

BABERGH DISTRICT COUNCIL

**FROM: HEAD OF NATURAL AND
BUILT ENVIRONMENT**

REPORT NUMBER **G17**

TO: LICENSING SUB-COMMITTEE

DATE OF MEETING 7 June 2007

LICENSING ACT 2003 – HEARING REPORT

1. PURPOSE OF REPORT

1.1 To determine an application under the Licensing Act 2003 made by:

Messrs Luthfur Rahman & Fazlur Rahman

in respect of:

**‘The Chatney Mary’ Indian Restaurant, 2 Church Street, LAVENHAM, Sudbury,
Suffolk CO10 9QT**

The hearing is to determine a NEW premises licence application made under section 17 of the Licensing Act 2003.

1.2 This application is for the grant of a new premises licence authorising licensable activities within an Indian Restaurant, known as ‘The Chatney Mary’, to be situated at the above location. The applicants describe the premises as being a ground floor 50 seat restaurant offering hot and cold foods. The premises was formerly a restaurant known as ‘French Kitchen’, but although historically having a liquor licence issued by the licensing justices’ of the magistrates’ court, it did not benefit from a premises licence under the Licensing Act 2003.

1.3 The licensable activities and timings being proposed by this application are summarised in 3.1 of this report.

2. RECOMMENDATIONS

2.1 The sub-committee must, having regard to the representations made, take such of the steps below (if any) as it considers necessary for the promotion of the licensing objectives:

- To grant the licence subject to conditions which are consistent with the operating schedule submitted by the applicant;
- To exclude from the scope of the licence any of the licensable activities that have been applied for;
- To refuse to specify a person in the licence as the premises supervisor;
- To reject the application.

2.2 Members of the sub-committee should note that they may, where it is deemed necessary and proportionate for the promotion of the licensing objectives, alter, omit or add new conditions within the applicants operating schedule.

2.3 The sub-committee is able to determine this application.

3. **THIS APPLICATION**

3.1 The named designated premises supervisor (DPS) within the application is Mr Luthfur Rahman who is the holder of a valid personal licence issued by the London Borough of Tower Hamlets.

The application seeks to carry on the following licensable activities:

(a) Supply of alcohol (for consumption ON premises only)

Hours applied for:

12:00hrs until 00:30hrs (Monday to Saturday)

12:00hrs until 15:00hrs and 17:30hrs until 22:30hrs (Sunday)

Note: Alcohol to only be sold as an accompaniment to food

(b) Live music (indoors only)

Hours applied for:

19:00hrs until 23:00hrs (Monday to Sunday)

Note: Described as one live performance every two months

(c) Recorded music (indoors only)

Hours applied for:

12:00hrs until 23:00hrs (Monday to Sunday)

Note: Described as background music

(d) Late night refreshment (indoors)

Hours applied for:

23:00hrs until 00:30hrs (Monday to Saturday)

The opening hours proposed within the application match those as shown above under (a). The application confirms that a last admission time of 23:00hrs will be operated. The activity timings proposed beyond this are for the benefit of customers already on the premises.

The applicants have proposed various steps that they intend to take to promote the four licensing objectives, detailed in section P of the application form attached as Appendix 1. Please refer to the copy of the complete application attached as Appendix 1.

3.2 The statutory advertisements required under the Act have been published and displayed. The newspaper advertisement of the application appeared in the Suffolk Free Press on 03 May 2007, and the blue notice on the premises has been on display. The following consultees, as Responsible Authorities under the 2003 Act, have been served with a copy of the application and plan:

RESPONSIBLE AUTHORITY:	RESPONSE:
1. Chief Officer of Police	REPRESENTATION received 11.05.2007
2. Local Fire Authority	No representation or comments.

RESPONSIBLE AUTHORITY:	RESPONSE:
3. Health and Safety Executive/Local Authority for Health and Safety at Work Act	Advisory comments only. No formal objection.
4. Environmental Health	Advisory comments only. No formal objection.
5. Local Planning Authority	Advisory comments only re: planning matters.
6. Area Child Protection Committee	As per Chief Officer of Police.
7. Any other Licensing Authority	Not applicable
8. Trading Standards	No representation or comments received.
9. Environmental Agency/British Waterways Boards/Maritime and Coastguard Agency	Not applicable.

3.3 Representations have been received during the statutory period from ‘interested parties’ as defined by the 2003 Act:

- **Mr J.A.Hepworth, 1 Ropers Court, LAVENHAM CO10 9PU**
- **G.Holland & C.Holland, 80 Church Street, LAVENHAM CO10 9QT**
- **Sir Clive Rose, Chimney House, 91 Church Street, LAVENHAM CO10 9QT**
- **Dr & Mrs S.Garber, 92 Church Street, LAVENHAM CO10 9QT**
- **Mr & Mrs M.Hodges, 3 Church Street, LAVENHAM CO10 9QT**
- **Carol & Jim Keohane, Blaize House, 14 Church Street, LAVENHAM CO10 9QT**
- **Lavenham Parish Council (on behalf of three Interested parties as referred to in letter dated 15.05.2007 - note: Interested Parties Rose, Garber and Hodges have already independently lodged letters of representation).**

3.4 It should be noted that due to the statutory timescales involved with determination of this application this report has been compiled prior to the expiry of the statutory 28 day period for receiving representations. Should any further relevant representations be received during the statutory period then these will be circulated to all parties in advance of the hearing.

3.5 Copies of any representations are attached as Appendix 2. Any advisory comments only made by Responsible Authority consultees are also attached as Appendix 2 by way of information.

4. GUIDANCE AND POLICY CONSIDERATIONS

4.1 The sub-committee is referred generally to section 5 - ‘Premises Licences’, section 6 - ‘Hours of Trading’ and section 7 - ‘Conditions Attached to Premises Licences and Club Premises Certificates’, and also Annexes D to H, of Central Government Guidance in respect of this application. Specifically sections 7.38 to 7.46 focus on conditions relating to public nuisance.

4.2 The Government Guidance issued under section 182 of the Licensing Act 2003 advises that duplication with other statutory provisions is to be avoided (section 7.13) and that any conditions deemed necessary and proportionate to attach to a licence must be focused on relevant measures that are within the direct control of the licence holder (section 7.45).

4.3 The ‘need’ for licensed premises (ie the commercial demand for another pub, restaurant or hotel) is not a matter for the Licensing Authority when discharging its licensing functions.

4.4 The sub-committee should have due regard to all relevant sections of the Council's Statement of Licensing Policy in respect of the determination of this application.

5. THE ISSUE(S)

5.1 The Licensing Act 2003 came into full effect on 24.11.2005. The four underlying objectives of the regime are:

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

These are the only grounds upon which an application may be refused, or if deemed necessary, conditions may be attached to a licence.

5.2 Members will note that the issue in respect of this application involves:

- Balancing the interests of owners, employees, customers and neighbours of licensable premises.

6. PROCEDURE TO BE FOLLOWED AT HEARING

6.1 A copy of the 'Procedure for Hearing of Application under the Licensing Act 2003 where a Representation/Objection is received' is attached to the Agenda.

7. APPENDICES

Appendix 1: Application together with premises plan
Appendix 2: Representations received
Appendix 3: Site Plan showing (approximate) location of interested parties

8. BACKGROUND PAPERS REFERRED TO

None.

MALCOLM FIRTH
Head of Natural and Built Environment Division

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