

Application to vary the Premises Licence in respect of the Punjab Grilled Chicken, 61 Bridge Street, Swindon, SN1 1BT

Licensing Panel

Date: 11th November 2013

Author: Licensing Officer

Wards Affected: Central

Purpose

- To consider the representation received in response to an application to vary the premises licence issued in respect of Punjab Grilled Chicken, 61 Bridge Street, Swindon, SN1 1BT and to determine the application.

Recommendation

The Licensing Committee is asked to, in light of the representation received from Wiltshire Police, to determine the application. The options available to the Committee are:

- To grant the application in its current form with conditions consistent with the operating schedule;
- To grant the application but to modify the conditions by amending, omitting or attaching new conditions; or
- To reject the whole or part of the application.

1. Reasons

- 1.1 The Licensing Panel has a statutory duty to undertake the functions of the Licensing Authority, where these have been delegated by the Licensing Committee.

2. Detail

- 2.1 An application to vary the premises licence issued in respect of Punjab Grilled Chicken, 61 Bridge Street, Swindon has been received from Mr Chhabbi Singh.
- 2.2 A copy of the application is attached as **Appendix A**.
- 2.3 The application seeks to extend the existing hours authorised by the licence for the provision of late night refreshment and the opening hours of the premises. The additional hours are as follows:

Late Night Refreshment

Monday to Sunday 03:00 – 05:00

Opening Hours

Monday to Sunday 03:00 – 06:00

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- 2.4 The applicant considers that no additional steps are necessary to ensure the promotion of the licensing objectives if the application is granted.
- 2.5 The application was received on 16 September 2013. It was circulated to all responsible authorities and advertised in accordance with the requirements of the Licensing Act 2003 and associated regulations. The last date for representations to be received was 14th October 2013.
- 2.6 A representation was received from Wiltshire Police who consider that the granting of the application would undermine the prevention of crime & disorder licensing objective. A copy of this representation is attached as **Appendix B**. No representations were received from any other responsible authority or any other persons.
- 2.7 The existing premises licence was granted to Mr Singh on 12 July 2013. It authorises
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| <u>Late Night Refreshment</u> | |
| Monday to Sunday | 23:00 – 03:00 |
| <u>Opening Hours</u> | |
| Monday to Sunday | 09:00 – 03:00 |
- 2.8 The licence was granted following the withdrawal of a representation by Wiltshire Police, which resulted from Mr Singh agreeing to reduce the terminal hour for the provision of late night refreshment from 04:00 to 03:00 and offering additional conditions.
- 2.9 The existing premises licence is attached to the report as **Appendix C**.
- 2.9 The Panel is requested to consider the application to vary the premises licence on its merits, having regard to the Swindon Borough Council's Statement of Licensing Policy and the Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.
- 2.10 Having regard to the information put forward by the applicant and the representation made by the responsible authority, the Sub-Committee must take such steps (if any) that it considers appropriate for the promotion of the licensing objectives. The steps, as set out in section 35(4) of the Licensing Act 2003 are:
- To modify the conditions of the licence, whether by alteration or omission of conditions or the addition of new conditions. Any additional or altered conditions must be appropriate for the promotion of the licensing objectives, proportionate and should address the matters raised in the representations. Additionally conditions can be imposed that are consistent with the steps set out in the operating schedule; or
 - To reject the application in whole or in part.

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3. Alternative Options

- 3.1 The determination of the application can be delayed to a date within five working days of the day (or the last day) on which the hearing is held, or the hearing itself can be deferred to a specified date (or dates) where it is considered to be necessary for the authority's consideration of any representation or notice made by a party. However, either step should be seen as an exceptional measure.

4 Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 4.1 There are no direct financial implications arising from the report. Failure to reach a reasonable conclusion, based on the facts, could lead to crime & disorder or nuisance to the public or to unwarranted damage to the business in question. Either scenario could raise issues of compensation. In the case of an appeal, the Council could become liable for costs.

Legal and Human Rights Implications

- 4.2 A declaration has been made by the Secretary of State, that the Licensing Act is compliant with the Human Rights Act. None of the relevant Articles of the Human Rights Act has absolute sway over the others. Article 8 deals with a right to undisturbed home life; Article 10 gives the right to free expression, including the right to entertain; Article 1 of the Protocol says that licences are 'possessions', which the holder has a right to enjoy. Common sense has to be used, in balancing each of these against the other.

All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 4.3 This report relates to the requirements of Licensing legislation

Links to Corporate Plans and Policies (in particular to Swindon 2010 Promises)

- 4.4 The determination of the application will be made in accordance with set legal principles. The exercise of licensing powers by the Panel relates particularly to the LAA outcome of reducing crime and the fear of crime.

Diversity Impact Assessment

- 4.5 There is no DIA prepared in conjunction with this report

Risk Management

- 4.6 There is a theoretical risk of civil action against the Licensing Authority if it is found not to have exercised due diligence in licensing matters. There is also the risk of judicial review if the Policy is found not to comply with the requirements of the Licensing Act 2003 and associated legislation, regulations and guidance.

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5 Consultees

- 5.1 The Board Director Finance, Revenues, Benefits and Property (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

6 Background Papers

- 6.1 Licensing Act 2003
- 6.2 Swindon Borough Council's Statement of Licensing Policy
- 6.3 Amended Guidance Issued Under Section 182 of the Licensing Act 2003 (*October 2012*)

7 Appendices

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| Appendix A | Application to vary Premises Licence |
| Appendix B | Representation received from Environmental Health |
| Appendix C | Copy of the current Premises Licence |