

Report of the Strategic Director Environment & Sport to the meeting of the Bradford District Licensing Panel to be held on 12 December 2016.

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Subject:

Application for a Premises Licence for Polandia 2, 57-63 North Parade, Bradford, BD1 3JH

Summary statement:

Application for a new premises licence for the sale of alcohol for consumption off the premises.

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Portfolio:

Neighbourhoods & Community Safety

Overview & Scrutiny Area:

Corporate



1. SUMMARY

The application is for the grant of a Premises Licence for the sale of alcohol for consumption off the premises.

2. BACKGROUND

2.1 The applicants

Mr Sanger Saber Osman. A copy of the application is attached at Appendix 1.

Mr Osman currently holds a premises licence at number 53 North Parade, but wishes to move to larger premises at 57-63 North Parade.

A Premises Licence cannot be transferred from one premises to another.

2.2 The Premises

Polandia 2, 57-63 North Parade, Bradford.

2.3 Proposed Designated Premises Supervisor

Mr Sanger Saber Osman.

2.4 Application

The application is for the grant of a Premises Licence. The operating schedule describes the following as the relevant licensable activities applied for:-

- Sale of alcohol for consumption off the premises

Hours of licensable activities:

Monday to Sunday: 08.00 to 00.00

2.5 Steps proposed by the applicant to address the Licensing Objectives

- a) Prevention of crime and disorder will be achieved by;

CCTV installed on the premises.

- b) Public safety will be achieved by;

None.

- c) Prevention of public nuisance will be achieved by;



None.

d) Protection of children from harm will be achieved by;

None.

e) General – all four licensing objectives

I have previously been running an off licence and I always take public safety very seriously.

2.6 Relevant Representations Received

Responsible Authorities

West Yorkshire Police

In order to address the prevention of crime and disorder objective, the Police initially requested that the following conditions be placed on the Licence;

1. CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions. Cameras shall encompass all ingress and egress to the premises and all areas where the sale/supply of alcohol occurs. Equipment must be maintained in good working order, be correctly time and date stamped and be kept for a period of 28 days. The premises licence holder must ensure at all times the DPS or appointed member of staff present on the premises is capable and competent at downloading CCTV footage in a recordable format, either DISC or VHS to the Police or Licensing Authority on request. The recording equipment and tapes/discs shall be kept in a secure room and endorsed by signature indicating that the CCTV system has been checked and is compliant. In the event of any failings of the CCTV system, this shall also be recorded and in the event of technical failure, the premises licence holder/DPS must report the failure to the Bradford District Police Licensing Officer and the Local Authority immediately.

2. A Challenge 25 policy shall be implemented.

The representation is attached at Appendix 2.

However, on the 4 November 2016, the Police Licensing Department was notified by HM Revenues and Customs that they had completed a number of licence visits in relation to the sale of illicit cigarettes, hand rolling tobacco and alcohol.

One such premises that was visited was Polandia Polski Mini Market, 53 North Parade, Bradford, which holds Premises Licence BD/PRA1459, where a quantity of illicit alcohol and cigarettes were confiscated. Mr Sangar Sabir Osman is the premises licence holder and designated premises supervisor.



The Police now have concerns regarding the application by Mr Osman as the possession and sale of illegal alcohol and cigarettes at 53 North Parade, demonstrates a disregard for the licensing objective relating to the Prevention of Crime and Disorder.

The Licensing Act 2003, states the following;

S.144 Keeping of smuggled goods

(1) A person to whom subsection (2) applies commits an offence if he knowingly keeps or allows to be kept, on any relevant premises, any goods which have been imported without payment of duty or which have otherwise been unlawfully imported.

(2) This subsection applies—

(a) to any person who works at the premises in a capacity, whether paid or unpaid, which gives him authority to prevent the keeping of the goods on the premises,

(b) in the case of licensed premises, to—

(i) the holder of a premises licence in respect of the premises, and

(ii) the designated premises supervisor (if any) under such a licence,

(c) in the case of premises in respect of which a club premises certificate has effect, to any member or officer of the club which holds the certificate who is present on the premises at any time when the goods are kept on the premises in a capacity which enables him to prevent them being so kept, and

(d) in the case of premises which may be used for a permitted temporary activity by virtue of Part 5, to the premises user in relation to the temporary event notice in question.

