Havering Council – Decisions taken by the Licensing Sub-Committee on Monday, 20 April 2015

Agenda Item No	Topic	Decision

Note: this decision list is for guidance only. The text of the minutes, which may be different, is definitive.

Part A – Items considered in public

A1	MINUTES	
A2	AKASH TANDOORI - REVIEW: RE-CONVENED HEARING	**Licensing Act 2003** **Notice of Decision** **PREMISES** New Akash Tandoori, 158 High Street, Hornchurch, RM11 3XS **DETAILS OF APPLICATION** Application for a review of the premises licence by the London Borough of Havering's Licensing Authority under section 51 of the Licensing Act 2003 ("the Act"). **APPLICANT** Paul Jones, Licensing Officer, London Borough of Havering, Mercury House, Mercury Gardens, Romford, RM1 3SL **1. Details of existing licensable activities**

Live Music		
Day	**Start**	**Finish**

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Monday to Saturday	10.00	00.00
Sunday	12.00	23.30

Late Night Refreshment		
Day	**Start**	**Finish**
Monday to Thursday	23.00	00.00
Friday & Saturday	23.00	00.30
Sunday	23.00	23.30

Recorded Music, Supply of Alcohol		
Day	**Start**	**Finish**
Monday to Thursday	10.00	00.00
Friday & Saturday	10.00	00.30
Sunday	12.00	23.30

Opening Hours		
Day	**Start**	**Finish**
Monday to Thursday	10.00	00.30
Friday & Saturday	10.00	01.00
Sunday	12.00	00.00

2. History

On 8 January 2015 the Sub-Committee heard that the premises had been taken over by Jakir Hussain Khan, Premises Licence Holder and Noor Uddin Ludi, Designated Premises Supervisor. The Licencing Authority and Metropolitan Police had indicated

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		that Messrs Khan and Ludi were known to them and they had no concerns at their taking over the premises. It was not in dispute that the premises had been mismanaged by Mr Rahman and there had been multiple contraventions of licence conditions and other trading offences. The paperwork provided by Messrs Khan and Ludi showed that the transfer of the lease would not proceed until the Landlord had granted an 'unconditional' Licence to assign. The Sub-Committee was concerned to ensure that Mr Rahman would have no part in the running of the business and agreed to defer consideration of the application to give Messrs Khan and Ludi an opportunity to finalise the transfer of the lease. The Sub-Committee requested that Mr Khan and Mr Ludl provide: a. A copy of the lease between Mr Rahman and the landlord; b. A copy of the correspondence between Mr Khan and Mr Ludi's solicitors and Mr Rahman's solicitors; c. A copy of the letter from Mr Rahman's solicitor's to the landlord's solicitors seeking consent to assign the lease; d. If available a copy of the assignment of the lease; and e. A copy of the two receipts for the monies paid to Mr Rahman. **3. Update from the Responsible Authorities** Both Paul Jones, on behalf of the Licensing Authority and Jason Rose on behalf of the Metropolitan Police informed the Sub-Committee that they still had no concerns with Messrs Khan and Ludi's running of the premises.

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		Mr Bush, Trading Standards, stated that he had visited the premises on the 14 April and carried out tests on the alcohol being served which indicated no concerns. **4. Response from new Premises Licence Holder and DPS** Mr Ludi and Mr Khan had submitted some additional documents which showed they were in the process of seeking the transfer of the lease of the premises to Mr Khan. The papers submitted showed little progress in finalising the transfer. Bank references were still outstanding. Mr Ludi, as spokesperson for the licensee, advised the Sub-Committee that when Mr Rahman was being dealt with at the Magistrates Court following his conviction he had told the Court that he had received £14,000 from Mr Ludi and this had been taken into account when the level of fine was decided by the court. The latest draft agreement for the sale of the leasehold of the premises showed a new partner as one of the two purchasers, Mr Ruhul Amin. Mr Ludi explained that he and Mr Khan had invited Mr Amin to join as a partner to assist with the cost of acquisition. Also Mr Ludi was seeking personal insolvency and therefore would not be a signatory to the transfer of the lease. Mr Ludi further explained that Mr Rahman had given them, free of charge, a company he had set up two years ago, I R Rose Ltd. This company had never traded and it was more cost-effective to take over an existing company than establish a new one. The three partners/Directors were Mr Khan, Mr Ludi and Mr Amin. Mr Ludi would be a partner in the business but not a named partner on the lease. The Sub-Committee expressed surprise that Messrs Khan, Ludi and Amin would want

