

Committee: Licensing Sub-Committee	Date: 30 April 2019	Classification: UNRESTRICTED	Report No.	Agenda Item No.
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Report of: David Tolley Head of Environmental Health & Trading Standards Originating Officer: Kathy Driver Principal Licensing Officer	Title: Licensing Act 2003 Application to Review the Premises Licence for Singh Supermarket, 37 Roman Road, London E2 0HU Ward affected: Bethnal Green
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1.0 Summary

Name and Address of premises:	Singh Supermarket 37 Roman Road London E2 0HU
Licence under review:	Licensing Act 2003 ▪ Sale by retail of alcohol
Representations:	Trading Standards - Police - Licensing Authority

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"> Guidance Issued under Section 182 of the Licensing Act 2003 Tower Hamlets Licensing Policy File 		020 7364 5171

3.0 Review Application

- 3.1 This is an application for a review of the premises licence for Singh Supermarket, 37 Roman Road, London E2 0HU . The review was triggered by Trading Standards.
- 3.2 A copy of the review application is attached in **Appendix 1** including supporting documents detailing the following:
1. APP Ref: 009593 – Prosecution database record of offence of selling alcohol outside the permitted licensed hours (page 1-2);
 2. APP Ref: 009209 – Prosecution database record of offence of selling alcohol to a minor (page 3);
 3. Court outcome for VKS Supermarket T/A Singh Supermarket on 14/11/2018 (page 4);
 4. Court outcome for seller Abdul Karim and Moyna Miah on 20/09/2018;
 5. APP Ref: 009128 – Prosecution database record of offence of possession for supply illicit tobacco products (page 7);
 6. Voluntary Surrender of 160 illicit cigarettes signed by Manohar Singh Arora (page 9);
 7. APP Ref: 007668 – Prosecution database record of seizure 5 x Glen's Vodka & 5 x High Commissioner by HMRC (page 10);
 8. APP Ref: 004768 – prosecution database record of seizure of 47 x bottles of wines, 4 x whiskey, 2 x Vodka and 8 x3 pack Durex condoms (page 12);
 9. Warning letter issued to Manohar Singh Arora for possession for supply, counterfeit Durex Condoms (page 13-14);
 10. Voluntary surrender of 8 x3 packs of Durex Condoms by Manohar Singh Arora on 7/10/2013 (page 15).

4.0 The Premises

- 4.1 The premises licence was issued on 28th June 2005. The licence was transferred to Mr. Mohammed Akbor Hussain on 15th August 2018. Mr Manohar Singh Arora is the Designated Premises Supervisor (DPS) who authorises the sale of alcohol, Mr. Arora has been in place since 18th May 2011. The licence has not been reviewed previously. A copy of the current licence is contained in **Appendix 2**.
- 4.2 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: Trading Standards
- 5.2 The review has been triggered in connection with persistent sales of alcohol to children. The Home Office provides where persistent sales of

alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised due diligence, responsible authorities should consider taking steps to ensure a review of the licence, particularly where an offence under section 147A has been given. In determining the review the Licensing Authority should consider revoking the licence.(11.29)

- 5.3 The review also documents a history of smuggled tobacco and alcohol. The Home Office provides guidance in Paragraph 11.27 which states that there is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously. These are the use of the licensed premises for, amongst other things, the sale or storage of smuggled tobacco and alcohol. In paragraph 11.28 the guidance advises that revocation of the licence should seriously be considered, even in the first instance.
- 5.4 The review is supported by Metropolitan Police. Please see **Appendix 4**.
- 5.5 The review is further supported by the Licensing Authority, see **Appendix 5**.
- 5.6 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
- 5.7 In the view of the interested party and the responsible authorities it is necessary to achieve the licensing objectives of the prevention of crime & disorder and the protection of children from harm

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 6**. It is available on the Government’s website, www.homeoffice.gov.uk. It was last revised in April 2018.

- 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 an interested party or responsible authority to produce a recorded history of problems at a premises to support their representations.” It has also issued revised guidance about Crime and Disorder. See **Appendix 7**.
- 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 8**.
- 6.6 The Home Office has issued guidance in relation to Protection of Children from Harm see **Appendix 9**
- 6.7 The Councils Licensing Policy in relation to the Protection of Children from Harm is shown in **Appendix 10**.
- 6.8 The Home Office has advised that in relation to reviews “ Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation. ”
- 6.9 An interested party 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 Licensing & Safety Team Leader 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 6**. 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	Review application including supporting documents
Appendix 2	Current Premises Licence
Appendix 3	Maps of the premises and surrounding area
Appendix 4	Representations from Metropolitan Police
Appendix 5	Representations from Licensing Authority
Appendix 6	Guidance issued under Section 182 by the Home Office for reviews
Appendix 7	Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003 concerning Crime and Disorder
Appendix 8	London Borough of Tower Hamlets Licensing Policy in relation to the prevention of Crime and Disorder
Appendix 9	Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003 concerning Protection of Children from Harm
Appendix 10	Licensing Policy in relation to the Protection of Children from Harm