Miah has signed a request for labour market enforcement undertaking under s14 Immigration Act 2016 dated 16th August 2024 admitting that the workers are paid in cash with no contracts and no payslips and undertaking to ensure the employees were paid correctly in future.

Appeal:

There is a right of appeal to the Magistrates' Court under Section 181 of the Licensing Act 2003. The appeal must be commenced by notice of appeal to the Justices' Chief Executive for the Magistrates Court within the period of 21 days beginning with the day on which the appellant was notified by the Licensing Authority of the decision being appealed against.

Any appeal should be sent to:

Lincoln Magistrates Court, 358 High St, Lincoln LN5 7QA

Upon hearing an appeal the Magistrates' Court may

- a) Dismiss the appeal,
- b) Substitute for the decision appealed against any other decision which could have been made by the Licensing Authority, or
- c) Remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court,

And make such order as to costs it thinks fit.

Signed:



Anna McDowell
Senior Licensing Officer
On behalf of the Licensing Sub-Committee
Date: 19 September 2024