

Committee: Licensing Sub-Committee	Date: 17 November 2020	Classification: UNRESTRICTED	Report No.	Agenda Item No.
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Report of: David Tolley Head of Environmental Health & Trading Standards Originating Officer: Corinne Holland Licensing Officer	Title: Licensing Act 2003 Application to Review the Premises Licence for Manjal, 3 Turnberry Quay, London E14 9RD Ward affected: Blackwall and Cubitt Town
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1.0 Summary

2.0

Name and	Manjal
Address of premises:	3 Turnberry Quay London E14 9RD
Licence under review:	Licensing Act 2003 – Premises Licence <ul style="list-style-type: none"> • Sale by retail of alcohol • Provision of late night refreshment
Review triggered by:	Member of the public

3.0 Recommendations

- 3.1 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 		Corinne Holland 020 7364 3986

4.0 **Review Application**

4.1 This is an application for a review of Manjal restaurant, 3 Turnberry Quay, London E14 9RD. The review was triggered by a member of the public.

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

4.3 The applicant has supplied supporting evidence for the review in **Appendix 2**

5.0 **The Premises**

5.1 The existing premises licence was granted on 13th December 2012. A copy of the current licence is contained in **Appendix 3**. The premise licence holder is a company called Anglo Indian Beverage Ltd and has been since the licence was issued. The Designated Premises Supervisor, since May 2013, is Vasanth Karuppusamy.

5.2 Maps showing the premises and surrounding area are included in **Appendix 4**.

6.0 An initial complaint regarding the incident on the 17th July 2019 was received by the Licensing Authority from the legal advisor for the RNIB on 12th September 2019 who sent a letter requesting that a review of the licence take place due to a breach in the Equality Act 2010.

Correspondence between the Licensing Authority, Manjal and solicitors acting for Manjal took place regarding the supply of the CCTV for the date in question. The CCTV was received in a CD format on 13th January 2020 but it was in an unreadable format for the local authorities IT systems. On the 16th January 2020 the solicitors were written to again requesting the CCTV in a different format. On 22nd January 2020 a warning letter regarding the breach of Condition 6 of Annex 2 of the licence was sent to the restaurant, the PLH, the DPS and copied to the Equalities and Human Rights Commission.

7.0 On 24th January 2020 CCTV footage was sent into the Licensing Authority via email. Despite initial problems viewing this it has now been viewed. The recording is from camera 1 only which is the entrance and foyer area. It showed Mr Ortega and two friends enter the restaurant at 19:10:46 and leave the restaurant at 19:16:36. In between these times they are out of view.

8.0 **Representations**

8.1 This hearing is required by the Licensing Act 2003, because a review was triggered by a prospective customer, Mr Jose Artur Antao Ortega.

- 8.2 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
- 8.3 In the view of the interested party it is necessary to achieve the licensing objectives of the prevention of crime and disorder and public safety.
- 8.4 The applicant is requesting the following conditions to be attached to the Premises Licence in order to prevent guide dogs refusals occurring in the future.
- The premises are required to admit guide dogs and other registered assistance dogs / The premises is forbidden from refusing admittance to a guide dog and other registered assistance dogs.
 - All front of house staff undergo training in disability awareness and the Equality Act and that proof of training is kept on site and produced on demand to an authorised officer or constable.
 - A person suitably trained, in the requirements of the Equality Act 2010, be present on the premises at all times when open to the public.
 - Suitable signage be displayed that makes clear guide dogs and assistance dogs are welcome.
 - A written equalities policy be produced and kept at the premises for inspection on demand by an authorised officer or constable.

9.0 Review Explained

- 9.1 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.”
- 9.2 The Home Office has issued guidance under Section 182 of the Licensing Act 2003 in relation to reviews and that is contained in **Appendix 5**. It is available on the Government’s website, www.homeoffice.gov.uk. It was last revised April 2018.
- 9.3 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.”

- 9.4 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 issued guidance about Crime and Disorder. **See Appendix 6.**
- 9.5 Members should also note the Council’s Licensing Policy in relation to Crime and Disorder, the relevant parts of which are contained in **Appendix 7.**
- 9.6 The home office issued guidance about public safety which might be considered in relation to any identified problems is contained in **Appendix 8.**
- 9.7 The Council’s Licensing Policy in relation to public safety is contained in **Appendix 9.**
- 9.8 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.”
- 9.9 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 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.
- 9.10 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.

10.0 Review Advertisement

- 10.1 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.
- 10.2 The party that triggers the review must notify the licence holder and responsible authorities. The review documents were sent to the licence holders.
- 10.3 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).

11.0 Licensing Officer Comments

- 11.1 The Governments advice in relation to reviews is contained in **Appendix 5**. 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
- 11.2 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.
- 11.3 Members should bear in mind that conditions may not be imposed for any purpose other than to meet the licensing objectives.
- 11.4 In all cases the Members should make their decision on the civil burden of proof that is “the balance of probability.”

11.5 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.

12.0 Legal Comments

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

13.0 Finance Comments

13.1 There are no financial implications in this report.

14.0 Appendices

Appendix 1	Copy of the review application
Appendix 2	Supporting evidence to the review
Appendix 3	Copy of existing licence
Appendix 4	Maps of the premises and surrounding area
Appendix 5	Guidance issued under Section 182 by the Home Office for reviews
Appendix 6	Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003 concerning Crime and Disorder
Appendix 7	London Borough of Tower Hamlets Licensing Policy in relation to the prevention of Crime and Disorder
Appendix 8	Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003 concerning public safety
Appendix 9	London Borough of Tower Hamlets Policy in relation to the prevention of Public safety