

## **Report of the Assistant Director Waste, Fleet & Transport Services to the meeting of the Bradford District Licensing Panel to be held on 1 August 2017.**

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### **Subject:**

**Application for a Premises Licence for Madina Roti House, 151 Toller Lane, Bradford, BD8 9HL**

### **Summary statement:**

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

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### **Portfolio:**

**Neighbourhoods & Community Safety**

### **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

Mr Muhammed Shahzad Younas. A copy of the application is included at Appendix 1.

### 2.2 The Premises

Madina Roti House, 151 Toller Lane, Bradford, BD8 9HL.

### 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 03.00

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

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

CCTV installed with 30 day recording plus.  
Can view on internet anytime.  
Adequate lighting.  
Wifi for outside commission.

- b) Public safety will be achieved by;

Fire blankets, fire extinguisher, smoke alarms, fire exit.  
Health & Safety Certificates for all staff updated every three years.

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

Litter bin inside.  
Waste bin collection (Bradmet) regular collection.

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

No one is allowed in the kitchen apart from staff.

e) General – all four licensing objectives

CCTV installed by licensed company.

## **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 that the premise is located exceptionally close to residential accommodation and that Officers have no enforcement powers to deal with noise such as vehicular activity, customers slamming doors or shouting outside of residential properties.

The Officer has also noted that a planning application to extend the existing opening hours from 23.00 to 03.00 hours was recently refused, as the proposed increase in operating hours into the early hours of the morning would be likely to result in significant harm to the amenities of nearby residential properties at unsociable 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 19 June 2017.
2. Representation from Environmental Health.

## **12. BACKGROUND DOCUMENTS**

Application form, plan etc.