

**REPORT FOR: LICENSING PANEL
HEARING**

Date: 27 September 2010

Subject: Application for a review of the Premises Licence held by 'ISHQ', 215-219 High Road, Harrow, Middlesex, HA3 5EE

Responsible Officer: Mr Finlay Flett, Head of Community Safety Services

Exempt: No

Enclosures: Application for Review
Premises Licence
Location (GIS) Map
Plan of Premises
Representation
Petition

Section 1 – Summary

An application has been made by **the Environmental Protection team to review the premises licence for 'ISHQ'**, a premises located at 215-219 High Road, Harrow, Middlesex HA3 5EE on the ground of **the prevention of public nuisance**. Representations in the form of a petition from twenty two interested parties (local residents living in the vicinity of the premises) have also been made in support of the review application.

Representations received

From	Relevant Representations details
The Planning Authority	No representations received
Health & Safety	No representations received
Environmental Health Authority (Pollution and environmental enforcement)	Representation received
Trading Standards	No representations received
The Area Child Protection Service	No representations received
LFEPA	No representations received
Metropolitan Police	No representation received

Representations from interested parties

From	Relevant Representations details
Interested Parties	Representations Received

Section 2 – Report

2.1 Current Situation

2.1.1 There is a premises licence in force at Ishq, a restaurant situated at 215-219 High Road, Harrow, Middlesex, HA3 5EE. A copy of the premises licence is attached to this report. Briefly, the premises licence authorises the following licensable activities:

Regulated Entertainment	Sunday - Thursday Friday - Saturday	1030 – 0100 1030 – 0200
Indoor Sporting Events	Sunday - Thursday Friday - Saturday	1100 – 0100 1100 – 0200
Late Night Refreshment	Sunday - Thursday Friday - Saturday	2300 – 0100 2300 – 0200
Sale of Alcohol	Sunday - Thursday Friday - Saturday	1030 – 2330 1030 – 0145
Opening Hours to the public	Sunday - Thursday Friday - Saturday	1030 – 0100 1030 – 0200

2.1.2 A review application has been made by Mr Edward Davis on behalf of the Environmental Protection team of Environmental Health, which relates to the prevention of public nuisance licensing objective. A copy of the application for the review is attached to this report. Representations in the form of a petition from twenty two interested parties (local residents living in the vicinity of the premises) have also been made in support of the review application.

2.1.3 The premise is situated at 215-219 High Road, Harrow, Middlesex HA3 5EE, an area populated by both commercial and residential premises. A map of the area is attached to this report.

2.2 Representations

Mr Edward Davis of the Environmental Protection team has submitted the review application. A copy of this representation is attached to this report. Representations in the form of a petition from twenty two interested parties (local residents living in the vicinity of the premises) have also been made in support of the review application.

2.3 Consultation

The review application was advertised at the council offices and on the premises in accordance with the requirements under the Licensing Act 2003.

2.4 Licensing Guidance Implications

The government has issued Guidance pursuant to section 182 of the Licensing Act 2003 that deals with reviews in paragraphs 11.1 – 11.29. The Guidance includes the following in relation to determining whether a review application is a repetition, as referred to in paragraph 2.5.5 below –

“Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a second bite of the cherry following the failure of representations to persuade the licensing authority on earlier occasions. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, the Secretary of State recommends that more than one review originating from an interested party should not be permitted within a period of twelve months on similar grounds save in compelling circumstances or where it arises following a closure order.”

It also includes the following to be used as guidance when dealing with reviews from Interested Parties:

‘Where the request originates with an interested party – e.g. local resident, residents association, local business or trade association – the licensing authority must first consider whether the complaint made is relevant, vexatious, frivolous or repetitious.’

2.5 Legal Implications

2.5.1 The Licensing Panel is required to hold a hearing to consider the review application and any relevant representations. The hearing must be held in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

2.5.2 Having considered the representations from all parties, the Panel has to determine the application for the review of the premises licence. The Panel is required to take such of the steps listed

below at 2.5.3 (if any), as it considers necessary for the promotion of the licensing objectives. If the Panel does not consider that any of the steps listed at 2.5.3 are necessary for the promotion of the licensing objectives then it should do nothing.

In coming to a view about whether such a step in 2.5.3 is necessary for the promotion of the licensing objectives, the Panel would need to take into account the review application, any relevant representations, the evidence given at the hearing, the representations made by the parties, the provisions of the Licensing Act 2003, the Guidance issued by the Secretary of State and the Council's Licensing Policy.

2.5.3 Where it considers it necessary for the promotion of the licensing objectives, the options available to the Panel are:

1. to modify the conditions of the Licence;
2. to exclude a licensable activity from the scope of the licence;
3. to remove the designated premises supervisor;
4. to suspend the licence for a period not exceeding three months;
5. 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 conditions added.

2.5.4 Any modified conditions should be practical and enforceable.

2.5.5 The licensing authority may at any time reject any ground for review specified in an application for review if it is satisfied that either: (a) the ground is not relevant to one or more of the four licensing objectives; or (b) the application is made other than by a responsible authority and the ground is frivolous, vexatious, or a repetition. A ground for review is a repetition if a reasonable interval has not passed since an earlier review application or the grant of the premises licence and the ground is identical or substantially similar to: (i) a ground in the review which has already been determined; or (ii) a representation considered by the licensing authority at the time of first granting the premises licence; or (iii) a representation that would have been made when the application for the premises licence was first made but for the fact that it was excluded by the prior issue of a provisional statement in respect of the premises.

2.5.6 If any grounds of review are rejected on the basis set out in 2.5.5, the application for review is taken to be rejected to that extent.

2.5.7 In addition to determining the application in accordance with the legislation, Members must have regard to –

- The common law rules of natural justice.
- The provisions of the Human Rights Act 1998.
- The considerations in section 17 of the Crime and Disorder Act 1998.

2.5.8 By section 6 of the Human Rights Act 1998, the Panel is required to act in a way that is compatible with rights under the European Convention for the Protection of Human Rights and Freedoms. The following provisions of the European Convention seem relevant: Article 6 (right to a fair trial) Article 14 (prohibition of discrimination) and Article 1 of the First Protocol (protection of property).

2.5.9 In relation to section 17 of the Crime and Disorder Act 1998, this states:

‘without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.’

2.6 Community safety

2.6.1 Refer to the Licensing objectives, and Section 17 Crime and Disorder Act 1998 as noted above.

The Borough Commander has not requested a review of the premises licence nor made any representation in relation to the review application made by the Environmental Protection team.

2.7 Financial Implications

No financial implications

2.8 Risk Management Implications

If any party is aggrieved with the decision on one of the grounds set out in Schedule 5 to the Licensing Act 2003, they can appeal to a Magistrates' Court. Such appeals are by way of re-hearing. The Appeal period is 21 days from notification of the decision.

Section 3 - Statutory Officer Clearance

Name: Kanta Hirani

on behalf of the*
Chief Financial Officer

Date: 6 September 2010

Name: Paresh Mehta

on behalf of the*
Monitoring Officer

Date: 6 September 2010

Section 4 - Contact Details and Background Papers

Contact: P Sivashankar, Licensing Services Manager x 6237

Background Papers

- Premises Licence
- Location (GIS) Map
- Plan of Premises
- Representation
- Petition