

## Licence Review Hearing

**To:** Councillors Boyce, Cuthbertson and McIlveen  
**Date:** Monday, 19 May 2014  
**Time:** 10.00 am  
**Venue:** The Thornton Room - Ground Floor, West Offices (G039)

### AGENDA

#### 1. Chair

To elect a Member to act as Chair of the meeting.

#### 2. Introductions

#### 3. Declarations of Interest

At this point in the meeting, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

#### 4. The Determination of an Application for the Review of a Premises Licence by PC 952 Mick Wilkinson Section 52(2) in respect of Indian Ocean Tandoori Restaurant, 37 The Green, Acomb, York, YO26 5LL. (CYC-009204)

5. **The Determination of an Application for the Review of a Premises Licence by PC 952 Mick Wilkinson Section 52(2) in respect of The Kings Ransom Restaurant (also known as Jaipur Spice), 12A King Street, York, YO1 9SP (CYC-009200)**
6. **The Determination of an Application for the Review of a Premises Licence by PC 952 Mick Wilkinson Section 52(2) in respect of The Jaipur Spice, 103 Haxby Road, York, YO31 8JP (CYC-009208)**

Democracy Officer:

Name: Laura Bootland

Contact Details:

- Telephone – (01904) 552062
- Email - [laura.bootland@york.gov.uk](mailto:laura.bootland@york.gov.uk)

For more information about any of the following, please contact the Democratic Services Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats.

Contact details are set out above.

**This information can be provided in your own language.**

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

**Distribution:**

Members of Licensing Act 2003 Sub-Committee

Licensing Officer

Legal Services

Applicant

Representors

Press, Library.

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## LICENSING ACT 2003 SUB – COMMITTEES PROCEDURE FOR REVIEW HEARINGS

### Introduction

The procedure outlined below will be followed at all Licensing Review Hearings.

As Licensing Hearings are quasi-judicial the Sub-Committee will, in effect, act like a Court and the rules of natural justice will apply. The Sub-Committee will be guided by legal principles in determining whether evidence is both relevant and fairly admitted. Committee Members have a duty to view all evidence presented before them impartially. Members of the Licensing Sub-Committee have all received relevant training and are used to making decisions of this type. No matter how strong local opinion may be, Committee Members can only make decisions based on relevant licensing issues as set out before the Sub-Committee in determining applications.

The hearing will be in public session. However, the Sub-Committee may exclude the public from a hearing if it considers it in the public interest to do so. However, the decision will be made in private.

The purpose of the hearing is

- To enable those with a right to appear to advance their point of view and to test the case of their opponents
- To assist the Sub-Committee to gather evidence and understand the relevant issues

**In view of the requirement to hold hearings within specified times, the Licensing Authority will generally be unable to enter into discussions to identify dates convenient to all parties concerned. In exceptional circumstances, the Licensing Authority will consider applications to adjourn hearings to a later date.**

## **Representations at Licensing Hearings**

The Applicant for the Review, Ward Councillors, the Licence Holder(s) and Representors who have made written submissions will be allowed to speak at the Sub-Committee. At any hearing of an application for a Review, the Applicant for the Review, the Licence Holder(s) and any Representors shall attend in person wherever possible. Any party to a hearing may be assisted or represented by any person, legally or otherwise.

All parties will be given a fair hearing and each party will have the same amount of time in which to address the Sub-Committee. A time limit has been set because of the pressures on the Sub-Committees to hear so many applications in a short period of time. **Each party will have 15 minutes to address the Sub-Committee, give any further information, and call any witnesses.** If any party considers this time to be insufficient then a request in writing may be made to the Democracy Officer for an extension of time at least 2 working days before the hearing. However, this will not be automatically granted and will be at the discretion of the Sub-Committee.

The Sub-Committee may take into account any documentary evidence or other information in support of the application, representations or notice, either before the hearing or, with the consent of all other parties, at the hearing.

If any Representors fail to attend the hearing, the Sub-Committee will normally proceed but will consider their written objection and hear and consider any evidence and argument in relation to it put forward by the Applicant for the Review and the Licence Holder(s). In considering written evidence in the absence of a Representor, appropriate weight will be attached, given that the person cannot be questioned by the Applicant for the Review, the Licence Holder(s) and Members.

