

Application for a Review of a Premises Licence (Section 51)

Committee	Licensing Sub-Committee
Officer Contact	Ian Meens Licensing Officer 01895 277067
Papers with report	Appendix 1 - Review Application made by the Police Authority Appendix 2 - Supporting Statements and evidence made by Police Licensing Officer Ian Wares Appendix 3 - Representation from Licensing Authority and supporting attachments (Exhibits SW1) (NO LONGER PART II) Appendix 4 - Representation from Trading Standards Service Appendix 5 - Existing licence and premises plan Appendix 6 - Site map of local area & photos of premises Appendix 7 - Report of licensing inspection (22/12/2016) by Licensing Officer
Ward name	Botwell

1.0 SUMMARY

To consider a premises licence review application for Lotus Wines, 761 Uxbridge Road Hayes UB4 8HY.

2.0 RECOMMENDATION

That the Licensing Sub-Committee consider the revocation of the premises licence, having regard to the Government guidance issued under s182 of the Licensing Act 2003.

Paragraphs 11.18 and 11.26 give guidance to Licensing Sub-Committees concerning certain activities which undermine the crime prevention objective and the steps already taken to be considered.

3.0 INFORMATION

3.1 On 24th November 2016, the Police Authority applied to the Licensing Authority for a Premises Licence Review for the premises known as 'Lotus Wines', 761 Uxbridge Road, Hayes, UB4 8HY.

Accompanying the application was a supporting statement made by Police Licensing Officer Ian Wares. This statement contains information relating to a visit made to the premises on the 12th October 2016 at 11.45hrs. It also makes reference to further visits on the 13th October 2016, 20th October 2016 and 26th October 2016. It was during the first visit and last visit that the Police found that there were a number of breaches of the Premises Licence conditions. These conditions had previously been applied by a licensing committee on the 25th May 2016.

3.2 The sub-committee hearing on the 25th May 2016 had been conducted to hear an application for a new licence. This was part of a process that had seen the original application refused and appealed by Mr Lamba. This appeal was then subsequently sent back to the committee by Uxbridge Magistrates Court as part of the appeal.

3.3 The Licensing Authority in its submissions have provided the committee with the extensive history of this premises, covering the current and previous occupiers of the shop and the history of recent licensing applications.

3.4 The Police's Review application and supporting statement are attached as **Appendices 1 & 2** respectively.

4.0 CONSULTATION

4.1 As required by the legislation, a legal notice giving notice of the review was displayed at the premises, at the Council offices and also on the Councils website

4.2 Closing date for representations
23rd December 2016

4.3 A total of two responses to the consultation were received. These are detailed in Part 5.

5.0 REPRESENTATIONS

5.1 All representations received in respect of this review application have been from Responsible Authorities as detailed in the table below.

Responsible Authority	Ground for Representation	Appendix Number
Licensing Authority	Prevention of Crime & Disorder Protection of Children from Harm	Appendix 3
Trading Standards	Prevention of Crime & Disorder	Appendix 4

5.2 The following Responsible Authorities have not responded and are therefore considered to have no concerns about this application:

- The Planning Authority
- Environmental Protection Unit
- Safeguarding Children
- Food, Health and Safety Team
- Fire Authority
- Public Health

5.3 There were no representations received from any other parties.

6.0 BACKGROUND INFORMATION

6.1 Current Licences held

The premises have been licensed as an off licence under the Licensing Act 2003, since 25th May 2016. The current licence holder is Mr Aamir Singh Lamba. A copy of the current premises licence is attached as **Appendix 5**.

6.2 Current Designated Premises Supervisor
Mr Aamir Singh Lamba

6.3 Description of the Premises

The premise is a single shop located on a shopping parade of 7 other units. The shopping parade is situated on Uxbridge Road, Hayes and borders Hayes End Recreation Ground at one end and Morgans Lane at the other.

The premises operate primarily as an off licence but do stock a small amount of groceries.

Directly positioned above the property are a number of residential dwellings.

6.4 Other licensed premises nearby

The Premises is currently the only alcohol licensed premises in the parade. The shopping parades located on the opposite side of the Uxbridge Road include a Public House and Take-Away and 2 x Off Licences.

6.5 A site map of the local area and photos of the premise are attached as **Appendix 6**

6.6 Licensable Activities currently authorised

<u>Activity</u>		<u>Permitted</u>
Sale of Alcohol:	Consumption off the premises	✓

6.7 Licensable Activity and opening hours currently authorised

	Sale of Alcohol	Opening Hours
Monday	08:00-23:00	Not restricted
Tuesday	08:00-23:00	Not restricted
Wednesday	08:00-23:00	Not restricted
Thursday	08:00-23:00	Not restricted
Friday	08:00-23:00	Not restricted
Saturday	08:00-23:00	Not restricted
Sunday	08:00-23:00	Not restricted

6.8 Visits made by Licensing Officers

The premise was visited by officers from the licensing service on the 22nd December 2016 a report of findings is attached at **Appendix 7**.

