

**APPLICATION FOR NEW PREMISES LICENCE
'QUALITY FISH & CHIP SHOP & TANDOORI
TAKEAWAY, 76-77 BYE STREET, LEDBURY, HR8 2AG' -
LICENSING ACT 2003**

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Ledbury

1. Purpose

To consider an application for a new premises licence in respect of 'Quality Fish & Chip Shop & Tandoori Takeaway, 76-77 Bye Street, Ledbury. HR8 2AG'.

2. Background Information

Applicant	Mr. G. Pual Singh & Mrs. D.K. Paul	
Solicitor	N/A	
Type of application: New	Date received: 17/10/05	28 Days consultation 14/11/05

The advertisement for the premises has not seen at this time.

3. New Licence Application

The application for a new licence has received representations from interested parties. It therefore is now brought before committee to determine the application.

4. Summary of Application

The licensable activities applied for are: -
Late Night Refreshment *
(* Not previously licensed)

5. The following hours have been applied for (*Indoors Only*) in respect of Late Night Refreshment and the hours the premises are to open to the public: -
Friday & Saturday 2300 – 0000 hours

The premises to close at the same time of 0000 hours.

6. Seasonal Variations

The application requests the same hours on Bank Holidays, Christmas Eve & New Years Eve.

7. Summary of Representations**West Mercia Police**

Have made no representation.

Environmental Health

Environmental Health Officers have made no representation.

Interested Parties

The Local Authority has received 5 letter of representation in respect of the application, from local residents.

The concerns relate to:

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

Copies of the representations can be found within the background papers.

8. Issues for Clarification

This Authority has requested clarification on particular points from the parties shown: -

Applicant – Mr G Paul Singh & Mrs D K Paul

Has been requested to provide clarification in respect of matters relating to the application as follows: -

It is noted that the application requests the Provision of Late Night Refreshment to be both indoors and outdoors. Clarification is therefore sought of the details in respect of the provision outdoors.

9. Herefordshire Council Licensing Policy

In making its decision the committee will be obliged to have regard to its own policy, the DCMS guidance and have regard to all documents submitted in respect of the application.

10. Options: -

It is for the committee to take such steps below as it considers necessary for the promotion of the licensing objectives:

- Grant the licence subject to conditions that are consistent with the operating schedule accompanying the application and the mandatory conditions set out in the Licensing Act 2003.
- Grant the licence subject to modified conditions to that of the operating schedule where the committee considers it necessary for the promotion of the licensing objectives and add mandatory condition set out in the Licensing Act 2003.

- To exclude from the scope of the licence any of the licensable activities to which the application relates.
- To refuse to specify a person in the licence as the premise supervisor
- To reject the application.

11. **Background Papers**

- Public Representation
- Application Form
- Location Plan

Background papers are available for inspection in the Council Chamber, Brockington, Hafod Road, Hereford 30 minutes before the start of the hearing.

NOTES**Guidance issued under section 182 of the Licensing Act 2003, Section S18(7)****Relevant, vexatious and frivolous representations**

5.73 A representation would only be "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives....

5.75 It is for the licensing authority to determine on its merits whether any representation by an interested party is frivolous or vexatious....

The licensing authority must determine this and make the decision on the basis of what might ordinarily be considered to be vexatious or frivolous. Vexation may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Frivolous representations would be essentially categorised by a lack of seriousness....

PROVISION OF LATE NIGHT REFRESHMENT**Licensing Act 2003 SCHEDULE 2 - Section 1**

1) For the purposes of this Act, a person "provides late night refreshment" if-

- a. at any time between the hours of 11.00 p.m. and 5.00 a.m., he supplies hot food or hot drink to members of the public, or a section of the public, on or from any premises, whether for consumption on or off the premises, or
- b. at any time between those hours when members of the public, or a section of the public, are admitted to any premises, he supplies, or holds himself out as willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises,

Licensing Authorities power to exercise substantive discretionary powers.

The British Beer and Pub Association (2) The Association of Licensed Multiple Retailers (3) The British Institute of Inn keeping V Canterbury City Council.

Contesting the validity of the Licensing policy that asks for certain requirements before the application has been submitted. In the summing up the Judge states; The scheme of the legislation is to leave it to applicants to determine what to include in their applications, subject to the requirements of Section 17 and the Regulations as

to the prescribed form and the inclusion of a statement of specified matters in the operating schedule. An applicant who makes the right judgement, so that the application gives rise to no relevant representations, is entitled to the grant of a licence without the imposition of conditions. The licensing authority has no power at all to lay down the contents of an application and has no power to assess an application, or exercise substantive discretionary powers in relation to it, unless there are relevant representations and the decision – making function under section 18 (3) is engaged.