
REPORT FOR: LICENSING PANEL

Date of Meeting: 22 January 2020

Subject: Application for review of the premises licence for Mr Sushi, 152 Station Road, Harrow, Middlesex, HA1 2RH

Responsible Officer: Michael Butler – Divisional Director Environment

Exempt: No except for appendices 1, 1a, 1b and 4 which are exempt under paragraph 7 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended) in that it contains information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Wards affected: Greenhill

Enclosures:

- Appendix 1:** Application for review
- Appendix 1a:** Home Office – Supporting Witness Statement
- Appendix 1b :** Home Office – Supporting Witness Statement
- Appendix 2:** Current premises licence and plan
- Appendix 3:** Location map and Site Photo
- Appendix 4:** Representation - Metropolitan Police Service
- Appendix 5:** Representation - Licensing Authority
- Appendix 6:** Licensing Inspection Correspondence

Appendix 7: S19 Closure Notice
Appendix 8: Relevant S182 -
Statutory Licensing guidance
Appendix 9: Relevant sections of
licence review guidelines from the
licensing policy

Section 1 – Summary

To determine an application for a review of a Premises Licence in respect of Mr Sushi, 152 Station Road, Harrow, HA1 2RH. The application for review has been submitted by Home Officer (Immigration Enforcement) acting as responsible authority under the Licensing Act 2003

Section 2 – Application

2.1 Name of the Premises Licence Holder

Li Hua Tian, 410 Ealing Road, Wembley, HA0 1JQ

2.2 Type of application applied for

An application for a review of premises licence for Mr Sushi Restaurant, 152 Station Road, Harrow, HA1 2RH, submitted by Home Office Enforcement acting as a responsible authority under the Licensing Act 2003.

2.3 Description of premises

The premises is located in Station Road Harrow, operating as an eatery / restaurant. The restaurant offers the on sales of alcohol, late night food refreshment and a take away food service.

2.4 A copy of the Review application and supporting information is attached as **Appendix 1**.

2.5 Additional information, supplementary witness statements and photographs from the Home Office Enforcement Team, received during the application consultation period are attached as **Appendix 1a and 1b**.

2.6 An image of the premises and a location map are provided at **Appendix 3**.

2.7 Licensable Activities currently authorised

Activity		Permitted
Sale of Alcohol	Consumption on the premises	X
Late Night Refreshment	Licensable Area	X

Authorised Timings	Licensable Activities	Opening Hours
Monday – Sunday	Sale of Alcohol 10:00-23:30 Late Night Refreshment 23:00-00:00	10:00-00:00

2.8 A copy of the full Premises Licence is attached as **Appendix 2**.

3. Consultation:

3.1 Closing date for review representations

26 December 2019.

3.2 The application was subject to the following advertising:

- published on the Council's website
- a public notice placed at the Harrow Civic Offices
- Responsible Authorities and Ward Members notified of the application

4. Representations:

Representations received

From	Representations details	Grounds for Representation
The Planning Authority	No representations received	
Health & Safety	No representations received	
Environmental Health	No representations received	
Trading Standards	No representations received	
Area Child Protection Service	No representations received	
Metropolitan Police Service	Representation received	Prevention of Crime and Disorder & Public Safety - Appendix 4
Licensing Authority	Representation received	Prevention of Crime and Disorder, Public Safety & Protection of Children from Harm - Appendix 5
London Fire Brigade	No representations received	

There have been two representations in favour of the review. Both representations are from responsible authorities.

- **Appendix 4** for representation from the Metropolitan Police Service
- **Appendix 5** for representation from the London Borough of Harrow as Licensing Authority.

Representations from other persons

No representations have been received from 'other persons'

5. Background Information / Licensing history

5.1 The premises became licensed as a restaurant in June 2011, this was under the former name of Secret Recipe.

5.2 The premises changed its name to Mr Sushi, followed at the same time by a transfer of ownership and change of Designated Premises Supervisor to the current owner and DPS Ms Li Hua Tian. These changes were effective as of August 2014.

6. Officer observations in summary

Since the change of ownership in 2014 licensing officers have not had to visit the premises following complaints, however suspension notices were served in 2017 and 2018 for failure to pay the annual fee in time. Since the submission of the review application in November 2019, the following actions and stepped approach to secure compliance have been taken.

- **28/11/2019** – The Home Office submitted a review of Premises Licence on grounds that the licence holder had failed to meet licensing objectives. For the third time in two years, illegal working had been identified at the premises with 5 persons found to have no permission to work legally in the UK
- **28/11/2019** - Site Visited 28 November 2019 to affix Review Application Public Notice; this notice can be seen in the photograph attached as Appendix 3. Licensing Officer – Charlene Ellis was met by staff member Yousef Mohammedi, Site Manager Mr Long Tian and Licence Holder and DPS Li Hua Tian. There were several evident areas of immediate non-compliance. No Premises Licence or Summary were on display and could not be located at time of visit. Ms Li Hua Tian was unable to produce her Personal Licence.

These are all notable offences under the Licensing Act 2003 subject to a Level 2, £500, penalty fine without reasonable excuse.

- **05/12/2019** - A full licensing inspection was carried out at the premises on 5 December 2019. Licensing Officer Charlene Ellis met with site manager Mr Long Tian. Despite the notice of inspection being given prior to visit, a host of non-compliance issues were found, breaches of multiple licence conditions inclusive of no CCTV, no training logs, no refusal logs, no display of a challenge 21 policy or printed materials and no Premises Licence and Summary were available.

