

**Report of the Head of Licensing and Registration**

**Report to the Licensing Sub Committee**

**Date: 24<sup>th</sup> March 2014**

**Subject: Application for the grant of a premises licence for The Green Chilli 50 Otley Road, Guiseley, Leeds, LS20 8AH**

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	Guiseley & Rawdon	
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 application was originally listed for hearing before the licensing sub-committee at their meeting being held on the 16<sup>th</sup> December 2013.

At this meeting the applicant requested that the hearing be adjourned in order for them to seek legal representation.

The licensing sub-committee therefore adjourned the application until the 20<sup>th</sup> January 2014 in order for the applicant to obtain legal representation.

At the meeting held on the 20<sup>th</sup> January 2014 the licensing sub-committee heard from Mr Farook Rafiq, on behalf of the applicant, that the planning appeal issue had not been resolved.

Bearing in mind the Licensing Objectives and the outstanding issue regarding a planning appeal the licensing sub-committee resolved to defer consideration of the application for a further eight weeks

This is an application for the grant of a premises licence, made by Mr Mushtaq Ali, for The Green Chilli 50 Otley Road, Guiseley, Leeds, LS20 8AH

The application is for the provision of Late Night Refreshment as noted in 3.3

Responsible authorities and Ward Members have been notified of this application.

The application has attracted representations from a Ward Member and a Responsible Authority.

## **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 the first application for a premises licence for these premises

## **3.0 The Application**

- 3.1 The applicant is Mr Mushtaq Ali,
- 3.2 The application form may be found at Appendix A to this report.
- 3.3 In summary the application is for

### **The Provision of Late Night Refreshment:-**

Monday to Thursday	23:00 to 00:30
Friday & Saturday	23:00 to 01:30
Sunday	23:00 to 00:00

### **Opening Hours of Premises:-**

Monday to Thursday	23:00 to 00:30
Friday & Saturday	23:00 to 01:30
Sunday	23:00 to 00:00

### **Non Standard Timings or Seasonal Variations:-**

Not Applied for

## **4.0 Other matters relevant to the application**

- 4.1 An email was received expressing concerns that the premises were operating beyond 23:00 without the benefit of a Premises Licence.
- 4.2 Following a visit by our Liaison and Enforcement Officer the application for the grant of a Premises Licence was submitted.

4.3 The applicant has operated Temporary Event Notices relating to Friday to Monday over the 4 weekends commencing 18<sup>th</sup> October 2013 and ending on the 11<sup>th</sup> November 2013.

The operating hours being:-

23:00 to 01:30 on Friday & Saturday

23:00 to 00:30 on Sunday

Unsubstantiated allegations were made concerning the premises operating beyond the hours permitted by the Temporary Event Notice. This was investigated by the Liaison and Enforcement officer covering this area who found the premises to be compliant.

On Saturday the 11<sup>th</sup> January 2014 a positive test purchase took place at 23:38 pm. No authorisation (TEN) was in place.

The applicant also applied for planning permission to vary the opening hours of the premises as follows:-

Monday to Thursday 11:00 to 00:00

Friday & Saturday 11:00 to 01:00

Sunday 11:00 to 23:30

This application was refused on the 28<sup>th</sup> October 2013. A copy of the Decision Notice is attached as Appendix C.

## **5.0 Steps to promote the Licensing Objectives**

The applicant intends to take specific steps as identified in Section 18 of the application form in order to promote the four licensing objectives.

## **6.0 Licensing Hours**

6.1 Members are directed to paragraphs 6.8 to 6.15 for the Statement of Licensing Policy which states the criteria that will be applied to any decision for new applications or variations which include extending hours.

6.2 In brief the Policy states at 6.14 that restrictions may be made to the proposed hours of use where, after receiving relevant representations, the council considers it appropriate for the promotion of the licensing objectives to do so. The council will take into account the existing pattern of licensed premises in an area when considering what is appropriate to promote the objectives. Applications which are significantly out of character for a locality will need to demonstrate that granting the hours sought will not impact on the licensing objectives, given the potential for neighbouring premises to seek the same additional hours to prevent rivals gaining a commercial advantage.

A list of premises in the local area and their licensed hours and activities is provided at appendix F

## **7.0 Location**

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

## **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 Leeds City Council Planning Department and remains as a matter for member's consideration. A copy of same may be found at Appendix D

### **8.3 Other representations**

The application has attracted a representation from Ward Councillor Paul Wadsworth. A copy of same may be found at Appendix E.

## **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.
- 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