

## **APPLICATION FOR PREMISES LICENCE - NO. 3 OWEN ROAD, LANCASTER**

### **DECISION OF LICENSING ACT SUB-COMMITTEE**

**TUESDAY 18<sup>TH</sup> NOVEMBER 2014**

The Sub-Committee comprised of Councillor Sylvia Rogerson (Chairman), Councillor Malcolm Thomas and Councillor Paul Woodruff.

The Legal Adviser was Luke Gorst, Solicitor.

The Democratic Support Officer was Jane Glenton, Democratic Services.

An application for a premises licence had been made by Mr Kumurakulasingam Thevathas under Section 17 of the Licensing Act 2003 in respect of 3 Owen Road, Lancaster, LA1 2AW.

The hearing was held in light of relevant representations from other persons as defined under the Licensing Act 2003.

Whilst the police had originally objected to the application they had subsequently withdrawn their representation following extra conditions being agreed between the parties.

The applicant was present at the hearing and was accompanied by Mr Vijitharan and Mr Thagia.

Of the other persons who had made relevant representations Mr Andersen, Mr Kennington and Mr Arthur were also present.

The written representations of the other persons not present were considered.

The Chairman explained the procedure to those present, and stated that the hearing would be a discussion led by the licensing authority, and any questions would be put through the Chairman.

Debbie Rose, Licensing Officer, introduced the report.

The other persons in attendance then took it in turns to present their objections and helped answer questions.

The applicant then presented the applicant's case and Mr Sinathamby and Mr Thagia also made representations in support of the application.

After summing up by the applicant, the Sub-Committee withdrew to make its decision, and sought advice from its legal adviser as to the appropriate phraseology of the decision.

## DECISION

The Sub-Committee has carefully considered all the written information before it, and all the representations and views expressed at the hearing. The Sub-Committee has also considered the Council's own Statement of Licensing Policy as well as the Guidance issued under section 182 of the Licensing Act 2003.

The licence application was to enable the premises to sell alcohol for consumption off the premises from 0600 hours until 0400 hours every day. However this application was amended, following discussions with the police, to reflect that the premises is to shut to the public at midnight with sales of alcohol between midnight and 0400 hours being made on a delivery basis only following a telephone order.

The Sub-Committee has noted the representations from other persons mainly relate to the potential for public safety and public nuisance arising from the premises. However, the proximity to schools also give rise to concerns regarding the impact this application may have on the protection of children from harm.

The applicant has told the Sub-Committee that the objections were not those of the general public but rather were the personal concerns of the business holders and the church. He was simply wanting to supply what his customers had been asking for.

The Sub-Committee has accepted the evidence from the other persons that the area already generates unacceptable anti-social behaviour, particularly late at night.

The Sub-Committee is of the view that allowing the premises to sell alcohol 22 hours a day could have a detrimental effect on the mainly residential neighbourhood and could spark anti-social behaviour and noise nuisance.

The Sub-Committee was not confident that the applicant would be able to deal with the escalation that would inevitably result from the sale of alcohol to those persons causing the present anti-social behaviour.

The Sub-Committee fail to see how the provision of alcohol via a telephone service only between the hours of midnight and 04.00 the following day would stop nuisance drinkers as the premises is surrounded by residential properties.

The Sub-Committee has taken into consideration that the test that is to be applied is whether the decision of the committee is appropriate and proportionate as a means of upholding the licensing objectives and has concluded that the licensing objectives would be significantly harmed if the licence was granted for the hours applied for.

The Sub-Committee therefore are of the opinion that the hours applied for are excessive and have decided that the sale by retail of alcohol shall be from 12 noon until 2300 hours each day only.

The fact is the premises is located in a residential area that has long been associated with anti-social behaviour. The Sub-Committee are of the opinion that it would not be appropriate to grant this application as applied for. The application is therefore amended to reflect the above times and is also subject to the other conditions agreed with the police.

In accordance with Section 181 and Schedule 5 of the Licensing Act 2003, the parties

have a right of appeal against this decision to the Magistrates' Court within 21 days of receiving this written decision. The parties are also reminded of the statutory right of responsible authorities and other persons to seek a review of a licence on the basis that the licensing objectives are not being met. This would be particularly relevant in the event of any ongoing complaints about noise and crime and disorder.

Signed.....Dated.....

Councillor Sylvia Rogerson (Chairman)

**Any queries regarding this Decision Notice, please contact  
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jglenton@lancaster.gov.uk**