

Meeting of: LICENSING ACT SUB-COMMITTEE

Date: 4TH OCTOBER 2010

Report of: HEAD OF LEGAL AND HUMAN RESOURCES

Reference: CM

Title: Mohammad Naeem Aslam, Shahi Tandoori Takeaway, 8 Queen Street,
Morecambe, LA4 5EG
APPLICATION FOR VARIATION OF LICENCE

Members of the Sub-Committee have the following documents attached to this report:

1. Copy of current premises licence:- (pages 112 to 115)
2. Application form (pages 116 to 129)
3. Copy of representation from Lancashire Constabulary :- (page 130)
4. Notice of Hearing (pages 131 to 134)

Details of Application

Mohammad Naeem Aslam has submitted an application under Section 34 of the Licensing Act 2003 to vary the premises licence for Shahi Tandoori Takeaway, 8 Queen Street, Morecambe LA4 5EG

The current premises licence permits the following: -

Late night refreshment on Monday to Saturday from 23.00 am to 03.00am, Sunday from 23.00 to 02.00 the following day with the condition attached to the licence that:

A minimum number of 2 members of door staff registered with the SIA will be on duty from 01.00 hours on Friday/Saturday and Saturday/Sunday mornings

A copy of the current licence is at Document 1 attached to this report.

The application to vary the premises licence is to remove the condition relating to door staff entirely from the licence.

Details of the application to vary the premises licence are set out in the application form, which is Document 2 attached to this report.

Representations

Under Section 35(3) of the Act, it is necessary for a hearing to be held to consider the application, as a representation has been received from the responsible authority as named above.

PC Bernhardt of Lancashire Constabulary has made a representation based on the licensing objective the prevention of crime and disorder. He has stated that 'the door staff provision is inadequate as it will allow entry to potential offenders and staff will be unable to deal

effectively with the situations that arise, this will lead to an increase in alcohol fuelled violent crime and disorder.

A copy of the representation is at Document 3 attached to this report

Notice of Hearing

In accordance with the relevant Regulations, the parties have been given notice of the hearing. It was not felt necessary to request any clarification from the parties. The parties have been required in accordance with the Regulations to indicate at least five working days before the hearing whether they intend to attend and/or be represented at the hearing and if they wish any witness to appear at the hearing. Any responses and any further documentation submitted by any of the parties after the circulation of this agenda will be circulated to Members in advance of the meeting. Members are reminded that documentary or other information submitted on the day of the hearing may only be taken into account with the consent of the Sub-Committee and all the parties.

Matter for Decision

The Sub-Committee is requested to consider the application and the representation.

This is in accordance with Section 35(3) and (4) of the Act which provide as follows:

- (3) Where relevant representations are made, the authority must-
 - (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and
 - (b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the licensing objectives.

- (4) The steps are-
 - (a) to modify the conditions of the licence;
 - (b) to reject the whole or part of the application;and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added

Members are reminded that the licensing objectives are:

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

Relevant Parts of the Council's Statement of Licensing Policy

With regard to the prevention of crime and disorder, the Policy provides as follows:

9. The prevention of crime and disorder

- 9.1 The central concerns of licensing in relation to law and order are acts of violence and vandalism brought about by consumption of alcohol and the use of licensed premises as part of a distribution network for illegal drugs.