**The Sub-Committee is required to disregard any information given or evidence produced by a party or witness which is not relevant to the application, representations, or notice, and the promotion of the licensing objectives.** Duplication should be avoided. Comments must be confined to those points already made, although the parties may extend or expand on their written submissions. The Sub-Committee will have read and familiarised themselves with all the written submissions

and the issues prior to the hearing, and therefore do not require the points to be repeated or made at length. The Applicant for the Review, the Licence Holder(s) and Representors cannot raise substantial new information at a hearing which has not been seen previously by the other parties.

The Applicant for the Review or any Representor **may not** introduce any new ground or objection not referred to in the written submission. Amplification of the original representation may be made but any additional or new representation may not be made at the hearing.

Any person behaving in a disruptive manner will be asked to leave the hearing. If this does occur, that person may, before the end of the hearing, submit in writing any information which they would have been entitled to give orally.

### **Procedure prior to the Hearing**

The Members sitting on the Sub-Committee will meet prior to the hearing to note the matters that are to be presented. They will only be accompanied by the Democracy Officer and Legal Advisor. Attention will only be drawn to the nature of the application and the premises or person to which it relates. The actual application will not be discussed. At any hearing of an application for a Review, the Licensing Officer, the Applicant for the Review, the Licence Holder(s) and any Representors or representatives will report to reception and be asked to wait in reception until the democracy officer calls them through to the committee room.

### **Procedure at the Hearing**

1. Members of the Sub-Committee will appoint a chair.
2. The Chair introduces the Committee Members and officers [*Democracy Officer, Legal Advisor to the committee and the Licensing Officer*], welcomes the Applicant for the Review, the Licence Holder(s) and Representors (or their representatives), and establishes the identity of all who will be taking part.
3. The Chair will explain to the parties the procedure that will be followed at the hearing.
4. The Chair will proceed with the order of business on the agenda.

5. When the agenda item relating to the application is reached, the Chair will invite the Licensing Officer to present the application.
6. The Licensing Officer outlines the application, confirms the application details, introduces the report and gives an update on any recent changes.
7. The Chair will invite Committee Members, the Applicant for the Review, the Licence Holder(s) and Representors (or representatives) to ask the Licensing Officer questions to clarify any points raised in the report.
8. The Chair will invite the Applicant for the Review (or their representative) to present their case and call any witnesses to support their case *[maximum 15 minutes]*.
9. The Chair will invite the Licence Holder(s) and Representors (or their representative) in the following order to ask questions of the Applicant (or their representative) and/or witnesses *[maximum 5 minutes each party]*
  - (i) Responsible Authorities
  - (ii) Ward Councillors
  - (iii) Interested Parties in support of the Review
  - (iv) Interested Parties opposing the Review
  - (v) Licence Holder(s)
10. The Chair will invite the Committee Members to ask questions of the Applicant for the Review (or their representative) and/or witnesses.
11. The Chair will invite the Representors in support of the review (or their representative) in the following order to state the nature of their interest in the matter, present their case and call any witnesses to support their case *[maximum 15 minutes each party]*
  - (i) Responsible Authorities
  - (ii) Ward Councillors
  - (iii) Interested Parties
12. The Chair will invite the Applicant for the Review and the Licence Holder(s) and representors opposing the review to ask questions of each Representor in support of the review(or their



representative) and/or their witnesses after each presentation *[maximum 5 minutes per Representor]*.

13. The Chair will invite the Committee Members to ask questions of each Representor in support of the review (or their representative) and/or their witnesses after each presentation.
14. The Chair will invite the Licence Holder(s) (or their representative) to present their case and call any witnesses to support their case *[maximum 15 minutes]*.
15. The Chair will invite the Applicant for the Review and Representors (or their representative) in the following order to ask questions of the Licence Holder(s) (or their representative) and/or witnesses *[maximum 5 minutes each party]*
  - (i) Applicant for the Review
  - (ii) Responsible Authorities
  - (iii) Ward Councillors
  - (iv) Interested Parties in support of the Review
  - (v) Interested Parties opposing the Review
16. The Chair will invite the Representors opposing the review (or their representative) in the following order to state the nature of their interest in the matter, present their case and call any witnesses to support their case *[maximum 15 minutes each party]*
  - (i) Responsible Authorities
  - (ii) Ward Councillors
  - (iii) Interested Parties
17. The Chair will invite the Applicant for the Review and the Licence Holder(s) and representors in support of the review to ask questions of each Representor opposing the review (or their representative) and/or their witnesses after each presentation *[maximum 5 minutes per Representor]*.
18. The Chair will invite the Committee Members to ask questions of each Representor opposing the review (or their representative) and/or their witnesses after each presentation.
19. The Chair will invite the Licence Holder(s) (or their representative) to summarise their case *[maximum 5 minutes]*.

