



## **Report of the Assistant Director Waste, Fleet & Transport Services to the meeting of Bradford Area Licensing Panel to be held on 7 February 2018.**

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### **Subject:**

**Application for a Review of a Premises Licence for Mars A Day, 274 Lumb Lane, Bradford, BD8 7SF.**

### **Summary statement:**

**Application for review of a Premises Licence authorising the sale of alcohol.**

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John Major  
Assistant Director  
Waste, Fleet & Transport Services

Report Contact: Melanie McGurk  
Senior Licensing Officer  
Phone: (01274) 431873  
E-mail: [melanie.mcgurk@bradford.gov.uk](mailto:melanie.mcgurk@bradford.gov.uk)

### **Portfolio:**

**Neighbourhoods & Community Safety**

### **Overview & Scrutiny Area:**

**Corporate**

## 1. SUMMARY

The application is for the review of a Premises Licence authorising the sale of alcohol.

## 2. BACKGROUND

### 2.1 The Premises

Mars A Day, 274 Lumb Lane, Bradford, BD8 7SF.

### 2.2 Premises Licence holder

Mr Stephen Hoskin.

### 2.3 Designated Premises Supervisor

Mr Stephen Hoskin.

A copy of the Licence is attached at Appendix 1.

### 2.4 Application Received asking for a Review of the Licence

#### Responsible Authority

Intelligence was received by West Yorkshire Trading Standards (WYTSS) that the premises was selling age restricted products (fireworks) to minors.

On 25 October 2017, a WYTSS officer witness fireworks being sold individually to a 14 year old for £1 each. The fireworks had been removed from their fire retardant packaging. The premises licence holder/designated premises supervisor was not present and the person working in the shop stated that he had not been provided with any training, which is a breach of condition 1 of the licence.

The officer noted that there is no CCTV system installed in the premises in breach of condition 2 of the licence and no evidence of a Challenge 25 policy being implemented in breach of condition 3.

Two further inspections were undertaken in November 2017, and illegal cigarettes were recovered on both occasions. The cigarettes did not have the 'UK Duty Paid' mark and did not comply with the standardised packaging of tobacco regulations.

West Yorkshire Trading Standards is concerned that the premise is not operating legally and would recommend revocation of the licence.



The application for review is attached at Appendix 2.

## **2.5 Representations**

### **Responsible Authorities**

#### **West Yorkshire Police**

A representation has been received from the West Yorkshire Police Licensing Officer, regarding counterfeit cigarettes being discovered at the premises on two separate occasions. On another occasion, the manager of the premises was arrested and admitted the offence of possession of cannabis found at the shop. The manager has also been arrested for criminal damage on a separate occasion and has admitted the offence at Court.

Police Officers also attended the premises after receiving a call regarding fireworks being let in the shop and let off into the main road outside. The manager and another male were dealt with for this offence under S80 of the Explosives Act. According to the Officer, both males were working in the shop and were heavily in drink.

Mr Stephen Hoskin is the premises licence holder and DPS. West Yorkshire Police are concerned regarding his management and subsequent involvement in the running of the premises and request that consideration is given to revoking the premises licence. If the licence is not revoked, the police request that Mr Hoskin is removed as DPS.

The representation from West Yorkshire Police 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. Paragraphs 11.1 to 11.30 of the Guidance specifically details how applications for review of licences should be determined. Regard must also be taken of the Council's statement of Licensing Policy for the District.



An extract of the Home Office Guidance is attached to this report at Appendix 4.

- 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 & Disorder), Part 5 (Public Safety) and Part 7 (Protection of Children from Harm).
- 3.7 The Annexes to the Policy sets out various types of model condition that could be considered.

#### **4. FINANCIAL & RESOURCE APPRAISAL**

There are no apparent finance or resource implications.

#### **5. RISK MANAGEMENT AND GOVERNANCE ISSUES**

There are no apparent risk management implications.

#### **6. LEGAL APPRAISAL**

Referred to in part 3 of this report.

#### **7. OTHER IMPLICATIONS**

##### **7.1 EQUALITY & DIVERSITY**

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

##### **7.2 SUSTAINABILITY IMPLICATIONS**

There are no apparent sustainability implications.



### **7.3 GREENHOUSE GAS EMISSIONS IMPACTS**

There are no apparent implications.

### **7.4 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.

### **7.5 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.

### **7.6 TRADE UNION**

Not applicable.

### **7.7 WARD IMPLICATIONS**

Ward Councillors have been notified of receipt of the application.

## **8. NOT FOR PUBLICATION DOCUMENTS**

None.

## **9. OPTIONS**

### **9.1 Members may:**

- (a) Refuse the application for review of the licence; or
- (b) Decide not to impose any further restrictions on the licence; or
- (c) Decide to impose additional restrictions or remove any licensable activities



on the licence, where necessary in order to address the licensing objectives;  
or

- (d) Suspend the licence for a period not exceeding 3 months; or
- (e) Revoke the premises licence; or
- (f) Remove the named Designated Premises Supervisor from the Licence.

**9.2** 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.

## **10. RECOMMENDATIONS**

Members are invited to consider the information and documents referred to in this report and, after hearing interested parties, determine the related application(s).

## **11. APPENDICES**

1. Premises Licence
2. Application for review received 14 December 2017.
3. Representation from West Yorkshire Police
4. Extract from the Government Guidance.

## **12. BACKGROUND DOCUMENTS**

Application form, plan etc.

