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18 November 2008

**APPLICATION FOR GRANT OF PREMISES LICENCE – “GARFORTH PREMIER”, 46
ALANDALE CRESCENT, GARFORTH, LEEDS LS25 1DH**

On 17th November 2008 the Licensing Sub Committee dealt with an application made by Mr Bharat Viramji Odedra and Mrs Rekha Bharat Odedra of 1 Queensberry Road, Doncaster DN2 6JN for the grant of a Premises Licence for the premises at 46 Alandale Road, Garforth Leeds LS25 1DH which be operated as an Off-Licence.

The applicant sought the following:

Supply of alcohol (off the premises):

Sunday to Saturday 07:00 until 23:00 hours

The applicant proposed to open the premises at the following times, if the application was granted:

Sunday to Saturday 07:00 until 23:00 hours

This letter represents the formal decision of the Sub Committee in respect of the application

Preliminary Procedural Issues

The Sub Committee considered preliminary matters of a purely procedural nature. There were no declarations of interest made. The Sub Committee decided the procedure for the hearing would be varied as no time limit for representations was set on this occasion. Members also considered whether the public should be excluded from any parts of the hearing and decided to exclude the public from that part of the hearing where Members would deliberate on the application as presented. This would allow them to have a full and frank discussion on all matters put before them and this fact outweighed the public interest in not doing so.

Prior to the hearing the Sub Committee had considered the Licensing Officers Report which contained a copy of the application as submitted. The report also included letters of representation from local residents Mrs S Reed, Ms S M Olsen and Mr PG & Mrs HM Mossman.

The local residents did not attend the hearing and the Sub Committee resolved to consider their written submissions in their absence.

The Sub Committee then went on to consider the application.



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The Hearing

The following attended the hearing

Mr Ramaji Odedra – on behalf of the applicant

Mr Anthony Close – licensing consultant, A C Licensing Consultancy, for the applicant

Mrs Val Close – (observing) A C Licensing Consultancy

In determining the application the Sub Committee took into account all written submissions contained within the report which had been circulated to the Parties prior to the hearing. After considering the evidence and submissions the Sub Committee needed to satisfy itself that granting the licence would promote the licensing objectives. In reaching this decision the Sub Committee had regard to the provisions of the Licensing Act 2003, guidance under Section 182 of that Act and the Council's own Licensing Policy.

In particular the Sub Committee took into account Sections 17 & 18 of the Act because these were the most relevant to the application and Chapter 8 of the Guidance relating to the prevention public nuisance.

The Sub Committee then went on to consider the following paragraphs of the Licensing Policy as the Sub Committee took the view these paragraphs had bearing on the application:

12:22 to 12:32 Public Nuisance

Reasons for the decision

The Sub Committee heard representation from Mr Close on behalf of the applicant. Mr Close explained the applicants were not in attendance as they were in India due to a family bereavement. However Mr R Odedra, the brother of the applicant, was in attendance, and was the intended Designated Premises Supervisor (DPS) for the premises. Mr Close confirmed the application had been made and advertised as per the Regulations and would promote the licensing objectives for the city in accordance with the Guidance. He added that all criteria for all 4 of the licensing objectives had been met, and no representations had been received from the responsible authorities.

He then turned to deal with the three outstanding representations received from local residents which he noted expressed concern about the possibility of the applicant selling alcohol to persons under the age of 18 which they alleged the previous store owner had done, noise, groups of youths congregating and the area to the front of the shop being used as an area for drug dealing. Mr Close précised these as being concerned in the main with anti social behaviour and he stated these were police matters over which the licensee could have no control. Mr Close referred to that part of the Act which dealt with prevention of public nuisance – namely that any conditions imposed should be focused on measures within the control of the licensee.

Moving on, Mr Close noted the letters described the area as being residential however he reported this unit was a commercial premises and with the Sub Committee's permission he tabled two photographs showing the premises within a parade of shops. He described the unit as an estate shop with a take away to one side. The unit previously had operated as a newsagents and off-licence but had been empty and boarded up for 18 months. Mr Close referred the Sub Committee to a number of colour posters he had displayed in the meeting room which showed the types of poster to be displayed within the shop. The posters were contained within the application and dealt with age restricted sales such as the sale of alcohol, sale of cigarettes, requests for ID and the types of documents required for proof of age. Mr Close added that if the members of the public had attended, having seen the posters intended for display in the shop, they would be aware of the penalties likely to be incurred if under age sales were made. Mr Close explained that Mr R Odedra was a Personal Licence Holder, and was the intended DPS for this premises. In addition Mr B Odedra was a Personal Licence Holder and Mrs R Odedra having recently passed her qualifications would apply for her own Personal Licence on return from India. There would in effect be 3 experienced people at the premises.

The Sub Committee then moved on to ask question and the following information was supplied:

- the unit was within a small parade of shops

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- a take-away was situated next door, and a passage way ran around the side to the rear of the parade. A bus stop was located nearby
- Mr and Mrs Odedra intended to refurbish the unit at a cost of £30,000 to £40,000 and then live in the first floor flat above the unit
- The DPS, Mr R Odedra currently lived in Doncaster, but intended to be the DPS at this premises whilst the applicants established the business. He would help set up the shop as he had experience of running other premises, and at some point in the future either Mr or Mrs Odedra would apply to transfer the DPS from Mr R Odedra to themselves
- Security cameras would be located in and around the premises. As the passageway and rear area provided service delivery access plus access to the upstairs flat, there would be two cameras located here. Mr Close tabled a plan denoting the location of the cameras. There would be at least 8 in total

The Decision

The Sub Committee had carefully considered the application as submitted and the written representations made by the local residents. The Sub Committee also had regard to the representation made at the hearing by Mr Close on behalf of the applicants.

Members noted the measures proposed by the applicant in order to promote the licensing objectives for the city (and detailed in Box P of the application form). On balance, the Sub Committee was satisfied that granting the licence in the terms requested would not undermine the licensing objectives. The Sub Committee therefore resolved to grant the application as requested.

To clarify:

Supply of alcohol (off the premises):

Sunday to Saturday 07:00 until 23:00 hours

The premises will be open at the following times:

Sunday to Saturday 07:00 until 23:00 hours

- The application is granted subject to the steps outlined in Box P of the application being incorporated into the Operating Schedule for the premises

There is a right of appeal to the Magistrates Court should you be dissatisfied with the decision made by the Sub Committee. You must make this appeal within 21 days of this letter reaching you.

Appeals should be addressed to the Magistrates Court at:

Clerk to the Justices

Leeds Magistrates Court

Westgate

Leeds

LS1 3JP and accompanied by a copy of this decision letter and the court fee of £400.00 if you are the premises licence holder and £200.00 for all other parties. Cheques should be made payable to HMCS.

Yours faithfully

Helen Gray

Clerk to the Licensing Sub Committee