

Slough Borough Council

Report To: Licensing Sub-Committee

Date: 26th April 2023

Subject: Premises Licence Review - New Bettola Restaurant & Colnbrook Lodge, Meadowbrook Bungalow, Old Bath Road, Slough

Chief Officer: Richard West, Executive Director Place & Community

Contact Officer: Melanie Sagar, Licensing Officer

Ward(s): Colnbrook with Poyle

Exempt: NO

Appendices: Appendix A – Review application form
Appendix B – Email from Debie Pearmain confirming copy of review application has been posted to the premises licence holder and DPS dated 14/03/22
Appendix C – Copy of the Premises Licence
Appendix D - TVP GEN40 licensed premises incident report dated 16/02/23
Appendix E - TVP appointment letter dated 20/02/2023
Appendix F – Witness Statement of Caroline Laird dated 04/03/23
Appendix G - TVP licensed premises incident report 06/03/2023
Appendix H – Authorisation for DPS Otlion Mataj dated 06/03/23

1. Summary and Recommendations

- 1.1 This report sets out Thames Valley Police grounds to review the premise licence for New Bettola Restaurant & Colnbrook Lodge, Meadowbrook Bungalow, Old Bath Road, Slough, SL3 0NZ. The review application has been made in accordance with section 51 of the Licensing Act 2003.

Recommendations:

The Sub-Committee is recommended to:

Having had regard to the representations made by all parties, the Sub-Committee must consider appropriate action for the promotion of the licensing objectives.

Where the Sub-Committee considers action is appropriate the statutory options available are:

- (a) Modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition).
- (b) Exclude a licensable activity from the scope of the licence.
- (c) Remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management.
- (d) Suspend the licence for a period not exceeding three months.
- (e) Revoke the licence.

Reason: The Licensing Team cannot disregard or overturn a decision made by the Licensing Sub-Committee.

2. Report

Introductory paragraph

- 2.1 As a quasi-judicial body the Sub-Committee is required to consider this matter on its merits and must act reasonably and rationally. The Sub-Committee can only consider relevant factors and must ignore irrelevant factors. The decision must be based on evidence, which logically shows the existence or non-existence of the relevant facts, or the likelihood or the unlikelihood of some future event, the occurrence of which would be relevant. The Sub-Committee must give fair consideration to the contentions of all persons entitled to make representation to them.
- 2.2 The Sub-Committee can consider matters within the report and may also take into account other information provided in support of the application or representations before the hearing or, with the consent of all the other parties, at the hearing.
- 2.3 Members should note that the Sub-Committee is meeting on this occasion solely to perform the role of Licensing Authority. As such Members should disregard the Council's broader policy objectives and role as statutory authority in other contexts. Members must direct themselves to making a determination solely based upon the licensing law, guidance and the Council's related policies and guidance.
- 2.4 Members will be aware of the Council's Code of Conduct which requires them to declare interests. The Code applies to members when considering licensing issues. In addition, as a quasi-judicial body, Members are required to avoid both actual bias and the appearance of bias.

Options considered

- 2.5 Consideration has been given to how the decision sought will help the Council meets its vision and corporate priorities, however the nature of the review application is outside the scope of these priorities.

Background

- 2.6 On 14 March 2023, Thames Valley Police submitted a review application for New Bettola Restaurant & Colnbrook Lodge, Meadowbrook Bungalow, Old Bath Road, Slough, SL3 0NZ, PL4631. The review application is on the grounds that the following licensing objectives are not being met.

