

CANNOCK CHASE COUNCIL

LICENSING SUB-COMMITTEE

20 NOVEMBER 2013

REPORT OF HEAD OF ENVIRONMENTAL HEALTH

LICENSING ACT 2003

APPLICATION FOR A REVIEW OF A PREMISES LICENCE

BAZDA BOOZE & CONVENIENCE, 8 QUEENSWAY, RUGELEY, STAFFS, WS15 1NN

1. Reason for Hearing

- 1.1 Staffordshire County Council Trading Standards Department have made application to the Licensing Authority for a review of the Bazda Booze & Convenience Premises Licence on the basis that the premises Licence Holder and the DPS have failed to take adequate steps to protect children from harm. Trading Standards believe that this raises questions as to whether the business is operated in accordance with the licensing objectives. A copy of the application for review of the premises licence is given as Annex 1 to this report. A confidential annex provided by Trading Standards on 31 October 2013 which contains Mr Basi's formal interview transcript is attached as Annex 2 to this report.

2.

Name and Address of Premises.	Khai Ltd, T/A Bazda Booze & Convenience, 8, Queensway, Rugeley, Staffs, WS15 1NN
Unique Premises Licence Reference Number	CCDC/PREM/10/352 The premises licence is given as Annex 3 to this report.
Applicant for Review of Premises Licence	Mr Tony Shore, Community Protection Officer, Public Protection, Staffordshire County Council, Wedgewood Building, Tipping Street, Stafford, Staffs, ST16 2DH

Date of Application for Review	26 September 2013.
Reason for Review of Premises Licence	<p>The Application for review of the Premises Licence has been made on the basis that the licensing objectives of:</p> <ul style="list-style-type: none"> the Protection of Children from Harm <p>is being compromised.</p>
Name and Address of Premises Licence Holder	<p>Khai Ltd, 1, Coppice Road, Rugeley, Staffs, WS15 1NN</p>
Name of the Designated Premises Supervisor (DPS)	Mr. Baljit Singh Basi,
Permitted Licensable Activities	<p>The premises currently has the benefit of a licence granted on the 17 February 2010 under the Licensing Act 2003.</p> <p>The Premises Licence currently permits:</p> <ol style="list-style-type: none"> 1. Sale by Retail of Alcohol (off sales only)
Current Licensing Hours:	<p><u>Sale by Retail of Alcohol (off sales only)</u></p> <p>Everyday : 07.00 to 22.00hrs.</p>
Opening Hours of Premises	<p>Everyday : 07.00 to 22.00hrs.</p> <p>A map of the premises is given as Annex 4 to this report.</p>
Other Responsible Authority Representation in Respect of the Application for Review.	<p>On 11 October 2013, Staffordshire Police wrote to the Council's Licensing Unit in support of the Trading Standards Review of the Premises Licence</p> <p>The letter states that the Police are in full support of Trading Standards request that the Premises Licence is revoked. A copy of the Police letter is attached as Annex 5 to this report.</p>

Valid Representations from Other Persons	There have been no representations from any Other Persons in connection with this application.
Matters of note	<p>The Premises Licence for Bazda Booze & Convenience was issued by the Licensing Authority on 17 February 2010.</p> <p>On 25 February 2013, the Premises Licence was transferred from Mr Baljit Singh Basi to a limited company called Khai Ltd.</p> <p>On 21 June 2013, Bazda Booze & Convenience was subject to a test purchase operation where two underage females were sent into the premises in order to attempt to purchase alcohol.</p> <p>An underage volunteer was subsequently sold alcoholic drinks.</p> <p>A chronology of the events of 21 June 2013 and beyond is given on pages 6, 7 & 8 of the Application for Review. These pages are reproduced as enclosure 4.12 to 4.14 to this report.</p> <p>As result of their concerns, Staffordshire County Council, Trading Standards Department have asked that the Premises Licence be reviewed. Their submission includes the following statement:</p> <p>“Trading Standards question whether the persons involved in running the business are able to meet the licensing objectives and therefore whether Mr Baljit Singh Basi nor Mr Amarjeet Singh Basi are fit and proper persons to run a licensed premise. In light of the above information the view of Trading Standards is that; considering offences have been committed under s136 (1) of the Licensing Act 2003, we request that the Licensing Sub Committee consider taking appropriate action to ensure the promotion of the licensing objectives in the future at this premise. We therefore ask that the Sub Committee revoke the premises licence”</p> <p>Where the Sub Committee are not minded to revoke the Premises Licence, Trading Standards ask the Sub Committee to consider use of their powers to suspend the premises licence for up to 3 months.</p> <p>Where the Sub Committee are not be minded to revoke the Premises Licence, Trading Standards ask the Sub Committee, irrespective to any suspension, to consider the removal of the current DPS, issue a warning to the Licence Holder and impose several conditions onto the Premises Licence.</p>