20. The Chair will invite the Representors (or their representative) in the following order to summarise their case [*maximum 5 minutes each party*]
  - (i) Responsible Authorities
  - (ii) Ward Councillors
  - (iii) Interested Parties opposing the Review
  - (iv) Interested Parties in support of the Review
21. The Chair will invite the Applicant for the Review (or their representative) to summarise their case [*maximum 5 minutes*].
22. The Chair will provide the Sub-Committee with a final opportunity to seek clarification from any of the parties on any points raised, or seek advice from the Licensing Officer on policy, or from the Legal Advisor on law and jurisdiction.
23. When all the evidence has been heard, the Chair will declare the hearing closed and ask the Licensing Officer, the Applicant for the Review, the Licence Holder(s) and Representors (or their representatives) plus any witnesses present to leave the committee room and wait in reception while the Sub-Committee considers the evidence.


### **Procedure after the Hearing**

24. If the Sub-Committee wish to seek further clarification on the evidence given, the Democracy Officer will invite all parties back into the committee room.
25. If possible, and always in the case of a Review of a premises licence following a Closure Order, the Sub-Committee will make a decision on conclusion of the hearing and only the Democracy Officer and the Legal Advisor to the Sub-Committee will remain in the room with the Committee Members. These officers will not comment on the merits of the application, but will be present to provide advice on legal and procedural points and to record the decision.
26. If the decision has been made, all the parties will be invited back into the committee room by the Democracy Officer. The Chair will announce the decision including reasons together with, if

appropriate, details of any conditions to be attached to the grant of the licence. This decision will then be communicated in writing to the Applicant for the Review, the Licence Holder(s) and Representatives within 3 working days of the hearing. There can be no further questions or statements.

27. If the Sub-Committee is unable to make a decision on the day of the hearing, the decision will be made within 5 working days beginning with the day or the last day on which the hearing was held. The Democracy Officer will inform the parties that they are no longer required and the decision will be communicated in writing to the Applicant for the Review, the Licence Holder(s) and Representatives within 3 working days of the decision being made.
28. The notification will include information about the rights of appeal against the determination made.

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<b>Meeting of Licensing Act 2003 Sub-Committee</b>	<b>19 May 2014</b>
Report from the Assistant Director – Housing & Community Safety	

## **Section 52(2) Review of Premises Licence for Indian Ocean Tandoori Restaurant, 37 The Green, Acomb, York, YO26 5LL**

### **Summary**

1. This report seeks Members determination of an application for a review of a premises licence which has been made under the Licensing Act 2003 in respect of Indian Ocean Tandoori Restaurant, 37 The Green, Acomb, York, YO26 5LL.
2. Name of applicant: PC 952 Mick Wilkinson, Licensing Officer on behalf of North Yorkshire Police.
3. Premises Licence Holder: Mr Khalique Zaman.
4. Summary of Review: The application to review the premises licence relates to the following licensing objectives;
  - The prevention of crime and disorder
5. A copy of the application for review is attached at Annex 1 (together with supporting evidence attached at Annex 1A) and is summarised as follows:
6. On Thursday 27 February 2014, officers from the United Kingdom Border Agency (UKBA) along with officers from North Yorkshire Police attended the Indian Ocean Tandoori Restaurant where they found three males at the premises who were identified as immigration offenders and did not have the right to work in this country. The males were

detained and at the time of submitting this application for review of the premises licence the case is still ongoing.

