

**Manchester City Council
Report for Resolution**

Report to: Licensing Subcommittee Hearing Panel – 07 February 2022

Subject: Bhatti Jee Take Away, 792 Hyde Road, Manchester, M18 7JD - App
ref: Premises Licence Transfer 267830

Report of: Director of Planning, Building Control & Licensing

Summary

Application for the transfer of a premises licence which has attracted an objection from Greater Manchester Police.

Recommendations

That the Panel determine the application.

Wards Affected: Gorton and Abbey Hey

Manchester Strategy Outcomes	Summary of the contribution to the strategy
A thriving and sustainable City: supporting a diverse and distinctive economy that creates jobs and opportunities	Licensed premises provide a key role as an employer, in regeneration, and in attracting people to the city. The efficient processing of applications as well as effective decision making in respect of them, plays an essential role in enabling businesses to thrive and maximise contribution to the economy of the region and sub-region.
A highly skilled city: world class and home grown talent sustaining the city's economic success	An effective Licensing regime will enable growth in our City by supporting businesses who promote the Licensing Objectives.
A progressive and equitable city: making a positive contribution by unlocking the potential of our communities	The Licensing process provides for local residents and other interested parties to make representations in relation to licensing applications. Representations have to be directly related to the licensing objectives.
A liveable and low carbon city: a destination of choice to live, visit and work.	An effective licensing system supports and enables growth and employment in our City with neighbourhoods that provide amenities suitable to the surrounding communities.

A connected city: world class infrastructure and connectivity to drive growth	
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Full details are in the body of the report, along with any implications for:

Equal Opportunities Policy
Risk Management
Legal Considerations

Financial Consequences – Revenue

None

Financial Consequences – Capital

None

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Background documents (available for public inspection):

- Manchester City Council Statement of Licensing Policy 2016 - 2021
- Guidance issued under section 182 of the Licensing Act 2003, April 2017
- Licensing Act 2003 (Hearings) Regulations 2005
- Any further documentary submissions by any party to the hearing

1. Introduction

- 1.1 On 30/12/2021, an application for the transfer of a Premises Licence under s42 of the Licensing Act 2003 was made in respect of Bhatti Jee Take Away, 792 Hyde Road, Manchester, M18 7JD in the Gorton and Abbey Hey ward of Manchester.
- 1.2 A 14-day consultation exercise was undertaken in accordance with Licensing Act 2003 regulations.
- 1.3 A representation may be made against an application during the consultation period by Greater Manchester Police where they are satisfied that granting the application would undermine the crime prevention objective.
- 1.4 Where the premises licence authorises premises to be used for the sale by retail of alcohol or the provision of late night refreshment, a representation may be made against an application during the consultation period by Home Office Immigration Enforcement where they are satisfied that granting the application would be prejudicial to the prevention of illegal working in licensed premises.
- 1.5 A relevant representation has been received in respect of this application and so it must be determined by a Licensing Hearing Panel in accordance with s44(5) of the Licensing Act 2003.

2. The Application

- 2.1 A copy of the application is attached at **Appendix 1**.
- 2.2 The applicant is (REDACTED)
- 2.3 A copy of the existing premises licence is attached at **Appendix 2**.

3. Relevant Representations

- 3.1 A relevant representation was received in respect of the application (**Appendix 3**). The personal details of all members of the public have been redacted. Original copies of the representation will be available to the Panel at the hearing.

Summary of the representation:

- Greater Manchester Police

Party	Grounds of representation	Recommends
GMP	The applicant has a relevant live conviction for Assault Occasioning Actual Bodily Harm, dated 6th March 2018 for which he received a 42 month suspended custodial sentence. Under the Rehabilitation of Offenders Act 1974, this carries a rehabilitation period of 7 years from	Refuse

	<p>the end date of the sentence, so the conviction is live until September 2028.</p> <p>He was also convicted on the same date for Possession of an Offensive Weapon and sentenced to 18 months imprisonment. Under the Rehabilitation of Offenders Act 1974 this conviction carries a rehabilitation period of 4 years from the end date of the sentence, so is live until September 2022.</p> <p>The grounds for the objection are the undermining of the prevention of Crime and Disorder objective.</p>	
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4. **Key Policies and Considerations**

4.1 **Legal Considerations**

4.1.1 Hearings under the Licensing Act 2003 operate under the Licensing Act 2003 (Hearings) Regulations 2005.

4.2 **New Information**

4.2.1 In accordance with Regulation 18 of the Licensing Act 2003 (Hearings) Regulations 2005, the authority may take into account documentary or other information produced by a party in support of their application, representations or notice either before the hearing or, with the consent of all parties, at the hearing.

4.3 **Hearsay Evidence**

4.3.1 The Panel may accept hearsay evidence and it will be a matter for the Panel to attach what weight to it that they consider appropriate. Hearsay evidence is evidence of something that a witness neither saw nor heard, but has heard or read about.

4.4 **The Secretary of State's Guidance to the Licensing Act 2003**

4.4.1 The Secretary of State's Guidance to the Licensing Act 2003 is provided for all parties involved in licensing. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.

4.4.2 Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. The Guidance is therefore binding on all licensing authorities to that extent. However, the Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as

licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons.

- 4.4.3 Departure from the Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.

4.5 **Manchester Statement of Licensing Policy**

- 4.5.1 Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' its statement of licensing policy.

- 4.5.2 The Licensing Policy sets out the vision the licensing authority has for the regulation of licensed premises throughout Manchester and outlines the standards expected in order to ensure the promotion of the licensing objectives in the city. The Panel may depart from the policies should it consider doing so would benefit the promotion of the licensing objectives. Reasons are to be given for any such departure from the Policy.

- 4.5.3 Section 4 of the Policy (Operation of the Policy) sets out how the Licensing Policy is intended to be used in practice for licence applications and licensed premises.

Conclusion

- 4.6 A licensing authority must carry out its functions under this Act ("licensing functions") with a view to promoting the licensing objectives:

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

- 4.7 In reaching the decision, regard must be had to relevant provisions of the national guidance and the Council's licensing policy statement.

- 4.8 Having regard to the representation, the Panel must, in accordance with s44 of the Licensing Act 2003:

- a) To grant the application; or

if it considers it necessary for the promotion of the crime prevention objective:

- d) Reject the application.

- 4.9 The Panel's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve. Findings on any issues of fact should be on the balance of probability.

- 4.10 It is important that a licensing authority should give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal.

- 4.11 **The Panel is asked to determine the application.**