

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

Date of hearing	19 September 2024 – 10.00 hours
Members of Sub-Committee	Cllr Evans Cllr Gleeson (Chair) Cllr Welberry
Review Applicant	Home Office – Immigration Enforcement
Premises Address	Bombay Brasserie, 53 West Street, Boston
Date Application Received	03 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 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. Mr Miah had no involvement with that business and [REDACTED] was the owner of that business. Mr Miah advised he did not have copies of pay slips or invoices for self-employed workers and he did not pay them. He acknowledged that [REDACTED] had provided cash to him for him to pay the self-employed workers. 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 workers 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 [REDACTED] 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.

Evidence was also submitted that rooms in the premises were being lived in despite housing advising Mr Miah that they must not be. Mr Miah advised the rooms were only for staff changing and for them to rest during breaks.

The sub-committee noted there were several inconsistencies with Mr Miah's previous interviews with immigration and the police and his current statements. The sub-committee also noted that Mr Miah seemed to be unaware of his responsibilities under the licensing act and whilst stating he did not employ the workers directly had not sought to challenge their employment with [REDACTED]. The sub-committee were of the view that offences had been committed at the premises and Mr Miah, whilst

stating he did not employ the workers directly, was the licence holder of the premises and was day to day manager of that premises.

The sub-committee considered everything that was put before them and decided in the circumstances it was appropriate for the promotion of the licensing objective of crime and disorder to revoke the premises licence. The sub-committee considered whether a suspension or conditions would be appropriate but were of the view that if Mr Miah's assertion that he did not control the workers at the premises was correct that he would be unable to meet any suspension or those condition requirements as he did not have control of the business. For the same reasons they did not feel that removal of the DPS would be appropriate.

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

19 September 2024
Licensing Sub-Committee