7. The Indian Ocean Tandoori Restaurant operates under the authority of a premises licence granted by City of York Council on 15 July 2005. The premises licence was transferred to Mr Khalique Zaman on 24 April 2008, at the same time Mr Zaman became the Designated Premises Supervisor (DPS) named on the premises licence.
8. As the 'Amended Guidance issued under Section 182 of the Licensing Act 2003' states that the DPS "will normally be the person who has been given day to day responsibility for running the premises by the premises licence holder", it is felt that Mr Zaman has seriously undermined the licensing objective 'the prevention of crime and disorder' by allowing immigration offenders to work at the venue in his capacity as both the premises licence holder and designated premises supervisor.
9. This is not the first time that immigration offenders have been found on Mr Zaman's premises. On two previous occasions in 2012 and 2013 immigration offenders were found in restaurants owned by Mr Zaman. One of those previous occasions was at the Indian Ocean Tandoori Restaurant (on 16 November 2012) when five people were arrested for being illegally present in the United Kingdom.
10. It is for these reasons that the police seek revocation of the premises licence.
11. The Amended Guidance issued under Section 182 of the Licensing Act 2003 states at paragraphs 11.27 and 11.28 (abbreviated):
12. "There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These include the use of the licensed premises:
  - for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter.

13. It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.”
14. A copy of the full extract from the Guidance entitled ‘Reviews arising in connection with crime’ is attached at Annex 2.
15. A copy of the premises licence is attached at Annex 3. The premises licence currently authorises the following:

<b>Licensable Activity</b>	<b>Current Days &amp; Hours</b>
Recorded Music (Indoors & Outdoors)	Monday to Sunday 11:00 – 01:00
Late Night Refreshment (Indoors & Outdoors)	Monday to Sunday 23:00 – 01:30
Supply of Alcohol (On & Off sales)	Monday to Sunday 11:00 – 01:30
Opening Hours	Monday to Sunday 11:00 – 01:30
New Year’s Eve	All activities to continue until 04:00

16. Special Policy Consideration  
The premise does not fall within the cumulative impact area.

## **Consultation**

17. Consultation was carried out by the Applicant and the Licensing Authority in accordance with S51(3) of the Act and Regulation 42, Part 4, Paragraphs 29 and 38 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, which concerns the notification of a review and the advertisement of review by licensing authority. Copies of the application were served on all responsible authorities and the premises licence holder simultaneously by the applicant. Notice of the application was displayed immediately outside the premises, on the noticeboard at the council’s West Offices and Hazel Court

EcoDepot and on the council's website. In addition relevant Ward Councillors and Parish Councillors were informed by way of register.

18. There were no representations received to the review application.

### **Other Relevant Information**

19. There are no planning implications in relation to this application.

### **Options**

20. By virtue of S52(4) of the Act, the Committee have the following options available to them in making their decision:
21. Option 1: To modify the conditions of the licence (ie to alter, omit or add any new condition).
22. Option 2: To exclude a licensable activity from the scope of the licence.
23. Option 3: To remove the Designated Premises Supervisor.
24. Option 4: To suspend the licence for a period not exceeding three months.
25. Option 5: To revoke the licence.
26. Members are also reminded of the option to issue a 'yellow card', ie a warning as to future conduct which may accompany options 1 to 4.

### **Analysis**

27. The following could be the result of any decision made by this Sub-Committee:
28. Option 1: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.



29. Option 2: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
30. Option 3: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
31. Option 4: This decision could be appealed by the premises licence holder.
32. Option 5: This decision could be appealed by the premises licence holder.
33. Members are reminded that they may only use their discretion to add, remove or amend conditions or activities in relation to matters that are raised by this review and are relevant to the promotion of the licensing objectives.

### **Council Priorities**

34. The Licensing Act 2003 has 4 objectives; the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
35. The promotion of the licensing objectives will support the Council's priorities to protect vulnerable people, build strong communities, and protect the environment.

### **Implications**

36.
  - **Financial** - N/A
  - **Human Resources (HR)** – N/A
  - **Equalities** – N/A
  - **Legal** – This decision could be appealed at Magistrates Court by the applicant or any of the representors.
  - **Crime and Disorder** - The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider

the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.

- **Information Technology (IT)** – N/A
- **Property** – N/A
- **Other** – none

### **Risk Management**

37. All Members of the Licensing Act 2003 Committee have received full training on the Act and the Regulations governing hearings. They are aware that any decision which is unreasonable or unlawful could be open to challenge resulting in loss of image, reputation and potential financial penalty.
38. The report details the options available to the panel in determining the application and recommends that a decision be reached. There are no risks involved with this recommendation.

### **Recommendations**

39. Members determine the application.

Reason: To address the application for review received as required by the Licensing Act 2003.