- 9.2 It is not the function of licensing to impose good practice in the adoption of wider crime reduction measures, such as those for securing premises outside of trading hours. It is also not a purpose of licensing to require that measures be put in place to enhance the opportunities for gathering evidence in relation to crime of a general nature. However, the Licensing Authority recognises that CCTV cameras at premises have an important role in preventing crime and disorder.
- 9.4 The Licensing Authority's starting point is to seek a reduction in crime and disorder throughout the area, consistent with its statutory duty under section 17 of the Crime and Disorder Act 1998. Licences may be granted if applicants can demonstrate that a positive reduction in crime and disorder will result, or that it will not increase, as a result of the application being granted.
- 9.5 Where there are relevant representations, the Licensing Authority will generally not grant a licence where it is likely that the premises will be used for unlawful purposes or where it is considered that the use of the premises is likely to cause an increase in crime and disorder in the area or the premises and this cannot be prevented by the imposition of conditions. When addressing crime and disorder, the applicant should identify any particular issues which are likely to adversely affect the promotion of the objective to prevent crime and disorder, taking account the location, size and likely clientele of the premises, and the type of entertainment (if any) to be provided. Such steps as are required to deal with these issues should be included within the applicant's operating schedule, and may include:
- Use of CCTV inside and outside the premises. The Lancashire Constabulary has produced suggested minimum requirements for CCTV and these are available from the Lancashire Constabulary or from the Licensing Authority's administrative staff
 - Use of metal detection or other search equipment or procedures
 - Crime and disorder risk assessment in relation to the proposed activities
 - Measures to prevent the use or supply of illegal drugs and procedures for searching customers
 - Ensuring that all staff are appropriately trained
 - Ensuring that all staff involved in the management of the premises have the capability, responsibility and training to supervise other staff and to ensure that the premises are operated in such a manner as to prevent crime and disorder
 - Employment of sufficient security staff where appropriate, controlling admission, monitoring capacity within the premises as a whole and in separate rooms/levels and patrolling the interior and exterior of the premises (any such staff must be licensed by the Security Industry Authority). The Licensing Authority recognises that there is a greater need for security staff in some premises than in others. For example there will be a greater need for security staff in a town centre nightclub than in a village pub. It will be for the applicant to consider the appropriate number of doorstaff required for the particular premises.
 - Ensuring that a register of doorstaff and their working times is maintained
 - Participation in Pub Watch, Best Bar None or other relevant schemes and using radio links/pages as a means of connecting to other licensed premises.
 - Use of plastic or polycarbonate glasses and bottles, where appropriate, or toughened glass. Applicants are advised that the Government believes that a risk-based, rather than blanket, approach to requiring licensed premises to use safer alternatives is the best way to tackle the problem of glass-related injuries
 - Wherever possible, agreed protocols with police and other organisations and a commitment to co-operate and provide such evidence as the Police require.

- Adopting the “Night Safe Initiative” and “Safer Clubbing Guide” as statements of best practice
- Following the trade codes of practice, for example BBPA and Portman Group, and not carrying out any irresponsible drinks promotions
- Providing a suitable environment for customers having regard to the activities going on in the premises, in particular appropriate levels of seating
- Ensuring that there are sufficient transport facilities available to ensure that customers can leave the premises safely and swiftly.
- Maintaining an incident log
- The steps the applicant has taken to prevent crime and disorder issues from occurring in any open air parts of the premises, beer gardens, smoking shelters or areas that are used on an ad-hoc basis by patrons with the management consent for smoking, due to location, control within and management of such areas.

It should be noted that this list is not intended to be exhaustive. It may be appropriate for the applicant to consider other steps. Equally, the Licensing Authority recognises that not all the items in the list will be applicable to all premises.

Members will of course be mindful that the Policy covers all types of premises in all types of location, and that not all the measures referred to above will be relevant to all premises.

Members are reminded that they should consider each application on its merits, and in the light of all the written and oral information before them at the hearing.

Natural Justice and Human Rights

Members are reminded that they must follow the rules of natural justice, and must also consider human rights implications.

In particular, in accordance with Article 6, all parties are entitled to a fair hearing.

Consideration also needs to be given to the right to respect for private and family life and home, contained within Article 8, although this is a qualified right, and interference is permitted where this is in accordance with the law, or is necessary in a democratic society in the interests of public safety or the prevention of crime and disorder, or for the protection of the rights and freedoms of others. Article 1 of the First Protocol provides that every person is entitled to the peaceful enjoyment of his possessions, although again this right is qualified in the public interest.

Conclusion

Members should consider whether to grant the application for variation, modify any conditions of the licence or to reject the whole or part of the application. Members are reminded that they should state the reasons for their decision.