

## **BARNSLEY METROPOLITAN BOROUGH COUNCIL**

**Report of the Principal  
Officer (Licensing) to the  
meeting of the Statutory  
Licensing Regulatory Board  
Sub Committee to be held  
on the 4<sup>th</sup> October 2023**

### **LICENSING ACT 2003**

#### **APPLICATION FOR A PREMISES LICENCE**

##### **Kosta's Place, 1 Garden Street, Darfield, Barnsley**

### **1. Background**

- 1.1 The applicant, Mr Rajaram, has been running a successful fish and chip shop and takeaway at 1 Garden Street, Darfield Barnsley
- 1.2 On 14th August 2023, a complete application under the provisions of the Licensing Act 2003 was received for, Kosta's Place, 1 Garden Street, Darfield, Barnsley. A copy of the application is attached as Appendix 1.
- 1.2 Members are requested to determine the application for a new premises licence.
- 1.3 The premises is situated on Garden Street in Darfield and is surrounded by a variety of local amenities including retail and residential premises.

### **2 Application for a Premises Licence**

- 2.1 The premises licence application requests the licence to take effect from September 2023 for the following licensable activity:

#### **a) Late Night Refreshment**

Monday to Sunday 23:00hrs – 04:00hrs

### **3 Promotion of Licensing Objectives**

3.1 The applicant has described the steps he intends to take to promote the four licensing objectives, and states these as follows:-

General – all four licensing objectives: -

An incident log must be kept at the premises and made available on request to the Police or an authorised officer of the Licensing Authority. It must be completed within 24 hours of an incident occurring and must record the following:

1. Name of the member of staff reporting the incident
  2. All crimes reported to the premises,
  3. All ejections of patrons,
  4. Any complaints received concerning crime and disorder,
  5. Any incidents or disorder,
  6. All seizures of drug or offensive weapons,
- Any visits from Responsible Authorities.

The Prevention of Crime and Disorder: -

#### **CCTV**

A digital CCTV system with recording equipment shall be installed and maintained at the premises and operated with cameras in positions agreed with the Police. The system shall be fully operational and recording at all times the premises is open for licensable activities. All recordings used in conjunction with CCTV shall:

- be of evidential quality in all lighting conditions.
- indicate the correct time and date; and
- be retained for a period of 31 consecutive days.

Duty managers must be trained to use the system, as a recorded image must be available for inspection and downloading immediately upon request to Officers of Responsible Authorities.

All images downloaded from the CCTV system must be provided in a format that can be viewed on readily available equipment without the need for specialist software.

Public Safety: -

Nothing proposed.

The Prevention of Public Nuisance: -

Clear signage must be prominently displayed at all exits requesting customers leave the area quickly and quietly.

The Protection of Children from Harm: -

1. Nothing Proposed

**4 Responsible Authorities**

- 4.1 During the 28-day consultation period, one representation was received from Barnsley Metropolitan Borough Council Pollution department as a Responsible Authority under the provisions of the Licensing Act 2003 which formally objects to the application for a premises licence for Kosta's Place under the licensing objective of: -

Prevention of Public nuisance

The reasons given that –

**Pollution Control object to this application under the Licensing Objective of Prevention of Public Nuisance.**

I have considered the effect of the proposed licensable activity on persons living in the area around the premises and consider that noise associated with the activity (such as car doors slamming, people talking/shouting) are likely to be unreasonable after 23:00 and cause a nuisance. There is a high concentration of residential premises in the immediate area, occupants of which are likely to be negatively impacted by noise associated with the activity, most significantly in the form of sleep disturbance.

A copy of the formal objection is attached as appendix 2.

- 4.2 Following the receipt of the representations, Licensing Field Officer Martin Cooper has spoken to all parties to try and reach an agreed position to satisfy all concerned. To date no agreement has been reached.
- 4.3 Pollution have submitted a report supporting their objection, including photos of the area showing the proximity of residential properties, which is attached as appendix 3.
- 4.4 No other representations have been received from Responsible Authorities in this matter.

## **5 Interested Parties**

- 5.1 Following publication of the statutory notice of the application for the premises licence in the local press and the display of notices at the premises, no representations have been received from interested parties.
- 5.4 Under the provisions of the Licensing Act 2003, representations can be made from Interested Parties who live or have any interest in a business that is located within the vicinity of the premises where the application has been made. In this case the interested parties reside close to, if not within the immediate vicinity of the licensed premises.

## **6 Compatibility with the European Convention on Human Rights**

The decision of the Board will amount to a determination of the Council and the rights of the applicant. Therefore, as far as it is possible to do so, the board must comply with the requirements of Article 6 (the right to a fair trial). This means the applicant should be afforded the right to make oral representations at the meeting.

It is important to note that the Statutory Licensing Panel can only base its decision in relation to licence applications on evidence that relates to one or more of the licensing objectives, and not speculation.

The Authority will examine the potential for harm and if it is satisfied that this is real, then it may take sufficient measures to prevent this harm from occurring. This principle has been approved by the High Court, in the case of Daniel Thwaites Plc v Wirral Borough Magistrates' Court (6 May 2008). This High Court case also established the principle that regulation by a local Licensing Authority should be a 'light touch', and that conditions should be attached to licences only so far as is necessary to promote the licensing objectives.

If Members determine to refuse the application, it is necessary for the reasons to be clearly stated.

## **7 Financial Implications**

Not applicable.

## **8 List of Appendices**

Appendix 1 – Application for premises Licence

Appendix 2 – Formal Objection received from Pollution.

Appendix 3 – Report from Pollution - Supporting evidence.

Officer Contact: M Cooper    Tel: 07809103460    Date: 12<sup>th</sup> September 2023