**Contact Details**


<b>Author:</b>	<b>Chief Officer Responsible for the report:</b>		
Lesley Cooke Licensing Manager Ext 1515	Steve Waddington Assistant Director Housing & Community Safety Ext 4016		
	<b>Report Approved</b>	√	<b>Date</b> 08/05/14

<b>Wards Affected:</b> Acomb
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**Annexes**

- Annex 1** - Copy of the application for review
- Annex 1A** - Copy of the supporting evidence
- Annex 2** - Extract from the Guidance - 'Reviews arising in connection with crime'
- Annex 3** - Copy of the premises licence
- Annex 4** - Legislation and Policy Considerations

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<b>Meeting of Licensing Act 2003 Sub-Committee</b>	<b>19 May 2014</b>
Report from the Assistant Director – Housing & Community Safety	

**Section 52(2) Review of Premises Licence for Kings Ransom (also known as Jaipur Spice), 12A King Street, York, YO1 9SP**

**Summary**

1. This report seeks Members determination of an application for a review of a premises licence which has been made under the Licensing Act 2003 in respect of Kings Ransom, 12A King Street, York, YO1 9SP.
2. Name of applicant: PC 952 Mick Wilkinson, Licensing Officer on behalf of North Yorkshire Police.
3. Premises Licence Holder: Mr Khalique Zaman.
4. Summary of Review: The application to review the premises licence relates to the following licensing objectives;
  - The prevention of crime and disorder
5. A copy of the application for review is attached at Annex 1 (together with supporting evidence attached at Annex 1A) and is summarised as follows:
6. On Thursday 27 February 2014, officers from the United Kingdom Border Agency (UKBA) along with officers from North Yorkshire Police attended the Kings Ransom restaurant where they found three males at the premises who were identified as immigration offenders and did not have the right to work in this country. The males were detained and at the time of submitting this application for review of the premises licence the case is still ongoing.

7. The Kings Ransom restaurant operates under the authority of a premises licence granted by City of York Council on 15 August 2008. The licence was transferred to Mr Khalique Zaman on 21 April 2008
8. This is not the first time that immigration offenders have been found on Mr Zaman's premises. On two previous occasions in 2012 and 2013 immigration offenders were found in restaurants owned by Mr Zaman.
9. It is felt that Mr Zaman has seriously undermined the licensing objective 'the prevention of crime and disorder' by allowing immigration offenders to work at the venue. It is for this reason that the police seek revocation of the premises licence given the serious nature of the offence.
10. The Amended Guidance issued under Section 182 of the Licensing Act 2003 states at paragraphs 11.27 and 11.28 (abbreviated):
11. "There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
  - for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter.
12. It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered."
13. A copy of the full extract from the Guidance entitled 'Reviews arising in connection with crime' is attached at Annex 2.

14. A copy of the premises licence is attached at Annex 3. The premises licence currently authorises the following:

<b>Licensable Activity</b>	<b>Current Days &amp; Hours</b>
Recorded Music (Indoors)	Monday to Sunday 11:00 – 02:30 New Year's Eve to cease 04:00
Late Night Refreshment (Indoors)	Monday to Sunday 23:00 – 02:30 New Year's Eve to cease 04:00
Supply of Alcohol (On sales only)	Monday to Sunday 11:00 – 02:00 New Year's Eve to cease 03:30
Opening Hours	Monday to Sunday 11:00m – 02:30 New Year's eve to close 04:00

15. Special Policy Consideration  
The premise does not fall within the cumulative impact area.

### **Consultation**

16. Consultation was carried out by the Applicant and the Licensing Authority in accordance with S51(3) of the Act and Regulation 42, Part 4, Paragraphs 29 and 38 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, which concerns the notification of a review and the advertisement of review by licensing authority. Copies of the application were served on all responsible authorities and the premises licence holder simultaneously by the applicant. Notice of the application was displayed immediately outside the premises, on the noticeboard at the council's West Offices and Hazel Court EcoDepot and on the council's website. In addition relevant Ward Councillors and Parish Councillors were informed by way of register.
17. There were no representations received to the review application.

### **Other Relevant Information**

18. There are no planning implications in relation to this application.

### **Options**

19. By virtue of S52(4) of the Act, the Committee have the following options available to them in making their decision:
20. Option 1: To modify the conditions of the licence (ie to alter, omit or add any new condition).
21. Option 2: To exclude a licensable activity from the scope of the licence.
22. Option 3: To remove the Designated Premises Supervisor.
23. Option 4: To suspend the licence for a period not exceeding three months.
24. Option 5: To revoke the licence.
25. Members are also reminded of the option to issue a 'yellow card', ie a warning as to future conduct which may accompany options 1 to 4.

