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**MEETING:** Licensing Hearings Panel

**DATE:** 3<sup>rd</sup> March 2010

**REPORT FROM:** Assistant Director (Environmental Services)

**CONTACT OFFICER:** Mr M Bridge

**TYPE OF DECISION:** Council

**FREEDON OF INFORMATION STATUS:** This paper is in the public domain

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**PURPOSE/SUMMARY:** This report relates to an application pursuant to section 51 of the Licensing Act 2003, from Greater Manchester Police in their capacity as a 'Responsible Authority', for a review of the premises licence in relation to Zaidy's, 14 Bolton Street, Ramsbottom in respect of which representations have been made.

**OPTIONS AND RECOMMENDED OPTION (with reasons):**

- a. To modify the conditions of the licence
  - b. To exclude a licensable activity from the scope of the licence
  - c. To remove the Designated Premises Supervisor
  - d. To suspend the licence for a period not exceeding three months
  - e. To revoke the licence
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**IMPLICATIONS -**

**Financial Implications and Risk Considerations**

There are no specific issues from the report other than potential costs/risks associated with legal appeals

**Equality / Diversity implications:** Yes  No

**Corporate Aims/Policy Framework:**  
Do the proposals accord with the Policy Framework? Yes  No

**Are there any legal implications?** Yes  No

Under the legislation the Council is

required to determine representations. The report is in accordance with the appropriate legislation.

**Considered by Monitoring Officer?** Yes  No

**Statement by Director of Finance And E-Government:** The cost of the licensing function are funded through the fees and charges levied by the Council. There may be additional costs if appeals are lodged with the Magistrates and Crown Courts

**Staffing / ICT/ Property:** None

**Wards Affected:** Ramsbottom

**Scrutiny Interest:** Environment and Transport Scrutiny Panel

**TRACKING/PROCESS**

**DIRECTOR:**

Chief Executive/ Management Board	Executive Member/ Chair	Ward Members	Partners
Scrutiny Panel	Executive	Committee	Council

**1.0 INTRODUCTION**

- 1.1 The Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations are the relevant legislation.
- 1.2 The Panel will make a decision on the day of the hearing and the parties will be notified subsequently of the decision and the reasons for it by letter from the Licensing Office.

**2.0 BACKGROUND**

- 2.1 The premises licence holder in respect of these premises since 13<sup>th</sup> October 2005 is Mr Mohammed Ghani.
- 2.2 The licensing service has since February 2008 made several visits to these premises in relation to the premises being operated outside the hours permitted by the premises licence. The premises licence holder has been given advice and warned on these occasions.
- 2.3 On the 18<sup>th</sup> March 2008, the licensing service administered a formal caution to Mr Ghani, for operating outside the hours permitted which he accepted.

2.4 On the 25<sup>th</sup> July and 18<sup>th</sup> September 2009, these premises were visited again by a licensing enforcement officer and Greater Manchester Police, at the time of the inspections the premises were operating again outside the hours permitted by the premises licence.

2.5 Mr. Mohammad Ghani appeared at Bury Magistrates Court and pleaded guilty to two offences of unlicensed activities. He was fined £350 on each summons plus £15 victim surcharge and costs of £779.

### **3.0 PROCEDURE**

3.1 Greater Manchester Police have complied with all the necessary procedural requirements laid down by the Act.

3.2 As part of the statutory process the Responsible Bodies and interested parties are entitled to make representations in relation to the review of a licence. The Licensing Authority has given Notice of the application by placing a Notice on the premises, at the Council Offices and on the Council web site. Where further representations are made by either the Responsible Authorities or from local residents / businesses and not withdrawn, Members are required to determine them. A representation has been received from the Planning Department.

3.3 Representations must be relevant to the licensing objectives defined within the Act. The objectives are:-

- a) the prevention of crime and disorder
- b) public safety
- c) prevention of public nuisance and
- d) protection of children from harm

### **4.0 THE CURRENT LICENSABLE ACTIVITIES**

4.1 The current licensable activities are as follows:

- a. Provision of Late Night Refreshment

Monday to Saturday	23.00 until 00.00
Sunday	23.00 until 23.30

### **5.0 REPRESENTATIONS**

5.1 Greater Manchester Police have requested a review of the premises licence which is attached at appendix 1 and state that Zaidy's Tandoori Takeaway is situated at 14 Bolton Street, Ramsbottom. Mohammed Ghani is the holder of the Premises Licence granted by Bury Council which authorises the provision of late night refreshment', between 23.00hrs and midnight Monday to Saturday and between 23.00hrs and 23.30hrs on Sundays.

#### **Prevention of Public Nuisance.**

On 23rd February 2008, Following complaints from local residents that the premises were regularly open after hours and selling hot food via a rear door,

resulting in anti social behaviour from customers, observations by Council Officers confirmed that hot food was being served from these premises outside the permitted hours. Mr Ghani admitted the offence and received a Formal Caution from Bury Council.

