|  |  |  |
| --- | --- | --- |
| **REPORT TO** | **ON** | |
| **Licensing Panel** | **20th August 2018** | |
|  | | |
| **TITLE** | | **REPORT OF** | |
| **Review of Premises Licence - Naaz Indian Restaurant, 1 Club Street, Bamber Bridge, PR5 6FN** | | **Head of Licensing** | |

|  |  |
| --- | --- |
| Is this report confidential? | **No** |

1. **PURPOSE OF THE REPORT**

To provide an overview of the application and inform Members of the relevant parts of statute and guidance relating to the review application.

**2 CORPORATE PRIORITIES**

The report relates to the following corporate priorities:

|  |  |
| --- | --- |
| Excellence and Financial Sustainability |  |
| Health and Wellbeing | x |
| Place | x |

Projects relating to People in the Corporate Plan:

|  |  |
| --- | --- |
| People |  |

**3. RECOMMENDATIONS**

Members are requested to:

3.1 note the content of the report; and conduct the hearing in accordance with the hearing procedure and,

3.2 determine what steps are appropriate to promote the Licensing objectives.

**4. BACKGROUND TO THE REPORT**

4.1 The Premises came to light in September 2017 when the annual renewal fee became due, numerous written requests were made for the fee as non-payment results in the licence being suspended therefore rendering all Licensable Activity unlawful. In this case the activities permitted at the premises are the sale of alcohol and late night refreshment.

4.2 Visits to the premises were conducted at the time the written requests for payment were made but the premises was always closed and appeared to be under refurbishment. We have now established that the premises re opened in March 2018, although this fact has only come to light since the submission of the review (25th July 2018).

4.3 The licence was formally suspended on the 25th May 2018 due to the non payment of fees. Thereafter numerous follow up visits revealed staffing and management issues which began to cause concern. The Licence Holder was not contactable and never present and it appeared that the premises was being run by a series of different individuals none of which were willing to take responsibility for the premises. The Licence Holder was contacted in writing on the 8th June 2018 (Appendix B) where the concerns were clearly communicated and instructions on what he needed to do to rectify the position.

4.4 No response followed, so an Application to review the licence was submitted which did prompt action from the licensee. Since the service of the application the Licence Holder has chosen to close the premises and at the same time the tenant has walked away from the business, whilst closed, the premises has not presented a risk.

4.5 On the 17th July 2018 the Licence Holder and his brother engaged with the Licensing Authority to seek the views on possible outcomes, they indicated they would be stepping back in to take control of the premises and intended to remain closed until all parties were satisfied. At the time of the meeting there were still outstanding matters relating to cleanliness and disrepair in the kitchen.

4.6 On the 31st July 2018 a list of proposed conditions was sent to the Licence Holder, the Licensing Authority feel that these measures if adopted will ensure adequate promotion of the licensing objectives. The list of conditions is attached as Appendix A.

**E+W**

**5.REPRESENTATIONS FROM RESPONSIBLE AUTHORITIES**

5.1 The only party to this application is the Licensing Authority. A copy of the application and accosiated documents are found as Appendix B

**6. REPRESENTATIONS FROM OTHER INTERESTED PARTIES**

6.1 No represenations from Interested Parties have been submitted.

**7. DECISION TO BE MADE BY THE LICENSING ACT PANEL**

**Determination of an application under Section 52 of the Licensing Act 2003**

Numerous paragraphs of the Section 182 Guidance are worthy of mention;

*11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder*

*11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.*

*11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:*

*• modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;*

*• exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)*

*• remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;*

*• suspend the licence for a period not exceeding three months;*

*• revoke the licence.*

*11.20 In deciding which of these powers to invoke, it is expected that licensing authorities 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 to address the causes of concern that instigated the review.*

The Panel are asked to consider the list of conditions proposed and deal with this application by taking account of:

1. Its own policy; and
2. Secretary of State Guidance (section 182 of the Licensing Act 2003).

**8. Financial implications**

8.1 There are no direct financial implications arising from this report.

**9. LEGAL IMPLICATIONS**

9.1 The Licensing Authority are under a statutory duty to facilitate the review hearing. When determining this hearing the Council must comply with the rules of natural justice.

Any party at the hearing has a right to appeal the decision to the Magistrates Court.

**10. COMMENTS OF THE STATUTORY FINANCE OFFICER**

10.1 There are no direct financial implications arising from this report.

**11. COMMENTS OF THE MONITORING OFFICER**

Please refer to the comments at 9.1.above.

**12. OTHER IMPLICATIONS:**

|  |  |
| --- | --- |
| * **HR & Organisational Development** * **ICT / Technology** * **Property & Asset Management** * **Risk** * **Equality & Diversity** | None  None  None  Please refer to the legal risks identified above.  None |

**13. APPENDICES**

Appendix A- List of Proposed conditions including covering letter 31/07/2018

Appendix B –Review Application and associated documents.

Appendix C- Current Premises Licence.

|  |  |  |
| --- | --- | --- |
| Report Author: | Telephone: | Date: |
| Chris Ward | 01772 625401 | 1st August 2018 |