

Report of the Assistant Director Waste, Fleet & Transport Services to the meeting of Bradford District Licensing Panel to be held on 2 March 2018.

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Subject:

Application for a Review of a Premises Licence for Moor Stores, 90 Leeds Old Road, Bradford, BD3 8JF.

Summary statement:

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

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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

Moor Stores, 90 Leeds Old Road, Bradford, BD3 8JF.

2.2 Premises Licence holder

Mr Harpal Singh Kang.

2.3 Designated Premises Supervisor

Mr Harpal Singh Kang.

A copy of the Licence is attached at Appendix 1.

2.4 Application Received asking for a Review of the Licence

Responsible Authority

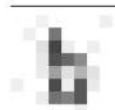
Intelligence was received by West Yorkshire Trading Standards Service (WYTSS) which indicated that the premise was selling illegal tobacco and supplying age restricted products to minors.

On 1 December 2015, a WYTSS officer witnessed the sale of a packet of cigarettes to a minor as part of a wider test purchase operation. WYTSS conducted interviews with both the seller and the owner and as they couldn't supply evidence of due diligence, the owner of the business, Mr Paul Singh was given a caution.

WYTSS also carried out test purchasing at the business on 12 July 2016, 2 August 2016 and 16 August 2016 in response to complaints that the premises was dealing in illegal tobacco. A packet of illegal tobacco was sold on each date.

On 2 September 2016, WYTSS officers found 720 sticks of illegal cigarettes behind the counter. These were signed over and an infringement report was sent to the owner.

WYTSS continued to receive complaints about the business and on 13 July 2017, WYTSS officers found 3180 sticks of illegal cigarettes behind the counter.



West Yorkshire Trading Standards considers the above matters to be extremely serious and therefore recommend revocation of the licence.

The application for review is attached at Appendix 2.

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 3.

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.

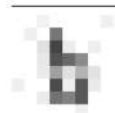
3.4 Only "relevant representations" can be taken into account. In order to be "relevant" a representation must fairly relate to achieving a licensing objective. If it does not, it must be discounted.

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) 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.

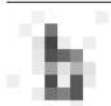
9.2 Should the applicant or any other party to the hearing feel aggrieved at any decision with regard to the licence or to any conditions or restrictions attached by Members they may appeal to the Magistrates Court.

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 8 January 2018.
- 3. Extract from the Government Guidance.



12. BACKGROUND DOCUMENTS

Application form, plan etc.

