

# Application for a Review of a Premises Licence : Roc Cottage

<b>Committee</b>	Licensing Sub-Committee
<b>Officer Contact</b>	Steven Dormer, Licensing Officer
<b>Papers with report</b>	<b>Appendix 1</b> - Review Application <b>Appendix 2</b> - Responsible Authority Representation <b>Appendix 3</b> - Ward Councillor Representation <b>Appendix 4</b> - Copy of the Premises Licence <b>Appendix 5</b> - Map of the area plus photos
<b>Ward name</b>	Ickenham

## 1.0 SUMMARY

To determine an application for a review of a Premises Licence in respect of Roc Cottage, Swakeleys Road, Ickenham, UB10 8DG. The application to review the licence has been submitted by Metropolitan Police. This follows enforcement action being taken by Immigration Officers. **Appendix 1**

## 2.0 RECOMMENDATION

1. That the Licensing Sub-Committee revokes the Premises Licence.

## 3.0 INFORMATION

3.1 On the 21<sup>st</sup> September 2018, officers acting on intelligence visited Roc Cottage, Swakeleys Road, Ickenham. Eight members of staff were found to be working during the visit. Five members of staff working did not have the legal right to work or to remain in the United Kingdom. Mr Wang, current Director of Licence Holder Company, HNQ Brothers Ltd, was present and questioned by Immigration Officers. Mr Wang answered questions regarding the employment of illegal workers.

3.2 On the 9<sup>th</sup> November 2018 a second compliance visit was carried out by Immigration Officers. On this occasion one member of staff was arrested and questioned for immigration related offences. Two members of staff who were arrested on the previous visit were also found working at the premises. Another worker previously arrested was also at the premises.

## 4.0 CONSULTATION

4.1 As required by legislation, a legal notice of the review was displayed at the premises. A copy of the legal notice was also displayed at the Civic Centre and was placed on Hillingdon Council's website.

4.2 Closing date for representations

10<sup>th</sup> January 2019

## 5.0 REPRESENTATIONS

### 5.1

Responsible Authority	Ground for Representation	Appendix Number
Stephanie Waterford - Licensing Authority	Crime and Disorder	<b>Appendix 2</b>

5.2 The Licensing Authority detail shortcomings of the management of the premises. On two separate occasions, the management committed the same offence of employing illegal workers. The representation further highlights failings to properly complete an application to transfer the licence and vary the Designated Premises Supervisor.

The representation from the licensing authority echoes the concerns from the Metropolitan Police and supports the recommendation to revoke the premises licence.

### 5.2

Other Persons	Ground for Representation	Appendix Number
Cllr John Hensley Ward Councillor, Ickenham	Crime and Disorder	<b>Appendix 3</b>

## 6.0 BACKGROUND INFORMATION

### 6.1 Current Licence held

Records show that the premises has been licensed under the Licensing Act 2003 since November 2005. In December 2018 HNQ Brothers Ltd, 37 Swakeleys Road, Ickenham became the premises licence holder through a transfer application.  
**Appendix 4**

### 6.2 Current Designated Premises Supervisor

In December 2018 Mr Quan Xiao became the Designated Premises Supervisor.

### 6.3 Description of the Premises

The premises are located in the main commerce area of Ickenham. Swakeleys Road features a mixture of small shops and local services. Roc Cottage operates as a restaurant, serving oriental style cuisine. Patrons can also purchase take away food and alcoholic drinks. The premises offers patrons a delivery service via online services.

