

# **Report of the Assistant Director Waste, Fleet & Transport Services to the meeting of the Bradford District Licensing Panel to be held on 25 January 2017.**

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**Subject:**

**Application for a Premises Licence for Mahmoods, 35 Oak Lane, Bradford, BD9 4QB**

**Summary statement:**

**Application for a new premises licence for the provision of late night refreshment.**

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**Portfolio:**

**Neighbourhoods & Community Safety**

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**Overview & Scrutiny Area:**

**Corporate**



## 1. SUMMARY

The application is for the grant of a Premises Licence for the provision of late night refreshment.

## 2. BACKGROUND

### 2.1 The applicant

TAA Enterprises Ltd. A copy of the application is included at Appendix 1.

### 2.2 The Premises

Mahmoods, 35 Oak Lane, Bradford, BD9 4QB

### 2.3 Designated Premises Supervisor

Not required.

### 2.4 Application

The application is for the grant of a Premises Licence. The operating schedule describes the following as the relevant licensable activities applied for:-

- Provision of late night refreshment

Hours of licensable activities:

Monday to Sunday: 23.00 to 02.00

### 2.5 Steps proposed by the applicant to address the Licensing Objectives

- a) Prevention of crime and disorder will be achieved by;

Our premises are well lit, we have other outlets in the area that we communicate with.

- b) Public safety will be achieved by;

Our premises have emergency lighting.  
We have fire exits.  
We have full first aid provisions on site.  
We have seating arrangements.



- c) Prevention of public nuisance will be achieved by;

We regularly pick up litter around our premises.  
We have no loading/unloading arrangements late night.  
We do not use external areas after 08.00 pm.  
We have notices advising our customers to leave quietly.

- d) Protection of children from harm will be achieved by;

Our policy is not to serve under 16's after 09.00 pm unless they are accompanied by an adult.

- e) General – all four licensing objectives

We have a CCTV system fitted.

## **2.6 Relevant Representations Received**

### **Responsible Authorities**

#### **Environmental Health**

In order to address the prevention of public nuisance objective, the Environmental Health Officer has requested that Members consider the complaints of noise nuisance which have been brought to the Officer's attention, such as customers slamming doors, shouting outside residential properties, vehicular activity and general disturbance late at night and in the early hours of the morning.

The Officer has also noted that the premise has been operating in contravention of the planning permission and without the benefit of a premises licence, which is required for sales of hot food or drink made between 23.00 and 05.00 hours.

The representation is attached at Appendix 2.

## **3. OTHER CONSIDERATIONS**

### **Legal Appraisal**

- 3.1** The Licensing Act 2003 requires the Council to carry out its various licensing functions so as to promote the following four licensing objectives:

- a) the prevention of crime and disorder
- b) public safety
- c) the prevention of public nuisance
- d) the protection of children from harm

- 3.2** The Council must also have regard to the guidance issued by the Home Office under Section 182 of the Licensing Act 2003. Regard must also be taken of the



Council's statement of Licensing Policy for the District.

- 3.3** Where it is decided it is necessary to depart from the statutory guidance or the Licensing Policy on the merits of a particular case; then special reasons justifying this must be given that can be sustained.
- 3.4** Only "relevant representations" can be taken into account. In order to be "relevant" a representation must fairly relate to achieving a licensing objective. If it does not, it must be discounted.
- 3.5** Any licensing conditions that Members may propose attaching must also relate to achieving one of the licensing objectives; be tailored to the actual premises and style of licensable activity; must be reasonably achievable by the applicant and in his/her control.

#### **Statement of Policy Issues**

- 3.6** The following parts of the Licensing Policy are of particular importance; Part 6 (prevention of public nuisance).
- 3.7** The Annexes to the Policy sets out various types of model condition that could be considered.

#### **4. OPTIONS**

**4.1** Members may:

- (a) Grant a premises licence as applied for subject to any mandatory conditions and the precautions specified in the operating schedule submitted.
- (b) Grant a premises licence subject to such additional conditions relating to achievement of the licensing objectives as members think fit; or
- (c) Refuse the application for a premises licence.

**4.2** Should the applicant or any other party to the hearing feel aggrieved at any decision with regard to the licence or to any conditions or restrictions attached by Members they may appeal to the Magistrates Court.

#### **5. FINANCIAL & RESOURCE APPRAISAL**

There are no apparent finance or resource implications.

#### **6. RISK MANAGEMENT AND GOVERNANCE ISSUES**

There are no apparent risk management and governance implications.



## **7. LEGAL APPRAISAL**

Referred to in part 3 of this report.

## **8. OTHER IMPLICATIONS**

### **8.1 EQUALITY & DIVERSITY**

The Council has to comply with the public sector equality duty in S.149 Equality Act 2010.

### **8.2 SUSTAINABILITY IMPLICATIONS**

There are no apparent sustainability implications.

### **8.3 GREENHOUSE GAS EMISSIONS IMPACTS**

There are no apparent implications.

### **8.4 COMMUNITY SAFETY IMPLICATIONS**

When determining the application the Licensing Authority is required to pay due regard to the licensing objectives referred to in 3.1 of this report.

### **8.5 HUMAN RIGHTS ACT**

The following rights are applicable:

Article 1 First Protocol to the Convention – Right to peaceful enjoyment of possessions subject to the state's right to control the use of property in accordance with the general interest. The Council's powers set out in the recommendations fall within the states right. A fair balance must be struck between public safety and the applicant's rights.

Article 6 – A procedural right to a fair hearing. As refusal of the application is an option, adherence to the Panels' usual procedure of affording a hearing to the applicant is very important. The applicant should also be able to examine the requirements of the fire authority. If the decision is to refuse then reasons should be given.

### **8.6 TRADE UNION**

Not applicable.

### **8.7 WARD IMPLICATIONS**

Ward Councillors have been notified of receipt of the application.



**9. NOT FOR PUBLICATION DOCUMENTS**

None.

**10. RECOMMENDATIONS**

Members are invited to consider the information and documents referred to in this report and, after hearing individuals, bodies or businesses, determine the related application(s):

**11. APPENDICES**

1. Application form received 5 December 2016.
2. Representation from Environmental Health.

**12. BACKGROUND DOCUMENTS**

Application form, plan etc.

