



Report of the Head of Licensing and Registration

Report to the Licensing Sub Committee

Date: 27 January 2014

**Subject: Application for the grant of a premises licence for Mexi Khana Halal Ltd
Unit 6, Clock Buildings, Roundhay Road, Leeds, LS8 2SH**

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	Roundhay	
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
Appendix number:		

Summary of main issues

This is an application for the grant of a premises licence, made by Mexi Khana Halal Ltd, for Mexi Khana Halal Ltd, Unit 6, Clock Buildings, Roundhay Road, Leeds, LS8 2SH.

The application is for Sale by retail of alcohol, recorded music and late night refreshment as set out at paragraph 3.3.

Responsible authorities and ward members have been notified of this application.

The application has attracted representations from other persons and Councillor Urry. The application has also received a letter of support from Councillor Hamilton.

This application was first considered on 7 October 2013 when the Licensing Sub-Committee resolved to grant the application but to reduce the operating and activity hours.

This decision was appealed to the Leeds Magistrates by the Applicant. With a view to avoiding unnecessary litigation it was agreed that the application be remitted back to the Licensing Sub Committee for a full re hearing and reconsideration by a different constituted panel of members. A rehearing would also allow the Applicant to bring his witnesses in support.

1.0 Purpose of this Report

1.1 To advise Members of an application made under section 17 of the Licensing Act 2003 ("the Act") for a premises licence in respect of the above mentioned premises.

1.2 Members are required to consider this application due to the receipt of representations.

2.0 History of Premises

2.1 This is a full rehearing of the application which was originally considered on 7 October 2013 which was the first application for a Premises Licence applied for by Mexi Khana Halal Ltd.

2.2 These Premises previously had the benefit of a premises licence under the name of Bar Noir which was granted in November 2005. A review of the premises licence relating to Bar Noir was held at the request of West Yorkshire Police and the review hearing was held on 11th February 2008. The decision of the licensing sub-committee was to reduce the hours of operation, impose conditions and to remove Rushpal Singh Chana from his role as Designated Premises Supervisor ("DPS").

2.3 The decision of the sub-committee was appealed and following a number of case management hearings at Leeds Magistrates Court the matter was listed for a full hearing on 4th December 2008.

2.4 No representatives from the premises or Bar Noir Ltd attended the hearing and the Council as respondent made an application to the Magistrates to formally dismiss the appeal. The Magistrates dismissed the appeal and awarded costs to the Council.

2.5 The decision was challenged by Bar Noir Ltd in the Crown Court. The challenge was unsuccessful as the Crown Court had no power to deal with the matter under the Licensing Act 2003.

2.6 On 25th September 2009 an application was received to replace the Designated Premises Supervisor to Ingrid Garvey in place of Rushpal Singh Chana who had been removed as DPS at the review hearing.

2.7 On 3rd February 2010 Ingrid Garvey resigned as Designated Premises Supervisor.

2.8 On 5th February 2010 an application was received to vary the Designated Premises Supervisor to Rushpal Singh Chana. West Yorkshire Police put in a representation to the application; a hearing was held on 15th March 2010 and the application was refused.

2.9 Bar Noir submitted further applications on 17th March and 23rd April 2010 both were subsequently refused at hearings on 19th and 24th May 2010.

2.10 On 7th June 2010 a review of the premises licence relating to Bar Noir was held at the request of West Yorkshire Police. The decision reached at this hearing was

that the premises licence in relation to the premises known as "Bar Noir" Clock Buildings, Roundhay Road, Leeds, LS8 2SH was to be revoked.

- 2.11 The premises ceased trading under the Premises Licence but Temporary Event Notices (TENs) were submitted for the following occasions:-

2009 - Two TENs submitted	WYP objected and both TENs were refused.
2011 - Six TENs submitted	WYP objected to one, five granted as applied for.
2012 - Five TENs submitted	All were granted as applied for.
2013 - One TEN submitted	Granted as applied for.

- 2.12 The application before Members today was first considered on 7 October 2013. At that time the application was for the same activities, days and hours as stated at paragraph 3.3 below.
- 2.13 The application had attracted local representations including that of a ward member. A further ward member also wrote in support of the application.
- 2.14 At the hearing Mr Antonio Chana on behalf of Mexi Khana Halal Ltd., asked for an adjournment of the hearing to allow him bring witnesses in support of the application.
- 2.15 Members declined this request and the hearing proceeded with Mr Antonio Chana and local residents present.
- 2.16 Members resolved to approve the application but in doing so reduced the hours and applied a condition requiring a minimum of 40 covers between 21:00 and close of business.
- 2.17 Attached at **Appendix A** is a copy of the decision notice following the hearing.
- 2.18 The decision was subsequently appealed to the Leeds Magistrates Court. The basis of the appeal is that Mr Antonio Chana on behalf of Mexi Khana Halal Ltd., had not been provided with a fair hearing when the application came before the Licensing Sub Committee on 7 October 2013.

