

LICENSING PANEL

THURSDAY, 31 AUGUST 2017

PRESENT:- Councillors Vera Tomlinson, Alan Bishop and Paul Dixon.

64. Appointment of Chair

Resolved – That Councillor Vera Tomlinson Chair this meeting of the Panel.
(Councillor Tomlinson took the Chair.)

65. Declarations of Interest

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

66. Application to Review Premises Licence , Abys Indian Experience, 5 Faringdon Road, Swindon, SN1 5AR

The Panel considered (a) a report of the Council's Licensing Manager setting out details of an application for a Review of the Premises Licence for Abys Indian Experience, 5 Faringdon Road, Swindon, (b) written representations from Wiltshire Police in support of the review, (c) oral submissions in support of the application for a review received from PC Michael Diffin, M.B.E., (Police Licensing Officer), (d) oral submissions opposing the review by the Premises Licence and his solicitor, (e) questions from Members to the applicants and officers and answers received, and (f) the Council's procedure for licensing hearings, the Secretary of State's Guidance and the Council's Statement of Licensing Policy.

The Council's Licensing Manager introduced the report noting that:

- The Police had brought a review of the Premises Licence for Aby's Indian Experience under the Prevention of Crime and Disorder Licensing Objective.
- The options available to the Panel in respect of determining the review.
- Evidence submitted by the Police in support of their application as set out in the agenda papers.
- The current premises licence on pages 47 to 53 of the agenda papers pack.

The Police case for a review and a summary of points raised can be broadly summarised as follows:

- On 10th June 2017 Police Officers attend the premises and found that Part B of the Premises Licence was not on display and that no age verification training records relating to the sale of alcohol were available.
- The Designated Premises Supervisor was advised that the premises were not licensed for late night refreshment and no sales should be made after 23:00 hours. Mr Debnath stated he would not serve any more food after 23:00 hours.
- On Saturday 17th June 2017 a Police Licensing Officer and at 00:00 hours placed an order for hot food and paid £15.95 for this order.
- The officer witnessed a table being served hot food whilst waiting for his

order which he left the premises with at 01:10 hours.

- On Monday 19th June 2017 at 13:11 hours Police Officers spoke to Me Debnath who advised the Police that he had told his manager to stop sales of hot food after 23:00 hours.
- The Police were requesting a suspension of the premises licence and that additional conditions be placed on the existing premises licence.
- That no sales of alcohol after the permitted hours had been witnessed during the Police visits to the premises.
- The location of the premises lent itself to high levels of risk of anti-social behaviour.
- A suspension of the premises licence for a period of two weeks was requested.
- A set of additional conditions had been agreed with the Solicitor to the Premises Licence Holder.
- That the Police were content that with the additional conditions proposed there should not be a re-occurrence of the breaches of the premises licence.

Responses to questions to Wiltshire Police from Panel Members and the Premises Licence Holder and his representative can be broadly summarised as:

- That the conditions tabled at the meeting had been agreed between the Police and Premises Licence Holder.
- The proposed two week suspension would allow time for the transfer of a named person acting as the Designated Premise Supervisor as well as implementing the agreed conditions.
- The rationale for requesting the suggested conditions submitted by the Police.
- That a suspension of the Premises Licence would still permit the sale of food until 23:00 hours.
- The requirement for the till receipt system to show, time of sale and person making the sale.
- That additional CCTV requirements would assist management in the maintenance of the Licensing Objectives.
- That the Police had not prosecuted anyone following the offences witnessed during their licensing visits.

The case opposing the review and a summary of points raised by the applicant's solicitor can be broadly summarised as follows:

- That the applicant and the Police had agreed a set of conditions which both parties felt would address issues raised during the review process.
- The police visit on 4th June 2017 was in response to an incident of criminal damage at the premises and was not related to any licensing offence.
- An application to transfer the Designated Premises Supervisor had been submitted to the Council's Licensing Team and would be progressed when the fee had been paid.
- There was no alcohol served during the visits by the Police, the breaches related to the Late Night Refreshment Licence.

Responses to questions to the applicant's solicitor and applicant from Panel Members and the Police can be broadly summarised as:

- That the till system would indicate the time of Late Night Refreshment Orders and whether they were telephone orders or from patrons on the premises.
- That the Designated Premises Supervisor transfer was awaiting a right to work in the United Kingdom check.
- That management accepted that the CCTV system at the premises needed to be upgraded to ensure it was fit for purpose.
- The applicant fully understood the financial and legal implications arising from the review and would co-operate with the Licensing Authority and the Police.

Resolved - After considering: -

1. The application to review the premises licence made by Wiltshire Police, together with additional evidence from Wiltshire Police; and
2. Representations and material put forward on behalf of the Premises Licence Holder;

And taking into account: -

1. The Secretary of State's Guidance; and
2. The Licensing Authority Licensing Statement:

And having in mind the promotion of the Licensing Objectives in particular the prevention of crime and disorder;

The Panel determined that the following conditions/amended conditions shall be applied to the Premises Licence for Abby's Indian Experience, 5 Faringdon Road, Swindon, SN1 5AR.

1. CCTV which is fit for purpose and which covers all trading areas, smoking areas and entrance areas shall be provided and maintained in working condition when the premises are open for business. The CCTV product will be maintained for a minimum of 28 days and shall be provided to enforcement bodies on request. There must be a person on the premises able to download CCTV at all times the premises are open for trading.
2. The premises shall be clear of all persons apart from staff by 23:30 hours.
3. The till system shall record all sales of alcohol and food made at the premises and include information of the individual seller, the date and the time. The till system shall be maintained to ensure that it is displaying the correct time and date. These records shall be produced to officers upon request.
4. The Designated Premises Supervisor or a nominated personal licence holder shall be present at key trading times namely Friday and Saturday from 22:00 hours until closure.

Reasons

1. Conditions 1 to 4 were agreed between the Premises Licence Holder and Wiltshire Police.

2. The Panel considered that these conditions were appropriate and proportionate and would assist management in upholding the Licensing Objectives.

3. The Panel considered two additional conditions agreed by the Premises Licence Holder and Wiltshire Police relating to the introduction of a Challenge 25 Policy and staff training relating to the introduction of a challenge 25 Policy but did not enforce these as the evidence presented to it related to the sale of food. Furthermore evidence was provided by the Police that a sale of alcohol was refused with the purchase of food at 00:00 hours on 17th June 2017.

4. The Panel considered both revocation of the Premises Licence, suspension of the Premises Licence and removal of the Designated Premises Supervisor but considered that in this instance such measures were not proportionate or appropriate.

The Chair reminded both parties that you had the right of appeal against the decision of this Panel and that any such appeal must be commenced within 21 days of this determination.