This is an application for a review of the above premises licence on the following grounds:

### **The Prevention of Crime and Disorder:**

On 2nd December 2009, Mr Ghani appeared before Bury Magistrates and pleaded guilty to two offences investigated by Bury Council Licensing Service of providing late night refreshment contrary to the terms of his premises licence, namely at 00.40hrs on Saturday 25th July 2009 and at 01.28hrs on Saturday 19th September 2009. He was fined £350 for each offence and was ordered to pay costs of £779.

Despite the above convictions, at 00.20hrs on Friday 25th December 2009, Inspector Susan Redfern discovered the above premises open and full of people, some of whom had been served hot food and others who were waiting to be served. When Mr Ghani was confronted by the officer and told to close the door and have a member of staff make sure no one else enters, he became abusive towards her.

It can also be seen from statement from PC Kevin Day that Mr Ghani has no regard for the licensing hours granted at his premises or for any directions from the Police.

The Licensing Authority is requested to revoke the above premises licence so as to prevent these premises being open beyond 23.00hrs daily.

### **5.2 The Planning Department have made a representation which is attached at appendix 2 which states:-**

Following receipt of a copy of the application by the Police for a review of the Premises Licence for Zaidys Tandoori Takeaway, 14 Bolton Street, Ramsbottom, Bury, I would like to support the Police for the following reasons:

On 19<sup>th</sup> September 2005, I received a complaint that the premises were remaining open for business until 2am on a regular basis. Following a check of our Planning Records it was established that planning permission no. C/19837/87 had been granted on 30/7/87, for a change of use of the premises at 14 Bolton Street, Ramsbottom, from a Class A1 shop to Class A3 food and drink. The planning permission was subject to a planning condition 04 which restricted the hours of opening to 0800hours to 2400hours from Monday to Saturday; and to 0800hours to 2330hours on a Sunday. As a result, correspondence was entered into with the owner Mr. Mohammed Ghani regarding this matter and I served a Planning Contravention Notice on him. Following further discussions he stated he would comply with the opening hours and submit a planning application to extend the opening hours.

No applications were received and following further complaints I carried out observations on the premises at 12.20 hours on Tuesday 25<sup>th</sup> July 2006 when I carried out a test purchase and bought a kebab. I noted 2 other males inside

the premises waiting to be served. I left the area at 12.30 hours that date and noted the premises were still open for business.

As a result I served a Breach of Condition Notice and an Enforcement Notice on Wednesday 16<sup>th</sup> August 2006 which took effect on Friday 22<sup>nd</sup> September 2006 and required the owner Mohammed Ghani to restrict the opening hours to those in accordance with the planning permission within 7 days after the Notice took effect.

I carried out further observations on the following dates:

1.40am Saturday 6<sup>th</sup> January 2007 where I saw a group of 5 or 6 youths late teens to early 20s gathered at the rear of the shop premises. The door was open at the rear lights on inside. The youths were acting in a rowdy manner causing a nuisance, some eating food.

Between 12.00 and 12.15am Sun 7<sup>th</sup> January 2007, I saw several vehicles stopping at rear of the premises, persons going inside and after a short time leaving with goods. I noted nuisance from traffic caused by car doors being slammed and cars engines running as the driver waited for passenger to get served. This continued as I left the area.

12.05am to 12.25am Thurs 1<sup>st</sup> March 2007 I saw 3 men working inside the premises, 1 man attending to kebab meat on a spit being cooked; 1 other man was cooking a pizza. I made a test purchase of 2 kebabs which were served to me during this time.

A further letter was sent to Mr. Ghani advising him to comply with the Notices and keep to his opening hours otherwise he could be liable to further action.

I carried out further observations on the following dates:

1.00am Saturday 23<sup>rd</sup> February 2008 – I saw the rear door was open, lights on inside, 2 men standing outside at the rear. No food sales seen.

1.50am Saturday 1<sup>st</sup> March 2008 – I saw the lights on inside, the rear door shut. No sales seen.

12.30am to 1.30am Tuesday 1<sup>st</sup> April 2008 – I saw the lights on inside the premises which appeared closed. No sales seen.

I have received no further complaints and had no involvement with breaches of planning control regarding remaining open for business outside the opening hours, since April 2008.

## **6.0 OBSERVATIONS**

- 6.1 After hearing the representations made and the evidence presented, Members are obliged to determine the application with a view to promoting the licensing objectives and having regard to the Authority's Licensing Policy and National Guidance.

**List of Background Papers:-**

Review Application form  
Premises Licence

***For further information on the details of this report, please contact:***

**Mr M Bridge**

**Licensing Office**

**Town Hall**

**BURY**

**Telephone No: 0161 253 5209**