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**Report of the Head of Elections, Licensing and Registration****Report to the Licensing Sub Committee****Date:** 19th April 2016**Subject:** Review of the Premises Licence for East European Foods, 11 Harehills Road, Harehills, Leeds, LS8 5HR,

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Gipton & Harehills		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		

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**Executive Summary**

This report informs Members of an application for the review of a Premises Licence under Section 51 of the Licensing Act 2003, sought by The Licensing Authority in respect of 11 Harehills Road, Harehills, Leeds, LS8 5HR. The licensing authority is now under a duty to review the premises licence held by these premises.

The application was previously scheduled before the Licensing Sub Committee on the 5<sup>th</sup> April 2016. The committee determined to adjourn the hearing to a later date as it was considered it to be important that the new Licence Holder Mr Mirabadi attend the hearing. Although the committee were aware that steps have been taken to rectify the CCTV recording which was the substantive reason why the review was sought by the Licensing Authority, the options available to the committee can include revocation of the licence. The fact Mr Mirabadi had not attended this hearing showed a lack of appreciation of the severity of this situation and the committee therefore decided to adjourn the matter until the 19<sup>th</sup> April 2016.

**1.0 Purpose of this Report**

1.1 This report provides Members with the background and history to the making of the review application made by The Licensing Authority (**Appendix A**). The report sets out the relevant law when reviewing licences under the Licensing Act 2003 ("the Act"), and informs members of the options available to them when reviewing a premises licence.

## 2.0 Background Information

- 2.1 On the 5<sup>th</sup> February 2013 Mr Ziring Mahmood submitted an application for a premises licence. The application received an objection from EPT team. These conditions were agreed and imposed onto the operating schedule. The premises licence was duly granted.

On the 25<sup>th</sup> February 2014 a transfer application was received. This was to transfer the premises licence to Mr Shores Mohammed.

On the 9<sup>th</sup> October 2015 a transfer application was received. This was to transfer the premises licence to Mr Dahan Mohammed. A Designated Premises Supervisor (Dps) change was also submitted which was to nominate Mr Mohammed as the Dps.

On the 4<sup>th</sup> November a transfer application was received to transfer the premises licence back to Mr Shores Mohammed.

On the 24<sup>th</sup> March 2015 a transfer application was received to transfer the premises licence to Miss Ewelima Gierbuszewska.

On the 26<sup>th</sup> March 2015 an application to extend the licensable hours was received. This application was sent back to the applicant on the 7<sup>th</sup> May 2015 as invalid due to the application not being advertised in the press within the timescale according to legislation.

On the 18<sup>th</sup> May 2015 an application to transfer the premises licence was received to transfer the premises licence to Mr Alan Amiri.

On the 19<sup>th</sup> August 2015 an application to transfer was received to transfer the licence back to Mr Shores Mohammed. A Dps change was also submitted nominating Mr Mohammed as Dps.

On the 24<sup>th</sup> February 2016 a transfer application was received. This was to transfer the premises licence to Mr Hassan Mirabadi.

On the 9<sup>th</sup> March 2016 a change to the premises licence name to DJ Off Licence.

On the 5<sup>th</sup> April 2016 the review hearing was heard before the subcommittee. This application has been adjourned until the 19<sup>th</sup> April 2016.

## 3.0 Premises Licence

- 3.1 The premises licence holder is Mr Hassan Mirabadi. Members please note at the time the review was submitted Mr Shores Mohammed was the licence holder. However he remains the Dps.
- 3.2 A copy of the premises licence can be found at **Appendix B** of this report. In summary, the premises licence permits the following:

Sale by retail of alcohol

Monday to Saturday 09:00 – 23:00

Sunday 10:00 – 22:00

There are no non-standard timings.

#### **4.0 Designated Premises Supervisor**

The Designated Premises Supervisor for the premises is Mr Shores Mohammed.

#### **5.0 Location**

A map which identifies the location of the premises are attached at **Appendix C**.

#### **6.0 Main Issues**

- 6.1 During investigations Leeds City Council Entertainment Licensing Section have found persistent breaches of the Premises Licence conditions.

Despite a total of five visits to the premises, four strongly worded warning letters to the operator and advice given at the time of each visit, the CCTV remains non-compliant and not suitable for purpose.

In view of these issues referred to Leeds Licensing Authority request the suspension of the Premises Licence for a period up to 3 months to enable the Premises Licence Holder to ensure the CCTV system is operating in accordance with all relevant conditions.

Witness statements provided by Senior Liaison and Enforcement Officers for Leeds City Council Entertainment licence section can be found at **Appendix D**.

Witness statements provided by the North East Leeds Division Licensing Officer for West Yorkshire Police (WYP) and the WYP ward manager for the Harehills area can be found at **Appendix E** of this report.

#### **7.0 Matters Relevant to the Application**

- 7.1 Members of the Licensing Sub Committee must make decisions which are appropriate to the promotion of the licensing objectives which are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

- 7.2 In making their decision Members are obliged to have regard to guidance issued under Section 182 of the Act. A copy of the relevant section is attached at **Appendix F**. Members must also have regard to the Council's licensing policy, the relevant representations made and evidence they hear

#### **8.0 Implications for Council Policy and Government**

- 8.1 It is the stated licensing policy of the Council that when considering a review the authority will take into account all relevant circumstances, but will view the matters listed in paragraph 13.15 of the policy with particular seriousness.

## **9.0 Legal and Resource Implications**

- 9.1 There are no resource implications in determining the review.
- 9.2 The Act provides the right to appeal on any decision reached on review. The right of appeal is to the Magistrate's Court.

## **10.0 Recommendations**

- 10.1 Members are requested to determine this review. The Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:
- to modify the conditions of the licence (which includes adding new conditions or any alteration or omission of an existing condition);
  - to remove the Designated Premises Supervisor;
  - to suspend the licence for a period not exceeding 3 months; and/or
  - to revoke the licence.
- 10.2 Members may decide that no action is necessary and that the circumstance of the review does not require the Committee to take any steps to promote the licensing objectives.
- 10.3 Members should note the guidance also suggests it is open to Members to issue an informal warning to the licence holder or to recommend improvement within a particular time. However the Guidance further provides that where responsible authorities have already issued such warnings, the issuing of another warning should not be repeated.
- 10.4 Where the Committee decide that a modification of conditions or exclusion of licensable activities may be imposed, this can either be permanently or for a temporary period of up to three months.
- 10.5 Members are directed to paragraphs 11.25 to 11.31 of the Statutory Guidance which related to reviews arising in connection with crime.
- 10.6 Members of the Licensing Committee are asked to note that they may not take any of the steps outlined above merely because they consider it desirable to do so. It must be appropriate for the promotion of the licensing objectives.

## **11.0 Background Papers**

- 11.1 Guidance issued under s182 Licensing Act 2003
- 11.2 Leeds City Council Statement of Licensing Policy

## **Appendices**

Appendix A Review application  
Appendix B Premises Licence  
Appendix C Map of premise  
Appendix D Witness Statements  
Appendix E Witness Statements  
Appendix F Extract from the s182 Guidance