

REVIEW OF PREMISES LICENCE REPORT

Licensing Sub Committee



Date:	25 October 2022
Title of Report:	Review of Premises Licence
Lead Member:	Councillor Pat Patel (Cabinet Member for Customer Services, Leisure & Sport)
Lead Strategic Director:	Dr Ruth Harrell (Office of the Director of Public Health)
Author:	Lee Staples (Senior Licensing Officer)
Contact Email:	Licensing@plymouth.gov.uk
Your Reference:	Nibana Indian Restaurant
Key Decision:	No
Confidentiality:	Part I - Official

Purpose of the report:

An application has been received from Home Office Immigration Enforcement under Section 51 of the Licensing Act 2003 for the review of the premises licence in respect of the Nibana Indian Restaurant, 7/9 Morshead Road, Crownhill, Plymouth.

Recommendations and Reasons:

That Members consider this report.

Alternative options considered and rejected:

None.

Relevance to the Corporate Plan and/or the Plymouth Plan:

Our Plan – A City to be proud of.

This report links to the delivery of the City and Council objectives and outcomes within the plan.

Unlocking the City's Potential: The Licensing Policy and system aims to provide a balance between the need to protect residents and to enable legitimate businesses to operate within a necessary and proportionate regulatory framework. This in turn makes a safer, more vibrant Plymouth to allow economic growth and opportunities for increased levels of employment.

Caring for People and Communities: The Licensing Policy has put in place an appropriate framework to allow the effective control of alcohol supply and regulated entertainment to keep all members of society protected and feeling safe by focusing on prevention and early intervention. The licensing system minimise the burdens on business and to allow communities the opportunity to influence decisions.

See [Our Plan](#)

Implications for Medium Term Financial Plan and Resource Implications:

Not applicable

Financial Risks

Not Applicable

Carbon Footprint Carbon Footprint (Environmental) Implications:

None

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:

** When considering these proposals members have a responsibility to ensure they give due regard to the Council's duty to promote equality of opportunity, eliminate unlawful discrimination and promote good relations between people who share protected characteristics under the Equalities Act and those who do not.*

Members should be aware that Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

Published work / information:

For more information please see the below links.

[Statement of Licensing Policy](#)

[Licensing Act 2003](#)

[Revised guidance issued under section 182 of the Licensing Act 2003 - April 2018](#)

Appendices

Ref.	Title of Appendix	Exemption Paragraph Number (if applicable)						
		1	2	3	4	5	6	7
		<i>If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part 1 of Schedule 12A</i>						
A	Briefing report (mandatory)							

Background papers:

Please list all unpublished, background papers relevant to the decision in the table below. Background papers are unpublished works, relied on to a material extent in preparing the report, which disclose facts or matters on which the report or an important part of the work is based.

Title of background paper(s)	Exemption Paragraph Number (if applicable)
	<i>If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part 1 of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.</i>

	1	2	3	4	5	6	7
Application							

Sign off:

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Originating Senior Leadership Team member: Click here to enter text.											
Please confirm the Strategic Director(s) has agreed the report? Choose											
Date agreed: Date.											
Cabinet Member signature of approval: [electronic signature (or typed name and statement of 'approved by email') on Cabinet member approval only]											
Date: Date.											

1.0 INTRODUCTION

1.1 On the 1st September 2022 the licensing department received an application from Home Office Immigration Enforcement under Section 51 of the Licensing Act 2003 for the review of the premises licence in respect of Nibana Indian Restaurant situated at 7/9 Morshead Road, Crownhill, Plymouth.

1.2 Review application.

Home Office Immigration Enforcement have applied for the review of the premises licence for the purpose of promoting the licensing objectives in relation to the Prevention of crime and disorder. A copy of this application has been served by Home Office Immigration Enforcement on each of the responsible authorities and the holder of the premises licence.

In carrying out the role of responsible authority, Home Office (Immigration Enforcement) is permitted to make relevant representations and objections to the grant of a licence or request a review of an existing licence as a responsible authority where there is concern that a licence and related licensable activity is prejudicial to the prevention of immigration crime including illegal working.

Home Office Immigration Enforcement will state that they have grounds to believe the licence holder has failed to meet the licensing objectives of prevention of crime and disorder, as illegal working has been identified at this premises.

In accordance with review proceedings at 13:45hrs on 5th September 2022 a licensing officer from Plymouth City Council attended the premises and spoke to two members of kitchen staff and requested the site notice be displayed at the premises. The Licence Holder contacted the licensing officer on 6th September and emailed photographs of the notices in place the same day.

A copy of the notice was displayed on the Plymouth City Council website and at the Council House, Armada Way, Plymouth from 5th September.

1.3 Licensable Activities.

These premises have the following licensable activities and timings.

(j) Supply of Alcohol for consumption ON and OFF the premises.

Hours Monday to Thursday	12:00 to 14:00	17:00 to 23:00
Friday	17:00 to 23:00	
Saturday & Sunday	12:00 to 14:00	17:00 to 23:00

Non Standard Timings.

(l) Hours Premises are Open to the Public

Hours Monday to Thursday	12:00 to 14:00	17:00 to 23:00
Friday	17:00 to 23:00	
Saturday & Sunday	12:00 to 14:00	

Non Standard Timings.

2.0 RESPONSIBLE AUTHORITIES

2.1 *Devon & Cornwall Police* – no representations.

2.2 *Environmental Health* – no representations

2.3 *Devon & Somerset Fire & Rescue Service* – no representations.

2.4 *Trading Standards* – no representations

2.5 *Planning Officer* - no representations.

2.6 *Child Protection* – no representations

2.7 *Health & Safety Executive* – no representations.

2.8 *Health Authority (ODPH)* – no representations.

2.9 *Licensing Authority* – no representations.

2.10 *Home Office Immigration Enforcement* – Applicant Responsible Authority.

3.0 OTHER PARTIES

We have received 1 representation against the application from a local Councillor. A copy of the representation is at appendix A.

4.0 CONSIDERATIONS

4.1 In making its decision the Committee is obliged to have regard to the application and any relevant representations.

The Committee should take such steps, if any, as it considers appropriate for the promotion of the licensing objectives, which are:

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

In making its decision the Committee is also obliged to have regards to:

- The guidance issued under section 182 of the Licensing Act 2003 with the following paragraph's being particularly relevant to this application:

- 1.2 - 1.5, 1.9, 1.10, 1.12, 1.16, 1.17
- 2.3, 2.5, 2.6
- 9.25
- 10.2, 10.8 and 10.10
- 11.1, 11.7, 11.9, 11.10, , 11.16 - 11.24, and 11.26-11.28
- The Council's own Licensing Policy with the following headed paragraphs being relevant to this application:
 - The Licensing Objectives (Page 9)
 - Designated Premises Supervisor (Page 15)
 - Licensing Conditions (page 22) and
 - Review of premises licence (Page 24-25)
- Also the representations (including supporting information) presented by all the parties.

4.2 The steps referred to above are :

- (a) to modify the conditions of the licence (which includes adding new conditions, and any alteration or omission of an existing condition);
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;
- (f) to take no action;

Where the committee takes a step in 4.2 (a) or (b), it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.