

**LICENSING SUB-COMMITTEE
SUPPLEMENTARY AGENDA**

13 June 2013

The following report is attached for consideration and is submitted with the agreement of the Chairman as an urgent matter pursuant to Section 100B (4) of the Local Government Act 1972

7 ADDITIONAL PAPERS (Pages 1 - 2)

Additional information submission further to the original representation to be added to the agenda for the hearing to determine the outcome of Akash Tandoori's premises licence variation application. – Report attached

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Public Protection

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memo

From: Paul Jones

To: Whom it may concern

My Reference : PJJ/012695

Date: 4th June 2013

Licensing Act 2003

Akash Tandoori 185 High Street Hornchurch RM11 3XS

Premises licence variation application

Further to the above I present the following information to be included with the Licensing Authority's representation against this application. I submit this information based upon Havering's licensing policy 015 which requires that the past compliance history of the current management is taken into consideration when determining the outcome of an opposed application to vary a premises licence.

At 00:43 in the morning of 26th May 2013 a Licensing Officer from Havering telephoned the premises and ordered a hot meal for collection as a test purchase initiative. The officer arrived at the premises at 01:00 whereupon he was provided late night refreshment, i.e. supplied hot food between the hours of 23:00 and 05:00, some time later. The premises licence for Akash Tandoori permits the provision of late night refreshment until 00:30 only. This supply was made contrary to the provisions of the restaurant's premises licence and therefore contrary to s.136 of this Act. S.136 makes it a criminal offence to carry on a licensable activity otherwise than in accordance with an authority. The authority in this instance is the restaurant's premises licence.

Present in the restaurant were five seated customers, two of whom were seen to be eating a meal. One customer was seen to be provided with late night refreshment in the form of a plate of hot fries at this time. Another customer was seen to drink from a glass of beer. The Akash Tandoori premises licence permits the supply of alcohol for consumption on the premises to be made until 00:30. Consuming alcohol is not a licensable activity; the supply of alcohol by retail constitutes the licensable aspect of such a transaction. While the glass of beer was not seen to have been *supplied* after this terminal hour the terms of the premises licence require that the restaurant is *empty of customers* at 01:00. Alcohol may therefore be consumed on the premises only until this time. Clearly this was not the case. In addition to the hot food supplied to the Licensing Officer to take away, one customer was seen to be consuming alcohol, two customers were seen to be consuming hot food while another *received* hot food at this time.

Contd.

Further to this the test purchase exercise made on 26th May 2013 was conducted during a period when the premises licence was in breach and known to be so by the premises licence holder. A licensing inspection at the premises conducted on 22nd April 2013 identified a series of licence breaches. The licence holder was required to rectify these breaches by 10th May 2013. To further help the licence holder address these breaches this date was subsequently extended to 20th May 2013. A letter advising that licensable activity should cease after 20th May 2013 if the licence breaches were not resolved by this date was hand delivered to the premises and directly placed in the hand of the licence holder. An additional copy was e-mailed to the licence holder's agent. We received no contact from the licence holder on or after 20th May 2013 to advise whether these licence breaches had been eliminated. At the time the test purchase exercise was conducted at the premises on 26th May 2013 licensable activity should not have been provided at the restaurant *at any time* as the premises licence remained in breach.

The outcome of this test purchase is to form the basis of a prosecution against the premises licence holder for the aforementioned s.136 offence.

A handwritten signature in black ink, appearing to read 'Paul Jones', with a small dot at the end.

Paul Jones
Licensing Officer