

Gloucester City Council

Committee	: LICENSING SUB-COMMITTEE
Date	: 01 DECEMBER 2011
Subject	: APPLICATION FOR A REVIEW OF A PREMISES LICENCE UNDER SECTION 51 OF THE LICENSING ACT 2003 IN RESPECT OF BEST TAKEAWAY 126 EASTGATE STREET, GLOUCESTER, GL1 1QT
Ward	: WESTGATE
Report By	: GROUP MANAGER, ENVIROMENTAL HEALTH AND REGULATORY SERVICES
No. Of Appendices	: A: PREMISES LICENCE FOR BEST TAKEAWAY B: REVIEW APPLICATION FROM GLOUCESTERSHIRE CONSTABULARY C: AGREEMENT BETWEEN PARTIES
Reference No.	: ES21125

1.0 Purpose of Report

- 1.1 To present to Members an application for a review of a premises licence made under Section 51 of the Licensing Act 2003 in respect of Best Takeaway ,126 Eastgate Street , Gloucester, GL1 1QT where an agreement to modify the conditions of the premises licence has been made between the applicant and the premises licence holder.

2.0 Recommendations

- 2.1 Members are recommended to approve the modifications to the premises licence in line with the agreement between Gloucestershire Constabulary (the Applicant) and Mr Hasan Gligil (the Premises Licence Holder) and duly authorise Officers to issue a revised premises licence to include the agreed conditions.

3.0 Background

- 3.1 Best Takeaway is a small hot food unit situated in lower Eastgate Street opposite Liquid Nightclub. It has had the benefit of a premises licence for Late Night Refreshment since 03 October 2005. The current proprietor has held the licence since 22 September 2008. The existing licence is attached at **Appendix A**.
- 3.2 The conditions currently attached to the licence are those consistent with the original operating schedule including a condition relating to CCTV which was accepted by the original applicant following representations made, at the time, by Gloucestershire Constabulary.
- 3.3 Section 51 of the Licensing Act 2003 states that where a premises licence has effect an interested party or responsible authority may apply to the relevant licensing authority for a review of the licence.

3.4 In respect of a an application for a review from a responsible authority the Licensing Authority may only reject the application if the grounds are not relevant to one or more of the licensing objectives which are

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

4.0 The Application for Review

4.1 The application from Gloucestershire Constabulary concerned itself with the first three of the objectives listed above. The review application is attached at **Appendix B.**

4.2 In accordance with the statutory regulations copies of the application were served on the responsible authorities, as recognised by the Licensing Act 2003, and the premises licence holder.

4.3 The application for the review was advertised by way of notice on the Council's website, a blue notice affixed to the outside of the premises in question and to the external doors of the Council's Herbert Warehouse. The period allowed for any other representations was from 13 October until 09 November 2011.

4.4 No additional representations were made by either responsible authorities or interested parties.

5.0 PROGRESS.

5.1 The Home Secretary's Guidance to the Licensing Act states at Chapter 11.9:-

- 'It is important to recognise that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between these groups in a way that would undermine the benefits of cooperation.'

5.2 Since the application for review has been lodged the Police, the premises licence holder and his legal representative have been working together to resolve the issues concerning Best Takeaway and if the following conditions are appended to the licence both parties agree that a Hearing may be dispensed with.

5.3 The conditions are:-

- The CCTV system shall be maintained in good working order, it shall record at all times when the premises are open and recordings shall be kept for a minimum of 28 days (14 days for digital systems) and be provided to Officers of the Council and Police on request. The CCTV system should cover all areas where the public have access and service areas. External cameras should be utilised at the front and rear

- A dedicated SIA door supervisor shall be employed at the premises on a Saturday and Sunday morning from 01.00 until closure as well as Bank Holiday weekends including Bank Holiday Mondays, New Years Eve, Christmas Eve and Halloween. They shall be clearly identifiable as security wearing a high visibility jacket. The SIA door supervisor shall ensure the dispersal of groups congregating with food outside the venue, along with facilitating clear entry and egress from the premises.

5.4 The agreement and the request to dispense with a hearing are attached at **Appendix C**

5.5 Regulation 9 of the Licensing Act (Hearings) Regulations 2005 make it clear that a hearing may be dispensed with should all parties agree however it is still necessary for the Licensing Authority to ratify the modifications to the licence in order that it may be re-issued to the licence holder in its revised form.

6.0 Conclusions

6.1 Gloucestershire Constabulary are satisfied that if the conditions in paragraph 5.3 of the report are added to the licence and subsequently complied with then the Premises Licence Holder should adequately be able to support the licensing objective and Members are therefore advise to take the course of action as outlined in paragraph 2.1 of the report.

7.0 Financial Implications

7.1 There are no financial implications relating to this report.

8.0 Legal Implications

8.1 Although the Licensing Act 2003 (Hearings) Regulations 2005 allow for hearings to be dispensed with in other situations, Section 51 of the Licensing Act 2003 contains no provision to make a hearing unnecessary, even if agreement is reached. This could be an omission in the Act, but until such time as there is clarification or it is amended, the safest option would seem to be to deal with the application at a hearing

9.0 Risk Management Implications

9.1 There is normally a right of appeal to the Magistrates Court for both the applicant and all interested parties. Costs may be awarded against the Council on successful appeal if the Council has not acted reasonably. Under these circumstances, where the parties have reached agreement, then an appeal would not be appropriate.

10.0 People Impact Assessment (PIA):

Is a PIA required?	Yes	No	Explanation: Screening assessment conducted as part of the Council's Licensing Act Policy Statement
		✓	

Has an initial PIA screening been completed?	Yes	No	Explanation: As above
		✓	
Has a full PIA been completed?	Yes	No	Explanation: As above
		✓	
Is the PIA available?	Yes	No	Explanation: As above
		✓	
Has the PIA identified any negative impacts on any protected characteristic or community cohesion?	Yes*	No	As above *Please ensure PIA is available
		✓	

Any Further Relevant Information:

None

11.0 Other Corporate Implications

1. Community Safety

The four licensing objectives of the Licensing Act 2003 are designed to support community safety and are dealt with in the body of the report.

2. Environmental

As above – dealt with in the body of the report.

3. Staffing

None

4. Trade Union

No comments.

Background Papers : Gloucester City Council Licensing Hearing Procedure

Published Papers : Licensing Act 2003
Licensing Act 2003 (Hearings) Regulations 2005
Gloucester City Council Licensing Policy Statement
Home Secretary (Home Office) Guidance issued under section 182 of the Licensing Act 2003 (Oct 2010)

Person to Contact : Anthony D Moseley
Tel: 01452 396322
E-mail: Anthony.david.moseley@gloucester.gov.uk