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		to take over a company name associated with Mr Rahman, given his problems. Mr Ludi explained that much of his business was carried out in cash. He explained that as Mr Rahman was still the lessee, he, Mr Ludi had paid him in cash for a quarter's rent together with the annual insurance premium. When asked if he had a receipt from Mr Rahman he stated he had not. The bank account details provided for the new company I R Rose trading as 'New Akash' showed a balance of £45.00 but no evidence that this was being used for the restaurant. Mr Ludi confirmed that his solicitors were still awaiting satisfactory bank references. A letter from 'Eton Law' solicitors (acting for Mr Khan and Mr Amin) to Holden Haie solicitors dated 1 February 2015 stated "We are advised that your client [Mr Rahman] is willing to dispose of the lease for a sum of £14,000." Mr Ludi said there was nothing further to pay and that the solicitors had misunderstood. Mr Ludi requested that the Committee adjourn again for a longer period, then all of the relevant documentation would be put in place. **5. Consideration of Application** **Consequent upon the original hearing held on 8 January 2015 and the re-convened hearing held on 20 April 2015, the Sub-Committee's decision regarding the review of the premises licence for Akash Tandoori, 185 High Street, Hornchurch is set out below, for the reasons shown:**

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		The Sub-Committee was obliged to determine this application with a view to promoting the licensing objectives, which are: • The prevention of crime and disorder • Public safety • The prevention of public nuisance • The protection of children from harm. In making its decision, the Sub-Committee also had regard to the Guidance issued under Section 182 of the Licensing Act 2003 and Havering's Licensing Policy. In addition the Sub-Committee took account of its obligations under s17 of the Crime and Disorder Act 1998, and Articles 1 of the First Protocol of the Human Rights Act 1998. **Decision:** The initial reason for the Licensing Review was as a result of the Licensing Authority's concerns regarding Mr Rahman and his management of the premises. Evidence from the responsible authorities presented on 8 January 2015 was not challenged and accepted by the Sub-Committee in full. This included operating beyond the licensed hours on a number of occasions and spirit substitution. On the basis of these facts we would have revoked the licence. The Premises Licence had, however, been transferred to Mr Khan and the Responsible Authorities had made no adverse comments on the current running of the premises. We continue to have concerns regarding the role of Mr Rahman in the business. Despite being given three months to resolve the issue of the lease, little progress has

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		been made. Mr Rahman continues to live in a flat above the premises and continues to hold the lease. We need to ensure that all licensable activities are conducted appropriately and within the law. It is claimed that there has been a transfer of the business for the sum of £14,000 to Mr Khan and Mr Ludi. We have received evidence of negotiations for the assignment of the lease to Mr Khan and Mr Amin, who had not previously featured in this matter. We were told that Mr Ludi, despite being a central figure in the operation of the new business, had made an application for insolvency and therefore could not be involved or named in any of the legal papers. We were also told that a company was to be used in the running of the business – I R Rose Ltd, set up by Mr Rahman, which now had as its directors Mr Khan, Mr Ludi and Mr Amin. We find it unusual that Mr Khan should wish to be associated with a company previously owned by Mr Rahman. We were told that all transactions e.g. for the goodwill and the quarterly rent, were paid for in cash but we have no receipted evidence, despite our requests for this. In addition there are some inconsistencies in the correspondence between solicitor's letters and what Mr Ludi has told us. We have considered adding a condition that Mr Rahman had no part in the management of the business, however, we believe that Mr Rahman is still involved in the management of the business and therefore the condition would have no effect so will not be added. Having considered all matters we have resolved to suspend the alcohol and late night

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		refreshment licence for a period of 3 months. **6. Right of Appeal** Any party to the decision or anyone who has made a relevant representation [including a responsible authority or interested party] in relation to the application may appeal to the Magistrates' Court within 21 days of notification of the decision. On appeal, the Magistrates' Court may: 1. dismiss the appeal; or 2. substitute the decision for another decision which could have been made by the Sub-Committee; or 3. remit the case to the Sub-Committee to dispose of it in accordance with the direction of the Court; and 4. make an order for costs as it sees fit. James Goodwin Clerk to the Licensing Sub-Committee
A1		
A2		