

# Licensing Sub Committee

## Premise Licence Determination Hearing

20 August 2010

### Report of Head of Safer Communities, Urban & Rural Services

#### PURPOSE OF REPORT

To provide an outline of an application to for the grant of a Premises Licence in relation to The Indian Pantry, 65 Calthorpe Street, Banbury and detail the representations received from Interested Parties living in the vicinity of the premise that has resulted in the need for a hearing to determine the application.

This report is public

#### Recommendations

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There is no recommendation. In considering the representations received and what is appropriate for the promotion of the licensing objectives, the options open to the Sub-Committee are, in broad terms:

- (1) approve the application for the grant of a premises licence as submitted
- (2) reject the application for the grant of premises licence in whole or part
- (3) place conditions on the grant of premises licence and/or require changes to the details of the permissions sought.

#### Executive Summary

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##### Introduction

- 1.1 On 28 June 2010 the Licensing Authority received an application for the grant of a premises licence to permit Late Night Refreshment in relation to The Indian Pantry, Calthorpe Street, Banbury.
- 1.2 During the consultation period the Licensing Authority received letters of representation from a number of Interested Parties either living in the vicinity of the premises or with an interest as the owner of a premise in the vicinity.

## **Proposals**

- 1.3 The applicant has proposed to provide Late Night Refreshment from the premises at the following times:
- Thursday: 11.00pm to 1.00am the following morning
  - Friday: 11.00pm to 2.00am the following morning
  - Saturday: 11.00pm to 2.00am the following morning
  - Sunday: 11.00pm to midnight
- 1.4 The provision is for indoors only

## **Background Information**

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- 2.1 Late Night Refreshment under the Licensing Act 2003 is the provision of hot food and drink between the hours of 11pm and 5 am, of hot food or hot drink to members of the public on or from any premises whether for consumption on or off the premises.
- 2.2 The Indian Pantry situated at 65 Calthorpe Street, Banbury currently provide hot food and hot drink outside of hours that require licensing.
- 2.3 As part of the application requirements, the applicant must submit a plan of the premise. A copy of the plan referred to is attached as Appendix 1.
- 2.4 To assist a plan showing the premises in relation to The Counting House is also provided as Appendix 2.

## **Key Issues for Consideration/Reasons for Decision and Options**

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- 3.1 The Licensing Act 2003 states that all licensing matters must promote the four Licensing Objectives, they are:
- The prevention of crime and disorder;
  - Public safety;
  - The prevention of public nuisance; and
  - The protection of children from harm
- 3.2 Representations received have stated concerns in relation to potential issues in respect of the prevention of public nuisance. Paragraph 3.3 details how the applicant intends to promote the four licensing objectives in general. Paragraph 3.4 details how the applicant intends to promote the prevention of public nuisance objective.

### 3.3

CD1	All staff shall be suitably trained for their job function in the operating standards for the premise. The training shall be ongoing and under constant review.
CD10	A Premises Daily Register shall be kept at the premise. This register will be maintained and kept for a minimum of 12 months. This register should record the person in a position of responsibility for the premise. The Premises Daily Register shall record all calls made to the premises where there is a complaint made by a resident or neighbour of noise, nuisance or anti social behaviour by persons attending or leaving the premises. This shall record the details of the caller, the time and date of the call and the time and date of the incident relating to the call and any actions taken to deal with the call. The Premises Daily Register will be readily available for inspection by an Authorised Person throughout the trading hours of the premises.

### 3.4

PN23	Staff shall be given adequate training to prevent them causing unnecessary noise when they leave the premises and prominent, clear notices displayed at all points where staff leave the building must instruct them to respect the needs of local residents and leave the premises and the area quietly.
PN28	All queuing outside the premises shall be managed in such a way that prevents noisy or rowdy behaviour and therefore minimises disturbance or nuisance to neighbours.
PN31	The premises shall be effectively ventilated.
PN32	All vents and extraction systems shall be constructed and operated so as to prevent noxious smells from causing a nuisance to nearby properties.
PN34	Any air filters shall be periodically cleaned or replaced so as to maintain a satisfactory air supply.
PN35	All interior surfaces of extract ventilation ducting serving kitchens and serveries shall be thoroughly cleaned as frequently as necessary to prevent the accumulation of grease and fat and at least once per year.
PN36	All interior surfaces of extract ventilation ducting serving kitchens and serveries shall be thoroughly cleaned as frequently as necessary to prevent the accumulation of grease and fat and at least once per year.
PN37	Grease filters in extract ventilation hoods in kitchens and serveries shall be cleaned weekly or at other intervals as required.
PN38	An adequate number of waste receptacles for use by patrons shall be provided in positions agreed with the licensing authority. The receptacles shall be emptied and the collected refuse disposed of at a frequency to be agreed with the licensing authority.
PN39	The licensee shall comply with the Voluntary Code of Practice For The Fast Food Industry (DEFRA 2003) or any document which supersedes this.
PN40	After close of business a rubbish patrol should pick up any flyers or rubbish which has been left in the vicinity by customers including any bottles which may have been taken off the premises.
PN41	Refuse compounds must be well managed and adequate arrangements must be made for the proper collection and regular disposal of trade waste arising from the business