Classification: Public

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6.9 Complaints received

There are no records of any complaints being received by the Regulatory Services Team.

There have been no Members Enquires made regarding the business.

7.0 OFFICER'S OBSERVATIONS

- 7.1 Mr Aamir Singh Lamba was successful in obtaining a Premises Licence in May this year. This followed an application for a premises licence originally being refused and appealed to Uxbridge Magistrates Court. The appeal bought the application back to the Licensing committee who re-heard the application and made a decision to grant the licence with conditions. The conditions as per the licence as in **Appendix 5**

This review has been triggered by the Police Authority following a Police licensing visit which took place on the 12th October 2016. At the time of the visit and a subsequent visit two weeks later the police discovered a number of the conditions pertaining to the licence were not being complied with.

At the time of the police visit and in conclusion, the police served Mr Lamba with a form 694 (notification of alleged offences) and also a form B699 (closure notice). These forms are shown in **Appendix 2**. The closure notice was later lifted following action taken by the Licence Holder.

The review submitted in regard to this review highlights a lack of control and effective management taking place at the premises by the current owner/operator.

The representations submitted by the Trading Standards Service and the Licensing Authority surmise that Mr Lamba obtained his licence after a long and difficult process with assurances made about ability and professionalism. It is also suggested in the representations that Mr Lamba's management ability does cast some considerable concern that the objectives will not be upheld in the future.

7.2 Relevant Sections of the S182 Guidance

The Committee's attention is drawn to the following, particularly relevant sections of the S182 Guidance:

2.5 *Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.*

11.26 *Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working*

at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.

11.18 *However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.*

7.3 Relevant Sections of the Hillingdon Licensing Policy

The Committee's attention is drawn to the following, particularly relevant sections of the Hillingdon Licensing Policy:

Appendix B - Prevention of Crime and Disorder

8.0 LEGAL COMMENTS

8.1 The Licensing Authority must review the premises licence where it is alleged, in an application for review by a Responsible Authority or other persons, that any of the licensing objectives are being undermined.

8.2 Following receipt of a review application the Licensing Authority must hold a hearing to consider it and any relevant representations. At the hearing, the Sub-committee must, having regard to the application and any relevant representations, take such of the steps following steps (if any) as it considers appropriate for the promotion of the licensing objectives:

- to modify the conditions of the licence;
- to exclude a licensable activity from the scope of the licence;
- to remove the designated premises supervisor;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

8.3 S182 Guidance issued by the Secretary of State advises as follows:

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives."

- 8.4 In making its decision, the Sub-Committee must have regard to the consider the London Borough of Hillingdon's Statement of Licensing and the Secretary of State's Guidance issued under the Licensing Act when deciding what action, if any, to instigate. The terms of the Statement of Licensing Policy and Guidance are highly persuasive, but not binding on the Licensing Sub- Committee. The Sub-Committee may depart from the guidance contained in the Statement of Licensing Policy and or Guidance if it considers there are clear and convincing reasons to do so. Full reasons must be given if this is the case.
- 8.5 The Sub-Committee can only consider matters within the application or that have been raised through relevant representations.
- 8.6 The Sub-Committee may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives.
- 8.7 Members are referred to the Secretary of State's Guidance on conditions, specifically paragraph 1.16 and chapter 10 which state that licensing conditions should be practical and enforceable, tailored to the size, type, location and characteristics and activities taking place at the premises. Conditions should be determined on a case by case basis and standardised conditions which ignore these individual aspects should be avoided. Conditions will not be necessary if they duplicate a current statutory requirement. Licensing Authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.
- 8.8 Under the Human Rights Act 1998, the Sub Committee needs to consider the balance between the rights of the applicant, licence holder and those making representations to the application when making their decision. The Sub-Committee has a duty under section 17 Crime and Disorder Act 1998 when making its decision to do all it can to prevent crime and disorder in the Borough.
- 8.9 Where the Licensing Authority determines an application for review it must provide written notice and reasons for its decision.
- 8.10 The licence holder, applicant or any party that made relevant representations have the right to appeal the decision of the Licensing Sub-Committee to the Magistrates' Court within a period of 21 days beginning with the day on which the applicant was notified by the Licensing Authority of the decision to be appealed against.