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| Committee:<br><b>Licensing Sub-Committee</b> | Date:<br><b>28<sup>th</sup> June 2016</b> | classification:<br><b>Unrestricted</b> |
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| Report of: <b>David Tolley</b><br><b>Head of Environmental Health &amp; Trading Standards</b> | Title: <b>Licensing Act 2003</b>   |
| Originating Officer:<br><b>Mohshin Ali</b><br><b>Senior Licensing Officer</b>                 | <b>Application to Review the Premises Licence for Curry Bazaar, 77 Brick Lane, London E1 6QL</b> |
|   | Ward affected:<br><b>Spitalfields and Banglatown</b>   |

## 1.0 Summary

|                                       |   |
|---------------------------------------|---|
| Name and Address of premises:         | <b>Curry Bazaar<br/>77 Brick Lane<br/>London<br/>E1 6QL</b>   |
| Licence under review:                 | <b>Licensing Act 2003</b> <ul style="list-style-type: none"> <li>▪ <b>Sale by retail of alcohol</b></li> <li>▪ <b>Provision of Late night refreshment</b></li> <li>▪ <b>The provision of regulated entertainment (recorded music only)</b></li> </ul> |
| Review triggered by: Representations: | <b>Licensing Authority<br/>Police Licensing<br/>Local Residents<br/>Local businesses</b>  |

## 2.0 Recommendations

- 2.1 That the Licensing Committee considers the application for review and then adjudicates accordingly.

**LOCAL GOVERNMENT 2000 (Section 97)**  
**LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT**

| Brief description of "background paper"   | Tick if copy supplied for register | If not supplied, name and telephone number of holder |
|---|------------------------------------|--|
| <ul style="list-style-type: none"> <li>• Guidance Issued under Section 182 of the Licensing Act 2003</li> <li>• Tower Hamlets Licensing Policy</li> <li>• File</li> </ul> |                                    | <b>Mohshin Ali<br/>020 7364 5498</b>                 |

### 3.0 Review Application

3.1 This is an application for a review of the premises licence for Curry Bazaar, 77 Brick Lane, London E1 6QL. The review was triggered by the Licensing Authority.

3.2 A copy of the review application is attached in **Appendix 1**.

### 4.0 The Premises

4.1 The premises licence was issued on 20<sup>th</sup> September 2005. A copy of the current licence is contained within the review documents (**Appendix 1, Exhibit A**). On the 10<sup>th</sup> May 2017, an application was made to transfer the licence holder to Mohammad Foez Ahmad with immediate effect. There were no representations to the transfer and the application form has been included in **Appendix 2** for Members' information only.

4.2 The previous Licence holders Azirun Nessa and Mohammad Jubar Ahmad were in place since 5<sup>th</sup> March 2009. The Designated Premises Supervisor Muhammad Abdul Kadir Ali has been in place since 5<sup>th</sup> August 2016.

4.3 The premise was subject to a previous review, brought by the Licensing Authority, which was heard by the Licensing Sub Committee on 12<sup>th</sup> May 2016. The decision was made to suspend the licence for three months and to remove the Designated Premises Supervisor. For members benefit the minutes of this meeting are contain in the review documents (**Appendix 1, Exhibit B**)

4.4 Maps showing the premises, surrounding area and vicinity of local residents are included in **Appendix 3**.

### 5.0 Representations

5.1 This hearing is required by the Licensing Act 2003, because a review has been triggered by the Licensing Authority.

5.2 The review is further supported by the following;

| <b>Responsible Authorities/other persons</b> | <b>Appendix</b> |
|--|-----------------|
| Alan Cruickshank (Met Police)                | <b>4</b>        |
| Mr Raju Ahmed (Nazrul Restaurant)            | <b>5</b>        |
| Kabir Hussain                                | <b>6</b>        |
| Azmal Hussain (Preem Restaurant)             | <b>7</b>        |
| Ibrahim Hoque                                | <b>8</b>        |
| David Cunningham                             | <b>9</b>        |
| Ed & Sarah Jenkins                           | <b>10</b>       |

- 5.3 Members should note that the licensing authority received representations from two local businesses which were initially accepted. However, both businesses have since advised the licensing authority that their letters was sent in fraudulently from an unknown source. A Licensing Officer has now visited both of the businesses to verify the identity of the person making the representation and therefore these fraudulent representations are not included in this report.
- 5.4 In light of the above, the Licensing Officer sent letters to all the businesses and residents asking them to confirm that they had in fact made their original representation. All have now replied to confirm that this is the case, except Ibrahim Hoque (Appendix 8) and David Cunningham (Appendix 9). Both parties had not responded at the time of writing this report. A further letter has been sent to advise them that Members will consider this when they attach weight to their representations.
- 5.5 Only representations that relate to the following licensing objectives are relevant:
- the prevention of crime and disorder
  - public safety
  - the prevention of public nuisance
  - the protection of children from harm
- 5.6 In the view of the interested party and the responsible authorities it is necessary to achieve the licensing objectives of the prevention of public nuisance and prevention of crime & disorder.

