

Agenda Item No:	3	
Committee:	LICENSING	
Date:	25th April 2025	
Report Title:	APPLICATION FOR THE REVIEW OF A PREMISES LICENCE MADE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 – THE ITALIAN AFFAIR	

Appendices B, D and E of this report are NOT FOR PUBLICATION in accordance with Paragraphs 1, 2 and 7 of Schedule 12A of the Local Government Act 1972 in that they contain information relating to individuals or information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

1 Summary

- To consider an application for the review of a premises licence in respect of The Italian Affair - New Inn Yard, Wisbech, PE13 1AQ.

2 Key issues

- The review has been submitted by the Cambridgeshire Constabulary
- The reason for the review is:
- It is alleged by the Police that the Conduct of Mr Rafique shows that he has not upheld the Licensing Objectives as below.
- The review application is made under the following licensing objectives:
 - The Prevention of Crime and Disorder
 - Public Safety
- There is a requirement to hold a licensing hearing to determine the application for the review of a premises licence.

3 Recommendations

- That the committee determines the application, having regard for the evidence presented by the parties to the hearing, the relevant legislation and guidance applicable to this process and the content of this report and appendices.

Wards Affected	Medworth Wisbech
Forward Plan Reference	N/A
Portfolio Holder(s)	Councillor Sam Hoy, Portfolio Holder with responsibilities for Licensing
Report Originator(s)	Andy Fox, Senior Licensing & Compliance Officer, Tel: 01354 602162, Email: afox@fenland.gov.uk

Contact Officer(s)	Amy Brown, Assistant Director, Deputy Monitoring Officer and Data Protection Officer, abrown@fenland.gov.uk
Background Paper(s)	Section 182 Guidance to the Licensing Act 2003 - Revised guidance issued under section 182 of the Licensing Act 2003 (December 2022) (accessible) - GOV.UK (www.gov.uk) Licensing Act 2003 - Licensing Act 2003 (legislation.gov.uk) The Licensing Act (Hearings) Regulations 2005 - The Licensing Act 2003 (Hearings) Regulations 2005 (legislation.gov.uk) Fenland District Council's Statement of Licensing Policy 2021 – 2026 - FENLAND DISTRICT COUNCIL

Report:

1 Introduction

- 1.1 Fenland District Council as the Licensing Authority has received an application to review a premises licence, from Cambridgeshire Constabulary in their capacity as a Responsible Authority under section 51 of the Licensing Act 2003 for the premises known as The Italian Affair, New Inn Yard, Wisbech, PE13 1AQ.
- 1.2 The application was received on 18th February 2025. As required under the Licensing Act 2003, notice of the application was advertised on the Council's website and blue notices were placed on the premises from 18th February 2025. The 28 days consultation period ended on 18th March 2025.
- 1.3 A copy of the review application, along with supporting CCTV footage can be seen at **APPENDIX B** to this report. This footage will be shown during the Licensing Sub-Committee Hearing.
- 1.4 A copy of the current premises licence can be seen at **APPENDIX C**.
- 1.5 The application to review relates to the following licensing objectives:
 - The prevention of crime and disorder
 - Public Safety

2 Background & Timeline

- 2.1 The Premises licence details for The Italian Affair, Wisbech are:
 - Premises Licence Holder (PLH) - Elgood & Sons Limited, and have held the licence since August 2017
 - Designated Premises Supervisor (DPS) - Mr Shahid RAFIQUE
- 2.2 Mr RAFIQUE holds a personal licence with the Fenland District Council - PERS0766.
- 2.3 In relation to the role of DPS, they are responsible for the day-to-day running of the premises, which includes a clear knowledge and compliance with the licence conditions.
- 2.4 The review application refers to an alleged offence, details are:

On Sunday 26th January 2025 at approximately 03:20 hours there was a report of persons fighting on Market Square, Wisbech between several persons. The affray incident is still being investigated.
- 2.5 During the course of the investigation, it has been established by the Police that Mr RAFIQUE was involved.
- 2.6 Cambridgeshire Constabulary have provided CCTV evidence of the incident which will be shown to the licensing committee during the hearing.
- 2.7 Cambridgeshire Constabulary respectfully requests that consideration be given to:
 1. The removal of the Designated Premises Supervisor (DPS) Mr RAFIQUE
 2. Whether the Premises Licence, although in a company name but under the control and influenced by Mr RAFIQUE should be revoked.

3 Representations

- 3.1 During the consultation period, 4 letters of support for the application have been received and copies of these can be seen at **APPENDIX D**
- 3.2 Mr RAFIQUE has sent in a letter of representation, supporting his position as DPS, and can be seen at **APPENDIX E**

- 3.3 A person who has submitted a relevant representation is entitled to address the Licensing Sub-Committee at the hearing and ask questions of any other party appearing at the hearing.

4 Legislation/Policy Considerations

- 4.1 The licensing authority must carry out its functions under the 'Act' with a view to promoting the Licensing objectives, each objective has equal importance, these are:
- the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance
 - the protection of children from harm.
- 4.2 When determining an application for a review of a premises licence, due regard should be given to the Council's Statement of Licensing Policy and the Secretary of State's Guidance section 182.
- 4.3 The hearing will be conducted in accordance with the approved procedures and can be seen at **APPENDIX A** to this report.

5 Determination

- 5.1 The Sub-Committee must determine the application on its individual merits having regard to the representations and supporting documents included within this report.
- 5.2 Where the committee consider that action under its statutory powers is appropriate, they may take any of the steps mentioned below, as it considers appropriate for the promotion of the licensing objectives. The steps are:
- To modify the conditions of the licence
 - To exclude a licensable activity from the scope of the licence
 - To remove the Designated Premises Supervisor (DPS)
 - To suspend the licence for a period not exceeding three months
 - To revoke the licence
 - To take no action
- 5.3 The Sub-Committee may also consider issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. If none of the above steps is considered appropriate the licence should remain in the form, it was granted.
- 5.4 Where the Sub-Committee decides to modify the conditions of a licence or exclude a licensable activity from a licence, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify. Any suspension of the premises licence may be for a maximum period of three months.
- 5.5 Members may wish to note that any modification, amendment, suspension or revocation of the premises licence will not take effect until the end of the period for the submission of an appeal or if an appeal is submitted until such time as the appeal is determined.
- 5.6 Conditions can only be attached to a premises licence if they are considered appropriate for the promotion of the licensing objectives. If consideration is being given to attaching conditions, Members should consider, are the proposed conditions:
- Appropriate
 - Relevant to the activity/premises/venue.
 - Enforceable.

- Precise;
- Reasonable, and
- Achievable.

6 Community impact

- 6.1 The Licensing Act 2003 seeks to provide public protection by way of the four licensing objectives.