

Committee: Licensing Sub-Committee	Date: 11 October 2022	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 Premise Licence for (Tower Hamlets Pizza) 479 Cambridge Heath Road, London, E2 9BU Ward affected: Bethnal Green West
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1.0 Summary

Name and	Tower Hamlets Pizza
Address of premises:	479 Cambridge Heath Road London E2 9BU
Licence under review:	Licensing Act 2003 ▪ Provision of Late-Night Refreshments
Review triggered by:	Licensing Authority
Representations:	Police Immigration

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 		Corinne Holland 020 7364 3986

3.0 Review Application

- 3.1 This is an application for a review of the premise licence for Tower Hamlets Pizza, 479 Cambridge Heath Road, London, E2 9BU. The review was triggered by the Licensing Authority.
- 3.2 A copy of the review application and supporting documents are attached in **Appendix 1**. This includes the previous and current Premise Licence.

4.0 The Premises

The premise licence was issued on 16th January 2018 to Mr Haroon Hamidi. Having initially made an invalid application on the 21st September 2021, which was rejected by the Licensing Authority, Mr Hamidi reapplied on 25th October 2021 to extend the hours on his Premise Licence for the Provision of Late Night Refreshments to 05:00 hours. Environmental Health (noise team) made a representation against this application due to the prevention of public nuisance. The matter was heard by the Licensing Sub Committee on 11th January 2022 and the application was refused. Mr Hamidi was informed of this decision by way of a letter served by email on 31st January 2022. On the 28th May 2022 the Licensing Authority received a transfer for the licence into the name of Mr Umid Hussain Khel.

- 4.1 Maps showing the premises and surrounding area are included in **Appendix 2**.

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 Responsible Authorities
Police – **Appendix 3**.
Immigration – **Appendix 4**
- 5.3 A letter received by the Licensing Authority from the Premises Licence Holder, Mr Umid Hussain Khel, on 13th August 2022 is included in – **Appendix 5**
- 5.4 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
- 5.5 In the view of 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 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 Guidance Issued by the Home Office concerning Prevention of Public Nuisance **Appendix 9**.
- 6.7 London Borough of Tower Hamlets Policy in relation to the Prevention of Public Nuisance **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 When licence holders or designated premises supervisors move, leave a premises or dispose of their premises they remain responsible in law until they have informed the licensing authority and surrendered the licence or arranged a transfer, which may involve notification to the Police as well. Any licensees or designated premises supervisors who are not sure what to do should contact the licensing authority. Please note that should the DPS cease to work/be employed by the premises the

Licensing Authority will consider that there is no DPS for those premises. This consideration shall apply regardless of whether that person is still named on the Premises Licence, or whether they have asked for their name to be removed from it. This consideration shall apply until such time that an application is received to nominate a new premises supervisor. In such cases, the Licensing Authority shall expect no sales of alcohol to take place until an application to vary the DPS has been submitted to the Licensing Authority. (27.1 Licensing Policy)

8.2 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:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

8.3 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.

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

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

8.6 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.

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 with supporting documents.
Appendix 2	Maps of the premises and surrounding area
Appendix 3	Police representation
Appendix 4	Immigration Representation
Appendix 5	Letter from Premise Licence Holder
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 concerning Prevention of Public Nuisance
Appendix 10	London Borough of Tower Hamlets Policy in relation to the Prevention of Public Nuisance