## 6.0 Review Explained

- 6.1 The Licensing Act 2003 was described by the Government at the time as “light touch” but as Baroness Blackstone stated in the Lords at the time of the second reading (26 Nov 2002) “Local residents and businesses as well as expert bodies, will have the power to request that the licensing authority review existing licences where problems arise. Such a review could result in the modification of the licence, its suspension, or ultimately, revocation.”
- 6.2 The Home Office has issued guidance under Section 182 of the Licensing Act 2003 in relation to reviews and that is contained in **Appendix 11**. It is available on the Government’s website, [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk). It was last revised March April 2017.
- 6.3 Members are particularly asked to note the comments in relation Crime and Disorder. In particular the home office advice is that “The role of the licensing authority when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted.”

- 6.4 In relation to its advice on representations the home office has also advised that “there is no requirement for other persons or responsible authorities to produce a recorded history of problems at a premises to support their representations.” It has issued guidance about Crime and Disorder. **See Appendix 12.**
- 6.5 Members should also note the Council’s Licensing Policy in relation to Crime and Disorder, the relevant parts of which are contained in **Appendix 13.**
- 6.6 The home office issued guidance about the prevention of public nuisance and the pool of conditions which might be considered in relation to any identified problems is contained in **Appendix 14.**
- 6.7 The Council’s Licensing Policy in relation to Public Nuisance is contained in **Appendix 15.**
- 6.8 The Home Office has advised that in relation to reviews “It is important to recognise that the promotion of licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between those groups in a way that would undermine the benefits of co-operation. It would be good practice for authorised persons and responsible authorities to give licence holders early warning of their concerns about problems identified at the premises concerned and of the need for improvement. It is expected that a failure to respond to such warnings would lead to a decision to request a review.”
- 6.9 Other persons or a responsible authority can trigger a review at any time, but the grounds must be relevant to the licensing objectives. The form of the application, and the advertisement of the review are the subject of regulations (The Licensing Act 2003 (Premises Licences and Club Premises Certificate) Regulations 2005). In addition, the licensing authority has to satisfy itself of certain matters in relation to the Licensing Act 2003. The Health & Safety & Licensing Manager is the delegated officer who deals with this on behalf of the licensing authority. All the matters stated in 5.0 were considered before any representations were accepted for inclusion in this report.
- 6.10 The Licensing Act 2003 requires that the Licensing Authority satisfies itself that it should reject the grounds for a review because:
- The ground is not relevant to one or more of the licensing objectives
  - In the case of an application by a local resident that the application is frivolous, vexatious or repetitious.

## 7.0 **Review Advertisement**

- 7.1 The review was advertised by a blue poster, next to the premises, by the Licensing Section. This was periodically monitored by the Section to ensure it

was on continuous display, and replaced as necessary. It was also advertised at Mulberry Place, 5 Clove Crescent, London E14 2BG.

7.2 The party that triggers the review must notify the licence holder and responsible authorities. The review documents were sent to the licence holders.

7.3 The procedure for a review can be summarised as follows:

- A review is triggered by a responsible authority or interested party
- Consultation is conducted for 28 full days
- Other responsible authorities or interested parties may join in the review
- Members conduct a hearing
- Members make a determination
- All the parties to the review have the right of appeal to the magistrates court (i.e. the licence holder, the person who triggered the review and those who have made a representation).

## 8.0 Licensing Officer Comments

8.1 The Governments advice in relation to reviews is contained in **Appendix 11**. Members must consider all the evidence and then decide from the following alternatives:

- Take no further action as they do not consider it proportionate to do so
- Impose conditions (including altering existing permissions) that relate to problems which they consider have been identified and which are necessary and proportionate to ensure that the licensing objectives are met
- Suspend the licence for a period
- Revoke the licence completely

8.2 The licence should only be suspended or revoked if Members believe that alterations to the existing licence, including imposing new conditions does not have a reasonable prospect of ensuring that the licensing objectives are met.

8.3 Members should bear in mind that conditions may not be imposed for any purpose other than to meet the licensing objectives.

8.4 In all cases the Members should make their decision on the civil burden of proof that is “the balance of probability.”

8.5 In all cases Members should consider whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already adequately covered elsewhere.

## **9.0 Legal Comments**

9.1 The Council's legal officer will give advice at the hearing.

## **10.0 Finance Comments**

10.1 There are no financial implications in this report.

## **11.0 Appendices**

**Appendix 1** Copy of the review application

**Appendix 2** Copy of transfer application

**Appendix 3** Maps of the premises and surrounding area

**Appendix 4** Representations from Metropolitan Police PC Alan Cruickshank

**Appendix 5** Representations from Mr Raju Ahmed (Nazrul Restaurant)

**Appendix 6** Representations from Kabir Hussain

**Appendix 7** Azmal Hussain (Preem Restaurant)

**Appendix 8** brahim Hoque

**Appendix 9** David Cunningham

**Appendix 10** Ed & Sarah Jenkin

**Appendix 11** Guidance issued under Section 182 by the Home Office for reviews

**Appendix 12** Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003 concerning Crime and Disorder

**Appendix 13** London Borough of Tower Hamlets Licensing Policy in relation to the prevention of Crime and Disorder

**Appendix 14** Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003 concerning Public Nuisance

**Appendix 15** London Borough of Tower Hamlets Policy in relation to the prevention of Public Nuisance