Matters of note (cont.)	A full list of the said conditions mentioned above is given on pages 8 & 9 of the Application for Review. They are reproduced as enclosures 4.14 & 4.15 to this report.
Other matters of note	<p>On 15 February 2011, the Council's Licensing Sub Committee met to hear an Application for Review of the Bazda Premises Licence because of a failed test purchase by Trading Standards on 10 December 2010. At that time the premises was called Bazda Price and the Premises Licence Holder was Mr Baljit Singh Basi as an individual rather than the present limited company. The Sub Committee determined to suspend the premises licence for a period of 3 months. A copy of the decision notice from 15 February 2013 is attached as Annex 6 to this report.</p> <p>A chronology of the events of leading up to 15 February 2011 and beyond is given on pages 5, 6, 7, & 8 of the Application for Review. These pages are reproduced as enclosure 4.11 to 4.14 to this report.</p> <p>On 11 November 2013, Mr Basi wrote to the Council to confirm that he would be attending the Licensing Sub Committee on 20 November 2013. He also provided information with respect to his intentions towards the premises concerned. A copy of Mr Basi's letter with redacted dates, telephone number and signature is attached to this report as Annex 7</p>

3. Human Rights Act 1998 Implications

- 3.1 Article 6 of the Act provides that where a person's civil rights and obligations are being determined, s/he is entitled to a "fair trial". The Council complies with Article 6 in that it gives the person the opportunity to state their case, will make a decision within a reasonable period of time and will give reasons for its decision.
- 3.2 The Article also provides for the issue to be determined by an independent tribunal. The right of appeal to the Court against the Council's decision fulfils this.
- 3.3 The Council observes the rules of natural justice and its procedures are consistent with Article 6 of the Human Rights Act 1998.
- 3.4 Article 14 provides a prohibition against discrimination. This does not stand alone but where any other rights are affected, they must not be dealt with in a discriminatory way.

4. Legal Implications

- 4.1 Regulations require that the application for review of the Premises Licence is heard by Members of the Licensing Sub Committee within 20 working days beginning with the day after the close of the statutory 28 day period within which representations can be made. This Hearing date satisfies this requirement.
- 4.2 The Licensing Sub Committee is permitted under section 52(4) of the Licensing Act 2003 ('the Act') having had regard to the representations, to take such steps as it considers appropriate for the promotion of the licensing objectives namely;
- a) to modify the conditions of the licence**
 - b) to exclude a licensable activity from the scope of the premises**
 - c) to remove the Designated Premises Supervisor**
 - d) to suspend the licence for a period not exceeding 3 months**
 - e) to revoke the licence.**
- 4.3 The Licensing Sub-Committee can also resolve to take no action, issue an informal warning to the licence holder and/or recommend improvement within a particular period of time.
- 4.4 Any such steps must be taken having regard to the statutory guidance issued by the Secretary of State and the Council's Licensing Policy.
- 4.5 Any remedial action taken should be directed at the cause of the concerns which the representations identify. The remedial action should always be directed at these causes and should be no more than an appropriate and proportionate response.
- 4.6 Where steps are taken in respect of a) or b) the Sub Committee may provide that the modification or exclusion is to have effect for only such a period (not exceeding 3 months) as it may specify. If the Sub Committee determines this course of action, it is important that any detrimental financial impact that may result from the decision is appropriate and proportionate for the promotion of the licensing objectives.
- 4.7 Any determination of the application for the review of a premises licence shall not have effect-
- a) Until the end of the period given for appealing against the decision.
 - b) If the decision is appealed against, until the appeal is disposed of.
- 4.8 The applicant, the licence holder and other persons who made relevant representations in relation to the application have a right of appeal to the Magistrates' Court should they disagree with the Licensing Sub Committee's decision. The appeal must be made within 21 days of the Committee's decision being notified (in writing) to the appellant.

5. Financial Implications

- 5.1 No fees are payable upon application for a review of a premises licence. However, the applicant, the licence holder and any other person who made a relevant representation have the right of appeal to the Magistrates Court against the decision. The Court is however, less likely to award costs against the Council if it is satisfied that the Council had acted honestly, reasonably and properly and on grounds which appeared to be sound.

- 5.2 Should the licence be revoked permanently, the annual fee of £70 due in February each year would not be payable to the Council.

6.

Annexes Attached	<p>Annex 1 Application for review of the Premises Licence by Staffordshire County Council Trading Standards Department.</p> <p>Annex 2 Confidential statement provided on 31 October 2013 by Trading Standards which contains Mr Basi's formal interview transcript.</p> <p>Annex 3 Copy of the Premises Licence.</p> <p>Annex 4 Map of the Premises Location.</p> <p>Annex 5 Copy of the letter of representation from Staffordshire Police dated 8 October 2013.</p> <p>Annex 6 Copy of the Licensing Sub Committee's Decision Notice from the Hearing on 15 February 2011.</p> <p>Annex 7 Copy of a partially redacted letter from Mr Basi dated 11 November 2013.</p>
7. Determination Required	<p>Members are asked to determine what action may be required in order to ensure that the licensing objectives are met at Bazda Booze & Convenience, 8 Queensway, Rugeley, Staffs, WS15 1NN, having due regard to the requirements of legislation, the 4 Licensing Objectives, the Council's Licensing Policy and Guidance issued by the Secretary of State under s182 of the Licensing Act 2003.</p> <p>The 4 licensing objectives are:</p> <ul style="list-style-type: none"> • the Prevention of Crime & Disorder • Public Safety • the Prevention of Public Nuisance • the Protection of Children from Harm