

	
Meeting of Licensing Act 2003 Sub-Committee	19 May 2014
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:

Licensable Activity	Current Days & Hours
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

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

Wards Affected: Acomb

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