The Police are of the opinion that there is sufficient evidence to submit this formal representation against the application on prevention of crime and disorder grounds.

The representation is attached at Appendix 3.

3. OTHER CONSIDERATIONS

Legal Appraisal

3.1 The Licensing Act 2003 requires the Council to carry out its various licensing functions so as to promote the following four licensing objectives:

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

3.2 The Council must also have regard to the guidance issued by the Home Office under Section 182 of the Licensing Act 2003. Regard must also be taken of the



Council's statement of Licensing Policy for the District.

- 3.3** Where it is decided it is necessary to depart from the statutory guidance or the Licensing Policy on the merits of a particular case; then special reasons justifying this must be given that can be sustained.
- 3.4** Only "relevant representations" can be taken into account. In order to be "relevant" a representation must fairly relate to achieving a licensing objective. If it does not, it must be discounted.
- 3.5** Any licensing conditions that Members may propose attaching must also relate to achieving one of the licensing objectives; be tailored to the actual premises and style of licensable activity; must be reasonably achievable by the applicant and in his/her control.

Statement of Policy Issues

- 3.6** The following parts of the Licensing Policy are of particular importance; Part 4 (prevention of crime and disorder).
- 3.7** The Annexes to the Policy sets out various types of model condition that could be considered.

4. OPTIONS

4.1 Members may:

- (a) Grant a premises licence as applied for subject to any mandatory conditions and the precautions specified in the operating schedule submitted.
- (b) Grant a premises licence subject to such additional conditions relating to achievement of the licensing objectives as members think fit; or
- (c) Refuse the application for a premises licence.

4.2 Should the applicant or any other party to the hearing feel aggrieved at any decision with regard to the licence or to any conditions or restrictions attached by Members they may appeal to the Magistrates Court.

5. FINANCIAL & RESOURCE APPRAISAL

There are no apparent finance or resource implications.

6. RISK MANAGEMENT AND GOVERNANCE ISSUES

There are no apparent risk management and governance implications.



7. LEGAL APPRAISAL

Referred to in part 3 of this report.

8. OTHER IMPLICATIONS

8.1 EQUALITY & DIVERSITY

The Council has to comply with the public sector equality duty in S.149 Equality Act 2010.

8.2 SUSTAINABILITY IMPLICATIONS

There are no apparent sustainability implications.

8.3 GREENHOUSE GAS EMISSIONS IMPACTS

There are no apparent implications.

8.4 COMMUNITY SAFETY IMPLICATIONS

When determining the application the Licensing Authority is required to pay due regard to the licensing objectives referred to in 3.1 of this report.

8.5 HUMAN RIGHTS ACT

The following rights are applicable:

Article 1 First Protocol to the Convention – Right to peaceful enjoyment of possessions subject to the state's right to control the use of property in accordance

with the general interest. The Council's powers set out in the recommendations fall within the states right. A fair balance must be struck between public safety and the applicant's rights.

Article 6 – A procedural right to a fair hearing. As refusal of the application is an option, adherence to the Panels' usual procedure of affording a hearing to the applicant is very important. The applicant should also be able to examine the requirements of the fire authority. If the decision is to refuse then reasons should be given.

8.6 TRADE UNION

Not applicable.



8.7 WARD IMPLICATIONS

Ward Councillors have been notified of receipt of the application.

9. NOT FOR PUBLICATION DOCUMENTS

None.

10. RECOMMENDATIONS

Members are invited to consider the information and documents referred to in this report and, after hearing individuals, bodies or businesses, determine the related application(s).

11. APPENDICES

1. Application form received 21 October 2016.
2. Representation from West Yorkshire Police.
3. Further representation from West Yorkshire Police.

12. BACKGROUND DOCUMENTS

Application form, plan etc.