### **Analysis**

26. The following could be the result of any decision made by this Sub-Committee:
27. Option 1: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
28. Option 2: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.



29. Option 3: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
30. Option 4: This decision could be appealed by the premises licence holder.
31. Option 5: This decision could be appealed by the premises licence holder.
32. Members are reminded that they may only use their discretion to add, remove or amend conditions or activities in relation to matters that are raised by this review and are relevant to the promotion of the licensing objectives.

### **Council Priorities**

33. The Licensing Act 2003 has 4 objectives; the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
34. The promotion of the licensing objectives will support the Council's priorities to protect vulnerable people, build strong communities, and protect the environment.

### **Implications**

35.
  - **Financial** - N/A
  - **Human Resources (HR)** – N/A
  - **Equalities** – N/A
  - **Legal** – This decision could be appealed at Magistrates Court by the applicant or any of the representors.
  - **Crime and Disorder** - The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.

- **Information Technology (IT)** – N/A
- **Property** – N/A
- **Other** – none

**Risk Management**

36. All Members of the Licensing Act 2003 Committee have received full training on the Act and the Regulations governing hearings. They are aware that any decision which is unreasonable or unlawful could be open to challenge resulting in loss of image, reputation and potential financial penalty.
37. The report details the options available to the panel in determining the application and recommends that a decision be reached. There are no risks involved with this recommendation.

**Recommendations**

38. Members determine the application.

Reason: To address the application for review received as required by the Licensing Act 2003.

**Contact Details**

<b>Author:</b>	<b>Chief Officer Responsible for the report:</b>		
Lesley Cooke Licensing Manager Ext 1515	Steve Waddington Assistant Director Housing & Community Safety Ext 4016		
	<b>Report Approved</b>	√	<b>Date</b> 08/05/14

**Wards Affected:** Guildhall East

## **Annexes**

**Annex 1** - Copy of the application for review


**Annex 1A** - Copy of the supporting evidence

**Annex 2** - Extract from the Guidance - 'Reviews arising in connection with crime'

**Annex 3** - Copy of the premises licence

**Annex 4** - Legislation and Policy Considerations

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<b>Meeting of Licensing Act 2003 Sub-Committee</b>	<b>19 May 2014</b>
Report from the Assistant Director – Housing & Community Safety	

### **Section 52(2) Review of Premises Licence for Jaipur Spice, 103 Haxby Road, York, YO31 8JP**

#### **Summary**

1. This report seeks Members determination of an application for a review of a premises licence which has been made under the Licensing Act 2003 in respect of Jaipur Spice, 103 Haxby Road, York, YO31 8JP
2. Name of applicant: PC 952 Mick Wilkinson, Licensing Officer on behalf of North Yorkshire Police.
3. Premises Licence Holder: Mr Khalique Zaman.
4. Summary of Review: The application to review the premises licence relates to the following licensing objectives;
  - The prevention of crime and disorder
5. A copy of the application for review is attached at Annex 1 (together with supporting evidence attached at Annex 1A) and is summarised as follows:
6. On Thursday 27 February 2014, officers from the United Kingdom Border Agency (UKBA) along with officers from North Yorkshire Police attended the Jaipur Spice restaurant where they found six males at the premises who were identified as immigration offenders and did not have the right to work in this country. The males were detained and at the time of submitting this application for review of the premises licence the case is still ongoing.

7. The Jaipur Spice restaurant operates under the authority of a premises licence granted by City of York Council on 16 August 2005. Mr Khalique Zaman has been both the premises licence holder and the Designated Premises Supervisor (DPS) since that date.
8. As the 'Amended Guidance issued under Section 182 of the Licensing Act 2013' states that the DPS "will normally be the person who has been given day to day responsibility for running the premises by the premises licence holder", it is felt that Mr Zaman has seriously undermined the licensing objective 'the prevention of crime and disorder' by allowing immigration offenders to work at the venue.
9. This is not the first time that immigration offenders have been found on Mr Zaman's premises. On two previous occasions in 2012 and 2013 immigration offenders were found in restaurants owned by Mr Zaman.
10. It is for these reasons that the police seek revocation of the premises licence.
11. The Amended Guidance issued under Section 182 of the Licensing Act 2003 states at paragraphs 11.27 and 11.28 (abbreviated):
12. "There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
  - for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter.
13. It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered."

