

**LICENSING ACT 2003
REVIEW OF PREMISES LICENCE
THE AKBAR TANDOORI, 99 GREAT NORTH ROAD, EATON SOCON, ST
NEOTS, PE19 8EL
(Report by the Head of Community)**

1. INTRODUCTION

- 1.1 On the 18 October 2005 Huntingdonshire District Council issued a premises licence HDC/PRE00012 to the Akbar Tandoori under the Licensing Act 2003 ('the Act').
- 1.2 Mr Chunu Miah is the current Premises Licence holder, the licence having been transferred into his name on 6 August 2015 from Mr Runu Miah. Mr Chunu Miah has been the Designated Premises Supervisor (DPS) since 2005. Mr Chunu Miah also holds a personal licence, issued by Huntingdonshire District Council in 2005.
- 1.3 The Act sets out the proceedings for reviewing premises licences, representing a key protection for the community where problems associated with the licensing objectives occur after the grant of a premises licence. Any responsible authority or other person may apply for the review of a licence if concerned about licensable activities at premises that are relevant to the promotion of one or more of the licensing objectives.

2. GENERAL DUTY

- 2.1 The Sub-Committee is reminded that the licensing authority must carry out its functions under the Act with a view to promoting the licensing objectives which are –
- (a) the prevention of crime and disorder,
 - (b) public safety,
 - (c) the prevention of public nuisance, and
 - (d) the protection of children from harm.
- 2.2 The licensing authority must also have regard to –
- (a) its licensing statement, and
 - (b) any statutory guidance issued by the Home Office under Section 182 of the Act.
- 2.3 The Licensing Authority is bound by the Human Rights Act 1988. The Council must also fulfil its obligations under Section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in its district.

3. APPLICATION FOR REVIEW OF LICENCE

- 3.1 On the 28 July 2015, PC Paul Hawkins, acting on behalf of the Chief Officer of Police, Cambridgeshire Constabulary, a responsible authority, submitted to the licensing authority an application for the review of the premises licence for the Akbar Tandoori. The grounds for the review have arisen in connection with crime under the prevention of crime and disorder objective. The review

states that following information received, officers of the Border Agency entered the premises on 29 October 2014, where two illegal workers were identified and arrested, one for overstaying the period on his visa, the other for working in breach of his employment conditions. Mr Chunu Miah was issued with a fine on 19 January 2015. On 6 May 2015, officers from the East Midlands immigration, compliance and enforcement team entered the premises again. On the second occasion, a further male was arrested for overstaying the period granted on his visa. Mr Chunu Miah received a further fine on 30 June 2015.

- 3.2 Cambridgeshire Constabulary are of the belief that Mr Chunu Miah has exploited the labour of vulnerable persons, knowingly employing them illegally. The police consider that there is clear evidence that the management have continued to mismanage, failing to carry out relevant checks on those they employ and are requesting revocation of the licence quoting Section 11.27 of the latest Government Guidance. A copy of the application for review with supporting documents, including an illegal working impact statement from Immigration Enforcement and the current licence are attached as Appendix A.
- 3.3 Between 29 July and 25 August 2015, the requisite public notice advertising the review was placed on the premises, at the offices of the licensing authority and on the licensing authority's website. A copy of the public notice is attached as Appendix B.

4. REPRESENTATIONS

- 4.1 During the period for the receipt of representations, no additional representations have been received.

5. CONCLUSION

- 5.1 Having considered the review application and representations contained and attached to this report and any other information presented at the hearing, the Licensing Sub-Committee may decide that the review does not require them to take any further steps appropriate to promote the licensing objectives. In addition there is nothing to prevent the issuing of an informal warning. However, where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps as it considers appropriate for the promotion of the licensing objectives –

- (a) to modify the conditions of the licence,
- (b) to exclude a licensable activity from the scope of the licence,
- (c) to remove the designated premises supervisor,
- (d) to suspend the licence for a period not exceeding three months,
- (e) to revoke the licence.

And for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

- 5.2 Government Guidance, paragraphs 11.16 – 11.23 cover the range of powers of the licensing authority on determining a review, where considered appropriate for the promotion of the licensing objectives.

- Paragraph 11.20 states that in deciding which powers to invoke, it is expected that the licensing authority should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at

these causes and should always be no more than an appropriate and proportionate response.

- Paragraph 11.21 states licensing authorities should be alive to the possibility that the removal and replacement of the DPS may be sufficient to remedy a problem where the cause for concern directly relates to poor management decisions made by that individual.
- Paragraph 11.22 states that if poor management is a direct reflection of poor company practice, the mere removal of the DPS may be an inadequate response to the problems presented.
- Paragraph 11.23 points out that modifications of conditions and exclusions of licensable activities may be imposed permanently or for a temporary period of up to three months. It is important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. Where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

5.3 Government Guidance paragraphs 11.24 – 11.28 cover reviews specifically arising in connection with crime that may not be directly connected with licensable activities.

- Paragraph 11.26 states that where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purpose, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.
- Paragraph 11.27 lists matters that should be treated particularly seriously. One listed matter is 'for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter.'
- Paragraph 11.28 envisages that the responsible authorities will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authorities determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance- should be seriously considered.

5.4 An appeal is available to the Magistrates' Court in respect of the decision of the Sub-Committee. An appeal may be made by the applicant for the review, the holder of the premises licence and any other person who has submitted a representation.

6. RECOMMENDATION

6.1 The Sub-Committee is

RECOMMENDED

To determine what action to take in respect of the premises licence after hearing the evidence from the applicant, Cambridgeshire Constabulary and any submissions on behalf of the licence holder.

BACKGROUND INFORMATION

Licensing Act 2003.

Licensing Act 2003 (Hearings) Regulations 2005.

Guidance issued under section 182 of the Licensing Act 2003.

Huntingdonshire District Council Statement of Licensing Policy.

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