6.4 Other licensed premises nearby

Name of premises	Alcohol	Regulated Entertainment	Late night Refreshment	Opening Hours
Ickenham Village Hall, Swakeleys Road		✓		09:00 - 00:00 Monday to Sunday
Co Op, 17 Swakeleys Road, Ickenham	✓	✓		06:00 - 23:00 Monday to Sunday
Birothi Restaurant, 47 Swakeleys Road, Ickenham	✓	✓	✓	Not restricted

6.5 Map and Photos of the outside of the premises

**See Appendix 5**

6.6 Licensable Activities currently authorised

<u>Activity</u>		<u>Permitted</u>
Sale of Alcohol:	Consumption <u>on and off</u> the premises	✓
Recorded Music	Indoors only	✓
Late Night Refreshment	Indoors only	✓

6.7 Licensable Activity and opening hours currently authorised

	<b>Licensable Activities</b>	<b>Opening Hours</b>
<b>Monday</b>	10:00-00:00	Not Restricted
<b>Tuesday</b>	10:00-00:00	Not Restricted
<b>Wednesday</b>	10:00-00:00	Not Restricted
<b>Thursday</b>	10:00-00:00	Not Restricted
<b>Friday</b>	10:00-00:00	Not Restricted
<b>Saturday</b>	10:00-00:00	Not Restricted
<b>Sunday</b>	10:00-23:30	Not Restricted

## 6.8 Visits made by Local Authority Licensing Officers

On the 14<sup>th</sup> December 2018, review papers were served at the premises. During the time of the visit no breaches of licence conditions were witnessed. However, at the time of the visit the Licence Holder and Designated Premises Supervisor named on the licence was no longer involved in the business.

## 7.0 OFFICER'S OBSERVATIONS

7.1 On two visits to Roc Cottage by immigration officers, six individuals were detected working without the right to work in the UK. On the second visit by Immigration Officers, further immigration related offences were witnessed. Two civil penalty notices were served on the management of the premises for employing illegal workers.

## 8.0 RELEVANT SECTIONS of the S182 GUIDANCE and LICENSING POLICY

### 8.1 S182 guidance

**Paragraph 2.6** *The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises*

**Paragraph 11.2** *At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.*

**Paragraph 11.19** *Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:*

- *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.*

**Paragraph 11.23** *Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an*

appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. **But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.**

**Paragraph 11.27** 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 employing a person who is disqualified from that work by reason of their immigration status in the UK;

**Paragraph 11.28** 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.

**Paragraph 13.10** It is important that a licensing authority should give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal. It is particularly important that reasons should also address the extent to which the decision has been made with regard to the licensing authority's statement of policy and this Guidance. Reasons should be promulgated to all the parties of any process which might give rise to an appeal under the terms of the 2003 Act.

## 9.2 Relevant Sections of the Hillingdon Licensing Policy

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

- 7.8 Following the grant of a premises licence, the Metropolitan Police Service, Elected Members and/or interested parties such as local residents and Ward Councillors can apply to the Licensing Authority for a review of the licence if they consider that the Prevention of Crime and Disorder objective has not been met and are relevant.
- 19.1 At any stage following the grant of a premises licence or a club premises certificate, an application for a review application can be submitted to the Licensing Authority by a Responsible Authority, any Elected Member or an Interested Party in connection with any of the four licensing objectives.

## 10.0 LEGAL COMMENTS

10.1 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:

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

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

10.3 The Sub-Committee must also have regard to the London Borough of Hillingdon's Statement of Licensing and the Secretary of State's Guidance issued under the Licensing Act 2003 when deciding what action, if any, to instigate. The terms of the Statement of Licensing Policy and Guidance are highly persuasive, but are 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 justifiable reasons to do so. Full reasons must be given if this is the case.

10.4 The Sub-Committee can only consider matters within the application or that have been raised through relevant representations from and each application will be decided on a case to case basis.

10.5 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. In deciding what remedial action, if any, it should take the Sub-Committee must direct its mind to the causes or concerns which the application and representations identify. The remedial action should generally be directed at these causes or concerns and should always ensure that any response is necessary and proportionate.

10.6 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.

10.7 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.

- 10.8 Where the Sub-Committee determines an application for review it must provide written notice and reasons for its decision.
- 10.9 The licence holder, applicant for review 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 in writing by the Licensing Authority of its decision.