- 3.5 An objection was received from Mr Jonathan Tatum of Flat 9, The Counting House, Banbury. A copy of this objection is attached as Appendix 3.
- 3.6 An objection was received from Ms Charlotte Bird who owns Flat 12, The Counting House, Banbury. A copy of this objection is attached as Appendix 4.
- 3.7 An objection was received from Mr Duncan Young who owns of Flat 1, The Counting House, Banbury. A copy of this objection is attached as Appendix 5.
- 3.8 An objection was received from Laurence Freilich on behalf of Ground Rent Trading Limited and Moreland Estate Management Limited, Freeholders and Managing Agents of The Counting House, Banbury. A copy of this objection is attached as Appendix 6.
- 3.9 An objection was received from Ms Tracey Smith of Flat 13, The Counting House, Banbury. A copy of this objection is attached as Appendix 7.
- 3.10 An objection was received from Mr Keith Simpson who owns of Flats 4, 7 and 16, The Counting House, Banbury. A copy of this objection is attached as Appendix 8.
- 3.11 An objection was received from Brian and Mary Phipps of Flat 15, The Counting House, Banbury. A copy of this objection is attached as Appendix 9.
- 3.12 An objection was received from Mr David Yeomans of Flat 10, The Counting House, Banbury. A copy of this objection is attached as Appendix 10.
- 3.13 The relevant sections of the Guidance and Licensing Authority Policy issued under the Licensing Act 2003, which are applicable to the representations for this case are as follows:

**Guidance:**

Pages 82 – 83	Sections 10.11 – 10.18	Imposed Conditions, Proportionality, Duplication with other statutory provisions
Page 83	Sections 10.19 – 10.21	Hours of Trading
Pages 21 – 23	Sections 2.32 – 2.40	Public Nuisance
Pages 138 – 139	Annex D	Part 4. Conditions relating to the prevention of public nuisance

**Cherwell District Council Statement of Licensing Policy:**

Pages 15 – 17	Policies LH1 – LH7	Sections 5.1 – 5.6	Licensing Hours
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Pages 21 - 22	Policy LA4	Sections 7.3.1 – 7.3.4 & 7.3.6	General Prevention of Public Nuisance
Page 23	Policy LA5	Section 7.3.9	Addressing Local Concerns
Page 23	Policy LA6	Section 7.3.10	Management and Control
Page 28	Policy PP10	Sections 7.5.18 – 7.5.19	Late Night Refreshment

Members have been issued with copies of the Guidance, the Statement of Licensing Policy and the Council's pool of conditions and are asked to bring them with them to the meeting.

The following options have been identified. The approach in the recommendations is believed to be the best way forward

- Option One**                      Approve the application for the grant of a premises licence as submitted
- Option Two**                     Reject the application for the grant of premises licence in whole or part
- Option Three**                  Place conditions on the grant of premises licence and/or require changes to the details of the permissions sought.

### **Consultations**

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Full consultation in accordance with the requirements of the Licensing Act 2003 was carried out for a period of 28 days ending at midnight on 26 July 2010

### **Implications**

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- Financial:**                      There are no financial implications of this report  
Comments checked by Denise Westlake,, CSR Service Accountant, 01295 221982
- Legal:**                            The decision must comply with relevant legislation and Council Policy.  
All parties have a right of Appeal to the Magistrates Court against the decision.  
Comments checked by Paul Manning Solicitor, 01295 221691

**Risk Management:** There is a risk that if policy and legislation has not been correctly followed, any resulting appeal could be successful.

### **Wards Affected**

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Banbury Grimsbury

### **Document Information**

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<b>Appendix No</b>	<b>Title</b>
Appendix 1	Plan of the layout of the premise
Appendix 2	Plan of the location of the premise
Appendix 3	Response received from Mr Jonathan Tatum
Appendix 4	Response received from Ms Charlotte Bird
Appendix 5	Response received from Mr Duncan Young
Appendix 6	Response received from Laurence Freilich on behalf of Ground Rent Trading Limited and Moreland Estate Management Limited
Appendix 7	Response received from Ms Tracey Smith
Appendix 8	Response received from Mr Keith Simpson
Appendix 9	Response received from Brian and Mary Phipps
Appendix 10	Response received from Mr David Yeomans
<b>Background Papers</b>	
Members have been issued with copies of the Guidance, the Statement of Licensing Policy and the Council's pool of conditions and are asked to bring them with them to the meeting.	
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