14. A copy of the full extract from the Guidance entitled 'Reviews arising in connection with crime' is attached at Annex 2.
15. A copy of the premises licence is attached at Annex 3. The premises licence currently authorises the following:

<b>Licensable Activity</b>	<b>Current Days &amp; Hours</b>
Recorded Music	No restrictions
Late Night Refreshment	To cease 30 minutes after permitted alcohol hours
Supply of Alcohol (On & Off sales)	Monday to Saturday 10:00 – 23:00 Sunday 12:00 – 22:30 Good Friday 12:00 – 22:30 From the end of permitted hours on New Year's Eve to the start of permitted hours New Year's Day
Opening Hours	No restrictions
New Year's Eve	All activities to continue until 04:00

16. Special Policy Consideration  
The premise does not fall within the cumulative impact area.

### **Consultation**

17. Consultation was carried out by the Applicant and the Licensing Authority in accordance with S51(3) of the Act and Regulation 42, Part 4, Paragraphs 29 and 38 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, which concerns the notification of a review and the advertisement of review by licensing authority. Copies of the application were served on all responsible authorities and the premises licence holder simultaneously by the applicant. Notice of the application was displayed immediately outside the premises, on the noticeboard at the council's West Offices and Hazel Court EcoDepot and on the council's website. In addition relevant

Ward Councillors and Parish Councillors were informed by way of register.

18. There were no representations received to the review application.

### **Other Relevant Information**

19. There are no planning implications in relation to this application.

### **Options**

20. By virtue of S52(4) of the Act, the Committee have the following options available to them in making their decision:
21. Option 1: To modify the conditions of the licence (ie to alter, omit or add any new condition).
22. Option 2: To exclude a licensable activity from the scope of the licence.
23. Option 3: To remove the Designated Premises Supervisor.
24. Option 4: To suspend the licence for a period not exceeding three months.
25. Option 5: To revoke the licence.
26. Members are also reminded of the option to issue a 'yellow card', ie a warning as to future conduct which may accompany options 1 to 4.

### **Analysis**

27. The following could be the result of any decision made by this Sub-Committee:
28. Option 1: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.



29. Option 2: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
30. Option 3: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
31. Option 4: This decision could be appealed by the premises licence holder.
32. Option 5: This decision could be appealed by the premises licence holder.
33. Members are reminded that they may only use their discretion to add, remove or amend conditions or activities in relation to matters that are raised by this review and are relevant to the promotion of the licensing objectives.

### **Council Priorities**

34. The Licensing Act 2003 has 4 objectives; the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
35. The promotion of the licensing objectives will support the Council's priorities to protect vulnerable people, build strong communities, and protect the environment.

### **Implications**

36.
  - **Financial** - N/A
  - **Human Resources (HR)** – N/A
  - **Equalities** – N/A
  - **Legal** – This decision could be appealed at Magistrates Court by the applicant or any of the representors.
  - **Crime and Disorder** - The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider

the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.

- **Information Technology (IT)** – N/A
- **Property** – N/A
- **Other** – none

### **Risk Management**

37. All Members of the Licensing Act 2003 Committee have received full training on the Act and the Regulations governing hearings. They are aware that any decision which is unreasonable or unlawful could be open to challenge resulting in loss of image, reputation and potential financial penalty.
38. The report details the options available to the panel in determining the application and recommends that a decision be reached. There are no risks involved with this recommendation.

### **Recommendations**

39. Members determine the application.

Reason: To address the application for review received as required by the Licensing Act 2003.

**Contact Details**

<b>Author:</b>	<b>Chief Officer Responsible for the report:</b>		
Lesley Cooke Licensing Manager Ext 1515	Steve Waddington Assistant Director Housing & Community Safety Ext 4016		
	<b>Report Approved</b>	√	<b>Date</b> 08/05/14

<b>Wards Affected:</b> Clifton
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**Annexes**

- Annex 1** - Copy of the application for review
- Annex 1A** - Copy of the supporting evidence
- Annex 2** - Extract from the Guidance - 'Reviews arising in connection with crime'
- Annex 3** - Copy of the premises licence
- Annex 4** - Legislation and Policy Considerations

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