Full instruction was verbally given to Mr Tian to remedy matters at time of inspection, this was followed by written correspondence sent to the licence holder to action and is attached as **Appendix 6**.

A period of 14 days from initial inspection was given to rectify matters with deadline of 19 December 2019.

- **10/12/2019** – A telephone call was taken from Home Officer officials; this was made directly to the Licensing Service, confirming a further visit to the Mr Sushi site was undertaken on 09/12/19 by Immigration Officers William Gillies and Dan Nuttall. Two additional illegal workers were found to be working on site, one of which had been identified at an earlier enforcement visit. Officers supplied statements in respect of this visit; these are attached as **Appendix 1a** and **Appendix 1b**
- **19/12/2019** - A follow up visit to site was undertaken on 19 December 2019 to check compliance with 5/12/2019 actions. Charlene Ellis Licensing Officer and David Norton Environmental Health Officer were in attendance.

A duplicate Premises Licence and Summary had been applied for and was found on site, although this was not displayed prominently as required.

As a result of no further positive action being taken by the premises to rectify non-compliance issues a Section 19 Closure Notice was served on the licence holder Ms Li Hui Tian and Mr Long Tian.

A Section 19 notice informs a person with control of, or responsibility for, the activities carried on at the premises (normally the licence holder or the designated premises supervisor) that if unauthorised alcohol sales continue, an application may be made to a court under section 20 for an order to close the premises under section 21 of the Act. Such an application cannot be made less than seven days or more than six months after the service of the closure notice under section 19 of the Criminal Justice and Police Act 2001

The reasons for the notice were given verbally and written instruction supplied. A copy of the completed S19 Closure Notice is attached as **Appendix 7**.

Officers left the premises with assurances from Mr Long Tian that outstanding matters would be resolved by 23/12/19 and that email confirmation would be provided from the premises.

Unfortunately despite the several attempts to work collectively with the licence holder and site staff, little to none of the required remedial work has been undertaken. Revised practices, procedures and photographic proofs relating to the essential works are still outstanding at time of writing this report (6 January 2020).

7. Statutory 182 guidance

The statutory 182 licensing guidance advises the following in respect of criminal activity that may arise in connection with licensed premises

S11.27 “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:

It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) 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.

The full section of this and other relevant guidance has been attached to this report. See **Appendix 8**.

8. Licensing policy

Each application for a review will be considered on its own merits and the Panel may depart from the guidelines should they have good reason to do so; any departure should be made with consistency and transparency of decision-making in mind

The full statement of licensing policy is attached to this report at **Appendix 9**.

9. Legal implications

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

9.2 An application for review of a premises licence may be made pursuant to S.51 of the Licensing Act 2003.

9.3 The Licensing Panel is required to give appropriate weight to the review application, representations (including supporting information) presented by all the parties, the Guidance issued pursuant to section 182 of the Licensing Act 2003, the Council’s statement of licensing policy and the steps (if any) that are appropriate to promote the four licensing objectives.

The licensing objectives are:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

Members should note that each objective is of equal importance.

9.4 Having considered those relevant matters, the Licensing Panel can take such of the following steps (if any) as it considers appropriate for the promotion of the licensing objectives –

Under Paragraph 11.19 of the Revised Guidance under Section 182 of the Licensing Act 2003, the options available to the Licensing Sub-Committee in a Review Application are the following:

- a. 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;
- b. 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)¹⁰;
- c. remove the designated premises supervisor**, for example, because they consider that the problems are the result of poor management;
- d. suspend the licence for a period not exceeding three months;**
and/or
- e. revoke the licence.**

9.5 If the Panel takes a step mentioned in a or b of paragraph 17 above, it can specify that the modification or exclusion is to have effect for a period up to three months if it considers this to be appropriate.

It should be noted that –

- a.** clear reasons must be given for the decision; and
- b.** any additional or modified conditions should be practicable and enforceable.

the applicant for the review, the premises licence holder and any person who made relevant representations would have the right of appeal to a magistrates' court on one of the grounds provided in schedule 5 to the Licensing Act 2003.

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

- a.** common law rules of natural justice (i.e. ensuring a fair and unbiased hearing etc.);
- b.** provisions of the Human Rights Act 1998;
- c.** Considerations in section 17 of the Crime and Disorder Act 1998.

9.7 The Panel must also act appropriately with regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms implemented under the Human Rights Act 1998, particularly articles 6 (relating to the right to a fair trial); article 8 (protection of private and family life); and article 1 of the First Protocol (protection of property).

The Panel must also consider section 17 of the Crime and Disorder Act 1998 which 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.’

Financial Implications

There are no financial implications.

Appeals

If any party is aggrieved with the decision of the licensing panel on one of the grounds set out in schedule 5 to the Licensing Act 2003, they can appeal to a Magistrates' Court within 21 days from notification of the decision.

Section 3 - Statutory Officer Clearance

Name: Jessie Man

on behalf of the
Chief Financial Officer

Date: 07/01/2020

Name: Andrew Lucas

on behalf of the
Monitoring Officer

Date: 08/01/2020

Name: Michael Butler

Divisional Director

Date: 07/01/2020 (Paul Walker)

Ward Councillors notified:

Yes

Section 4 - Contact Details and Background Papers

Contacts:

Case Officer: Charlene Ellis – Licensing Officer Ext: 6684

Head of Service: Richard Le-Brun, Head of Community and Public Protection,
Ext: 6267

Background Papers:

Revised guidance issued under section 182 of the Licensing Act 2003 (April 2018)

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

Licensing Act 2003:

<http://www.legislation.gov.uk/ukpga/2003/17/contents>