

LICENSING ACT 2003

TO CONSIDER AN APPLICATION FOR A REVIEW OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003 FOR THE CHAMELI INDIAN TANDOORI RESTAURANT, 17 ST JOHNS STREET, HOLBEACH, LINGS, PE12 7AB

PRESENT

Members of the Panel:
Councillor P Redgate Councillor G Scalese Councillor J Tyrrell (Chairman)
Officers:
H Lawson (Licensing Officer) H Wright (Assistant Licensing Officer)
In attendance:
D Naghen (Maples Solicitors (legal advisor to the Panel)) G McConville (Lincolnshire Police) Sgt I Cotton (Lincolnshire Police) IO D Whyman (Immigration Officer) A Rasel (Premises Licence Holder) S Rahman (Designated Premises Supervisor)

The Panel considered the application for a review of a Premises Licence for The Chameli Indian Tandoori Restaurant, 17 St Johns Street, Holbeach, Lincs, PE12 7AB.

The Panel considered the written and verbal evidence presented by all parties, in arriving at this determination. The Panel took due notice of the Licensing Act 2003, in particular sections 51 and 52 and the Regulations made under it, the section 182 guidance in particular paragraphs 11.23 - 11.28 and the Licensing Authority's Statement of Licensing Policy.

The Designated Premises Supervisor in his own words held his hands up to the fact that they had employed workers who were not permitted to work due to their immigration status.

The Designated Premises Supervisor admitted that he took a calculated risk in order to reopen and be able to trade following the pandemic.

The Panel is not without sympathy for the challenges that numerous businesses have faced arising out of the pandemic, however it cannot condone a deliberate decision to flout the law.

Premises are expected to promote the licensing objective to prevent crime and disorder and not to undertake criminal activity themselves.

It is well documented that premises may face challenges in the near future in terms of rising energy prices and inflation and the Panel could not be satisfied that the premises would never resort to employing illegal workers again if it faced difficult conditions.

Employing illegal workers is not a victimless crime and may result in non-payment of taxes, potential exploitation of workers and the obtaining of an unfair advantage over other businesses.

The Section 182 guidance makes clear that where premises are found to be trading irresponsibly that the licensing authority should not hesitate to take tough action and where other measures are deemed insufficient to revoke the licence. It emphasises that certain matters should be treated particularly seriously including employing a person who is disqualified from that work by reason of their immigration status.

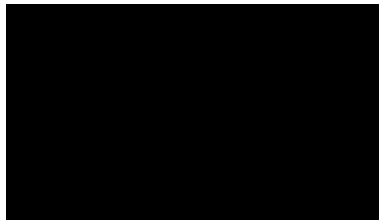
In order to promote the licensing objectives, it was felt that there were no additional conditions that would satisfy the licensing objectives and the only appropriate decision was to revoke the premises licence. For the avoidance of doubt, this does not mean that the premises cannot trade at all, but it does mean that they will not be able to supply alcohol and will not be able to provide late night refreshment after 11pm.

RIGHT OF APPEAL

Under Schedule 5 of the Licensing Act 2003 there is a right of appeal to the Magistrates Court. Any appeal must be commenced by notice of appeal given by the appellant to the Magistrates Court within 21 days beginning with the day on which the appellant was notified by the Licensing Authority of the decision appealed against.

The holder of the licence, the applicant for the review or any person who made relevant representations may appeal against the decision.

The determination does not have affect until the end of the period given for appealing against the decision, or if the decision is appealed against, until the appeal is disposed of.



Signed:

Councillor J Tyrrell (Chairman of the Panel)

Date:

6 September 2022