

Committee: Licensing Sub-Committee	Date: 12 January 2021	Classification: UNRESTRICTED	Report No.	Agenda Item No.
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Report of: David Tolley Head of Environmental Health & Trading Standards Originating Officer: Mohshin Ali Senior Licensing Officer	Title: Licensing Act 2003 Application to Review the Premises Licence for (Stop N Shop) 59 Commercial Street, London E1 6BD Ward affected: Spitalfields and Banglatown
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1.0 Summary

Name and Address of premises:	Stop N Shop 59 Commercial Street London E1 6BD
Licence under review:	Licensing Act 2003 <ul style="list-style-type: none"> ▪ Sale by retail of alcohol (off sales only)
Review triggered by:	Trading Standards
Representations by:	Met Police

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 5498

3.0 Review Application

3.1 This is an application for a review of the premises licence for (Stop N Shop) 59 Commercial Street, London E1 6BD.

3.2 A copy of the review application triggered by Trading Standards is attached in **Appendix 1**.

4.0 The Premises

4.1 The premises licence was issued to Prem Kumar Nagarajan on 23rd August 2012. The licence was transferred on the 19th July 2019 to Mr Ashok Thakur. Mr Thakur also became the Designated Premises Supervisor on the same date. A copy of the current licence is contained in **Appendix 2**.

4.2 Maps showing the premises, surrounding area and vicinity 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 and is also supported by Met Police (See **Appendix 4**).

5.2 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

5.3 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, 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 5**. 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 6**).
- 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 7**.
- 6.6 The Home Office has issued guidance in relation to the prevention of public nuisance (see **Appendix 8**)
- 6.7 The Councils Licensing Policy in relation to the prevention of public nuisance (see **Appendix 9**).
- 6.8 The Home Office has issued guidance in relation to public safety (see **Appendix 10**).
- 6.9 The Councils Licensing Policy in relation to public safety (see **Appendix 11**).
- 6.10 The Home Office has issued guidance in relation to Protection of Children from Harm (see **Appendix 12**).
- 7.0 The Councils Licensing Policy in relation to the Protection of Children from Harm is shown in **Appendix 13**.
- 7.1 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. ”
- 7.2 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.

7.3 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.

8.0 Review Advertisement

8.1 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.

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

8.3 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).

9.0 Licensing Officer Comments

9.1 The Business & Planning Act 2020 came into force on Wednesday 22nd July 2020 and provides a temporary permission for businesses that have a premises licence that permits them to sell alcohol in regards to the ability to sell alcohol as an off sale, i.e. for consumption off the premises. The permission will end on 30th September 2021 unless the legislation is changed by the Secretary of State.

It will only apply to businesses that hold a Premises Licence up to 22nd July 2020 and that in the last 3 years preceding 22 July 2020 those licences have NOT:

- had a premises licence application where permission for off sales was refused;
- had a variation of a premises licence seeking permission for off sales refused
- had a variation seeking to exclude off sales permission granted
- had a premises licence varied or modified by a review hearing to exclude off sales.

9.1 The new off-sales permission will permit off-sales to be made at a time when the licensed premises are open for the purposes of selling alcohol for consumption on the premises, subject to a cut off time of 11pm or the cut off time of the current licensed hours stated on the licence, whichever is earlier. Measures also temporarily suspend existing licence conditions in so far as they are inconsistent with the new off-sales permission. Further Guidance on this can be found at <https://www.gov.uk/government/publications/guidance-for-temporary-alcohol-licensing-provisions-in-the-business-and-planning-bill>

9.2 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

9.3 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.

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

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

9.6 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.

10.0 Legal Comments

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

11.0 Finance Comments

11.1 There are no financial implications in this report.

12.0 Appendices

Appendix 1	Copy of the review application
Appendix 2	Current Premises Licence
Appendix 3	Maps of the premises and surrounding area
Appendix 4	Representation of Met Police
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	The Home Office has issued guidance in relation to the prevention of public nuisance
Appendix 9	The Councils Licensing Policy in relation to the prevention of public nuisance
Appendix 10	The Home Office has issued guidance in relation to public safety
Appendix 11	The Councils Licensing Policy in relation to public safety
Appendix 12	Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003 concerning Protection of Children from Harm
Appendix 13	Licensing Policy in relation to the Protection of Children from Harm