

LICENSING SUB-COMMITTEE

9th November 2011

LICENSING ACT 2003

HARSHINI FOOD & WINE

Belgrave Parade, 9 Bradley Road, Slough,
SL1 3PR

Review of Premises Licence – **Number PL004620**
Application made by Trading Standards

1. CURRENT POSITION

1.1 'Harshini Food & Wine' operates under a Premises Licence held by Mr Manickam Rajeetharan. The Designated Premises Supervisor (DPS) at the time of the Review application being made is Mr Manickam Rajeetharan who holds a Personal Licence.

1.2 The DPS is responsible for the day to day management of the premises.

1.3 The Premises Licence authorises the carrying out of the Relevant Licensable Activity of "The Sale by Retail of Alcohol for Consumption OFF the Premises Only:"

1.4 The operating hours for this Licensable Activity are:

Monday to Saturday - 08.00am to 11.00pm

Sunday – 10:00am – 10:30pm

Good Friday - 8:00am 10:30pm

Christmas Day – Noon – 10:30pm

1.5 A copy of the current Premises' Licence is attached at **APPENDIX 1**.

2. BACKGROUND INFORMATION

2.1 On 16th September 2011 Peter Adshead – Senior Trading Standards Officer for Slough Borough Council Trading Standards submitted an application for the Review of the Premises Licence on grounds of the Prevention of Crime and Disorder, Public Safety and the Protection of Children from Harm. The full Review application is contained at **APPENDIX 2**.

2.2 The grounds for the Review Application although contained fully within the application itself can be summarised as;

- 25 bottles of counterfeit Jacobs Creek wine found in possession for sale on the premises on the 27th April 2011. The contents were not as stated on the label.
- The Trade Marks Act 1994 offence is subject to a criminal prosecution against Mr Rajeetharan.

- Offences have been committed under the Food Safety Act 1990 and the Consumer Protection from Unfair Trading Regulations 2008.
- The premises being the subject of a previous Review Application in January 2011 where conditions were imposed by the Licensing Sub-Committee.

3. APPLICATION – REVIEW OF PREMISES LICENCE

- 3.1 The Licensing Authority is satisfied that this application for Review meets the appropriate legislative requirements within the Licensing Act 2003 and is therefore a valid application to be considered by the Licensing Sub-Committee.
- 3.3 The Review Application highlights that in April 2011 counterfeit alcohol was found and seized at the premises and which is subject of legal proceedings taking place.
- 3.4 The Review also details that the premises were subject of a previous Review Application made by Thames Valley Police and heard by The Licensing Sub Committee in January 2011. That Review related to an underage test purchase operation conducted on 19th October 2010 where alcohol was sold to a 16 year old boy.
- 3.5** The Licensing Sub Committee imposed a total of 11 new conditions on the Premises Licence as well as issuing a ‘Yellow Card’ to the premises to serve as a warning that if a further review is necessary and matter had not improved, the premises Licence may be revoked. The previous Review report, Application, supporting evidence, minutes, decision letter and Yellow Card are attached at **APPENDIX 3.**
- 3.6 The current Review application highlights “In light of the previous Review Application, the seizure of counterfeit alcohol on 27th April 2011 and of the impending prosecution the Trading Standards officers are of the opinion that the Premises Licence should be revoked on the grounds of the Prevention of Crime and Disorder, Public Safety and the Protection of Children from harm objectives.

3 REPRESENTATIONS RECEIVED

- 3.1 The remaining responsible authorities have not made representations in respect of this application.

4 RELEVANT GUIDANCE AND POLICIES

- 4.1 The proceedings set out in the 2003 Act for Reviewing of Premises Licence represent a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a Premises Licence. Where a request to Review the licence is made by a Responsible Authority, the Licensing Authority will hold a hearing in respect of this, unless it, the applicant and the Responsible Authorities agree that a hearing is not necessary

- 4.3 Section 52 of the Licensing Act 2003 provides that the Sub-Committee must, having regard to the Review application and any relevant representations, take such of the steps listed below as it considers necessary for the promotion of the licensing objectives. The steps are:
- (a) to modify the conditions of the 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;
 - (b) to 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);
 - (c) to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - (d) to suspend the licence for a period not exceeding three months;
 - (e) to revoke the licence.
- 4.4 However, the Sub-Committee may consider it is not necessary to take any of the steps listed above to promote the licensing objectives. These are matters for the Sub-Committee to determine having regard to the evidence of all parties.
- 4.5 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. However, where responsible authorities like the Police, Environmental Health or Trading Standards Officers have already issued oral or written warnings requiring improvement, licensing authorities should not merely repeat that approach.
- 4.6 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as a necessary means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is necessary and proportionate to the promotion of the licensing objectives.
- 4.7 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 which the representations identify. The remedial act taken should generally be directed at these causes and should always be no more than as necessary and proportionate response.
- 4.8 The committee should also consider and make use of the 'Yellow and Red Cards' system as directed and recommended by The Department of Culture, Media and Sport (DCMS).

APPENDICES

Appendix 1 - A copy of the Premise Licence **PL004620**

Appendix 2 - Application for the Review of a Premises Licence for 'Harshini Food & Wine

Appendix 3 - Copy previous Review papers from January 2011

Background papers

- The Licensing Act 2003
- Guidance issued under Section 182 of the Licensing Act 2003 - (Revised 2010)
- Regulations (cited as the Licensing Act 2003 ([Various]) Orders 2005
- Slough Borough Council statement of Licensing Policy - December 2007
- DCMS Guidance – Yellow and Red Card system

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