In the meantime an application was made for a minor variation to the premises licence. The purpose of the minor variation was to amend the internal layout of the premises to include disabled facilities and also an additional seating area to accommodate the conditions of licence that require a maximum number of covers. No representations were received to this application and it was subsequently approved on the 7 November 2013. The directions hearing was to be held before Leeds Magistrates on the 13 December 2013 to consider the appeal. Prior to the hearing it was agreed that the application be remitted back to the Licensing Sub Committee for a full re hearing.

2.19 Members are today asked to consider this application afresh.

3.0 The Application

3.1 The applicant is Mexi Khana Halal Ltd.

3.2 The application form may be found at Appendix B to this report.

3.3 In summary the application is for

Sale by retail of alcohol

Sunday to Thursday 11:00 – 23:30

Fri and Saturday 11:00 – 02:30

Recorded Music

Sunday to Thursday 11:00 – 00:00

Fri and Saturday 11:00 – 03:00

Late Night Refreshment

Sunday to Thursday 23:00 – 00:00

Fri and Saturday 23:00 – 03:00

Non Standard Timings are not proposed.

4.0 Other matters relevant to the application

4.1 The applicant has agreed to the following conditions with West Yorkshire Police:-

- Until 2100hrs each day the premises licence has effect, a minimum of 60 covers will be provided for alcohol to be consumed on the premises only with a table meal.
- Between 2100hrs and 2400hrs each day the premises licence has effect, a minimum of 40 covers will be provided for alcohol to be consumed on the premises only with a table meal.
- No children on the premises after 2100hrs each day when the premises licence has effect.
- The minimum number of door supervisors for the premises will be 2 on Friday and Saturday nights. Door staff will be on duty from 2200hrs until one hour after close of business.

4.2 At the time of writing this report there were no implications for equality and diversity. Any decision taken by the Licensing Sub-Committee will be in accordance with the four licensing objectives as prescribed by the Licensing Act 2003.

4.3 Attached at Appendix C is a list of licensed premises in the area with their activities and hours of operation for Members information.

5.0 Steps to promote the Licensing Objectives

5.1 The applicant proposes to take specific steps to promote the Licensing Objectives identified in the Pro Forma Risk Assessment a copy of which may be found at Appendix B.

6.0 Proposed Designated Premises Supervisor

6.1 Rushpal Chana intends to be the Designated Premises Supervisor.

7.0 Location

7.1 A map which identifies the location of this premise is attached at Appendix D.

8.0 Representations

8.1 Under the Act representations can be received from responsible authorities or other persons. Representations must be relevant and, in the case of another person, must not be frivolous or vexatious.

8.2 Representations from Responsible Authorities

8.2.1 Representations have been received from West Yorkshire Police in their capacity as a responsible authority. A copy of which may be found at Appendix E.

8.2.2 Any representations submitted may be agreed prior to a hearing. In this instance the operating schedule has been amended to include measures agreed with West Yorkshire Police. A copy of which can be found at Appendix F.

8.3 Other representations

8.3.1 The application has attracted representations from other persons.

8.3.2 The summary of grounds to the representations are mainly noise nuisance and anti-social behavior.

8.3.3 Copies of the representations are attached at Appendix G.

8.3.4 A letter of representation in opposition to this application has been received from Councillor Bill Urry. A copy of which can be found at Appendix H

8.3.5 A letter of representation in support has been received from Councillor Sharon Hamilton. A copy of which can be found at Appendix I.

9.0 Options Available to Members

9.1 The licensing sub-committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

- Grant the application as requested.
- Grant the application whilst imposing additional conditions and/or altering in any way the proposed operating schedule.
- Exclude any licensable activities to which the application relates.
- Refuse to specify the said person as the designated premises supervisor.
- Reject the whole or part of the application.

9.2 Members of the Licensing Sub- Committee are asked to note that they may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be appropriate in order to promote the licensing objectives.

10.0 Background Papers

- Guidance issued under s182 Licensing Act 2003
- Leeds City Council Licensing Policy