- The prevention of crime and disorder
- Public safety

- 2.6.1 The full review application is attached at **Appendix A** and the application can be summarised as follows.
- 2.6.2 16 February 2023 – Joint Immigration and Thames Valley Police visit to premises following receipt of intelligence received by Immigration of alleged illegal workers at the premises. During the visit two staff members were detained by Immigration Officers as they had no right to work in the UK and a third person was working in breach of her conditions. GEN40 Licensed Premises Incident Report for 16 February 2023 is attached at **Appendix D**.
- 2.6.3 20 February 2023 – Thames Valley Police wrote to Oltion Mataj, the premises licence DPS for New Bettola Restaurant and Colnbrook Lodge, to attend a meeting at Windsor Police Station on 06 March 2023 to discuss the matter. A copy of the letter is attached at **Appendix E**.
- 2.6.4 04 March 2023 – Witness statement regarding the joint visit to New Bettola Restaurant and Colnbrook Lodge by Thames Valley Police and Immigration received by Debie Pearmain, Thames Valley Police Licensing Officer from Caroline Laird 1876, Assistant Immigration Officer. The Witness Statement dated 04 March 2023 is attached at **Appendix F** and states that 3 arrests were made on 06 March 2023 (1 x entry in breach of a Deportation Oder, 1 x illegal entrant and 1 x working in breach of her allowed occupations with an outstanding asylum claim).
- 2.6.5 06 March 2023 –Meeting held at Windsor Police Station with the Premises’ DPS, Mr Oltion Mataj, to discuss the joint visit to New Bettola Restaurant and Colnbrook Lodge by Thames Valley Police and Immigration. The meeting notes are attached at **Appendix G**.
- 2.6.6 At the meeting Mr Mataj confirmed he did not make any checks before employing these persons although he had asked for the documents and was going to check at the end of the month when staff are paid. Mr Mataj admitted and apologised for this mistake.
- 2.6.7 06 March 2023 – Email received by the Licensing Team from Arta Nerguti, sole director of Premises Licence Holder Su Kokku Ltd, authorising the DPS Oltion Mataj ‘to take care of anything in need’ in respect of PL4631 New Bettola Restaurant and Colnbrook Lodge. . A copy of the email authorisation is attached at **Appendix H**.
- 2.6.8 15 March 2023 – the statutory notice for the review was published on the Slough Borough Council website in the Representation – Slough Borough Council information pages and also displayed at the premises.

3. **Implications of the Recommendation**

3.1 **Financial implications**

- 3.1.1 There are no financial implications to the Council.

3.2 Legal implications

3.2.1 The Sub-Committee must have regard to the Secretary of State's Revised guidance issued under Section 182 of the Licensing Act 2003 and in particular, Chapter 11 - Reviews. Particular regard should be had to paragraphs 11.24-11.27 (Reviews arising in connection with crime), which includes the following:

"11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for employing a person who is disqualified from that work by reason of their immigration status in the UK."*

3.2.2 The Sub-Committee must also have regard to the Council's Statement of Licensing Policy 2019-2024.

3.3 Risk management implications

3.3.1 Consideration has given to risk management implications however the nature of the decision is outside the scope of these priorities.

3.4 Environmental implications

3.4.1 Consideration has given to environmental implications however the nature of the decision is outside the scope of these priorities.

3.5 Equality implications

- 3.5.1 The Sub-Committee should be aware of and consider any implications that may arise from the Human Rights Act 1998 and section 149 Equality Act 2010. The legislation makes it unlawful for a public authority to act in a manner which is incompatible with the European Convention of Human Rights.
- 3.5.2 When determining the case and considering imposition of conditions the Sub-Committee must be satisfied that any decision which interferes with the rights of the applicant or of others, only does so insofar as it is necessary to protect the rights of others and that no alternative decision would be appropriate.
- 3.5.3 The Sub-Committee is specifically referred to the following Convention rights:
- (i) Article 6 (the right to a fair trial),
 - (ii) Article 8 (the right to respect for private and family life)
 - (iii) Article 1 of the First Protocol (the protection of property)

4. Background Papers

- [The Licensing Act 2003](#)
- [Guidance issued under Section 182 of the Licensing Act 2003 \(December 2022\)](#)
- [Regulations \(cited as the Licensing Act 2003 \(\[Various\]\) Orders 2005\)](#)
- [Slough Borough Council Statement of Licensing Policy – January 2019-2024](#)